

PHX DVT BYR

CITY OF PHOENIX AVIATION DEPARTMENT

Revenue Contract Solicitation (“RCS”) Request for Responses

CHILDCARE SERVICES AT PHOENIX SKY HARBOR INTERNATIONAL AIRPORT AVN RCS 24-001

SCHEDULE OF EVENTS

All dates are subject to change without prior notice.

The City of Phoenix is not responsible for cost or losses incurred by any Respondent in the preparation of a Response or due to date changes.

ACTIVITY	DATE & TIME (All times are local Phoenix, AZ time)
Publish RCS	Wednesday, January 10, 2024
Pre-Response Meeting (Non-Mandatory)	Thursday, January 25, 2024, at 10:00 a.m. **To RSVP / Register, please go to: https://cityofphoenix.webex.com/webex/register/r6f3d17b9fe3404622a77014caba34307
Question Deadline: Submittal of Written Questions	Tuesday, January 30, 2024, at 3:00 p.m.
Answer Deadline: Answers to Written Questions	Tuesday, February 13, 2024
Solicitation Deadline	Tuesday, March 12, 2024, at 1:00 p.m. Response Opening to begin at 1:15 a.m. Response Opening Link: https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m380ed0517d0bd4308b635a319c323cf5 Join by phone +1-415-655-0001 US Toll Access code: 2633 330 9469
Tentative Interviews / Discussion (If Necessary)	Week of May 6, 2024
Award Recommendation to Phoenix City Council	September, 2024
Commencement of Contract	January, 2025

Submit Responses and request for alternate formats to:

Cadle Collins
Procurement Officer
City of Phoenix Aviation Department
2485 East Buckeye Road, Phoenix, AZ 85034-4301
602-273-2054 (TEL) / 800-781-1010 (TTY)
avn.solicitations@phoenix.gov

<https://solicitations.phoenix.gov/Solicitations/Details/1696>

This RCS is issued pursuant to Phoenix City Code Chapter 43 and Administrative Regulation 3.10. This RCS does not commit the City to award any contract(s).



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SECTION I - INTRODUCTION

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I. INTRODUCTION

Through this Revenue Contract Solicitation (RCS), the City of Phoenix (City) Aviation Department (Aviation) is seeking responses from qualified Respondents to build-out, staff, develop a client base, operate, and manage a Childcare Facility at the 44th Street Sky Train® at Phoenix Sky Harbor International Airport (Airport or PHX). The Successful Respondent must successfully build-out, operate and manage a quality affordable childcare development facility (Childcare Facility) that will provide a safe, healthy and nurturing environment for the children of eligible employees and workers of City of Phoenix and its Tenant concessionaires and contractors (collectively “Airport Workers”) and to the general public on an availability basis. The Childcare Facility will serve children ages six (6) weeks to six (6) years old, providing an environment where they can develop physically, socially, emotionally, and intellectually to their optimal potential, and with hours of operations that will meet the needs of the majority of Airport Workers.

The Successful Respondent must demonstrate the ability to effectively operate and manage the Childcare Facility within a competitive tuition structure with a strategy to implement best practices in accordance with the Arizona Department of Health Services (ADHS) licensing requirements, [ADHS - Child Care Facilities Licensing - Home \(azdhs.gov\)](http://azdhs.gov) as well as in compliance with federal laws and guidelines. The services and requirements specified in this RCS are collectively referred to as “Childcare Services” and apply wherever this term is used in this solicitation.

The Successful Respondent will enter a Lease Agreement (Lease) with the City in the form of attached **Exhibit 1 - Draft Lease**. The location of the Childcare Facility at the Airport is depicted in **Exhibit 2 - Premises Facility Map**.

The City encourages competition in all of its solicitations. The City’s desired outcomes from this solicitation process are to:

- Strive to provide quality low-cost Childcare Services to eligible Airport Workers, and to the general public on an availability basis.
- Have a design build-out by the Successful Respondent that creates a welcoming and safe environment pleasing to parents and their children.
- Utilize technology and innovative service concepts to enhance children’s early learning development and improve the quality of the Childcare Services provided.
- Seek qualified Respondents, including their subtenant and/or joint venture partner(s) (if any), having a proven track record in the successful operation and management of a licensed childcare facility, including build-out, staffing, and development of a client base to support ongoing operations.



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Selection will be based on the entire Response and the Evaluation Criteria and will not be solely based upon the highest financial return to the City. All Respondents must demonstrate not only quality childcare service experience and financial capability, but also creativity in proposing designs and educational programs that will enhance child development. It is understood that as an industry childcare worker do not have a widely acceptable standard wage. To support a healthy and productive workforce, it is important to the City that the contractor offer its staff wages that reflect the evolving standards, access to affordable quality health insurance, and safe working conditions.

A. BACKGROUND

Phoenix, Arizona is the vibrant center of one of the fastest growing job markets and economies in the United States. PHX is among the busiest airports in the United States, serving over 44 million passengers in 2022. More than 57,000 people are employed at America's Friendliest Airport, including City of Phoenix workers, Tenant concessionaires and contractors. However, the south Phoenix area surrounding the Airport is considered to be a "childcare desert" with little to no childcare options to meet the needs of these Airport Workers. Aviation staff surveyed 31 of its PHX business partners and determined more than 600 of their workers assigned to PHX would be interested in having access to affordable childcare close to their place of employment. The survey respondents indicated that childcare services between the hours of 4:00 am – 8:00 pm would best suit their needs.

Airport information is available at <https://www.skyharbor.com/about/Information>.



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B. DEFINITIONS

The following definitions apply to this Revenue Contract Solicitation (RCS). There are additional definitions in the attachments, exhibits and appendices. If there is a conflict between these definitions and the definitions in the attachments, exhibits and appendices then the definitions in the attachments, exhibits, and appendices govern those documents.

AIRPORT WORKERS means eligible Airport employees and workers confirmed through the City's Aviation Department badging verification process.

AGGRIEVED PARTY means a person or a business that intends a Response that alleges a mistake, impropriety or defect in the solicitation will harm the person or business.

AIRPORT means Phoenix Sky Harbor International Airport, Phoenix Deer Valley Airport and/or Phoenix Goodyear Airport, in accordance with the context of the contract.

CONTRACT includes any and all City of Phoenix Aviation Department contracts, subcontracts, agreements, leases, subleases, licenses, permits or other documents, however denominated that grant or convey a right or privilege on an Airport.

DAYS means calendar days, except as otherwise expressly provided in this RCS.

DISCUSSIONS means an exchange between the Procurement Officer and one or more Respondents submitting Responses determined to be Reasonably Susceptible Responses.

GOOD CAUSE means substantial grounds or evidence based upon facts not in dispute as determined by the Procurement Officer that the failure by an aggrieved party or a Respondent to submit a timely Response, protest or appeal was beyond its control due to misinformation relayed in writing by a city employee.

JOINT VENTURE (JV) means an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity.

LEASE is a written agreement with the City to conduct business on City property.

REASONABLY SUSCEPTIBLE RESPONSE means a Response that, based on the evaluation criteria, has a substantial chance of resulting in a Lease award.



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RESPONDENT means an individual, partnership, JV, corporation or firm that submits a Response to the City to perform services requested by a RCS.

RESPONSE means a written response to this Revenue Contract Solicitation.

RESPONSIBLE means to be fully capable of meeting all of the requirements of the solicitation, including possessing the capacity, operational and financial capability, and integrity to perform as contractually required.

RESPONSIVE means an offer or Response that on its face satisfies all material requirements of the solicitation.

REVENUE CONTRACT SOLICITATION (RCS) A solicitation for revenue contracts, including all amendments or supplements thereto.

SUBCONTRACTOR means an individual, partnership, JV, corporation or firm that holds a contract at any tier below the Lease, including a vendor under a purchase order.

SUBTENANT a person or entity that leases property from Respondent.

SUCCESSFUL RESPONDENT means an individual, corporation, firm or JV that has been selected by the City to perform services requested by a RCS.

TRIPLE NET LEASE means the Respondent shall pay all expenses related to the Premises, including taxes, insurance, utilities, maintenance, repairs to the Center, inspection costs, and custodial expenses.



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C. MINIMUM QUALIFICATIONS

Each Respondent must submit documentation in its Response to demonstrate it meets the required minimum qualifications and include all information requested in this section or the Response will be rejected as non-responsive. **The City of Phoenix Aviation Department reserves the sole right to determine if Respondents meet the minimum qualifications.**

1. Respondent must have a minimum of five (5) years of experience providing licensed Childcare Services. If Respondent is a newly formed entity, Respondent must demonstrate that owners, which may include JV partners, of Respondent who, in the aggregate, own 51% or more of the entity each satisfies this experience requirement.
2. Respondent must have completed two (2) similar projects involving the successful operation of a Childcare Facility, including the build-out of the facility, staffing, and development of a client base to support the ongoing operation, and must provide examples of the comparable completed projects.
3. Respondent must possess and maintain necessary accreditation, licensing and insurance, including City, State, and Federal licensing/permit requirements during the contract period.

Respondents who do not meet the minimum qualifications are encouraged to joint venture partner or sublease with more established firm(s).

D. GOOD STANDING

Any Respondent that currently contracts with the City must be in good standing for its Response to be considered responsive. For purposes of this RCS, good standing refers to compliance with all contractual provisions, including payment of financial obligations.

E. OUTREACH REQUIREMENTS

The Successful Respondent is encouraged to conduct and document Small Business Outreach efforts in compliance with the Lease. The City strongly encourages the Successful Respondent to utilize small businesses in its Lease and to use good faith and reasonable efforts to promote the participation of small firms at the Airport.

If the Successful Respondent engages and solicits the services of small business services during its outreach efforts, the Successful Respondent shall submit the Small Business Outreach Documents described in **Exhibit 3 – Small Business Outreach Lease Clause** to the Equal Opportunity Department (EOD) within 60 days after Lease award.



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The Successful Respondent is encouraged to document their efforts to: 1) identify business opportunities that small businesses can perform as partners or as suppliers of goods and services, 2) conduct outreach and broadly solicit responses for business opportunities from small businesses, 3) evaluate and negotiate with small businesses, and 4) communicate outcomes to all small businesses that responded to the Successful Respondent's outreach efforts, and notify them whether or not the small business was selected.

The Successful Respondent shall submit the following to EOD within 60 days after the Lease award:

1. All supporting documentation required in **Section III & IV of Exhibit 3**.
2. Outreach to Small Businesses (**Exhibit 4 – Outreach Efforts – Form EO2**).

F. EQUAL PAY REQUIREMENTS

In 2015, Phoenix City Council amended Phoenix City Code Section IV, Article V, 18-21 Equal Opportunity Requirements, known as the Equal Pay Act, to define expectations of all lessees with the City of Phoenix. **Exhibit 5** details the Act, as well as Federal and State provisions. As part of the Response for this RCS, Respondents are required to provide information on how they support, communicate, ensure and comply with these requirements. **Respondents are expected to be as detailed as possible when completing Exhibit 5.**

G. LEASE TERM AND CONTRACTUAL RELATIONSHIP

The information in this RCS is not intended to completely define the proposed contractual relationship to be entered into by the City and the Successful Respondent. The Lease terms may be amended at the sole discretion of the City at any time during the RCS process and/or prior to execution of the Lease.

The Lease will be effective on the date of execution by the City (Effective Date). The Initial Term of the Lease will begin on the Effective Date, or the date listed in the Lease and last for twelve (12) to eighteen (18) consecutive months or until the Tenant begins all Childcare Facility Operations under this Lease, whichever comes first. The Primary Term of the Lease will commence twelve (12) to eighteen (18) months from the Effective Date or on the date the Successful Respondent begins all operations under the Lease, whichever occurs first. The Primary Term of the Lease for this RCS will be ten **(10) years**, with no option to extend.

Respondents are advised to read the Draft Lease included as **Exhibit 1**, to which the Successful Respondent shall be bound, upon completion of the Draft Lease negotiation.



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This RCS is for a non-exclusive Lease with the City. The City will not enter into an exclusive Lease with a Successful Respondent and has the right to award leases to other operators for childcare and facility management services at any Airport location.

H. EXECUTION OF THE LEASE

The City will send the final Lease to the recommended Respondent after Phoenix City Council approves the Award Recommendation. Within **45 days** from the date the Lease was sent, the recommended Respondent must sign and submit the final Lease to the City. The City may request City Council approval to award the Lease to the next highest qualified Respondent in the event the City does not receive the signed Lease and all other required documentation from the recommended Respondent within 45 days. The Lease terms may be amended at the sole discretion of the City at any time during the RCS process and/or prior to execution.

If the recommended Respondent is subject to regulation by the Arizona Corporation Commission (ACC), it must be authorized to transact business in Arizona and be in good standing with the ACC at the time it signs the Lease.

I. GUARANTEE INSTRUMENTS

1. Performance Guarantee: Upon execution of the Lease, the Successful Respondent will be required to post and maintain with the City a Performance Guarantee in the form of a Letter of Credit (LOC) or a Cash Deposit in the amount of three (3) months' rent in an amount of \$33,655.00. The LOC shall be in the form provided in **Exhibit 6** or other form of security approved in advance by the City. The Cash Deposit shall be submitted in the form provided in **Exhibit 7**. The Performance Guarantee is City's security for Tenant's timely performance under this Lease and the payment of all other claims City may have against Tenant relating to this Lease. City is not obligated to pay interest to Tenant on the Performance Guarantee.



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Adjustments to Performance Guarantee:

City may increase the amount of the Performance Guarantee from time to time so that it is equal to or greater than three (3) months of Rent paid to the City then in effect. City may increase the amount of the Performance Guarantee by giving the Successful Respondent at least thirty (30) days prior notice of the amount of the increase. The amount of the Performance Guarantee may be increased for any reason the City deems appropriate, including (1) an increase of the Successful Respondent's financial obligations under the Lease, (2) Successful Respondents failure to pay any Rent, Additional Payment, or any other amount in full when due, or (3) Successful Respondent's financial condition changes to the extent that City is concerned about Successful Respondent's ability to perform under the Lease. Successful Respondent shall pay to City the additional amount necessary to increase the Performance Guarantee upon notice from City.

Letter of Credit or Cash: If the Performance Guarantee is in the form of an irrevocable standby Letter of Credit (LOC), then the Successful Respondent shall use the City's **LOC form**, attached hereto and marked **Exhibit 6** or other form of security approved in advance by the City. The LOC shall be issued by either: (1) a financial institution with counters in the Phoenix metropolitan area at which the City may make draws on the LOC; or (2) a financial institution with headquarters in the United States on which City may make telefacsimile draws. Unless City receives a written extension of the LOC in a form acceptable to City at least sixty (60) days before the end of the term of the LOC, City, without notice to Successful Respondent, may draw upon the full amount of the LOC and retain all proceeds as a cash performance guarantee. Any changes to the LOC required provisions must be approved in advance by the Aviation Director. If the Performance Guarantee is in the form of cash, Successful Respondent shall deliver to City a completed **Cash Deposit for Performance Guarantee Form** attached hereto and marked **Exhibit 7**.

Duty to Restore: The Performance Guarantee ensures the full and timely performance by Successful Respondent of all its obligations under the Lease and is security payment by Successful Respondent of all claims by City. City may draw on or make a claim against the Performance Guarantee if Successful Respondent breaches or fails to perform under the Lease. If City draws on or makes a claim against the Performance Guarantee, then Successful Respondent, upon demand from City, shall replenish the Performance Guarantee to its previous amount within thirty (30) days of City's draw or claim.

Return: After the expiration or earlier termination of the Lease, City will return the Performance Guarantee to the Successful Respondent less any Fees, Additional Payment, or any other amount due to City.



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J. PRE-RESPONSE MEETING

Respondents are strongly encouraged to attend the Pre-Response meeting that will be held virtually via Cisco WebEx on the date, time and meeting link listed on page 1. To request a reasonable accommodation or alternative format for any public meeting, please contact the Procurement Officer (Cadle Collins), no later than **7 calendar days** prior to the date and time listed on page 1 at 602-273-2054/Voice or 7-1-1/TTY, or email cadle.collins@phoenix.gov.

