



**Revenue Contract Solicitation ("RCS")  
Request for Responses**

**CASH TO CARD KIOSK SERVICES  
AT PHOENIX SKY HARBOR INTERNATIONAL AIRPORT  
AVN RCS 24-007**

**SCHEDULE OF EVENTS**

All dates are subject to change without prior notice.  
The City of Phoenix is not responsible for costs 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 time)
Publish RCS	Monday, May 6, 2024
Question Deadline: Submittal of Written Questions	Monday, May 13, 2024 @ 5:00 PM
<b>Response Deadline</b>	<b>Thursday, May 30, 2024 @ 11:00 AM</b>
Response Opening	Thursday, May 30, 2024 @ 11:15 AM  Meeting Link: <a href="https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m4ceccce9f94d4316706f3c7860fb7bd3">https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m4ceccce9f94d4316706f3c7860fb7bd3</a>  Join by phone: +1-415-655-0001 US Toll Access code: 2634 010 4277
Award Recommendation and Protest Period	June 2024

**Submit Responses and requests for alternate formats to:**

Kyle Brack  
Procurement Officer  
City of Phoenix Aviation Department  
2485 East Buckeye Road, Phoenix, AZ 85034-4301  
602-683-3886 (TEL) / 800-781-1010 (TTY)  
[avn.solicitations@phoenix.gov](mailto:avn.solicitations@phoenix.gov)

**<https://www.phoenix.gov/solicitations/1809>**

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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2<sup>nd</sup> Floor  
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## SECTION I – INTRODUCTION

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### SECTION I - INTRODUCTION

#### I. INTRODUCTION

The City of Phoenix (“City”) Aviation Department (“Aviation”) is seeking Responses from qualified Respondents to provide and operate Cash to Card Kiosk Services at Phoenix Sky Harbor International Airport (“PHX”). Successful Respondent will enter into a Concession Lease Agreement (“Lease”) with the City. A copy of the draft lease is viewable on the City’s solicitation website via attached **Exhibit 1**.

#### A. 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.

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 (PHX), Phoenix Deer Valley Airport (DVT), Phoenix Goodyear Airport (GYR), Rental Car Center (RCC), and/or the SkyTrain in accordance with the context of the Contract.

CONTRACT or AGREEMENT includes any and all Aviation Department contracts, subcontracts, agreements, leases, subleases, licenses, permits, concessions, or other documents, however denominated that grant or convey a right or privilege on the 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.



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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.

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.

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

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

### B. MINIMUM QUALIFICATIONS

Each Respondent must demonstrate in its Response that it meets the minimum qualifications as required and include all information requested in this section or the Response will be rejected as non-responsive.

Respondents must demonstrate and submit documentation providing evidence that the minimum qualifications listed below have been met in order to have their Response considered. **The Aviation Department reserves the sole right to determine if Respondent meets the minimum qualifications.** Respondents who



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

### **Minimum Qualifications**

1. Respondent must have experience operating a Cash to Card Kiosk business in the U.S. for at least three (3) years within the last five (5) years.
2. Respondent must have conducted a minimum of 10,000 cash to card transactions in one (1) year within the last five (5) years in the Cash to Card Kiosk business.
3. Respondent must have achieved minimum gross sales of \$50,000 annually in the Cash to Card Kiosk business for at least one (1) year within the last five (5) years.
4. Respondent must clearly demonstrate its financial ability for the proposed Cash to Card Kiosks by submitting relevant financial documents that demonstrate the sustainability of the Respondent's financial ability to operate through the entirety of the five-year Lease.

### **C. 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 City contractual provisions, including payment of financial obligations to the City.

### **D. SMALL BUSINESS OUTREACH REQUIREMENTS**

The Airport is required to report participation goals for each contract to the Federal Aviation Administration (FAA). Therefore, the City strongly encourages contractors to utilize Airport Concession Disadvantaged Business Enterprise (ACDBE) small businesses to achieve participation goals. Please note that participation can only be counted towards the participation goals if the small business is a certified ACDBE. The Equal Opportunity Department (EOD) will work with any businesses that wish to become certified as an ACDBE.

To be considered for award, the Respondent must agree that if Respondent becomes a Successful Respondent, they will conduct and document Small Business Outreach Efforts in compliance with the Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Race- and Gender-Neutral Lease Clause (**Exhibit 2**) and USDOT in 49 C.F.R. Parts 23 and 26. Although there is no ACDBE, Disadvantaged Business Enterprise (DBE), or Small Business participation goal for these services, the City



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strongly encourages the Successful Respondent to utilize ACDBEs, DBEs and Small Businesses in its contract.

The Statement of Outreach Commitment Form – EO1 (**Exhibit 3**) is due with the Response at the time of submittal.

The Small Business Outreach Efforts Form – EO2, (**Exhibit 4**) and Small Business Utilization Commitment Form – EO3 (**Exhibit 5**) are due sixty (60) days after awarded by Council.

A Small Business Participation Plan received from Successful Respondent that does not meet the outreach requirements will be deemed non-compliant. The Successful Respondent will be held to the Small Business participation percentages proposed in Form EO3 (**Exhibit 5**).

The Airport has a national market for small business participation. Successful Respondents shall fulfill all required small business outreach requirements and submit all required outreach efforts documentation for Small Business Outreach Efforts - Form EO2 (**Exhibit 4**) and Small Business Utilization Commitment – Form EO3 (**Exhibit 5**) within sixty (60) days of execution of the Contract.