** Please note: registration or RSVP to participate in the Pre-Response Conference is required in order to obtain the Pre-Response Conference meeting information. A Respondent who wishes to join the Pre-Response Conference for this solicitation is required to register using the weblink or access code provided on page 1. Upon completion of registration, the Pre-Response Conference meeting information will be forwarded to the registered email address.

K. QUESTIONS AND ANSWERS (Q&A) PROCESS

Respondents are strongly encouraged to read this RCS in its entirety, including all attachments, exhibits and appendices. Failure to read and/or understand any portion of this RCS shall not be cause for waiver of any portion of the RCS or subsequent Lease.

If Respondents discover any mistakes, improprieties or defects, they should submit a report of any mistakes, improprieties or defects in writing to the Procurement Officer at avn.solicitations@phoenix.gov no later than the question deadline listed on page 1.

Respondents and their Partners are encouraged to submit questions as a team rather than individually to avoid submitting repetitive questions, which will allow Aviation to answer all questions more efficiently.

All questions about this RCS, including the Lease, must be submitted in writing no later than the question deadline listed on page 1 to avn.solicitations@phoenix.gov. All written questions will be responded to in writing and available at: <https://solicitations.phoenix.gov/Solicitations/Details/1696>.

L. ADDENDUM TO RCS

Aviation may amend this RCS before or after the solicitation deadline listed on page 1. Changes to this RCS will be in writing as an addendum and posted at: <https://solicitations.phoenix.gov/Solicitations/Details/1696>. Respondents are responsible for checking the website and reviewing all updates and postings.

Respondents may not rely on any statement by any City employee, consultant or official regarding this RCS unless the statement made is published as an addendum or confirmed in writing as part of the Q&A process.



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M. RESPONDENT EXCEPTIONS

The City will negotiate the Lease on a fair and competitive basis but will not accept any changes to the material provisions or requirements of this RCS except as otherwise stated. Respondents that take exception to add to or subtract from any material provision or requirement of this RCS may be considered as attempting to change the provisions or requirements of this RCS to gain an unfair advantage over other Respondents. Responses including such exceptions or changes, or that are conditional, are subject to rejection as non-responsive Responses. Non-material exceptions or changes will only be considered if approved by the City during the Q&A process. No new exceptions or changes will be considered after the Q&A process.

N. AIRPORT SECURITY

Individuals assigned to work at PHX as a result of this RCS must pass a fingerprint-based Criminal History Records Check, pass a Federally mandated Security Threat Assessment, and obtain an Aviation-issued security credential or badge.

Successful Respondent, its contract employees and volunteers who are required or allowed as a condition of employment to provide services directly to children or vulnerable adults shall submit a full set of fingerprints to the City to conduct a criminal background check for the purpose of determining whether the person has been convicted of a crime that bears upon the person's fitness to have responsibility for the safety and well-being of children and vulnerable adults.

Prior to accessing the Premises Successful Respondents must comply with all airport security requirements, including required badging, pursuant to the provisions in **Exhibit 18** – Aviation Security Procedures for Contractor and Subcontractor Worker Background Screening. For more information, visit:

<https://www.skyharbor.com/airport-business/security-badging/badging-information>

<https://www.fpc.gov/resources/glossary/>

<https://www.skyharbor.com/airport-business/phx-information/rules-regulations/>

for current Airport Rules and Regulations.

O. RESPONSE LIMITATION TO THIS RCS

Respondents may submit only one (1) Response for this RCS. Multiple Responses are prohibited. The following shall be deemed Multiple Responses.

The following shall be deemed Multiple Responses:

- The City receives more than one (1) Response from a Respondent.
- The City receives one (1) Response from a Respondent and one (1) or more Responses from any entity or person affiliated with the Respondent.



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If Multiple Responses for this RCS are received from a Respondent, all Responses from that Respondent shall be deemed non-responsive and rejected.

Respondent and an entity or person affiliated with the Respondent (Partner) include:

- A parent and its subsidiary.
- A holding company and its constituent company.
- Constituent companies of a single common holding company.
- Subsidiaries of a common parent.
- A limited liability company and a member or manager of the limited liability company.
- Limited liability companies with common members or managers.
- A partnership and one of its partners, or multiple partners in a single partnership.
- A person or entity proposing as a joint venture partner or joint venture on separate Responses.
- A person or entity proposing as a prime or sole Respondent also proposing as a joint venture partner on a separate Response.
- Two or more Respondents where the president, vice president, officer (including chief operating officer, chief executive officer, and chief financial officer), agent, majority owner or stockholder, management employee, managing or controlling partner, or controlling owner of one Respondent is also the president, vice president, officer (including chief operating officer, chief executive officer, and chief financial officer), agent, majority owner or stockholder, management employee, managing partner, or controlling owner of any other Respondent.

It is the intent of the City that this prohibition applies regardless of whether the affiliated person or entity submits a response independently or as a partner of a joint venture or other partnership.

The prohibition on Multiple Responses does not preclude a person or entity from participating on more than one Response as a subtenant only or submitting a Response as a Respondent and participating as a subtenant, licensee or vendor on a different Respondent's team.

CONTINGENT RESPONSES WILL BE REJECTED.



SECTION II – SCOPE OVERVIEW

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II. SCOPE OVERVIEW

A. INTRODUCTION

The Successful Respondent will be responsible for providing Childcare Services, including the planning, developing, managing and operating the Childcare Facility at 200 South 44th Street (44th Street Sky Train®) at PHX in accordance with all City, State and Federal licensing/permit requirements. The proposed Childcare Facility will have an indoor area comprised of 8,546 square feet and an outdoor area comprised of 4,916 square feet for a total area of approximately 13,462 square feet as depicted in **Exhibit 2**. The Successful Respondent will enter into a triple net Facility Lease consistent with the Draft Lease in **Exhibit 1**.

The Successful Respondent will conduct operations in a professional, business-like manner so as to not disturb or be offensive to other tenants or patrons and will not provide or sell any additional services unless approved in writing by the Aviation Director. The Successful Respondent 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. The Successful Respondent will not use or permit use of leased space(s) for any activity not expressly permitted in the Draft Lease.

B. NET RENTAL RATE

Each Respondent must pay a flat net rental rate of \$134,620.00 per Year (i.e., \$ 10.00 per square foot), plus applicable taxes, and is payable to City in twelve (12) equal monthly installments (Net Rent). Unless otherwise specified, the payment of Net Rent is due without notice, demand, deduction, or setoff in advance on the first day of each month during the Primary Term of the Lease.

C. RENT

Beginning twelve (12) to eighteen (18) consecutive months after the Initial Term or upon completion of all construction or on the date the Successful Respondent begins all Childcare Facility Operations under this Lease, whichever comes earlier, and during each Lease Year of the Primary Term, the Respondent shall pay Net Rent.



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D. “AS IS” CONDITION AND CAPITAL INVESTMENTS

1. The Childcare Facility space will be available to the Successful Respondent in an “as is” condition. All capital investments must be provided by the Successful Respondent. The City will provide non-Airport general funds in amount up to \$3,000,000.00 (City Funding) to the Successful Respondent to be used solely toward the Childcare Facility build-out which will benefit the Airport in the future.
2. Any construction work, costs, or expenses for which Successful Respondent will seek City Funding reimbursement requires the City’s prior approval and must comply with the applicable advertisement, notification, competitive bidding, and bonding provisions of Arizona Revised Statutes (A.R.S.) Section § 34-101, et seq. (collectively, “Title 34”). In accepting such City Funding, the Successful Respondent acknowledges and agrees to comply with **Exhibit 19**, which sets forth the Compliance Requirements for American Rescue Plans Act State and Local Fiscal Recovery Funds (ARPA/SLFRF).
3. The Successful Respondent is responsible for proposing designs and operations in compliance with all requirements in the Draft Lease (**Exhibit 1**) and the Tenant Design Criteria (**Exhibit 10**).
4. The Successful Respondent shall, in the design and construction of the improvements to the space, comply with all applicable provisions of the Americans with Disabilities Act, 42 U.S.C. § 12101 et al., the ADA Accessibility Guidelines (ADAAG), and implementing regulations as imposed upon the owner and operator of public facilities.
5. The Successful Respondent must comply with all the applicable requirements set forth in the **Supplemental Terms and Conditions to All Airport Agreements (Revised 2/1/19)** attached and marked **Exhibit 17**



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6. Initial Capital Investment

All capital investments will be evaluated according to the value and appropriateness of improvements considering the Childcare Facility described in this RCS. The Successful Respondent will be required to propose a minimum amount per square foot for leasehold improvements and trade fixtures. In the event the Successful Respondent does not spend the total capital investment proposed for the concept design, the unspent balance must be remitted to the City no later than four (4) months after commencement of the primary term of the Lease.

E. REPORTING REQUIREMENTS

Reporting Requirements. During the Primary Term, the Tenant will submit the reports listed below to the Landlord. Such reporting is subject to change based on the needs of the Landlord.

1. Accident and Safety Reports – Due within 24 hours of the occurrence
Accidents and Injury reports where external intervention or medical attention was required.
2. Income and Expense Report and Enrollment/Staffing Ratios – Due within twenty (20) days after the close of each month.
 - a. A detailed report of the actual income and expenses for the previous month.
 - b. Monthly status report that describes key issues, including but not limited to the following:
 - i. Enrollment list
 - ii. Enrollment Status Change Report providing reason for changes.
 - iii. Wait list including dates children added and/or removed from list.
 - iv. Center activities and special events for the upcoming month.
 - v. Facility maintenance, including requests made, date of original requests, progress reports, and completion reports.
 - vi. Licensing and regulatory activity, including notification of site visits and other events.
3. Annual Report – Due by March 31st of each Year.
 - a. Complete inventory of both City of Phoenix equipment.
 - b. Proposed operating budget for the upcoming year.
 - c. Proposed tuition for the upcoming year.
 - d. Marketing Plan for Childcare Facility services.



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F. HOURS OF OPERATION

The Childcare Facility will be required to maintain hours of operations from 6:00 am to 6:00 pm with the exception of unforeseen emergency situations approved by the Aviation Director. Examples of unforeseen emergency situations may be due to weather or natural disaster and will be determined by the Aviation Director. Hours of operation may be changed as deemed necessary by the Aviation Director, upon consultation with the Successful Respondent. The Successful Respondent must have a willingness to expand to non-traditional care hours as some of the Airport Workers are required to be available 24/7/365.

G. CUSTOMER DATA AND SECURITY

The Successful Respondent should consider the security of customer data, including banking, credit card and payment information, phone numbers, employment information, and any other identifying information, and have methods in place to ensure that customer data is adequately protected. The Successful Respondent should submit proof of Payment Card Industry Data Security Standard (PCI DSS) Certification with the response. The PCI DSS Certification will ensure that the Successful Respondent has all required measures in place to secure customer credit card payments.

H. ENVIRONMENTAL AND ENERGY CONSERVATION

The Airport is committed to incorporating sustainable principles and practices into its operation, management and administrative processes and strengthening sustainability throughout the Airport. In keeping with this commitment, the Airport values the vision, commitment and sustainability practices demonstrated by its Airport Tenants. Information on the Airport's sustainability vision, commitment and practices can be found at <https://www.skyharbor.com/about/Sustainability>

Respondent must avoid the use of polystyrene foam (also branded as Styrofoam) cups and containers for eat in or take-out food and beverage service. The use of bio-based products (cardboard, etc.) or reusable dishes and utensils are suggested alternatives.

The Airport has energy and water conservation requirements for lease spaces, outlined in its Tenant Improvement Handbook and Design Manual. Those include the use of EnergyStar and WaterSense appliances (with certain efficiency ratings) and LED lighting. During the Tenant Improvement process, submittal of energy needs and illumination calculations for the leased space will be submitted for Aviation approval.

The Airport is developing a voluntary Green Tenant Program to incentivize conservation actions that can be taken by the tenants. These initiatives can control costs by reducing waste disposal and energy and water consumption. PHX



SECTION II – SCOPE OVERVIEW

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encourages the Successful Respondent to participate in the program.

Successful Respondent may set up an area for the sorting and accumulation of materials to be recycled, with instructive signage. Successful Respondent may appoint a staff person to serve as the environmental liaison and point of contact with the Airport Recycling Coordinator or designee. This person would oversee training of new staff on recycling procedures and check recycling efforts in the lease space.

I. GENERAL REQUIREMENTS (DUTIES OF OPERATOR)

1. Operate and manage the Childcare Facility by providing Childcare Services for maximum capacity of the Childcare Facility, based on state requirements, including care for children between the ages of **six (6) weeks to six (6) years of age**.
2. Priority enrollment given to badged Airport Workers and space shall be offered upon availability to the general public only when no children of Airport Workers remain on the enrollment Wait List.
3. Child age groups and teacher/student ratios shall be in compliance with City, State and Federal laws and regulations.
4. Establish policies and procedures for facility operations; maintain a current Program Policies and Procedures Manual and ensure its implementation; and train Respondent's staff on program curriculum and Childcare Facility policies and procedures.
5. Establish staff qualification and recruitment guidelines; recruit a qualified administrator to operate and manage the Childcare Facility to the specification of this RCS and subsequent Lease; City representatives reserve the right to meet all Director Candidates placed on a short list and be apprised before the proposed administrator is hired.
6. Obtain and maintain licensing, accreditation, and permits for the Childcare Facility in accordance with the Arizona Department of Health Services (ADHS) licensing requirements, ADHS - Child Care Facilities Licensing - Home (azdhs.gov) as well as in compliance with all City, State and Federal requirements during the lease term, as well as maintain the required insurance levels.
7. Provide nutritious meals and snacks including, but not limited to breakfast, morning snack, hot lunch and afternoon snack.



SECTION II – SCOPE OVERVIEW

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J. ADDITIONAL WORK AND PROCESS IMPROVEMENT

1. Develop and implement annual goals and objectives for the Childcare Facility, including curricula, activities programs, and other activities as necessary and appropriate for its successful operation.
2. Develop and implement a childcare educational, curriculum, and program focused on promoting optimal physical, social, emotional and intellectual development of each enrolled child.
3. Provide periodic reports to City staff as requested or needed.
4. Operate the Childcare Facility through revenue generation and collection of tuition, and fully accept any and all risk of any operating losses associated with the Childcare Facility's operation.
5. Develop, implement, and maintain a strategy to prevent and reduce contraction or spread transmittable diseases among children and staff in accordance with applicable City, State and Federal requirements.



SECTION III – EVALUATION CRITERIA AND RESPONSE INSTRUCTIONS

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III. EVALUATION CRITERIA AND RESPONSE INSTRUCTIONS

A. EVALUATION CRITERIA

All responsive and responsible Responses will be evaluated based on the following criteria. The criteria will be evaluated for the Respondent and all Partners of the Respondent, if any. The sub-criteria listed will be considered by the evaluation panel(s), but are neither individually weighted, nor listed in order of importance. This is a best-value-to-the-City-procurement.

- 1. Overall Qualifications and Experience of the Respondent and Key Personnel (0 - 375 Points)** Responses will be evaluated on a narrative statement detailing personnel background, the Respondent's experience and qualifications for its key personnel, partners, and subtenants by providing the number of years and types of experience in relevant childcare categories. Respondents' narrative must include the name of firms or organizations, legal verification of all state and federal requirements for Childcare Services to include licensing, an in-depth description of previous experience that are of similar size to PHX for a minimum of five (5) years, provide references that include a service description, dates of provided service, operation budgets, and compensation. This includes experience in airports, non-airport venues, and similar operation of childcare service facilities. Responses shall also discuss the number of years of experience operating and managing childcare facilities and the sales performance of the Respondent and all Partners. Furthermore, Respondents must include the resumes of all key personnel that will be assigned to this Contract. Resumes shall clearly state all experience specifically related to the Scope of Services and list any similar Childcare Services experience.
- 2. Method of Approach and Management, Marketing, Operations, and Technology Plans (0-350 Points)** Responses will be evaluated on the Respondents narrative statements detailing its method of approach to satisfy the requirements of the Scope of Work in narrative form. The narrative must include a detailed approach and process which may include, but not limited to, the organizations mission statement and culture, Respondent's plan for operating a Childcare Facility considering the needs of the Airport Workers, and an implementation plan on the General Requirements, **Section II(I)**, and tuition rates and operating budgets on additional provided services and process improvements.