Every year on the anniversary of the Effective Date of the Lease, the Successful Respondent shall submit a Small Business Participation Plan and the associated Supporting Documentation.

Successful Respondents are required to comply with Airport ACDBE Program Plan and 49 C.F.R. Parts 23 and 26. Successful Respondents shall track and report all ACDBE, DBE, and/or small business participation that occurs at the Airport as a result of the Lease, 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](http://www.phoenix.diversitycompliance.com).

The City of Phoenix defines small business firms as 1) Independent and for-profit business concerns, 2) Owned and controlled by one or more persons, 3) Personal Net Worth (PNW) of each owner(s) cannot exceed \$1.32M, 4) Combined PNW of joint ventures and/or partnerships can exceed \$1.32M, and 5) Annual Gross Sales (averaged over the previous 3 years) cannot exceed the Small Business Administration Size Standard for their industry.



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### E. 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 6** details the Equal Pay 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 Section III, Response Instructions.**

### F. 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 Aviation Director at any time during the RCS process and/or prior to execution of the Lease.

The Lease will become effective on the date of filing by the City Clerk (“Effective Date”). The term of the Lease will be for **three (3) years with two (2) one-year optional renewals** to be exercised at the sole discretion of the Aviation Director.

Respondents are advised to review the draft lease included as **Exhibit 1** to which the Successful Respondent shall be bound.

This RCS is for a non-exclusive Lease with the City. The City will not enter into an exclusive Lease with a Successful Respondent. At any time, the City has the right to award Leases to other operators for Cash to Card Kiosk Services in operation at the Airport and/or future Cash to Card Kiosk Services that may be located within the existing locations or in later additions to locations throughout the Airport.

### G. EXECUTION OF THE LEASE

The City will send the final Lease to the recommended Respondent after Phoenix City Council approves the Award Recommendation. Within **30 calendar 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 **30 calendar 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





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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.

### H. GUARANTEE INSTRUMENTS

1. Response Guarantee: Response must be accompanied by a one-thousand-dollar (\$1,000.00) Response Guarantee in the form of a cashier's check payable, without condition or restrictive endorsement, to the "City of Phoenix". **Each Respondent's Response Guarantee must be submitted in a separate sealed envelope clearly marked "Response Guarantee" along with the Response.**

Response Guarantees submitted by unsuccessful Respondents, including Respondents whose submittals were deemed non-responsive, will be returned, without interest, immediately after formal award of the Lease has been made by the Phoenix City Council or after all responses have been rejected by the City.

The Response Guarantee of the Successful Respondent will be returned, without interest, immediately after Successful Respondent has furnished the City with the Performance Guarantee instruments and insurance policies required by the Lease. Should the Successful Respondent fail to execute the Lease or furnish the Performance Guarantee instruments or insurance within 30 days from the date the Lease was sent, then the Successful Respondent's Response Guarantee will be forfeited as liquidated damages.

2. Employee Fidelity Bond: Upon execution of the Lease, the Successful Respondent will be required to post and maintain with the City a bond covering employees required to handle money in the amount of ten-thousand-dollars (\$10,000.00 USD).

### I. 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 may submit a report of any mistakes, improprieties or defects in writing to the Procurement Officer at [avn.solicitations@phoenix.gov](mailto:avn.solicitations@phoenix.gov) no later than the question deadline listed on page 1.

Respondents and their Partners, as defined in Section I, paragraph O., are encouraged to submit questions as a team rather than individually to avoid submitting





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repetitive questions, which will allow Aviation to answer all questions more efficiently.

All questions about this RCS, including the draft Lease, must be submitted in writing no later than the question deadline listed on page 1 to [avn.solicitations@phoenix.gov](mailto:avn.solicitations@phoenix.gov). All written questions will be responded to in writing and available at: <https://solicitations.phoenix.gov/Solicitations/Details/1809>.

### J. 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/1809>. Respondents are responsible to check the website and review 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.

### K. RESPONDENT EXCEPTIONS

The City will award the Lease(s) on a fair and competitive basis and will not accept any changes to the material provisions or requirements of this RCS or Lease. Respondents that take exception to, add to, or subtract from any material provision or requirement of this RCS or Lease(s) 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.

### L. AIRPORT SECURITY

Individuals assigned to work at the Airport 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 Respondents must comply with all airport security requirements. Visit <https://www.skyharbor.com/airport-business/security-badging/> for current security information and visit <https://www.skyharbor.com/airport-business/phx-information/rules-regulations/> for current Airport Rules and Regulations.



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### **M. 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 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.

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.



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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 AS NON-RESPONSIVE.**



## SECTION II – SCOPE OVERVIEW

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### SECTION II - SCOPE OVERVIEW

**A. INTRODUCTION:** The City of Phoenix Aviation Department (“Aviation”) is soliciting Responses from qualified firms to provide, install, operate, and manage Cash to Card Kiosk Services (“Kiosks”) at Phoenix Sky Harbor International Airport (“PHX” or “Airport”). The Successful Respondent will provide fully functioning Kiosks to the traveling public capable of accepting cash and dispensing an instant-issue Visa or MasterCard at designated locations within the PHX terminals and campus. The Successful Respondent will enter a Concession Lease Agreement (“Lease”) with Aviation. A copy of the Draft Lease is attached as **Exhibit 1**. The Kiosk locations, identified in **Exhibit 7**, will be operated and managed by the Successful Respondent.