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Responses will also be evaluated on their management plan narrative that contains the following: a staffing plan for the Childcare space including training programs for customer service; policies and/or procedures for managing customer complaints and emergency situations; incentive programs for retention of staff; quality of the proposed workplace, employee wages, affordable health insurance benefits, working conditions, workplace safety, personal protective equipment (PPE) availability, employee benefits and compensation; communication methods used to notify employees of employment regulations, including the **Equal Pay Act**; and ongoing compliance monitoring practices.

In addition, Responses will be evaluated regarding the approach to the operations plan, which must include how technology will be utilized to improve the childcare experience, and the Respondent's plan for sustainability. Responses will also be evaluated on food service preparation in compliance with all applicable regulations, including those established by Maricopa County Health Services Department (MCESD).

3. Design of the Childcare Service Facility (0-275 Points)

Responses will be evaluated on the proposed concept designs for: creativity and innovation for interior designs; efficiency of the interior layout (i.e., receiving stations, enhancement of early childhood learning, use of technology in the design, etc.); and the overall quality of construction materials for flooring, wall coverings, fixtures, display units, signage, etc. Tenant improvements must also demonstrate compliance with tenant design criteria, include a clear and feasible construction schedule, and include design and construction proposals promoting sustainability. In addition, Responses will be evaluated on the proposed capital investment during the lease term.

Total Points Available

1000 Points



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B. SUBMISSION OF OFFER – ELECTRONIC RESPONSE SUBMISSION

The City of Phoenix Aviation Department is accepting electronic Responses for this solicitation, in addition to other methods of submitting sealed Response packages (hardcopies). Respondents are responsible for submitting the Response (electronic or hardcopies) before the due date and time of the submittal deadline.

FOR HARD COPY SUBMITTAL: For “In-Person” and “via Carrier (i.e. USPS, FedEx, UPS, etc.)” Delivery: Responses will be received at the Aviation Headquarters located at 2485 East Buckeye Road, Phoenix AZ 85034 in the **LOBBY** during normal business hours (8:00 am – 5:00 pm local Phoenix time) Responses should be clearly marked on the outside of the package as designated in the solicitation.

If the Respondent submits the Response in a hardcopy format, then the Response must be submitted in a sealed package marked with the following information:

- Respondent’s Name
- Respondent’s Address (as shown on the Certification Page)
- AVN RCS 24-001
- RCS Response To: RCS Response To: Childcare Services

FOR “ELECTRONIC” SUBMITTAL: Please submit your Response via email to avn.solicitations@phoenix.gov. The date and time on the email will provide proof of submission and verification if the Response was received on or prior to the Due Date and Time specified. Please identify the solicitation number i.e. AVN RCS 24-001 on the subject line of the email when submitting your Response.

The actual notarized affidavit, regardless of the Response submission method, must be received at the Aviation Headquarters located at 2485 East Buckeye Road, Phoenix, AZ 85034 by the Solicitation Deadline as indicated on page 1.

Respondents may submit electronic signatures on documents that do not require a Notary Public. The City does not accept electronic signatures for notarized documents; these documents must be submitted in paper form (hard copy) with original or “wet signatures” at the time of the Solicitation Deadline.

It is the responsibility of the Respondent to ensure that the Response is timely, including confirming that there are no technical reasons that any Response submitted electronically may be delayed.



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Respondents will be allowed to submit an electronic test submission. Please send electronic test submissions to avn.solicitations@phoenix.gov and specify in the title of the email that the submission is only a test. The City will acknowledge receipt of the test submission but will not be responsible for providing any additional information related to the Respondent's test submission. A test submission will not be counted as a final submittal. The actual Response must be submitted before the solicitation deadline. Successful electronic test submission is not a guarantee that electronic final submission of the Response will also be successful, and the City will not be responsible for any technical issues that may occur with the electronic final submission. **The Respondent is responsible for ensuring its Response is received prior to the solicitation deadline date and time.**

C. DELIVERY OF RESPONSES

Respondent's sealed package(s) must include the following:

- One (1) original Response with an authorized original signature on the Affidavit (**Exhibit 12**).
- Two (2) hard copies of the Response.
- One (1) electronic copy of the Response on a USB drive, using unlocked pdf format and in the same page order as the hard copy.
- Conflict of Interest and Solicitation Transparency Disclosure Form (**Exhibit 13**).
- Letter of Declaration (**Exhibit 5**).

If submitting electronically, Respondent is responsible for including all required documentation in the electronic submission. **The actual Response Guarantee and notarized affidavit, regardless of the Response submission method, must be received at the Aviation Headquarters located at 2485 East Buckeye Road, Phoenix, AZ 85034 by the Solicitation Deadline as indicated on page 1.**

Respondents may submit electronic signatures on documents that do not require a Notary Public. The City does not accept electronic signatures for notarized documents; these documents must be submitted in paper form (hard copy) with original or "wet signatures" at the time of the Solicitation Deadline.

Sealed responses **must** be received by Aviation's administrative receptionist before the solicitation deadline at the address listed on Page 1 during the normal business hours of 8:00 a.m. to 5:00 p.m. Phoenix time or electronic responses must be received at avn.solicitations@phoenix.gov before the solicitation deadline. The prevailing clock will be Aviation's clock. Respondents may correct or withdraw their Response any time before the solicitation deadline listed on Page 1.

All responses should include all the following and must be organized using the Tab numbers listed below:



SECTION III – EVALUATION CRITERIA AND RESPONSE INSTRUCTIONS

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D. ORGANIZATION OF THE RESPONSE:

All responses should include all the following and must be organized using the Tab numbers listed below:

TAB 1 – GENERAL INFORMATION

- Cover Letter (1-page limitation) including the following information on the first page of the letter:
 - Name of Respondent. If Respondent is a joint venture, then indicate all partners and each partner's percentage of ownership interest in joint venture.
 - Names of all sublessees, if any.
- Table of Contents for entire Response with page numbers included.
- Notarized Affidavit (**Exhibit 12**).
- Conflict of Interest and Solicitation Transparency Disclosure Form (**Exhibit 13**).
- Letter of Declaration (**Exhibit 5**). See Section I (F).
- Respondent References (**Exhibit 14**).
- Bank's Letter of Commitment - Respondent must provide a letter from its bank communicating the bank's commitment to provide the Respondent, if successful, with a Letter of Credit or Cash Deposit, as defined in Section I (I) in an amount equal to three (3) months' rent as outline.
- Evidence of ability to obtain required insurance coverages, such as a commitment letter from an underwriter or a current certificate of insurance showing comparable insurance limits, confirming that the Respondent is insurable for the required coverages at the required limits as defined in **Exhibit 15**. The City reserves the sole right to determine if the Respondent will meet the required insurance limits as defined in this solicitation.
- Proof of Payment Card Industry Data Security Standard (PCI DSS) Certification.



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TAB 2 – OVERALL QUALIFICATIONS AND EXPERIENCE OF THE RESPONDENT AND KEY PERSONNEL

Respondents should provide a narrative regarding the Respondent's experience and qualifications for its organizations, partners (if any), and subtenants by describing the experience relevant to providing childcare services. This includes experience in airports, non-airport venues, and similar venues. Responses shall also discuss the number of years and experience operating and managing a variety of childcare concepts and subtenants and the sales performance of childcare spaces operated by Respondent and all Partners. Include the following in Tab 2 of the Response:

- Respondent's Qualifications & Experience.
- Information for previous childcare locations.
- Respondent's experience managing and operating a variety of childcare concepts.
- Experience of Respondent Partners, and subtenant if any, with proposed or similar childcare concepts.
- Include all certifications of key personnel, which may include but not limited to CPR and first aid training.

TAB 3 – METHOD OF APPROACH AND MANAGEMENT, MARKETING, OPERATIONS, AND TECHNOLOGY PLANS

Respondents should provide a narrative regarding the approach to the management, marketing, technology, and operations plan; how to manage the day-to-day operations of the Childcare Facility; and the methodology to recruit and retain quality employees. Respondent to include the following in Tab 3 of the Response:

- Staffing plan for an average day of the childcare facility.
- Qualifications and experience of the on-site team
 - Respondent's on-site manager(s) who will be responsible for the operations of the childcare facility under the Lease, including handling emergency situations and customer service issues.
 - Subtenant's, if any, on-site manager(s)
- Management Plan – Narrative describing the following programs in numbered and titled sections:
 - Recruiting and training programs
 - Quality Workplace narrative describing methodology of recruiting and retaining staff, addressing the factors specified in this solicitation, including working conditions and workplace safety.



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- Customer service program and methods to continuously monitor customer service and quality childcare, i.e., comment cards, social media
- Policy for handling reasonable accommodation and reasonable modification requests from applicants, children, parents, and guardians with disabilities
- Policy for ensuring program and facility accessibility under the Americans with Disabilities Act (ADA).
- Regularly scheduled and ongoing training of staff regarding compliance with the ADA and Title VI of the Civil Rights Act of 1964 (Title VI).
- Policy for handling customer complaints
- Policy for handling emergency situations
- Employee incentives for retaining and motivating staff, including training programs, leadership and career advancement opportunities, and employee recognition and motivation programs
- Proposed communication to employees of the Equal Pay Act and method to monitor compliance with the Act (**Exhibit 5**).
- Marketing Plan – Narrative describing the following plans in titled sections:
 - Use of social media to promote childcare concepts
 - Promotions and discounts attributed to customer loyalty programs, employees, military, etc. (include sample materials)
- Operations Plan – Narrative describing the following plans in numbered and titled sections:
 - Respondent should provide a Sustainability Summary detailing its vision, commitment, and practices in promoting sustainability.
 - Facility maintenance plan, which includes normal repairs and maintenance of equipment, frequency of cleaning and trash removal. Please see Article 25 and Exhibit C in the Draft Lease.
 - Physical security, inventory, cash controls
 - Discuss cleaning of the spaces and high touch points
 - Proposed Tuition Rates (**Exhibit 16**)
- Technology Plan
 - How technology will be utilized to improve customer service
 - Proof of Payment Card Industry Data Security Standard (PCI DSS) Certification.



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TAB 4 – DESIGN OF THE CHILDCARE FACILITY

Respondents should provide a narrative regarding the creativity and innovation for interior and exterior designs, efficiency of the interior layout, and overall quality of construction materials. The narrative should also include how tenant improvements will demonstrate compliance with the Tenant Design Criteria (**Exhibit 10**), a clear and feasible construction schedule, and how the design will promote sustainability. Respondent to also include the following in Tab 4 of the Response:

- Proposed Capital Investment by Childcare Facility Space Aggregate. **Exhibit 9**
- Construction Phasing Plan
 - Respondent shall provide a detailed approach to phasing the construction of the childcare facility space(s)
- Material boards – In lieu of submitting physical material boards and samples for the childcare facility space by the solicitation deadline, the Respondent must provide an 11” x 17” electronic or hard copy foldout with pictures of proposed materials, including the floor and wall coverings, ceiling treatments, and lighting fixtures, and all proposed interior and exterior signage. Respondent must also provide the manufacturer information and specifications of all proposed materials and an electronic copy of the proposed material board.
- Architectural Renderings - must be compatible with Tenant Design Criteria (**Exhibit 10**). The following three renderings for the childcare facility space will be required with Response:
 - Exterior – overall design to include color scheme, signage and graphics, lighting, etc. Ensure that renderings of exterior play areas conform to Section 1008 of the 2010 ADA Standards for Accessible Design.
 - Interior – overall design to include color scheme, materials, lighting, displays, etc. Ensure that renderings of interior play areas conform to Section 1008 of the 2010 ADA Standards for Accessible Design.
 - Layout of interior – fixtures and technology, customer circulation, changing room, storage areas, etc.
- Narrative must provide a description of the Childcare Facility design intent and proposed capital investment, including design components related to sustainability.

E. FORM OF RESPONSE

Responses shall conform to the format specified below. Responses that are incomplete, conditional, obscure, or that contain additions not requested, changes or exceptions to material provisions or requirements of this RCS, or irregularities of any kind, are subject to rejection as non-responsive.



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The provided Exhibits must be submitted in the size in which they are provided in this RCS with the same font styles and size used on the attachment.

- Narrative portions of the Response shall be submitted on 8.5” x 11” paper with Arial font of at least 12 point.
- The Response and each hard copy submittal shall each be submitted in a 3-ring 8.5” x 11” binder.
- The pages of the Response must be numbered. Pages must be numbered by section (example: Tab 2’s page numbers are 2-1, 2-2, 2-3, etc.).

Forms are provided as part of the RCS to organize the information to be submitted in each Response. Each Respondent is responsible for ensuring the forms are complete. Where financial or numerical data is provided, the Respondent is responsible for the accuracy of its numbers and calculations. All dollar amounts must be in U.S. dollars.

Responses are limited to seventy-five (75) double-sided (or one hundred-fifty 150 single-sided), letter-size pages typed in 12-point Arial font. The pages of each Response must be numbered. Forms, exhibits, financial information, table of contents, tab cover sheets, design renderings, and electronic material boards will not be counted towards the seventy-five pages (75) double-sided (or one hundred-fifty (150) single-sided) page limit. Any additional pages that exceed the page limitation will be removed from the Response and not be considered during the evaluation process. **Respondents are responsible for reading and complying with all requirements of this RCS.**

F. WITHDRAWAL / CORRECT RESPONSE

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

G. LATE RESPONSES

Responses received after the deadline date and time will be rejected as non-responsive, unless Good Cause is shown. If a late Response is submitted, the Aviation Department will document the date and time of the submittal of the late Response, keep the Response and notify the Respondent that its Response was disqualified for being late.

H. RESPONSE RESULTS

The City will post Respondent names on the City’s website, <https://solicitations.phoenix.gov/Awards>, within five (5) calendar days of the response opening. Once the City has evaluated the Responses, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Respondents.



SECTION IV – DETERMINATION OF RESPONSIVENESS AND RESPONSIBILITY AND EVALUATION

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IV. DETERMINATION OF RESPONSIVENESS AND RESPONSIBILITY AND EVALUATION

A. RESPONSIVENESS AND RESPONSIBILITY

Responses will be reviewed for responsiveness and responsibility, documentation of minimum qualifications, completeness, and adherence to RCS requirements.

The qualifications will be reviewed by the Procurement Officer or an evaluation panel in accordance with the criteria set forth in this RCS. If a Respondent's Response is deemed not Responsive or not Responsible or does not meet the minimum qualifications, then no additional opportunity to supplement the qualifications will be afforded to the Respondent.

The City reserves the sole right to determine the sufficiency of qualifications and experience of all Respondents.

B. EVALUATION

Aviation will appoint evaluation panel(s) to evaluate all Responsive and Responsible Responses and recommend the Respondent(s) to be awarded the Lease resulting from this RCS. The Aviation Director may accept the evaluation panel's recommendation and submit it to the Phoenix City Council for approval or may reject the recommendation. If only one Response is Responsive and Responsible to this RCS, then the Aviation Director shall have the discretion to determine whether the evaluation panel or staff will evaluate the Responsive and Responsible Response.

The evaluation panel may interview all Respondents or create a short-list of Respondents to interview. The same evaluation panel will be used for the short-list and the interview process. A short-list of Responses, when used, is a list of Responses identified by the evaluation panel, based on the evaluation criteria in this RCS, as those that have a substantial chance of resulting in a Lease award in comparison to all Responsive and Responsible Responses submitted. The evaluation panel may consider information from the interviews or demonstrations that clarifies the written Responses.

The evaluation panel will score the Responses by consensus based on the evaluation criteria. The City will retain the consensus scoring for each criterion for each Respondent. **The City does not retain individual panelists' scores.**



**SECTION IV – DETERMINATION OF
RESPONSIVENESS AND RESPONSIBILITY AND
EVALUATION**

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C. DISCUSSIONS

The Procurement Officer may hold Discussions, based on the evaluation panel's review, with Respondents submitting a Reasonably Susceptible Response. Discussions may be conducted orally but must be confirmed in writing. In conducting Discussions, the Procurement Officer may not disclose any information derived from Responses submitted by competing Respondents. The Procurement Officer may request Response revisions from all Respondents with whom discussions were held. The Procurement Officer will facilitate the evaluation of any revisions in the revised Responses resulting from the discussions.



SECTION V – GENERAL TERMS AND CONDITIONS OF THE RCS

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V. GENERAL TERMS AND CONDITIONS OF THE RCS

A. SOLICITATION TRANSPARENCY POLICY

1. Commencing on the date and time a solicitation is published, potential or actual 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 or their designee) at a public meeting, posted under Arizona Statutes, until the resulting agreement is awarded or all 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, potential or actual Respondents may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff who is not involved in the selection process.
2. Potential or actual Respondents may discuss their Response 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 will identify the participants and the subject matter, as well as invite the public to participate.
3. With respect to the selection of the successful Respondent, 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 or actual Respondents.
4. This policy is intended to create a level playing field for all Respondents, assure that contracts are awarded in public, and protect the integrity of the selection process. **RESPONDENTS THAT VIOLATE THIS POLICY WILL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the Respondent may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.



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5. "To discuss" means any contact by the potential or actual Respondent, regardless of whether the City responds to the contact. Respondents that violate this policy will be disqualified until the resulting agreement is awarded, or all 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 agreement, as long as the City cancels with a statement that the City will rebid the solicitation.
6. With respect to the selection of the Successful Respondent, the City Manager and City Manager's Office will continue the past practice of exerting no undue influence on the process.

B. AWARD RECOMMENDATION

All award recommendations will be posted on the following phoenix.gov website: <https://solicitations.phoenix.gov/Awards>

When the City posts the award recommendation, the procurement file for this RCS will be available upon request for review. The procurement file consists of the RCS, any addenda, advertising documents, Responses, evaluation process documents, Pre-Response meeting documents, Q&A, signed conflict of interest statements used in this process and confirmation of the RCS's posting to the phoenix.gov solicitation website.

C. DISCLOSURE OF CONFIDENTIAL AND PROPRIETARY INFORMATION

1. All materials submitted by Respondents are the property of the City and become a matter of public record available for review pursuant to Arizona law. A Respondent may request specific information contained within its Response be treated by the Procurement Officer as confidential or proprietary (collectively confidential) provided the Respondent clearly labels the information "confidential". To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential.



SECTION V – GENERAL TERMS AND CONDITIONS OF THE RCS

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2. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Respondent 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 a Respondent in writing of any request to view any portion of its offer marked "confidential." The Respondent will have fourteen (14) calendar days thereafter to (i) notify the Procurement Officer if Respondent does not object to such disclosure, or (ii) obtain and furnish a court order enjoining such disclosure. The time to obtain a court order may be extended at the Procurement Officer's sole discretion. If the Respondent does not provide the Procurement Officer with a court order enjoining release of the information during the designated time period, the Procurement Officer will make the information requested available for inspection.

D. CITY'S RESERVATION OF RIGHTS

The City may:

1. Accept or reject any or all Responses in whole or in part;
2. Cancel this RCS in whole or in part;
3. Negotiate any Response elements in a manner that does not create an unfair advantage for any Respondent;
4. Reissue this RCS with or without modification;
5. Waive any non-material defects in any Response or the procurement process;
and
6. Take any other legal action deemed to be in the City's best interest.

E. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST

The City may disqualify a Response if the Respondent has a real or apparent conflict of interest disclosed in its Response or discovered from any other source. During the term of the Lease resulting from this RCS, the Successful Respondent's employees may not be involved in any other Aviation-related business, including as an employee, owner, subtenant and/or joint venture partners, or consultant, which presents a real or apparent conflict of interest. All determinations regarding conflicts of interest will be made at the sole discretion of the Aviation Director, whose decision is final and not subject to Section V(J).

F. RESPONDENT INCURRED COSTS

All costs incurred by the Respondent in connection with this RCS must be borne solely by the Respondent. Under no circumstances will the City be responsible for any costs associated with the Respondent's Response or the RCS process.



SECTION V – GENERAL TERMS AND CONDITIONS OF THE RCS

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G. CITY'S SOLE DETERMINATION OF RESPONSIVENESS AND RESPONSIBILITY AND RIGHT TO INVESTIGATE

Responses will be reviewed for documentation of minimum qualifications, completeness, and compliance with the RCS requirements. The City reserves the sole right to determine responsiveness and responsibility, which includes the City's determination of the Respondent's integrity, skill, capacity, experience, and facilities for conducting the work to be performed.

The City's determination as to whether a Respondent is responsible will be based on the information furnished by the Respondent, interviews (if any), and any other sources the City deems appropriate. Award of the Lease resulting from this RCS will not be made until such investigations, which each Respondent agrees to permit by submitting its Response, are made by the City as it deems necessary.

H. TITLE VI SOLICITATION NOTICE

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

I. RESPONDENT CERTIFICATION AND AFFIDAVIT

By submission of a Response, each Respondent certifies it has not paid or agreed to pay any fee or commission, or any other item of value contingent on the award of a Lease to any employee, official or current contracting consultant of the City. Any Respondent that is unable to comply with any required certifications may be disqualified.

In compliance with Arizona Revised Statutes §§ 1-501 and 1-502(D), the City will require any Successful Respondent that submits its Response as a sole proprietorship or as an individual to complete the Affidavit of Lawful Presence posted at:

<https://www.phoenix.gov/Documents/lawfulpresence.pdf> prior to the award of any Lease resulting from this RCS process.



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J. PROTEST POLICY

1. Conditions for Protest:

- a. An aggrieved party may protest the contents of the RCS up to seven (7) calendar days before the solicitation deadline listed on page 1 when the protest is based on alleged mistakes, improprieties or defects. If an aggrieved party submits a protest based on alleged mistakes, improprieties or defects, they must also submit a Response by the solicitation deadline listed on page 1 if they want to be considered for award of the Agreement. Any potential Respondent should identify any alleged mistakes, improprieties or defects through the Q&A process in Section I (K).
- b. Respondents may protest an adverse determination issued by the Procurement Officer regarding whether the Respondent is responsible or its Response is responsive within seven (7) calendar days of the date the Respondent was notified of the adverse determination.
- c. Respondents may protest an award recommendation within seven (7) calendar days of its posting at: <https://solicitations.phoenix.gov/awards>

If the Respondent can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The date the Award Recommendation Notice is posted will initiate the seven (7) day Protest Period. That is, the date the Notice is posted will be day zero (0), with the following day counted as day one (1) and so forth through Close of Business (5:00 PM local Phoenix time) on calendar day seven (7).

2. Submitting a Protest

- a. Protests received after the protest due dates set forth in this RCS will not be considered, except for Good Cause.
- b. In the event the aggrieved party submits a public records request after receiving the applicable notice but prior to the deadline to file a protest, the Procurement Officer will extend the deadline one day for every day between the day the City receives the public records request and the day the public records are produced, the request is otherwise addressed by the City or a court of competent jurisdiction enjoins disclosure of the requested records.



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- c. To be considered, all protests must be submitted in writing and must include:
 - RCS number and title;
 - Name, address, telephone number, and email address of the protester;
 - Detailed statement of the legal or factual basis of the protest including any copies of relevant documents;
 - The relief requested;
 - Signature of the protester or its authorized representative;
 - A Respondent protesting an award recommendation will also establish in its protest that it had a substantial chance of being awarded the Agreements and will be harmed by the recommended award.
- d. The Procurement Officer for the solicitation has the authority to review, decide and settle protests.
- e. Deadlines in the solicitation are not required to be postponed solely on the basis of receiving a solicitation protest. Only upon written notice from the Procurement Officer will a solicitation deadline be postponed, at the City's sole discretion.
- f. The Procurement Officer will issue a protest decision in writing within a reasonable period of time stating the reason for the protest decision and advising the aggrieved party or respondent of its right to appeal in accordance with Phoenix City Code.
- g. The Procurement Officer will not review any supplements or amendments to a Respondent's original protest or any additional protests submitted by the same Respondent. The Procurement Officer will provide the recommended Respondent copies of award recommendation protest(s) and the City's written decision by fax or email and regular mail with return receipts requested for all methods of delivery.

K. LEGAL WORKER REQUIREMENTS

The City is prohibited by A.R.S. § 41-4401 from awarding an agreement to any RESPONDENT who fails, or whose subcontractors fail, to comply with A.R.S. § 23 214(A). Therefore, RESPONDENT agrees that:

1. RESPONDENT and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with § 23-214, subsection A.
2. A breach of warranty under paragraph 1 will be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.



SECTION V – GENERAL TERMS AND CONDITIONS OF THE RCS

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3. The City retains the legal right to inspect the papers of the RESPONDENT or subcontractor employee(s) who work(s) on the resulting Lease to ensure that RESPONDENT or subcontractor is complying with the warranty under paragraph 1.

L. NON-DISCRIMINATION / EQUAL OPPORTUNITY FOR CITY

The City will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Parts 23 and 26 on the basis of race, color, sex, or national origin.

In administering its ACDBE Program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE Program with respect to individuals of a particular race, color, sex, or national origin.

The City further agrees to meet the non-discrimination requirements provided in 49 CFR Part 26, §26.7 with respect to the award and performance of any agreement, management contract or subcontract, purchase or lease agreement, or other agreement covered by this subpart.

The City will take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts and agreements covered under the ACDBE Program.

Compliance with Nondiscrimination Requirements:

During the performance of the resulting Lease or Contract, the Successful Respondent, for itself, its assignees, and successors in interest, agrees as follows:

1. **Compliance with Regulations:** The Successful Respondent (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Successful Respondent, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Successful Respondent will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.



SECTION V – GENERAL TERMS AND CONDITIONS OF THE RCS

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3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Successful Respondent for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Successful Respondent of the Successful Respondent's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Successful Respondent will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Successful Respondent will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Successful Respondent's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Successful Respondent under the contract until the Successful Respondent complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Successful Respondent will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Successful Respondent will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Successful Respondent becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Successful Respondent may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Successful Respondent may request the United States to enter into the litigation to protect the interests of the United States.



SECTION V – GENERAL TERMS AND CONDITIONS OF THE RCS

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M. AFFIRMATIVE ACTION COMPLIANCE CERTIFICATION

The Successful Respondent certifies its compliance with federal affirmative action requirements by signing the Lease resulting from this RCS.

N. NON-DISCRIMINATION / EQUAL OPPORTUNITY FOR SUCCESSFUL RESPONDENT

The City extends to all Respondents an equal economic opportunity to compete for City business and strongly encourages the participation of ACDBE firms and Small Business. The Successful Respondent is required to adopt and incorporate the following nondiscrimination policy statement in all contractual arrangements (49 CFR Part 23.25):

The Successful Respondent will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Parts 23 and 26 on the basis of race, color, sex, or national origin.

In administering its ACDBE Program, the Successful Respondent will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the ACDBE Program with respect to individuals of a particular race, color, sex, or national origin.

The Successful Respondent further agrees to meet the non-discrimination requirements provided in 49 CFR Part 26, §26.7 with respect to the award and performance of any agreement, management contract or subcontract, purchase or lease agreement, or other agreement covered by this subpart.

The Successful Respondent will take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts and agreements covered under the ACDBE Program.



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VI. EXHIBITS

EXHIBIT 1

DRAFT LEASE

CHILDCARE SERVICES AT PHOENIX SKY HARBOR INTERNATIONAL AIRPORT

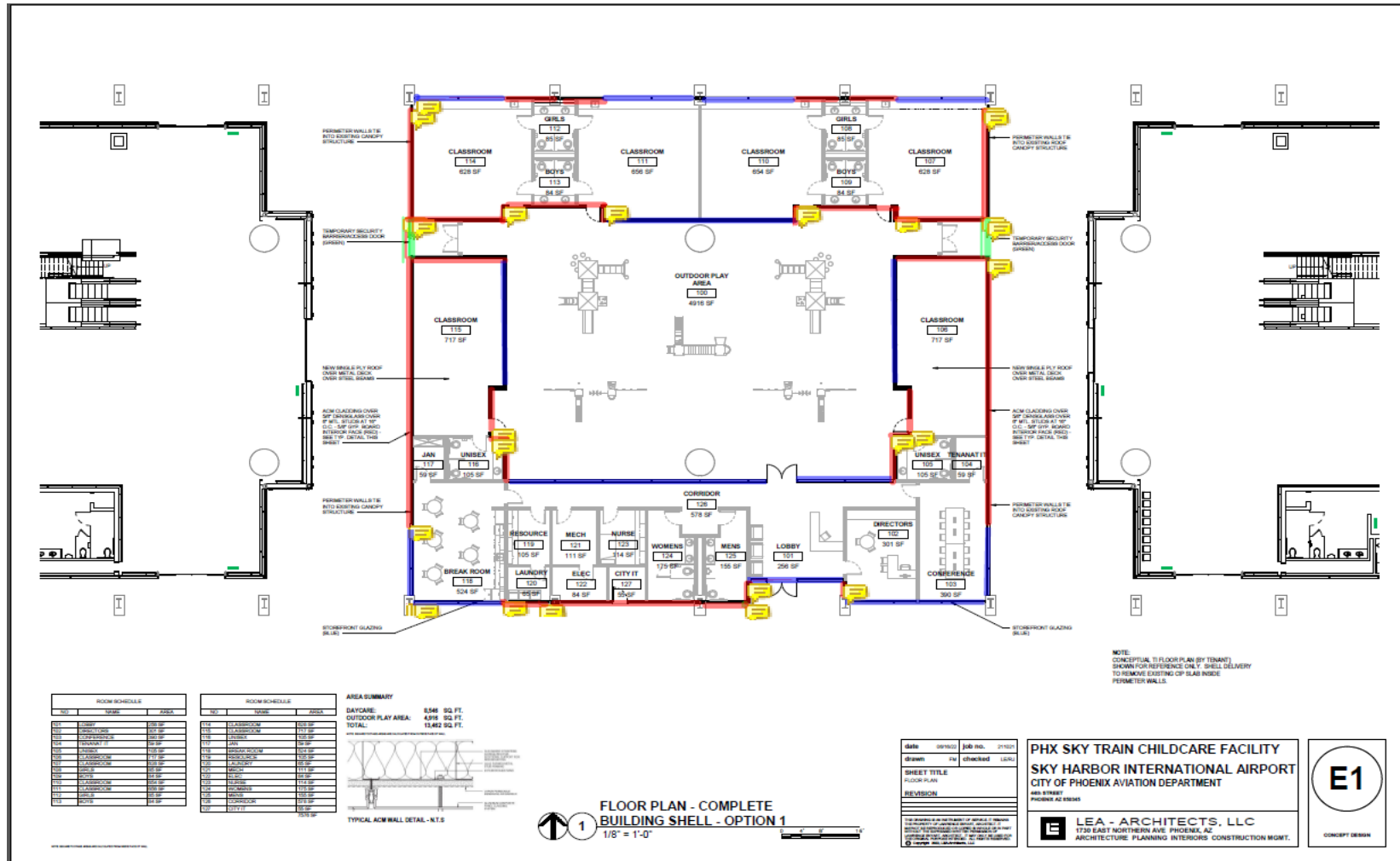
Available at: <https://solicitations.phoenix.gov/Solicitations/Details/1696>