The desired objective of this solicitation is to accomplish the following:

- Provide passengers with the convenience to make cashless payments for airline and parking related services at PHX.
- Optimize sales and rental revenues over the term of the Lease.
- Incorporate technology and innovative service concepts to expand offerings throughout the terminal building.
- Increase opportunity for small business participation.
- Select a qualified Respondent that can provide the highest quality customer service, convenience to the traveling public, and the expectation of reasonable rental revenues.

**B. BACKGROUND:** Phoenix, Arizona is a vibrant center in one of the fastest growing job markets and economies in the United States. As the fifth largest city in the country, Phoenix is emerging with strength in high-tech manufacturing, bioscience research, and advanced business services.

PHX is among the busiest airports in the United States and is the gateway for Phoenix and most of Arizona with service from 24 airlines. Following the pandemic, PHX is one of the fastest recovering airports in the country by serving nearly 49 million passengers (through passengers and origin & destination passengers) in 2023. Additionally, the Airport is on track to break an all-time record for passenger count in 2024.

Passenger enplanement data for the last five years is listed in the table below. More Airport statistics are available at:



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PHX Enplaned Passengers					
	2019	2020	2021	2022	2023
<b>Terminal 3</b>	263,032	208,099	417,651	516,959	586,679
<b>Terminal 4</b>	1,673,442	724,421	1,494,376	1,421,131	1,566,706
<b>Total</b>	<b>2,093,317*</b>	<b>932,520</b>	<b>1,912,027</b>	<b>1,938,090</b>	<b>2,153,385</b>

<https://www.skyharbor.com/About/Information>.

Annual Cash to Card Gross Sales at PHX					
Calendar Year	2019	2020	2021	2022	2023
<b>Total</b>	<b>\$51,525</b>	<b>\$74,490</b>	<b>\$51,535</b>	<b>\$71,640</b>	<b>\$69,144</b>

\*2019 total includes 156,843 enplanements at Terminal 2, which was demolished in 2020.

Aviation makes no representation or warranties, express or implied, as to the accuracy or relevancy of the statistical data listed above. These sales were reported by the current cash to card kiosk operator, and the Respondent assumes all risks associated with using these sales totals, including their accuracy, relevance, and/or materiality to the formulation of its Response.

**C. CURRENT ENVIRONMENT FOR CASH TO CARD KIOSK SERVICES:** There are currently four (4) Kiosks in defined locations near the airline ticketing counters in Terminals 3 and 4. These Kiosk locations are shown in **Exhibit 7**. Gross sales from the Kiosks for calendar years 2019 through 2023 are shown in the table above.

The current Kiosk operator's lease is nearing expiration. Aviation wishes to offer Kiosks through a concession agreement. Throughout the agreement, Aviation will evaluate the Kiosks for purposes of noting whether the Kiosks are staying up to date with evolving technologies and industry trends. Aviation will work with the successful respondent on possible changes, if necessary. In doing so, PHX will continue providing excellent service to airport passengers while supporting airlines' cashless operation.



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**D. CASH TO CARD KIOSK SERVICES OVERVIEW:** Aviation is seeking a qualified Respondent to provide and operate Kiosks at designated locations at PHX. Four (4) Kiosks will be located on the ticketing levels of Terminals 3 and Terminal 4. Additional locations may be added if mutually agreed upon by the Lessee and Aviation. **Exhibit 7** identifies the Kiosk locations. The type and nature of the Kiosks to be provided at PHX shall, at a minimum, include the following:

- Kiosks will be available for use 24 hours per day, seven days a week, every day of the year including holidays, unless change is otherwise expressly authorized in advance by the ADR.
- Kiosks will provide an option for the purchase of zero-balance credit or debit cards which are loaded with custom amounts up to at least one thousand dollars (\$1,000.00), less transaction fees, either individually or combined to a single card after multiple card purchases. If multiple card purchases are necessary to meet this requirement, consumers must be able to be consolidate balances to one card through the cash to card kiosk or a live agent support call center or hotline, available twenty-four (24) hours per day and seven (7) days per week, and have funds immediately available to be used for the purchase of airline tickets or anywhere major credit or debit cards are accepted. Kiosks must provide either transactions or services as permitted by the governing network regulations and must produce receipts for transactions or services.
- Kiosks must provide written instructions and notification in, at minimum, the languages of English and Spanish, regarding transaction options, instructions, and fees.
- An adequate number of approved signs on Kiosks advising patrons regarding service information. All signage must be submitted to and approved by the ADR prior to posting signage.
- The maximum allowable size of Kiosks are seven feet in height, five feet in width, and four feet in depth.
- Kiosks must meet all applicable federal, state, and local requirements and guidelines. Kiosks must be ADA (Americans with Disabilities Act) compliant for the hearing and vision impaired and must be wheelchair accessible.



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- Kiosks must be uniform in size and appearance.
- Kiosks must be new, attractive, multi-functional, resistant to rough usage, vandalism, and able to accommodate high transaction volumes.
- Kiosks must be kept free of stickers, markings, and any other defacing materials.
- Kiosks must be kept clean, repaired, and maintained.
- Successful Respondent must provide Kiosk maintenance and service (not related to cash handling) to any malfunctioning Kiosk within six (6) hours of discovery or notification from Aviation of a malfunction.
- Successful Respondent's cash vendor(s) must respond to cash handling service calls (e.g., Kiosk isn't accepting cash or dispensing cards) within four (4) hours if the service call is made before 8:00 p.m. local Phoenix time. If the service call is made after 8:00 p.m. local Phoenix time, Lessee's cash vendor will be required to respond by 8:00 a.m. the next day.
- Kiosks must be sufficiently stocked with debit or credit cards ready to be dispensed at all times to accommodate customers.
- Successful Respondent must maintain and conduct its operation in a proper business-like manner so as not to disturb or be offensive to other tenants or customers at the Airport.
- Successful Respondent must employ a sufficient number of personnel to maintain and keep in good operating condition the Kiosks, to promptly meet all reasonable service requests twenty-four (24) hours per day, seven (7) days a week, every day of the year unless an exception is expressly authorized by the ADR.
- Successful Respondent must furnish all personnel, materials, services, and other requirements to operate and maintain the Kiosks. Any security measures necessary to conduct this business is the sole responsibility of the Successful Respondent.
- Successful Respondent must collateralize all deposits in excess of the





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Federal Deposit Insurance Corporation (FDIC) thresholds in compliance with any and all legal requirements throughout the term of the Lease.

- Respondent must have live agent support available in both English and Spanish languages twenty-four (24) hours per day seven (7) days per week for airline staff or passengers to receive assistance.

Additional areas of the Scope Overview may include the following optional items:

- It is desired that the Kiosks have system management capabilities for predicting, assisting, and reporting malfunctions, required maintenance, and the need for cash replenishment.
- It is highly desired that Kiosks transfer data via a wireless connection.
- Kiosks may also offer other items for sale such as U.S. Postage Stamps, postcards, or other similar services with advanced approval from the ADR.

**E. MINIMUM ANNUAL GUARANTEE (MAG) OR PERCENTAGE RENT:** The percentage rent shall be established at ten percent (10%) of gross revenue ("Percentage Rent"). Throughout the term of the Lease, the Successful Respondent must pay the greater of MAG or Percentage Rent. Respondents must propose the first year MAG (**Exhibit 8**) which must be \$10,000 or greater, but the Percent Rent amount of ten percent (10%) of gross sales is non-negotiable. For each Lease year, after the first Lease year, the MAG shall be established at 85% of the Percentage Rent paid during the preceding Lease year or 100% of the MAG for the first Lease year, whichever is greater.

**D. ADDITIONAL SPACE:** Limited Airport storage and office space may be made available to the Successful Respondent(s). Additional support space, if available, would be charged at the rate for the terminal in effect at the time of leasing and reflected in an amended lease. The current terminal rate is \$169.32 per square foot and may be adjusted every year in July. If it is determined sufficient storage and office space is not available at the Airport, the Successful Respondent(s) may need to secure off-airport storage, office, and distribution space to support their airport operations at no additional cost to the City.

**E. AVIATION DEPARTMENT REPRESENTATIVE (ADR):** The ADR for this Lease is Kevin Eyster, or his designee, with Aviation's Business & Properties Division.



## SECTION II – SCOPE OVERVIEW

**CITY OF PHOENIX**  
Aviation Department  
Contracts & Services  
2485 East Buckeye Road,  
Phoenix, AZ 85034

Kevin can be reached at [kevin.eyster@phoenix.gov](mailto:kevin.eyster@phoenix.gov). The ADR will coordinate all work and will be the sole judge of the acceptability and quality of work. The ADR must be consulted for any issues that arise during this Lease term.



## SECTION III – RESPONSE INSTRUCTIONS

CITY OF PHOENIX  
Aviation Department  
Contracts & Services  
2485 East Buckeye Road,  
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### SECTION III - RESPONSE INSTRUCTIONS

- A. SUBMISSION OF OFFER – ELECTRONIC OR HARD COPY RESPONSE:** The Aviation Department is accepting electronic Responses for this solicitation, in addition to other methods of submitting sealed Response(s) (hard copies). Respondents are responsible for submitting the Response (electronic or hard copies) before the due date and time of the submittal deadline.

**HARD COPY SUBMITTAL:** “In-Person” and “via Carrier (i.e. USPS, FedEx, UPS, etc.)” Delivery: Responses will be received at the Aviation Office Building located at 2485 East Buckeye Road, Phoenix AZ 85034 in the **LOBBY** during normal business hours (8:00 am – 5:00 pm local Phoenix time) by appointment and by calling 602-273-2116 or instructing the Carrier to call the same number at the time of arrival. Responses should be clearly marked on the outside of the package as designated in the solicitation. The Respondent is responsible for managing potential delays caused, as the City doesn’t make exceptions for delays by the Carrier.

**ELECTRONIC SUBMITTAL:** Please submit your Response via email to [avn.solicitations@phoenix.gov](mailto:avn.solicitations@phoenix.gov) and copy [kyle.brack@phoenix.gov](mailto:kyle.brack@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 24-007 Cash to Card Kiosk Services on the subject line of the email when submitting your Response.