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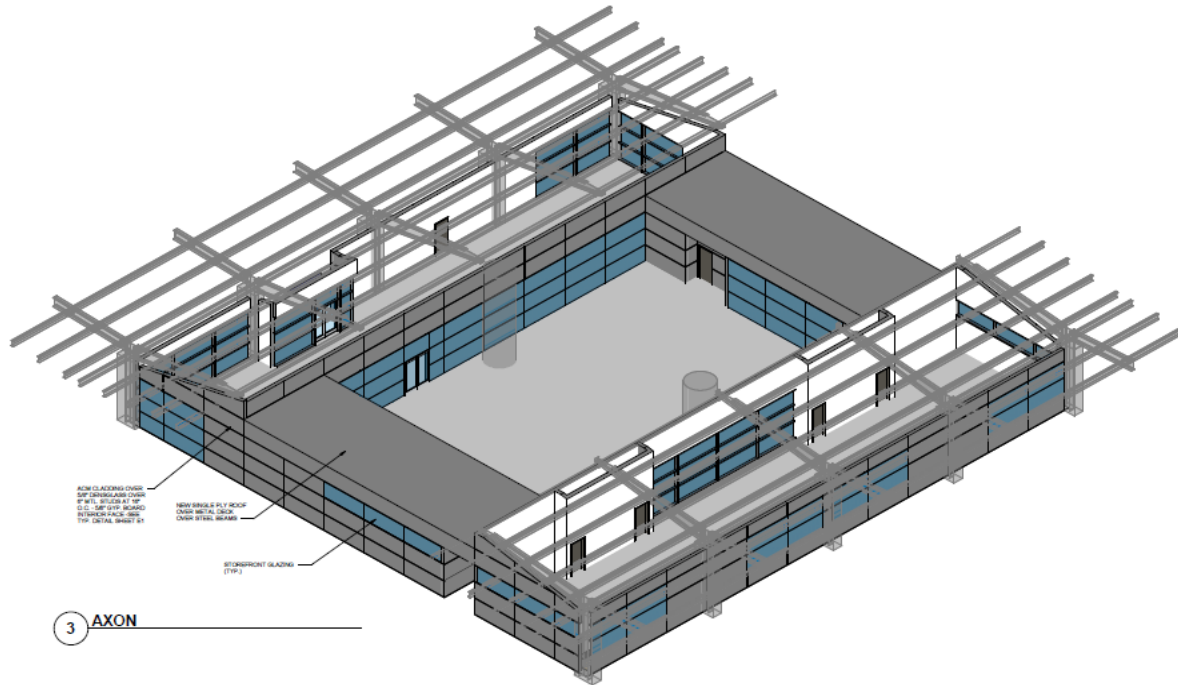
EXHIBIT 2 PREMISES MAP





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3 AXON

Date	09/15/20	Job No.	21001
Drawn	AK	Checked	LEA
SHEET TITLE			
THREE DIMENSIONAL DRAWINGS			
REVISION			
<small>The Architect is not liable for errors or omissions in these drawings unless caused by the Architect's negligence. The Contractor shall be responsible for the accuracy of the information provided to the Architect. The Architect's liability is limited to the amount of the fee for these drawings. The Architect's liability shall not exceed the amount of the fee for these drawings. The Architect's liability shall not exceed the amount of the fee for these drawings.</small>			

PHX SKY TRAIN CHILDCARE FACILITY
SKY HARBOR INTERNATIONAL AIRPORT
 CITY OF PHOENIX AVIATION DEPARTMENT
 480 8TH STREET
 PHOENIX, AZ 85005

LEA - ARCHITECTS, LLC
 1730 EAST NORTHERN AVE. PHOENIX, AZ
 ARCHITECTURE PLANNING INTERIORS CONSTRUCTION MGMT.

E2

CONCEPT DESIGN



SECTION VI – EXHIBITS

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EXHIBIT 3

SMALL BUSINESS OUTREACH LEASE CLAUSE

SECTION I DEFINITIONS

The following definitions shall apply to this Exhibit,

Airport Concession Disadvantaged Business Enterprise (ACDBE) means a firm that has been granted ACDBE certification status by the City acting as a member of the Arizona Unified Certification Program pursuant to the criteria contained in 49 Code of Federal Regulations (CFR) Parts 23 and 26.

Arizona Unified Certification Program (AZUCP) is a consortium of government agencies organized to provide reciprocal ACDBE and DBE certification within Arizona pursuant to 49 CFR Part 26. The official ACDBE and DBE database containing eligible ACDBE and DBE firms certified by AZUCP can be accessed at: www.adot.dbesystem.com. The certification system is called the Arizona Unified Transportation Registration and Certification System (AZ UTRACS).

City means the City of Phoenix.

Compliance Specialist means an EOD employee.

Concession means a business that primarily serves the public on an airport. This includes direct sales or services, management contracts, advertising contracts and goods and services providers.

Contract is a written agreement between any of the following parties: Respondent and JV partner, sublessee, subcontractor, or a Goods and Services Provider.

DBE stands for disadvantaged business enterprise. In this context, DBE means a Small Business Concern that has successfully completed the DBE certification process and has been granted DBE status by an AZUCP member pursuant to the criteria contained in 49 CFR Part 26.

EOD means the City of Phoenix Equal Opportunity Department.

Goods and Services Providers are firms that provide goods and services directly to airport concessionaires as an or small business.



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Joint Venture (JV) means an association between two or more persons, partnerships, corporations, or any combination thereof, formed to carry on a single business activity. The JV is limited in scope and duration to this Lease. The resources, asset and labor of the participants must be combined in an effort to accrue profit.

Lease is a written agreement for a direct concession opportunity with the City.

Outreach Efforts means the diligent and good-faith efforts demonstrated by a Respondent to solicit participation from Small Businesses. Respondent shall: identify and document potential business opportunities for Small Businesses; describe what efforts were undertaken to solicit Small Business participation; disclose results of negotiations with Small Businesses; and communicate and record Respondent's selection decisions and notifications relating to Small Business participants.

Respondent means an individual, partnership, JV, corporation or firm that submits a Response to the City to perform services requested by a RCS.

Response is a written proposal to the City prepared by a Respondent to perform services.

Revenue Contract Solicitation (RCS) is a solicitation or procurement issued by the City.

Small Business means, a Small Business Concern as defined in section 3 of the Small Business Act and Small Business Administration regulations implementing the Act (13 CFR part 121), which meets the Small Business Administration size standard.

Subcontractor means an individual, partnership, JV, corporation or firm that holds a contract at any tier below the Lease, including a vendor under a purchase order.

Sublease is an agreement between the Respondent and another entity or entities [sublessee(s)].

Successful Respondent means an individual, corporation, firm or JV that has been selected by the City to perform services requested by a RCS.



SECTION VI – EXHIBITS

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1. SECTION II GENERAL REQUIREMENTS

A. **Small Business Participation**. For this solicitation, the City has *not* established a race- or gender-*conscious* participation goal. The City extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The City uses race- and gender-*neutral* measures to facilitate participation of Small Businesses. The City *encourages* each Respondent to voluntarily subcontract or joint venture with Small Businesses to perform part of the work that Respondent might otherwise perform with its own forces. The City also encourages each Respondent to voluntarily utilize Small Businesses as suppliers of Goods and Services.

B. **Counting Small Business Participation**. The City will count Small Business participation based on the Small Business Outreach documentation submitted by the Successful Respondent. This documentation will be reviewed by the Equal Opportunity prior to approval.

C. **Civil Rights Assurances**.

“The contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, sex, or creed in the performance of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Phoenix deems appropriate.”

Note: For purposes of the required Contract and Subcontract language above, the Successful Respondent is the “contractor.”

2. SECTION III ENCOURAGED OUTREACH EFFORTS

The City strongly encourages Respondents to use good faith and reasonable efforts to obtain and utilize the services of Small Business for this Lease. Specifically, the Successful Respondent shall: (1) identify small-business-participation opportunities, including Commercially Useful Functions; (2) actively solicit proposals from small businesses; (3) evaluate small-business proposals; and (4) communicate selection decisions to small businesses, including each rejection of a small-business proposal.



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3. SECTION IV SUBMITTAL OF SMALL BUSINESS DOCUMENTS

Documentation due with initial Response.

There are no Small Business Outreach Efforts documents required to be submitted with initial Response.

SECTION V SMALL BUSINESS OUTREACH GENERAL REQUIREMENTS

Respondent are encouraged to actively contact Small Businesses for each scope of work or business opportunity identified for its Small Business Outreach Efforts. Respondent's contact with Small Businesses should occur well before the Response deadline to afford the firms contacted a reasonable opportunity to prepare a proposal and participate in the Lease.

A. **At time of submission**, there are no Small Business Outreach documents to be submitted with initial response.

B. **Following the award of the contract**, documentation of Small Business Outreach efforts (Forms EO2) must be submitted to the Equal Opportunity Department within 60 days after contract award:

1) Form EO2 Small Business Outreach Efforts. The Successful Respondent shall complete and submit Form EO2 documenting its diligent, earnest Small Business Outreach Efforts.

1. To document its Outreach Efforts, Respondent shall Identify all Small Businesses contacted by Respondent on Form E02. Form EO2 shall be completed with the following minimum information:

- i. **COLUMN A.** Each business's full legal name and contact information
 - aa. Respondent shall ask each firm to indicate its number of employees
 - bb. For each Small Business, Respondent shall indicate the **Range of Annual Gross-receipts** (e.g., less than \$500,000; \$500,000 – \$1 million; \$1 – 2 million; \$2 – 5 million; etc.) *rather than requesting* an exact figure from the firm.



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- ii. **COLUMN B.** Business status (ACDBE, DBE, Small Business, SBE, or unknown);
- iii. **COLUMN C.** Scope of work solicited (brief description, percentage of contract value);
 - aa. Respondent shall detail each scope of work or business opportunity selected for each Small Business;
- iv. **COLUMN D.** Solicitation method (personal contact, telephone, fax, e-mail, other);
- v. **COLUMN E.** Selection decision
 - aa. Respondent must indicate if a firm was selected or not. If Respondent does not select an identified Small Business to participate in the Lease, Respondent must explain the reason why.
- vi. **COLUMN F.** Communication of selection outcome to each participant.
 - aa. Respondent shall notify each Small Business contacted whether or not Respondent selected the firm within 15 days after the initial contact. Respondent shall notify all firms not selected, and Respondent shall state when (date) and how (method) the selection outcome was communicated to each firm.

The Compliance Specialist will evaluate all documented information to determine whether Respondent has demonstrated the required Small Business Outreach Efforts

B. Form EO2 Supporting Documentation. Respondent shall complete and submit supporting documentation of its Outreach efforts related to Form EO2 for Small Businesses participating under this Lease.

1. Respondent shall submit with Form EO2 and all supporting documentation of Respondent's contacts with Small Businesses for each scope of work or business opportunity selected for Small Business Outreach Efforts.



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2. This documentation should include: (1) descriptions of scopes of work and business opportunities identified for Small Business participation, and (2) a copy of the actual solicitation sent to Small Businesses. The solicitation may be in the form of a letter, attachment to an e-mail, advertisements in newspapers and trade papers, or written communications with chambers of commerce and/or other organizations.
 3. Respondent shall submit documentation that establishes how Respondent communicated its selection decisions and outcomes to each Small Business *not* selected for this Lease. This documentation may be in the form of a letter, e-mail, fax, or a telephone log and must show the name of the person contacted and date.
 4. For all of the above documentation, if Respondent uses a blast e-mail or fax format, the documentation submitted must include a copy of the e-mail or fax, and Respondent must disclose all e-mail addresses and fax numbers to which the solicitation or outcome notification was sent and the date and time of the transmission. For telephone contacts, Respondent shall document the date and time of the call and the names of the respective persons representing Respondent and the Small Business.
- C. Subcontracting Commitment.** The Successful Respondent shall submit to City copies of all executed contracts, purchase orders, subleases, joint venture (JV) agreements, and other arrangements formalizing agreements between Successful Respondent and any Small Businesses.



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SECTION VI. RECORDS & REPORTING REQUIREMENTS

A. **Records.** During performance of the Lease, the Successful Respondent shall keep all records necessary to document Small Business participation. The Successful Respondent shall provide the records to the City within 72 hours of the City's request and at final completion of the Lease. The City will prescribe the form, manner, and content of reports. The required records include:

1. A complete listing of all Subcontractors and suppliers on the project;
2. Each Subcontractor's and supplier's scope performed;
3. The dollar value of all subcontracting work, services, and procurement;
4. Copies of all executed Subcontracts, purchase orders, and invoices;
5. Total operating expenses and total costs of goods sales; and
6. Copies of all payment documentation.

B. **Reports.** The Successful Respondent shall be required to track and report all Small Business participation that occurs as a result of a contract, procurements, purchase orders, subleases, JV, goods/services or other arrangements involving sub-tier participation. Such documentation must be entered monthly into the internet based reporting program Business2Government (B2G) System at www.phoenix.diversitycompliance.com

EXHIBIT 4
Airport Concessions Disadvantaged Business Enterprise (ACDBE) Program
ACDBE-Race & Gender Neutral
Form EO2 SMALL BUSINESS OUTREACH EFFORTS

Name of Company (Respondent):	Solicitation Name:	Contract Name:
Email:	Phone #:	Point of Contact:

Successful Respondent must conduct outreach efforts and submit supporting documentation of those outreach efforts as described in the Airport Concessions Disadvantaged Business Enterprise (ACDBE) Program Race- and Gender-Neutral Contract Clause (Contract Clause). Detailed instructions for this form are included in the Contract Clause. Supporting documentation is required for columns D and F. Successful Respondent should make additional copies of this form as needed.

(A) Small Business Name and Contact Information	(B) Business Status	(C) Scope(s) of Work Solicited	(D) Solicitation Method	(E) Selection Decision	(F) Communication Final Selection Outcome*										
<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td colspan="2">Name:</td></tr> <tr><td colspan="2">Address:</td></tr> <tr> <td style="width:70%;">City, State, Zip:</td> <td style="width:30%;">Number of Employees:</td> </tr> <tr> <td>Phone Number:</td> <td>Email or Fax:</td> </tr> <tr> <td>Number of Years in Business:</td> <td>Range of Annual Gross Receipts:</td> </tr> </table>	Name:		Address:		City, State, Zip:	Number of Employees:	Phone Number:	Email or Fax:	Number of Years in Business:	Range of Annual Gross Receipts:	<input type="checkbox"/> ACDBE/DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified <input type="checkbox"/> Unknown	List Scope(s) of Work	<input type="checkbox"/> E-mail Blast <input type="checkbox"/> Phone Call <input type="checkbox"/> In-Person <input type="checkbox"/> Newspaper <input type="checkbox"/> Website <input type="checkbox"/> Trade Listing <input type="checkbox"/> Outreach Event <input type="checkbox"/> Other	<input type="checkbox"/> Firm was selected <input type="checkbox"/> Firm was not selected Provide explanation of why firm NOT selected _____ _____ _____	Date Firm was Notified: _____ Method used to Communicate Selection: <input type="checkbox"/> Email <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> Letter <input type="checkbox"/> In person
Name:															
Address:															
City, State, Zip:	Number of Employees:														
Phone Number:	Email or Fax:														
Number of Years in Business:	Range of Annual Gross Receipts:														
<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td colspan="2">Name:</td></tr> <tr><td colspan="2">Address:</td></tr> <tr> <td style="width:70%;">City, State, Zip:</td> <td style="width:30%;">Number of Employees:</td> </tr> <tr> <td>Phone Number:</td> <td>Email or Fax:</td> </tr> <tr> <td>Number of Years in Business:</td> <td>Range of Annual Gross Receipts:</td> </tr> </table>	Name:		Address:		City, State, Zip:	Number of Employees:	Phone Number:	Email or Fax:	Number of Years in Business:	Range of Annual Gross Receipts:	<input type="checkbox"/> ACDBE/DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified <input type="checkbox"/> Unknown	List Scope(s) of Work	<input type="checkbox"/> E-mail Blast <input type="checkbox"/> Phone Call <input type="checkbox"/> In-Person <input type="checkbox"/> Newspaper <input type="checkbox"/> Website <input type="checkbox"/> Trade Listing <input type="checkbox"/> Outreach Event <input type="checkbox"/> Other	<input type="checkbox"/> Firm was selected <input type="checkbox"/> Firm was not selected Provide explanation of why firm NOT selected _____ _____ _____	Date Firm was Notified: _____ Method used to Communicate Selection: <input type="checkbox"/> Email <input type="checkbox"/> Phone <input type="checkbox"/> Fax <input type="checkbox"/> Letter <input type="checkbox"/> In person
Name:															
Address:															
City, State, Zip:	Number of Employees:														
Phone Number:	Email or Fax:														
Number of Years in Business:	Range of Annual Gross Receipts:														

***Firms must be notified of final selection outcome prior to submittal of this form**



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EXHIBIT 5

LETTER OF DECLARATION

The undersigned Respondent agrees to comply with the provisions of the Federal **Equal Pay Act of 1963**, State **A.R.S. § 23-341**, and City **PCC 18-21** regarding equal wage and compensation rates for employees, as it applies to its activities under this Lease.

I declare under penalty of perjury that the foregoing is true and correct.

By: _____
Print Name

Signature

Date: _____

PHOENIX CITY CODE (PCC)

ARTICLE V. SUPPLIER'S AND LESEE'S EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

18-21 Requirements of suppliers and lessees

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

*Last sentence applies to lessees who employ more than 35 employees



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FEDERAL

Equal Pay/Compensation

The Equal Pay Act requires that men and women in the same workplace be given equal pay for equal work. The jobs need not be identical, but they must be substantially equal. Job content (not job titles) determines whether jobs are substantially equal. All forms of pay are covered by this law, including salary, overtime pay, bonuses, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits. If there is an inequality in wages between men and women, employers may not reduce the wages of either sex to equalize their pay

STATE

23-341. Equal wage rates; variations; penalties; enforcement

A. Notwithstanding the other provisions of this chapter, no employer will pay any person in his employ at wage rates less than the rates paid to employees of the opposite sex in the same establishment for the same quantity and quality of the same classification of work, provided, that nothing herein will prohibit a variation of rates of pay for male and female employees engaged in the same classification of work based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or restrictions or prohibitions on lifting or moving objects in excess of specified weight, or other reasonable differentiation, factor or factors other than sex, when exercised in good faith.

B. Any employer who violates subsection A of this section is liable to the employee affected in the amount of the wages of which such employee is deprived by reason of such violation.

C. Any affected employee may register with the commission a complaint that the wages paid to such employee are less than the wages to which such employee is entitled under this section.

D. The commission will take all proceedings necessary to enforce the payment of any sums found to be due and unpaid to such employees.

E. Any employee receiving less than the wage to which such employee is entitled under this section may recover in a civil action the balance of such wages, together with the costs of suit, notwithstanding any agreement to work for a lesser wage.

F. Any action based upon or arising under this section will be instituted within six months after the date of the alleged violation, but in no event will any employer be liable for any pay due under this section for more than thirty days prior to receipt by the employer of written notice of claim thereof from the employee.

G. The burden of proof will be upon the person bringing the claim to establish that the differentiation in rate of pay is based upon the factor of sex and not upon other differences, factor or factors. 23-341.



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EXHIBIT 6
LETTER OF CREDIT FORM

[BANK]
IRREVOCABLE STANDBY LETTER OF CREDIT
NO. [redacted]

To: City of Phoenix – Beneficiary
Aviation Department
Business & Properties Division
2485 East Buckeye Road
Phoenix, Arizona 85034-4301
Attn: Deputy Aviation Director

Applicant: Company Name
Amount: \$ xxx.xx
Expiration Date: mm/dd/yyyy

We hereby establish our irrevocable Standby Letter of Credit No. [redacted] in your favor available against sight drafts drawn on (name of bank) at the office of the undersigned located at (insert address of bank), accompanied by the following documents:

- 1. A certificate purportedly signed by Aviation Director, or by any other director of the City of Phoenix Aviation Department, stating one or more of the following:
A. The City of Phoenix is drawing against (name of bank) Standby Letter of Credit No. [redacted] as Company Name has failed to perform its obligations under or failed to comply with its Agreement No. [redacted], or any amendments thereto, or any replacement agreement, and the City requires payment under this Standby Letter of Credit of \$ [redacted].
B. The City of Phoenix is drawing against (name of bank) Standby Letter of Credit No. [redacted] as Company Name has failed to provide a replacement Standby Letter of Credit prior to sixty (60) days before the expiration date as required by its Agreement No. [redacted] or any amendments thereto, or any replacement agreement, and the City of Phoenix requires payment under this Standby Letter of Credit of \$ [redacted].
C. The City of Phoenix is drawing against (name of bank) Standby Letter of Credit No. [redacted] as City of Phoenix has received notice from (name of bank) that the Standby Letter of Credit No. [redacted] will not be extended, and the City of Phoenix requires payment under this Standby Letter of Credit of \$ [redacted].



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2. This original Standby letter of credit for endorsement.

All documents may be forwarded to us by mail, overnight courier, hand delivered to our counters, or via telefacsimile ("fax"). Documents to be directed to our counters at: [insert address as to counter location]. Drawing presented to us via fax must be sent to our fax number [insert – bank's fax number] (each such drawing, a "Fax Drawing") provided, however, that Beneficiary confirm our receipt of any Fax Drawing by telephone to our telephone No. [insert – bank's telephone number(s)].

If Beneficiary presents an improper drawing, we shall notify you in writing sent by overnight courier or by fax to (602) 273-4083 that the demand was not effected in accordance with the terms and conditions of this Standby Letter of Credit, stating the reasons therefore and that we are holding any demand at your disposal. Upon being notified that the purported demand was not effected in conformity with this Standby Letter of Credit, you may attempt to correct any such nonconforming demand for payment.

Partial drawing and multiple presentations are permitted under this Standby Letter of Credit.

This Standby Letter of Credit will automatically be renewed for a one (1) year period from the Expiration Date set forth above and upon each anniversary of such Expiration Date, unless at least sixty (60) days prior to such expiration, or prior to any anniversary of such expiration, we notify both Beneficiary and Applicant in writing by registered mail or overnight courier that we elect not to renew this Standby Letter of Credit.

We hereby agree that this Standby Letter of Credit shall be duly honored upon presentation and delivery of the certification specified above.

This Standby Letter of Credit is subject to the "International Standby Practices (ISP98)," International Chamber of Commerce Publication No. 590, and, as to matters not governed by ISP98, shall be governed by and construed in accordance with the laws of Arizona, without regard to principles of conflicts of law.

[Bank]

By: _____
Authorized Signature



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EXHIBIT 7

CASH DEPOSIT FOR PERFORMANCE GUARANTEE

To: City of Phoenix – Beneficiary
Aviation Department
Business & Properties Division
2485 East Buckeye Road
Phoenix, Arizona 85034-4405
Attn: Deputy Aviation Director

Tenant: Tenant Full Legal Name _____
Address 1 _____
Address 2 _____
City, State, Zip _____

Date: [Insert Date]

Amount: [Insert Amount]

As required by [Lease Agreement No. TBD – dated] or [Permit No. _____], [Insert Tenant Full Legal Name (_____)] is providing a cash deposit to the City of Phoenix (City) as security for the faithful performance by [Insert Tenant Name] to secure payment of all amounts owed by [Insert Tenant Name] to City and its performance of other obligations under the [Lease No. TBD – dated] or [Permit No. _____]. [Insert Tenant Name]'s cash deposit is for the initial amount of (Insert Printed Dollar Amount) (Insert Numerical Dollar Amount), representing six months of payments under its [Lease No. TBD – dated] or [Permit No. _____].

The amount of this performance guarantee established as of the date of the [Lease No. TBD – dated] or [Permit No. _____] may become inadequate during the [Lease No. TBD – dated] or [Permit No. _____] term and [Insert Tenant Name]'s agrees that it will increase the amount as the City may reasonably prescribe from time to time on at least thirty (30) days prior written notice to [Insert Tenant Name]. The City may commingle the performance guarantee with the City's other funds and City shall have no obligation to pay or account to [Insert Tenant Name] for any interest that may be earned on the performance guarantee.



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If [Insert Tenant Name] defaults with respect to any provision of the [Lease No. TBD – dated] or [Permit No. _____], including but not limited to the provisions relating to payment of all amounts owed by [Insert Tenant Name] to City, the City may use, apply or retain all or any part of the performance guarantee for the payment of any amounts owed to the City or any other sum in default, or for the payment of any other amount which the City may spend or become obligated to spend by reason of the [Insert Tenant Name]'s default or to compensate the City for any other loss which the City may suffer by reason of the [Insert Tenant Name]'s default. If any portion of the performance guarantee is so used or applied, [Insert Tenant Name] shall, within ten (10) business days after written demand from the City, deposit with the City cash in an amount sufficient to restore the performance guarantee to its original amount, and [Insert Tenant Name]'s failure to do so shall be a material breach of the [Lease No. TBD – dated] or [Permit No. _____].

If [Insert Tenant Name] fully and faithfully performs every provision of the [Lease No. TBD – dated] or [Permit No. _____] to be performed by it, the performance guarantee or any balance thereof shall be returned to [Insert Tenant Name]'s within a reasonable time after the expiration of the [Lease No. TBD – dated] or [Permit No. _____], provided, however, that the City may retain the performance guarantee until such time as any amount due from [Insert Tenant Name] under the [Lease No. TBD – dated] or [Permit No. _____] has been determined and paid in full.

AGREED AND ACCEPTED:

By: _____
[Insert Tenant Full Legal Name]

Title: _____
Print

Name: _____
Print

Date: _____



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EXHIBIT 8 FOOD AND BEVERAGE/RETAIL OPERATING AND SERVICE STANDARDS MANUAL (Follow Where Applicable)

- Section 1 – Cleanliness Standards**
- Section 2 – Premises Standards**
- Section 3 – Storage Space / Delivery Standards**
- Section 4 – Information, Directions & Signs Standards**
- Section 5 – Employee Standards**
- Section 6 – Operational Standards**
- Section 7 – Product Standards**

Section 1 - Cleanliness Standards

- 1.1 All Premises shall be kept clean and well-maintained at all times.
- 1.2 All garbage shall be removed from counters and tables within five (5) minutes, following the previous customer's exit.
- 1.3 Carpeting shall be vacuumed or cleaned daily or immediately when soiled.
- 1.4 Entrance doors (if applicable), glass windows and display cases shall be clean and free of smears, smudges, and dirt.
- 1.5 Sales and cashier areas shall be clean and organized.
- 1.6 Tray slides (if present) shall be clean.
- 1.7 Food trays shall be washed regularly (not just wiped down).
- 1.8 Light fixtures and their attachments shall be kept clean and free of dust.
- 1.9 Delivery palettes shall be neatly stacked/organized (while on loading dock or outside the Premises) between deliveries.
- 1.10 All cardboard boxes shall be broken down and placed within the designated cardboard receptacles.
- 1.11 Hallways, elevators and areas around the Premises shall be free of Lessee-generated garbage.
- 1.12 Garbage receptacles shall be emptied regularly to avoid overflow of garbage.
- 1.13 Garbage shall be disposed of by placing accumulated garbage in Lessor-provided garbage compactor(s) and compacted.



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- 1.14 Air conditioning, heating registers, and vents shall be clean.
- 1.15 Premises and high touch point areas shall be cleaned in accordance to CDC guidelines to prevent the spread of Covid-19

Section 2 - Premises Standards

- 2.1 Floors within the Premises shall be free of garbage, stains, holes, potential trip hazards and shall be clean and well-maintained.
- 2.2 All tables, chairs, booths display cases and fixtures shall be in good condition with no broken pieces, deep scratches or graffiti.
- 2.3 All walls, ceilings, glass surfaces and fixtures shall be free of dust, stains, and well maintained.
- 2.4 All lights shall be in working order and all burned out bulbs shall be replaced within 24 hours.
- 2.5 Shipping materials, packaging, and delivery carts shall be stored out of the public view when not in use.
- 2.6 Cleaning supplies and equipment shall be stored out of public view.
- 2.7 Closet doors shall be kept closed.
- 2.8 Garbage receptacles shall be odor free, kept clean and in good condition, without dents, marks, or peeling paint.
- 2.9 The personal belongings of employees shall not be in public view.
- 2.10 All entrances to F&B/R concession units shall be free from obstruction(s), including concession merchandise any loading and unloading equipment, sales/advertising stanchions, and Lessee-generated garbage.
- 2.11 Lessee-provided air conditioning and heating units shall be maintained in good working order.
- 2.12 Music shall not be played from the F&B/R concession unit.



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Section 3 - Storage Space / Delivery Standards

- 3.1 Products and merchandise stocked in Lessee's support space (if applicable) shall not block doors, electrical panels or hinder the fire suppression system.
- 3.2 Lessee shall not erect walls within the storage space (if applicable) to create office space, private storage or additionally secured areas.

Section 4 - Information, Directions and Signs Standards

- 4.1 Store policies pertaining to credit cards, returns/refunds, shall be clearly displayed.
- 4.2 Clearly display a toll-free number for customer complaints or customer compliments.
- 4.3 Hours of operation shall be fully displayed.
- 4.4 Handwritten and unprofessional signs shall not be used.
- 4.5 Illuminated signs shall be in proper working condition.
- 4.6 All signage/postings shall receive Aviation approval prior to installation. All necessary licenses, permits, notices and inspection certificates on the Premises will be clearly displayed.
- 4.7 All signage/postings shall comply with plans approved by the Aviation Director.
- 4.8 All necessary licenses, permits, notices and inspection certificates on the Premises shall be clearly displayed.

Section 5 - Employee Standards

Employees shall:

- 5.1 Project a friendly and attentive demeanor and have a positive attitude towards customers and fellow employees at all times.
- 5.2 Provide appropriate attention to customers, purchasing, asking questions, or needing assistance and not gather to chat while on duty.
- 5.3 Make every effort to satisfy a customer's needs, even when those needs are outside the employee's scope of work.



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5.4 Maintain appropriate eye contact and a pleasant tone of voice while conversing with customers and fellow employees.

5.5 Provide each customer with correct change, a receipt, and a “thank you.”

5.6 Be well informed, capable of providing directions and knowledgeable about where and how to obtain requested information or service for customers.

Remain calm when encountering an upset customer, try to calm the customer, listen carefully and show empathy with the customer’s problem. When encountering a dissatisfied customer, employees should obtain the facts; state any applicable policy clearly and politely; and be able to offer a solution or an adequate alternative to the customer. If unable to satisfy the customer or resolve the issue, employees shall direct the customer to the immediate supervisor.

5.7 Be trained on how to obtain assistance to resolve customer questions, address language barriers, and respond to medical and operational emergencies.

5.8 Refrain from using foul or inappropriate language at all times.

5.9 Have access to personal protective equipment (PPE) to prevent the spread of Covid-19.

Employees shall not:

5.10 Eat, drink or chew gum in the view of customers.

5.11 Sleep on duty or in a public area.

5.12 Use cell phones and personal music devices while on duty.

5.13 Wear sunglasses indoors while on duty, unless medically required and accompanied by a doctor’s note.

Additionally, to support employee standards, Lessee shall ensure:

5.14 Employees have sufficient cash available immediately upon opening to make change for early morning sales.

5.15 All complaints be dealt with promptly and documented appropriately.

5.16 Employees wear appropriate uniforms or clothing, which shall be clean and presentable to the public.

5.17 Employees wear appropriate types and amounts of jewelry, if applicable.



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Section 6 - Operational Standards

- 6.1 Employees have sufficient cash available immediately upon opening to make change for early morning sales.
- 6.2 All complaints be dealt with promptly and documented appropriately.
- 6.3 All odor-producing operations, products and equipment must be controlled by wrapping, enclosing, containing or other treating to prohibit the entry of objectionable odors into public spaces. Objectionable odors include odors of machinery, electrical devices, perfumes and perfume products, cleansers, and oils.
- 6.4 All prepackaged food items shall be labeled with an “expiration date.” No items shall be offered for sale or remain on shelves after the expiration dates and times.