**The original Response Guarantee and Affidavit hard copies, regardless of the Response submission method, must be received at Aviation Headquarters located at 2485 East Buckeye Road, Phoenix, AZ 85034 by the Response Deadline as indicated on page 1.**

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.

- B. DELIVERY OF RESPONSES:** Whether submitting an electronic or hard copy submittal, the following information must be included:

- Respondent’s Name
- Respondent’s Address (as shown on the Certification Page)
- AVN RCS 24-007



## SECTION III – RESPONSE INSTRUCTIONS

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- RCS Response To: Cash to Card Kiosk Services

### Response must include the following:

- One (1) original Response with an authorized original signature on the Affidavit (**Exhibit 9**).
- One (1) copy of the Response (if hard copy submission).
- In a separate sealed envelope marked “Response Guarantee”, a one-thousand-dollar (\$1,000.00) Response Guarantee check.
- Conflict of Interest and Solicitation Transparency Disclosure Form (**Exhibit 10**).
- Letter of Declaration (Equal Pay) (**Exhibit 6**).
- Statement Regarding Any Agreement with Labor Organizations as specified in **Section III – Response Instructions, Item G**.
- One (1) copy of the Statement of Outreach Commitment – Form EO1 (**Exhibit 3**) filled out.
- Proposed Minimum Annual Guarantee (MAG) (**Exhibit 8**).
- Additional supporting documentation for Proof of Minimum Qualifications (**Exhibit 11**)
- Specifications, including features, capabilities, dimensions, and utility requirements, for the proposed Cash to Card Kiosks

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 in the Schedule of Events 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. Please ensure that electronically signed documents are submitted in separate pdf files.

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](mailto: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.



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- C. FORM OF RESPONSE:** Responses shall conform to the format specified herein. 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, may be subject to rejection as non-responsive.

The provided attachments 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.

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. **Respondents are responsible for reading and complying with all requirements of this RCS.**

- D. WITHDRAWAL / CORRECT RESPONSE:** At any time prior to the solicitation due date and time, Respondent (or designated representative) may submit a request in writing to withdraw or correct their response. This request must be signed by a duly authorized representative and be emailed to [avn.solicitations@phoenix.gov](mailto:avn.solicitations@phoenix.gov) and [kyle.brack@phoenix.gov](mailto:kyle.brack@phoenix.gov).

- E. LATE RESPONSES:** Responses received after the deadline date and time may be deemed non-responsive. 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.

- F. RESPONSE RESULTS:** All Aviation Department public response openings will be held via remote telephone and video access until further notice.

Responses will be opened remotely, with the meeting accessible to the public through remote video and telephone conference at the link and dial-in phone number provided by the Aviation Department on the offer due date, time, and location indicated in the Schedule of Events, at which time the name of each Respondent will be read. Responses and other information received in response to this solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Responses are not available for public inspection until after the City has posted the award recommendation on the City's website.



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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.

**G. LABOR ORGANIZATION DOCUMENTATION:** In a separate sealed package marked "Statement Regarding Any Agreements with Labor Organizations" within the same sealed package as the items listed above, Respondents shall submit a response to the following:

- *Do you currently have an agreement in place that would prohibit a labor organization from engaging in a strike, picketing, or conducting other economic actions at the proposed concession operation? If yes, please list the labor organization(s) and the date the agreement was executed.*

The information provided in response to this RCS question will not be considered in the evaluation.

## **H. SMALL BUSINESS OUTREACH REQUIREMENTS DOCUMENTATION**

The City has implemented outreach requirements for the resulting Lease. Specifically, each 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. If a Respondent fails to conduct these Outreach Efforts or fails to submit the required documentation of Respondent's Outreach Efforts as indicated below, the City may determine that the Respondent's Response is Non-Responsive. A determination of Non-Responsiveness *disqualifies* Respondent from further consideration for the Lease award.

Respondents must 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 Respondent's outreach efforts and notify them whether or not the Small Business was selected.



## SECTION III – RESPONSE INSTRUCTIONS

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### Small Business Outreach Documentation Requirements

**Form EO1 is required to be submitted with the response.**

**Forms EO2 and EO3, along with supporting documentation for Form EO2, are due 60 days after awarded by Council.**

1. **Form EO1.** Each Respondent shall complete and submit Form EO1 - Statement of Outreach Commitment with their initial response submittal.
2. **Form EO2.** Each Respondent shall complete and submit Form EO2 documenting its diligent, good-faith Outreach Efforts.
  - a. Each Respondent shall list in Form EO2, all Small Businesses contacted by Respondent in preparing its Response. Each Respondent shall also provide the following minimum information to document its Outreach Efforts. The Compliance Specialist will consider this information to determine whether Respondent has demonstrated the required Small Business Outreach Efforts:
    - Each business's full legal name and contact information.
    - Business status (ACDBE, DBE, Small Business, SBE, or unknown).
    - Scope of work solicited (brief description, percentage of contract value).
    - Solicitation method (personal contact, telephone, fax, e-mail, other).
    - Selection process; and
    - Communication of selection outcome to each participant\*.

*\*Respondent shall provide supporting documentation that shows Respondent has communicated its final selection decisions and outcomes to **all** Small Businesses **not** chosen to participate in this Lease.*

- b. Each Respondent shall complete Form EO2 in accordance with the following instructions.
      - Each Respondent shall actively contact Small Businesses for each scope of work or business opportunity selected for Small Business Outreach Efforts (Columns A and C).
      - Respondent's contacts 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.





## SECTION III – RESPONSE INSTRUCTIONS

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- Respondent shall ask each firm to indicate the number of its employees (Column A).
- For each ACDBE's, DBE's or Small Business's annual gross receipts, Respondent shall ask the firm to indicate the gross-receipts bracket into which it fits (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 (Column A).
- If Respondent does not select a particular Small Business to participate in the Lease, Respondent shall explain the reason why (Column E).
- Respondent shall notify each Small Business contacted whether or not Respondent selected the firm. Respondent shall notify all firms not selected, and Respondent shall state when (date) and how (method) the selection outcome was communicated to each firm (Column F).

3. **Form EO2 Supporting Documentation.** Each Respondent shall complete and submit supporting documentation of its Outreach Efforts related to Form EO2.

- a. Respondent shall submit with Form EO2 all supporting documentation of Respondent's contacts with Small Businesses for each scope of work or business opportunity selected for Small Business Outreach Efforts.
- b. This documentation must 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.
- c. 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.
- d. 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.



## SECTION III – RESPONSE INSTRUCTIONS

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4. **Form EO3**. Respondent shall sign and submit Form EO3, which commits Respondent to the City as follows:

- a. The firms indicated as “selected” in Form EO2 will participate in the Lease;
- b. The Respondent will comply with the Race- and Gender-Neutral post-award requirements as stated in Sections V and VI below;
- c. Any and all changes or substitutions will be authorized by the Compliance Specialist before implementation; and
- d. The proposed total Small Business participation percentage is true and correct.

Respondent shall ensure that the percentages proposed for Small Business participation on Form EO2 equal the total percentage proposed in Form EO3.

### **Failure to Meet Small Business Outreach Requirements**

The Equal Opportunity Department (EOD) Compliance Specialist will determine, in writing, whether Respondent has satisfied all outreach requirements. If the Compliance Specialist determines that Respondent has failed to satisfy the outreach requirements, then the Compliance Specialist may determine that the Response is non-responsive. A non-responsive determination *disqualifies* Respondent from further consideration for the Lease award. EOD shall send written notice to Respondent stating the basis for the Compliance Specialist’s decision.

### **ACDBE Administrative Reconsideration**

If the Compliance Specialist determines that Respondent failed to submit required documentation to meet the stated outreach requirements, the City will permit Respondent to request EOD to reconsider this determination in accordance with the Protest provisions in this RCS. In its request for reconsideration, Respondent may clarify its Response, but Respondent may not submit or refer to new or revised documents or information. The City will only reconsider the original Response as clarified in the request for reconsideration.

If Respondent requests EOD to reconsider the Compliance Specialist’s determination of non-responsiveness based on insufficient demonstration of Outreach Efforts, Respondent must provide written notice to the City. The ACDBE Administrative Reconsideration period is concurrent with the protest period outlined in this solicitation.



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

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

- A. RESPONSIVENESS AND RESPONSIBILITY:** All Responses will be reviewed for responsiveness and responsibility, documentation of minimum qualifications, completeness, and adherence to the RCS requirements on a pass or fail basis.

The minimum qualifications will be reviewed by the Procurement Officer in accordance with the criteria set forth in this RCS.

Only those Respondents submitting responsive and responsible Responses that meet the Minimum Qualifications (Qualified Respondents) will have their Minimum Annual Guarantee (MAG) evaluated.

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

- B. EVALUATION:** Only those Respondents submitting a responsive and responsible Response that meets the Minimum Qualifications (Qualified Respondents) will have their proposed Minimum Annual Guarantee (MAG) evaluated.

All responsive and responsible Responses will be evaluated based on the highest proposed Minimum Annual Guarantee (MAG). One hundred percent (100%) of the evaluation scoring criteria will be based on the proposed first year MAG for the first contractual year. The MAG may be adjusted annually according to the Lease.

Proposed first year MAG may not be less than \$10,000. If the MAG is omitted or is less than the acceptable minimum amount, the Response may be deemed Non-Responsive. The Qualifying Respondent providing the highest first year MAG will be recommended for award of the Lease.

In the event that more than one Qualified Respondent offers the same proposed first year MAG, then each Qualified Respondent will be afforded the opportunity to amend its proposed first year MAG. If a Qualified Respondent chooses not to amend its original proposed first year MAG, then their original proposed first year MAG will be evaluated as their final proposed first year MAG. After Qualified Respondents provide amended proposed first year MAG, the highest proposed first year MAG will be recommended for award to provide and operate Cash to Card Kiosk Services located at PHX. The results will be posted publicly and available at:

<https://www.phoenix.gov/finance/business-opportunities/bid-awards-and-recommendations>. Responses will be publicly opened.



## SECTION V – GENERAL TERMS AND CONDITIONS OF THE RESPONSE

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### SECTION 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 Contract 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 shall 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 Respondent.
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.
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 shall be disqualified until the resulting Contract is awarded, or all Responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of



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the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the Contract, as long as the City cancels with a statement that the City will rebid the solicitation.

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. EQUAL OPPORTUNITY:** The City extends to all Respondents an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of Small Business Enterprises (SBEs) whenever practical. Respondents are encouraged to call the City's Equal Opportunity Department at 602-262-6790 or visit their website at: <https://phoenix.diversitycompliance.com/> for assistance identifying SBEs.