Section 7 - Product Standards

7

- 7.1 Food service preparation must comply with all applicable regulations, including those established by the Maricopa County Health Services Department (MCESD).
- 7.2 All food merchandisers and related equipment shall be in good working order maintaining the hot or cool temperature, as necessary, in accordance with MCESD.
- 7.3 Any activities that involve the final preparation of food from raw or partially prepared ingredients, shall be concealed from public view unless otherwise approved by the Landlord and MCESD. Food preparation that is entertaining to watch or commonly accepted as part of a serving operation may be performed in public view with the Landlord’s prior approval.
- 7.4 All odor-producing operations, products and equipment must be controlled by venting, wrapping, enclosing, containing or other treating to prohibit the entry of objectionable odors into public spaces. Objectionable odors shall include odors of machinery, electrical devices, food preparation, perfumes and perfume products, cleansers, oils and garbage disposal systems.
- 7.5 All food used for display purposes shall be rotated daily.
- 7.6 All prepackaged food items shall be labeled with an “expiration date.” No items shall be offered for sale or remain on shelves after the expiration dates.
- 7.7 Lessee shall make every attempt to ensure all menu items are available.
- 7.8 Hot food shall be delivered hot and cold food shall be delivered cold.



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EXHIBIT 9

PROPOSED CAPITAL INVESTMENT

Microsoft Excel Worksheet available at:
<https://solicitations.phoenix.gov/Solicitations/Details/1696>



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EXHIBIT 10

TENANT DESIGN CRITERIA

Available at: <https://solicitations.phoenix.gov/Solicitations/Details/1696>



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EXHIBIT 11

TENANT IMPROVEMENT HANDBOOK

Available at:

[https://www.skyharbor.com/docs/default-source/default-document-library/ti-handbook-\(1\).pdf?sfvrsn=9eb58588_4](https://www.skyharbor.com/docs/default-source/default-document-library/ti-handbook-(1).pdf?sfvrsn=9eb58588_4)



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EXHIBIT 12

AFFIDAVIT

Assurances

The undersigned Respondent hereby submits to the City of Phoenix (City) the enclosed Revenue Contract Solicitation Response (Response) based upon all terms and conditions set forth in the City's Revenue Contract Solicitation (RCS) and referenced materials. Respondent further specifically agrees hereby to provide services in the manner set forth in the Response submitted by Respondent.

The undersigned Respondent acknowledges and states, under penalty of perjury, as follows:

1. The City is relying on Respondent's submitted information and the representation that Respondent has the capability to successfully undertake and complete the responsibilities and obligations submitted in its Response and in the resulting Contract.
2. The City has the right to make any further inquiry it deems appropriate to substantiate or supplement information supplied by Respondent.
3. Respondent has read and fully understands all the provisions and conditions set forth in the RCS documents, upon which its Response is based.
4. The forms and information requested in the RCS are complete and made part of Respondent's Response. The City is not responsible for any Respondent errors or omissions.
5. This Response may be withdrawn by requesting such withdrawal in writing at any time prior to the Response deadline but may not be withdrawn after such date and time.
6. The City reserves the right to reject any and all Responses and to accept the Response that, in its judgment, will provide the best quality of service to the City at reasonable rates.
7. This Response is valid for a minimum of 120 days subsequent to the RCS Response deadline.
8. All costs incurred by Respondent in connection with this Response will be borne solely by Respondent. Under no circumstances will the City be responsible for any costs associated with Respondent's Response or the RCS process.
9. Respondent has not in any manner, directly or indirectly, conspired with any person or party to unfairly compete or compromise the competitive nature of the RCS process.
10. The contents of this Response have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this Response.



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11. To the best of the Respondent's knowledge, the information provided in its Response is true and correct and neither the undersigned Respondent nor any Partner, corporate officer or managing employee have ever been convicted of a felony or a crime involving moral turpitude.

Legal Status

1. In the past 7 years, have you personally, or any business with which you have been involved, been declared bankrupt, filed a petition in any bankruptcy court, filed for protection from creditors in bankruptcy court, or had involuntary proceedings filed in bankruptcy court? If "Yes," provide date, court jurisdiction, case name, case number, amount of liabilities, amount of assets and the status of each occurrence. (Attach additional pages as necessary)
Yes No
2. Have you personally, or any business with which you have been involved, ever been a defaulter as surety upon any obligation to the City? If "Yes," provide details. (Attach additional pages as necessary)
Yes No
3. Are there any pending liens, claims or litigation in excess of \$1,000,000 involving Respondent? If "Yes," provide detailed information regarding complaints about how the quality of Respondent's services was unsatisfactory. (Attach additional pages as necessary)
Yes No
4. Has the Respondent been involved in any lawsuits in the past 5 years? If "Yes," provide list. (Attach additional pages as necessary)
Yes No
5. Have any of the Respondent's contracts been terminated prior to their expiration terms, voluntarily or involuntarily, within the last 5 years? If "Yes," provide name, location, and date of the contract(s). (Attach additional pages as necessary)
Yes No
6. Has the Respondent, or any corporation or other entity that has, directly or indirectly, a controlling interest in the Respondent, or any subsidiary of the Respondent or other entity in which the Respondent has a controlling interest or any of the Respondent's principals, officers, or directors ever been barred from bidding on federal, state, or local government contracts? If "Yes," provide the current status of such suspension or debarment proceedings. (Attach additional pages as necessary)
Yes No
7. Respondent intends to operate the business as a (check one):
Corporation General Partnership Member-Managed LLC
Joint Venture Limited Partnership Manager-Management LLC
Sole Proprietorship Limited Liability Partnership



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8. Respondent intends to operate the following RCS 24-001 Childcare Services Facility at Phoenix Sky Harbor International Airport for the term of the Lease:

_____, dba _____, a _____.
Legal Name Trade Name Legal Entity

Name of **Respondent's** Company (Legal Name): _____

Printed Name of Authorized Person: _____

Title: _____

Business Address of Respondent: _____

Telephone: _____ Email: _____

Signature of Authorized Person*: _____

*Must be signed by an individual authorized to contractually bind the Respondent's company.

NOTARIZED

State of _____ County of _____

This Affidavit was subscribed and sworn to before me this _____ day of _____, 20__ by _____ (full name of the affiant).

Notary Public (signature)

Affix Notary Seal



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7. Disclosure of conflict of interest:

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

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

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

8. Notice Regarding Prohibited Interest in Contracts

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

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

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

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



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9. Acknowledgements

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

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

10. Fraud Prevention and Reporting Policy

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

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

OATH

PRINT NAME

TITLE

SIGNATURE

DATE

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



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EXHIBIT 14

RESPONDENT REFERENCES

Respondent must provide three business references that are familiar with the Respondent's operations and experience and the Respondent has provided substantially similar services as described in this RCS. Respondent should list contact information for the business references in the spaces provided below.

1) Reference Contact Name: _____

Reference Contact Title: _____

Address: _____

Phone #: _____ Email: _____

2) Reference Contact Name: _____

Reference Contact Title: _____

Address: _____

Phone #: _____ Email: _____

3) Reference Contact Name: _____

Reference Contact Title: _____

Address: _____

Phone #: _____ Email: _____



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EXHIBIT 15

INSURANCE REQUIREMENTS

- 1. DEFENSE AND INDEMNIFICATION CLAUSE:** Contractor (“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 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 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 waives all rights of subrogation against Indemnitee for losses arising from the 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.
- 2. 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.



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

2.1.1. Commercial General Liability – Occurrence Form

General Aggregate	\$5,000,000
Products – Completed Operations Aggregate	\$5,000,000
Personal and Advertising Injury Each Occurrence	\$5,000,000
Fire Damage (Damage to Rented Premises)	\$ 100,000

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

2.1.2. Automobile Liability

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

Combined Single Limit (CSL)	\$1,000,000
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- Policy must not contain any exclusions for operations on or near airport premises.
- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor’s insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

2.1.3. Worker’s Compensation and Employers’ Liability

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

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

2.1.4 Professional Liability (Errors and Omissions Liability)

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

- Policy must cover liability arising from the failure to meet the professional standards required or expected in the delivery of those services as defined in the Scope of Services of this contract.
- 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.
- Policy must not contain any exclusions for operations on or near airport premises

2.1.5 Sexual/Physical Abuse & Molestation

Each Claim	\$2,000,000
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Annual Aggregate

\$2,000,000

- Coverage should include physical abuse, such as sexual or other bodily harm and non-physical abuse, such as verbal, emotional or mental abuse; any actual, threatened or alleged act; errors, omission or misconduct.

2.1.6 Property Insurance

Coverage for Tenant's tenant improvements

Replacement Value

Coverage on building

Replacement Value

(only if Tenant is the sole occupant of building)

- If Tenant is the sole occupant, Tenant must purchase property insurance for the building. Coverage must be written on a Special Causes of Loss property insurance form with replacement cost value, including coverage for flood and earth movement.
- The City of Phoenix shall be named as a loss payee if Tenant is a sole occupant and/or if Tenant is making tenant improvements.
- Tenant improvements must be insured. Coverage must be written on a Special Causes of Loss property insurance form with replacement cost value.
- Policy must contain a waiver of subrogation in favor of the City of Phoenix.

2.2. NOTICE OF CANCELLATION: For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to **City of Phoenix, Aviation Department, Contracts & Services Division, 2485 E Buckeye Rd, Phoenix, AZ 85034.**

2.3. 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.

2.4. 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.



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All certificates required by this Contract must be sent directly to **City of Phoenix, Aviation Department, Contracts and Services Division, 2485 E. Buckeye Rd., Phoenix, AZ 85034**. 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.**

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

City of Phoenix
Aviation Department
Contracts & Services Division
2485 E Buckeye Rd
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All subsequent and renewal certificates of Insurance and endorsements shall be sent directly to:

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

- 2.5. 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.
- 2.6. APPROVAL:** Any modification or variation from the insurance coverages and conditions in this Contract must be documented by an executed Contract amendment.



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EXHIBIT 16 PROPOSED TUITION RATES

Microsoft Excel Worksheet available at:
<https://solicitations.phoenix.gov/Solicitations/Details/1696>



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EXHIBIT 17 SUPPLEMENTAL TERMS AND CONDITIONS TO ALL AIRPORT AGREEMENTS

1. Definitions

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

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

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

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

2. Federal Aviation Administration (FAA) Grant Assurances

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

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

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

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



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

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

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

(i) Withholding payments to Contractor under this Contract until Contractor complies, and/or

(ii) Cancelling, terminating, or suspending this Contract, in whole or in part.

F. Covenant Running with the Land. Contractor for itself and its heirs, personal representatives, successors, and assigns, as a part of the consideration for this Contract, hereby covenants and agrees that, in the event facilities are constructed, maintained, or otherwise operated on the property described in this Contract for a purpose for which a FAA activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Contractor will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities. In the event of a breach of any of the above Nondiscrimination covenants, the City of Phoenix will have the right to terminate this Contract and to enter, re-enter and repossess the



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property and facilities thereon and hold the same as if this Contract had never been made or issued.

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

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

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

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



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

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

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

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

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

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

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



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

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

2.6 Miscellaneous

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

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

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

D. Contractor acknowledges that this Contract is subordinate to any existing or future agreement between the City of Phoenix and the United States concerning the development, operation, or maintenance of the Airport. If the FAA or its successors require modifications or changes in the Contract as a condition to obtaining funds for improvements at the Airport or as a requirement of any prior grants, Contractor



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hereby consents to any and all such modifications and changes as may be reasonably required and agrees that it will adopt any such modifications and changes as part of this Contract.

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

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

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

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

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



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

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

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

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

4. Conflict of Interest

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

5. Legal Worker Requirements

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

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

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

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



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6. City of Phoenix Equal Employment Opportunity Requirement

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

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

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

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

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

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



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

7. Title VI List of Pertinent Nondiscrimination Acts and Authorities

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

- A.** Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) (prohibits discrimination on the basis of race, color, or national origin).
- B.** 49 C.F.R. Part 21 (Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964).
- C.** The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. §§ 4601, *et seq.*) (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal aid programs and projects).
- 6** Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701, *et seq.*), as amended (prohibits discrimination on the basis of disability), and 49 C.F.R. Part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance).
- D.** The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101, *et seq.*) (prohibits discrimination on the basis of age). Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex).
- E.** The Civil Rights Restoration Act of 1987 (Public Law 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973 by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, sub-recipients, and contractors, whether the programs or activities are federally funded or not).



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

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

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

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



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Exhibit 18

AVIATION SECURITY PROCEDURES FOR CONTRACTOR AND SUBCONTRACTOR WORKER BACKGROUND SCREENING

1. **CONTRACT WORKER BACKGROUND SCREENING:** Contractor agrees that all Contract Workers that Contractor allows to perform work under this Contract shall be subject to background and security checks and screening (Background Screening). Contractor must pay for the cost of all Background Screenings, unless otherwise provided in the Scope of Work. Contractor agrees that Background Screenings required by this Section is necessary to preserve and protect public health, safety, and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Contract. The City does not warrant or represent that the minimum requirements are sufficient to protect Contractor from any liability that may arise out of Contractor's work under this Contract or Contractor's failure to comply with this Section. Therefore, in addition to the Background Screening measures set forth below, Contractor and its Contract Workers shall take such other reasonable, prudent, and necessary measures to further preserve and protect public health, safety, and welfare when providing work under this Contract.

As used in this Section, "Contract Worker" means a person performing work for the City, including (1) a person or entity that has a contract with the City, (2) a worker of a person or entity that has a contract with the City, (3) a worker of a subcontractor of a person or entity that has a contract with the City, and (4) a worker of a tenant of the City. (City of Phoenix A.R. 4.45)

- 1.1. **City Rights Regarding Security Inquiries:** The City reserves the right to require Contractor to:
 - 1.1.1. Have a Contract Worker provide fingerprints and execute any document that is necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4) or Phoenix City Code § 4-22 or both;
 - 1.1.2. Act on newly acquired information, whether or not the information should have been previously discovered;
 - 1.1.3. Unilaterally change its standards and criteria related to the acceptability of Contract Workers; and



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- 1.1.4. Object, at any time and for any reason, to a Contract Worker performing work under this Contract, including supervision and oversight services.
- 1.2. Contractor Certification:** By entering into this Contract, Contractor certifies that Contractor has read the Background Screening requirements and criteria in this Section, understands them, and that all Background Screening information furnished to the City is accurate, complete, and current. A Contract Worker that is rejected for work under this Contract shall not perform any work under any other contract or engagement Contractor has with the City without the City's prior written approval.
- 1.3. Contractor's Contracts and Subcontracts:** Contractor shall include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for work performed under this Contract, including supervision and oversight services.
- 1.4. Materiality of Background Screening Requirements and Indemnity:** The Background Screening requirements of this Section are material to the City's decision to enter into this Contract. Any breach of this Section by Contractor shall be deemed a material breach of this Contract. In addition to any other indemnification provision in this Contract, Contractor shall defend, indemnify, and hold harmless the City from and against any and all claims, actions, liabilities, damages, losses, and expenses (Claims) arising out of this Background Screening Section, including the Contractor's disqualification of any Contract Worker or the City's failure to enforce this Section.
- 1.5. Continuing Duty and Audit:** Contractor's obligation to ensure that all Contract Workers pass a Background Screening pursuant to Section shall continue throughout the entire term of this Contract. Contractor shall immediately notify the City of any change to a Contract Worker's Background Screening. Contractor shall maintain all records and documents related to all Background Screenings and the City reserves the right to audit Contractor's compliance with this Section.
- 2. CONTRACT WORKER ACCESS CONTROLS AND AIRPORT SECURITY BADGE REQUIREMENTS:** Contractor shall not allow a Contract Worker to begin work under this Contract until Contractor has completed the Background Screening required by the City and the City has issued the appropriate airport security badge to the Contract Worker. The airport security badge will grant the Contract Worker unescorted access authority only to the area or areas of the Airport that the Contract Worker must enter in order to perform work under this



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Contract. When a Contract Worker’s work in any area ends, the Contract Worker’s access authority to that area ends. Any Contract Worker that attempts to enter a restricted area or sterile area, as those terms are defined below, of the Airport without proper authority is an immediate breach of this Contract.

- 3. SECURITY IDENTIFICATION DISPLAY AREA (SIDA) BADGE PROCESS:** Each Contract Worker that needs unescorted access authority to a restricted or sterile area of the Airport in order to perform work under this Contract must receive a security identification display area (SIDA) badge from the Aviation Department’s Public Safety and Security Division’s Badging Office. Contractor must make arrangements with the City to have each Contract Worker proceed to the Badging Office for processing. The Badging Office will not issue a SIDA badge until the Contract Worker passes a fingerprint-based criminal history background check (CHRC) required by federal law (49 C.F.R. § 1542.209) and § 4-22(C) of the Phoenix City Code and passes a security threat assessment as mandated by the TSA through a security directive (49 C.F.R. § 1542.303). The Contract Worker shall comply with all requirements of and furnish all information requested by the Badging Office. Contractor shall pay for all fees associated with SIDA badging process, unless otherwise provided in the Scope of Work. Fees will be assessed according to § 4-22(D) of the Phoenix City Code. Current badging procedures and fees are available for review at <https://www.skyharbor.com/airport-business/security-badging/badging-information>.

As used in this Section, “restricted area” means the secured area and SIDA area of the Airport. “Secured area” means the part of the Airport in which certain federal security measures are implemented and where airlines enplane and deplane passengers and load baggage. “SIDA area” means the secured area and other areas designated by the Aviation Department, which include air operation areas, ground transportation areas, and the Rental Car Center security doors. “Sterile area” means the part of the Airport that provides passengers access to board aircraft and is controlled by the TSA or the airline by screening of persons and property. See § 4-22 of the Phoenix City Code and Rules 05-01 and 05-09 of the Aviation Department Rules and Regulations for a complete definition of the foregoing terms.

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



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Records Checks (CHRC) and Security Threat Assessments (STA).

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

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

- 4.1. Before any work is performed under this Contract, Contractor shall provide the City with a list of its Contract Workers.
- 4.2. If any dispute arises related to a background check process or criminal history check information, then Contractor and the affected Contract Worker will resolve the dispute. The City will not get involved in resolving any such dispute.
- 4.3. In making the determination whether information in a background check renders the Contract Worker disqualified, Contractor should be guided by the following principles and guidelines:
 - 4.3.1. Disqualification should not be based solely on a criminal conviction, unless the conviction related to performance under this Contract.
 - 4.3.2. Arrests that did not result in a conviction being entered or charges being filed may not be considered.
 - 4.3.3. Not all criminal convictions or other negative information obtained in a background check will disqualify a Contract Worker from working under this Contract.
 - 4.3.4. Contractor must evaluate the relevance of the information to the work the Contract Worker will perform under this Contract.
 - 4.3.5. Contractor must consider the following factors in determining whether negative background information disqualifies a Contract Worker:
 - Duties of the position
 - Time, nature, and number of negative events and convictions



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- Attempts and extent of rehabilitation efforts
 - The relation between the duties of the position and the nature of the crime committed
- 4.4.** The analysis of whether any information in a background check is a potentially disqualifying factor involves looking at the requirements of the Contract, the Scope of Work, where the work will be performed, the need for access to restricted areas, and the type of persons or places the Contract Worker will encounter. Contractor should review the background check results and determine whether the nature of the conviction or crime reported would create a risk to the City based on the Contract's requirements.
- 4.4.1. For a Contract Worker requiring a standard risk background check, potentially disqualifying convictions include a record of theft, identity theft, computer fraud or abuse, burglary, arson, crimes against property, violent crimes, or other crimes involving dishonesty, or embezzlement.
- 4.4.2. For a Contract Worker requiring a maximum risk background check, potentially disqualifying convictions include a record of child molestation, assault, sexual assault, crimes against a person, public indecency, drug offenses, forgery, theft, burglary, arson, crimes against property, violent crimes, crimes for financial gain, identity theft, computer fraud or abuse, and embezzlement.
- 4.5.** If a background check shows that the disposition of an arrest is unknown, then Contractor must determine the disposition of the arrest.
- 4.6.** Contractor will obtain a Contract Worker disclosure from each Contract Worker who will perform work under this Contract. Contractor will provide the Contract Worker disclosures to the City upon request. "Contract Worker disclosure" means an affidavit by a Contract Worker disclosing his or her prior criminal record. The Contract Worker disclosure must list all criminal convictions, including the nature of the crime, the date of the conviction, and the location where the crime and conviction occurred. The Contract Worker disclosure also grants to the City the right to review the background check results. (City of Phoenix A.R. 4.45)
- 4.7.** In a standard risk background check, Contractor must review the results of the background check and decide if a Contract Worker should be disqualified for work under this Contract. Contractor must engage in whatever due diligence is necessary to make the decision on whether to



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disqualify a Contract Worker. After Contractor has made its decisions, a list of names of qualified Contract Workers will be provided to the City.

- 4.8.** In a maximum risk background check, Contractor must conduct the same review as in a standard risk background check. However, when submitting its list of qualified Contract Workers, Contractor must also submit the results of the background checks to the City for review. After its review, the City will either approve or deny each Contract Worker.
- 4.8.1. If the City approves a Contract Worker, then the City will notify Contractor of that fact and the Aviation Department will issue the appropriate airport security badge to the Contract Worker.
- 4.8.2. If the City denies a Contract Worker, then the City will notify Contractor of that fact and Contractor will reevaluate the Contract Worker to determine whether the person should be disqualified. If Contractor believes there are extenuating circumstances that suggest that the Contract Worker should not be disqualified, then Contractor will discuss those circumstances with the City. The City will review the matter and its decision on disqualification is final.
- 4.8.3. The City may set up a secure folder or drop box for confidential materials related to maximum risk background checks. The City will not keep records related to maximum risk background checks after they are reviewed.
- 4.9.** If Contractor is a sole proprietor, Contractor must submit to the City a copy of his or her own background check and a background check for all business partners, member, and employees that will work under this Contract and for whom the background check requirements of City of Phoenix A.R. 4.45 apply.
- 4.10.** Contractor shall determine whether a Contract Worker is disqualified from performing work under this Contract.
- 5. STANDARD RISK BACKGROUND CHECK:** A standard risk background check must be conducted for the term of this Contract or five (5) years, whichever is shorter. Contractor shall conduct a standard risk background check on all Contract Workers whose work under this Contract requires:
- An airport security badge or key for access to City facilities,
 - Access to sensitive information, confidential records, personal identifying information, or restricted City information, or



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- Unescorted access to City facilities during normal and non-business hours.

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

5.1. Scope of the Standard Risk Background Check: The standard risk background check conducted by Contractor must be based on the real identity and legal name of the Contract Worker and include felony and misdemeanor records checks from any county in the United States, the state of Arizona, and any other jurisdiction where the Contractor Worker has lived at any time in the last seven (7) years.

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

- Working directly with a vulnerable adult or child under age 18,
- Any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation,
- Unescorted access to City data centers, money rooms, high-value equipment rooms,
- Access to a private residence,
- Access to Homeland Defense Bureau-identified critical infrastructure sites or facilities, or
- Responsibility or access to City-identified critical infrastructure sites, City networks or data, cyber/IT/network assets, digital or cyber assets, workstations, or servers, by either remote or direct access.

6.1. Scope of the Maximum Risk Background Check: The maximum risk background check conducted by Contractor must include the search criteria conducted under a standard risk background check in addition to a search for all felony and misdemeanor convictions (not including traffic or parking violations), a sex offender check, and a search for all outstanding warrants. Based on the Scope of Work, Contractor shall also conduct a credit check (for cash handling, accounting, and compliance positions only), driving records check (for driving positions only), and fingerprint verification when the Contract Worker is working directly with a child under age 18 or a vulnerable adult or the work under the Contract will take the Contract Worker to a criminal justice information system (CJIS) location.

Maximum risk background checks are valid for the term of this Contract or three (3) years, whichever is shorter.



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- 6.2. Maximum Risk Background Check for Child Care Staff Members:** If the Scope of Work of this Contract involves work as a childcare staff member, then Contractor will conduct a maximum risk background check.
- 6.3. Criminal Justice Information System (CJIS) Maximum Risk Background Check:** If the Scope of Work of this Contract requires unescorted access to a CJIS location or if Contractor will have access to a CJIS infrastructure or information, then a CJIS maximum risk background check will be conducted, reviewed, and approved by the Phoenix Police Department or the Arizona Department of Public Safety.
- 6.4. Maximum Risk Background Check for Children or Vulnerable Adults:** If the Scope of Work of this Contract involves work with a child under age 18 or a vulnerable adult, then Contractor will conduct a maximum risk background check.

As used in this Section, “vulnerable adult” means an individual who is 18 years of age or older who is unable to protect himself or herself from abuse, neglect, or exploitation by others because of a mental or physical impairment. (A.R.S. § 13-3623(F)(6) and City of Phoenix A.R. 4.45)

- 7. AIRPORT SECURITY BADGE HANDLING PROCEDURES:** Contractor will comply with the following airport security badge handling procedures:
- 7.1. Key Access Procedures:** If a Contract Worker requires keyed access to enter a City facility, then a separate key will be issued and Contractor must complete a return form and submit it to the City for each key issued.
- 7.2. Stolen or Lost Badges or Keys:** Contractor shall immediately report any lost or stolen airport security badge or key to the City. A new airport security badge application or key issue form must be completed and submitted along with payment of the applicable fee prior to issuance of a new airport security badge or key
- 7.3. Return of Badges or Keys:** All airport security badges and keys are the property of the City and must be returned to the Badging Office within one (1) business day after the Contract Worker’s access to a City facility is no longer required under this Contract. Contractor shall collect a Contract Worker’s airport security badge and all keys (1) when the Contract Worker’s employment is terminated, (2) when the Contract Worker’s services are no longer required at a City facility, or (3) when this Contract terminates, is cancelled, or expires, whichever occurs first.



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7.4. Employee Identification and Access: Contract Workers must have an airport security badge and some form of verifiable company identification in their possession at all times while working under this Contract, unless otherwise provided in the Scope of Work. Contract Workers are strictly prohibited from entering any area of the Airport that is not authorized by the airport security badge or key issued to them by the Badging Office.

The Aviation Department will determine who will have access to the Airport. Contract Workers access authority is only valid during their scheduled hours. Contractor shall provide the City with updates and changes in personnel as they occur.

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

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

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

9. CONTRACTOR CERTIFICATION: Contractor certifies to the City that Contractor has read the foregoing Background Screening requirements and that all Background Screening information Contractor furnished to the City is accurate,



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

10. **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



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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.

- 11. 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.

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

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

11.1.2. implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful



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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.)

- 11.1.3. not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- 11.1.4. as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
- 11.1.5. take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;



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- 11.1.6. maintain written records of all information reasonably necessary to demonstrate Contractor’s compliance with this Agreement and applicable laws;
- 11.1.7. allow the City or its authorized agents to conduct audit inspection during the term of the Agreement, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor’s sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section;
- 11.1.8. If Contractor becomes aware of any actual or potential data breach (each an “Incident”) arising from Contractor’s processing obligations pursuant to the Agreement, Contractor shall notify the City at SOC@phoenix.gov without undue delay within 48 hours; and:
- 11.1.9. 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;
- 11.1.10. 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;
- 11.1.11. 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
- 11.1.12. 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).
- 11.1.13. In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold



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the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section (Data Protection).

- 11.1.14. 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.

- 12. 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.



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EXHIBIT 19

COMPLIANCE REQUIREMENTS - AMERICAN RESCUE PLAN ACT STATE AND LOCAL FISCAL RECOVERY FUNDS (ARPA/SLFRF)

Uniform Guidance

ARPA/SLFRF awards are subject to requirements set forth in the Uniform Guidance, 2 CFR Part 200, available at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1>

Debarment and Suspension

Contractor agrees to abide by Executive Orders 12549 and 12689, Debarment and Suspension, and implementing regulations found at 2 CFR Part 180 and 31 CFR Part 19. The City may by giving written notice to Contractor, immediately terminate this Agreement if the City determines that Contractor has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Contractor will include a term or condition in all related contracts and subcontracts described in 2 CFR Part 180, Subpart B that the award is subject to 2 CFR Part 180 and 31 CFR Part 19.

Award Terms and Conditions

The Award Terms and Conditions of the ARPA/SLFRF financial assistance agreement (<https://home.treasury.gov/system/files/136/Financial-Assistance-Agreement-Local-governments.pdf>) sets forth the compliance obligations for Contractor pursuant to the ARPA/SLFRF statute, the Uniform Guidance, Treasury's final rule, and applicable federal laws and regulations. Contractor should ensure it remains in compliance with all Award Terms and Conditions. These obligations include the following items in addition to others:

- **Conflicts of Interest.** The Contractor must disclose in writing to the City of Phoenix any potential conflict of interest affecting this agreement in accordance with 2 C.F.R. § 200.112. The City of Phoenix will disclose such conflict to Treasury.
- **Compliance with Applicable Law and Regulations.** Contractor agrees to comply with the requirements of section 603 of the American Rescue Plan Act, and regulations adopted by the Treasury pursuant to section 603(f) of the Act, and guidance issued by the Treasury. Contractor also agrees to comply with all other applicable federal statutes, regulations, and executive orders. Contractor shall provide for such compliance by other parties in any agreements it enters into with



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other parties relating to this award which may include, but not limited to the following:

- Uniform Administrative Regulations, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. Part 200;
 - OMB Guidelines to Agencies on Government wide Debarment and Suspension, 2 C.F.R. part 180;
 - Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20;
 - New Restrictions on Lobbying, 31 C.F.R. Part 21;
 - Generally applicable federal environmental laws and regulations.
- **Clean Air Act and Federal Water Pollution Control Act.** Contractor will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
 - **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, for all contracts that qualify as “federally assisted construction contracts” as defined in 41 CFR Part 60–1.3, Contractor agrees to comply with the equal opportunity clause under 41 CFR 60-1.4(b), incorporated herein by reference, and E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
 - **Copeland “Anti-Kickback” Act.** Contractor shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.



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- **Contract Works Hours and Safety Standards Act.** If the contract exceeds \$100,000 and involves the employment of mechanics or laborers, Contractor shall comply with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- **Byrd Anti-Lobbying Certification (31 U.S.C. 1352; 31 CFR Part 21).** Contractor hereby certifies, to the best of its knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.

 - b. Each contractor tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization or influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C, 1352.

 - c. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report



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Lobbying", in accordance with its instructions. Such disclosures are forwarded from tier to tier up to the non-Federal award.

- **Protection for Whistleblowers.** In accordance with 41 U.S.C. § 4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

- i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for Agreement or grant oversight or management;
 - v. An authorized official of the Department of Justice or oversight or management;
 - vii. A court or grand jury; or
 - viii. A management official or other employee of the City, Contractor or a subcontractor who has the responsibility to investigate, discover, or address misconduct.
- **Drug-Free Workplace Act of 1988:** Contractor must comply with drug-free workplace requirements in 31 CFR Part 20, which implements the Drug-Free Workplace Act of 1988.
 - **Victims of Human Trafficking.** Contractor agrees to follow the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104) and ensure that it and none of its employees engage in server forms of trafficking in persons, procure commercial sex acts during the subaward term, used forced labor in the performance of obligations under this Agreement. Contractor agrees to notify the City immediately once it has information from any source alleging a violation of this Section.



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- **Preference for Domestic Procurement.** Pursuant to 2 C.F.R. 200.322, to the greatest extent practicable, Contractor will purchase, acquire, or use goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- **Prohibition on Certain Telecommunications Equipment.** Contractor is prohibited from obligating or expending funds to (i) procure or obtain; (ii) extend or renew a contract to procure or obtain; or (iii) enter into a contract to procure or obtain equipment, services or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities) and such other entities described in 2 C.F.R. 200.216.
- **Additional Federal Requirements.** Contractor will comply with any additional terms and conditions imposed by 2 CFR Part 200, as applicable, and any guidance issued by the U.S. Department of Treasury regarding this agreement.