**C. AWARD RECOMMENDATION:** All award recommendations will be posted on the following phoenix.gov website: <https://www.phoenix.gov/finance/business-opportunities/bid-awards-and-recommendations>

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.

### **D. 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 not request that the entire Response be treated as confidential. 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 specific information "confidential". To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential.
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



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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.

### E. 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.

**F. 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.

**G. RESPONDENT INCURRED COSTS:** All costs incurred by the Respondent in connection with this RCS shall be borne solely by the Respondent. Under no circumstances shall the City be responsible for any costs associated with the Respondent's Response or the RCS process.

**H. 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.





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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.

- 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 Contract 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 shall 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 Contract resulting from this RCS process.

### J. PROTEST POLICY

#### 1. Conditions for Protest:

- a. An aggrieved party may protest the contents of the RCS up to seven calendar days before the solicitation deadline listed on page 1 when the protest is based on alleged mistakes, improprieties, or defects of the RCS. 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.
- 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 calendar days of the date the Respondent was notified of the adverse determination.
- c. Respondents may protest an award recommendation within seven calendar days of its posting at:  
<https://www.phoenix.gov/finance/business-opportunities/bid-awards-and-recommendations>
- d. If the Respondent can establish that it had a substantial chance of being awarded





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the contract and will be harmed by the recommended award. The date the Award Recommendation Notice is posted shall initiate the seven-day Protest Period. That is, the date the Notice is posted shall be day zero, with the following day counted as day one and so forth through Close of Business (5:00 p.m. Local Phoenix time) on calendar day seven.

### **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.
- 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 shall also establish in its protest that it had a substantial chance of being awarded the Agreement 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 shall issue a protest decision in writing within a reasonable period of time stating the reason for the protest decision and



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advising the aggrieved party or Respondent of its right to appeal in accordance with Phoenix City Code.

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. NON-DISCRIMINATION / EQUAL OPPORTUNITY:** 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 concession 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 this 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, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors,



## SECTION V – GENERAL TERMS AND CONDITIONS OF THE RESPONSE

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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 A of 49 CFR part 21.

- 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.
- 7. Incorporation of Provisions:** The Successful Respondent will include the provisions of this section (Section K. Non-Discrimination / Equal Opportunity, paragraphs 1-6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto.



## SECTION V – GENERAL TERMS AND CONDITIONS OF THE RESPONSE

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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.

**L. AFFIRMATIVE ACTION COMPLIANCE CERTIFICATION:** The Successful Respondent certifies its compliance with federal affirmative action requirements by signing the Lease resulting from this RCS.

**M. 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.

**N. 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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### EXHIBIT 1

#### DRAFT Lease

DRAFT Lease is available at: <https://www.phoenix.gov/solicitations/1809>



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### EXHIBIT 2

#### **AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) PROGRAM RACE- AND GENDER-NEUTRAL LEASE CLAUSE**

- 1. SECTION I - DEFINITIONS:** The following definitions shall apply to this Exhibit, Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Race- and Gender-Neutral Lease Clause:

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](http://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.

Commercially Useful Function means that an ACDBE or DBE is responsible for executing the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. If an ACDBE or DBE does not perform or exercise responsibility for at least 30% of the total cost of the contract with its own work force, or if the ACDBE or DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the ACDBE or DBE is presumed not to be performing a Commercially Useful Function.

Compliance Specialist means an EOD employee responsible for ACDBE Program compliance with this Lease Clause.

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



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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 that represent a Commercially Useful Function directly to airport concessionaires as an ACDBE, DBE or small business.

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. For purposes of this Lease Clause, one participant in the JV arrangement must be a certified ACDBE or DBE by an AZUCP member. 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.

Race- and Gender-Neutral (RGN) Measures means effort(s) or program(s) that is, or can be, used to assist all Small Businesses, in the absence of a goal.

Small Business means, with respect to firms seeking to participate as ACDBEs or DBEs in contracts funded by the U.S. Department of Transportation (US DOT), 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 Small Business Concern does not exceed the cap on average annual gross receipts specified in 49 CFR § 26.65(b) and self-identified small businesses. "Small Business" and "Small Business Concern" are used interchangeably in this Lease Clause.





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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.

### 2. SECTION II - GENERAL REQUIREMENTS

- A. **Applicable Federal Regulations.** This Lease is subject to ACDBE requirements issued by USDOT in 49 CFR Parts 26 and 23. Despite the lack of a race- and gender-conscious ACDBE participation goal for this Lease, the Agency must track and report ACDBE and DBE participation that occurs as a result of any procurement, JV, goods/services, or other arrangement involving an ACDBE or DBE. For this reason, the Successful Respondent shall provide all relevant information to enable the required reporting.
- B. **ACDBE Participation.** For this solicitation, the City has *not* established a race- or gender-conscious ACDBE 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—a Commercially Useful Function—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.
- C. **Counting ACDBE and DBE Participation.** The City will count ACDBE and DBE participation as authorized by federal regulations. A summary of these regulations can be found at [www.phoenix.gov/eod](http://www.phoenix.gov/eod).
- D. **ACDBE and DBE Certification.** *Only* firms (1) certified by the City or another AZUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine ACDBE and DBE participation resulting from RGN measures on this Lease. This ACDBE and DBE determination affects the City's tracking and reporting obligations to USDOT.
- E. **Civil Rights Assurances.** As a recipient of USDOT funding, the City has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Lease signed by the City and the Successful Respondent, and each Subcontract signed by the Successful Respondent and a Subcontractor, must include the following assurance ***verbatim***:



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“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. The contractor shall carry out applicable requirements of 49 CFR Parts 21 and 23 in the award and administration of USDOT- assisted contracts. 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.”

**3. SECTION III - REQUIRED OUTREACH EFFORTS:** The City has implemented outreach requirements for this Lease. Specifically, each 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. If a Respondent fails to conduct these Outreach Efforts or fails to submit the required documentation of Respondent’s Outreach Efforts as indicated in Section IV, Parts A, B and C below, the City may determine that the Respondent’s proposal is *nonresponsive*. A determination of non-responsiveness *disqualifies* Respondent from further consideration for the Lease award.

### **4. SECTION IV SUBMITTAL REQUIREMENTS FOR SMALL BUSINESS OUTREACH**

Documentation due with Initial Response:

- A.** Form EO1 - Statement of Outreach Commitment: Each Respondent shall sign, date, and submit a completed Form EO1 - Statement of Outreach Commitment, with its initial Response submittal.
- B.** Failure to Submit Form EO1: Responses that do not have this form completed and signed will be deemed nonresponsive. A nonresponsive Response will be disqualified from further evaluation.

**5. SECTION V - SMALL BUSINESS OUTREACH GENERAL REQUIREMENTS:** Respondent shall 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**, as a matter of responsiveness, **FORM EO1, Statement of Small Business Outreach Commitment** must be submitted with the response.

**B. Following the award of the contract**, as a matter of compliance, documentation



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of Small Business Outreach efforts (Forms EO2 and EO3) must be submitted and approved 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 EO2. 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 ACDBE, DBE or Small Business, Respondent shall indicate the **Range of Annual Gross-receipts** for each ACDBE, DBE, small firm proposed (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.*

- 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.



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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.

1. Respondent shall submit with Form EO2 all supporting documentation of Respondent's contacts with Small Businesses for each scope of work or business opportunity selected for Small Business Outreach Efforts.
2. This documentation must 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. Form EO3 Small Business Utilization Commitment.** Respondent shall sign and submit Form EO3, which commits Respondent to the City as follows:

1. The firm(s) indicated as "selected" in Form EO2 will participate in the Lease;
2. The Respondent will comply with the Race- and Gender-Neutral post-award requirements as stated in Sections V and VI below;
3. Any and all changes or substitutions will be authorized by the Compliance Specialist before implementation; and
4. The proposed total Small Business participation percentage is true and correct.

Respondent shall ensure that the percentages proposed for Small Business participation on Form EO2 equal the total percentage proposed in Form EO3.



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**D. Failure to Meet Small Business Outreach Requirements.** The Compliance Specialist will determine, in writing, whether Successful Respondent has satisfied all outreach requirements. If the Compliance Specialist determines that the Successful Respondent has failed to satisfy the outreach requirements (specified in Sections III and IV, Parts A, B, and C), then the Compliance Specialist may determine that Successful Respondent is non-compliant.

**E. Subcontracting Commitment.** Promptly after Lease award, 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.

The Successful Respondent shall not reduce the amount, alter the scope of work, or terminate the Subcontractor without the Compliance Specialist's prior written approval. Any request to alter a Small Business Subcontract must be submitted in writing to the Equal Opportunity Department before any change is made. If the Successful Respondent fails to do so, the City may declare the Successful Respondent in breach of the Lease.

**F. Post-Award Relief from DBE Requirements.** After Lease award, the City will not grant relief from the proposed Small Business Participation Plan except in extraordinary circumstances. The Successful Respondent's request to modify Small Business participation must be in writing to the Compliance Specialist, who has final discretion and authority to determine if the request should be granted.

The Successful Respondent's waiver request must contain the amount of relief being sought, evidence demonstrating why the relief is necessary, and any additional relevant information the Compliance Specialist should consider. The Successful Respondent shall include with the request all documentation of its attempts to subcontract with Small Businesses and any other action taken to locate and solicit a replacement Small Business.

**G. Substitutions.** If a Small Business was approved by the City, but the firm subsequently loses its Small Business status before execution of a contract, the Compliance Specialist will consider whether or not the Successful Respondent has exercised diligent and good-faith efforts to find another Small Business as a replacement. The Successful Respondent shall notify the Equal Opportunity Department in writing of the necessity to substitute a Small Business and provide specific reason(s) for the substitution or replacement. Actual substitution or replacement of a Small Business may not occur before the Compliance Specialist's written approval has been obtained.

## 5. SECTION VI - RECORDS & REPORTING REQUIREMENTS

**A. Records.** During performance of the Lease, the Successful Respondent shall keep



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all records necessary to document ACDBE, DBE and 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](http://www.phoenix.diversitycompliance.com).

**C. Annual Submittals of Small Business Participation Plan.** As a matter of compliance, the Successful Respondent must submit a **Small Business Participation Plan** and the associated **Supporting Documentation**, on an annual basis by the anniversary date of contract award. The Successful Respondent is required to maintain a **Small Business Participation Plan** and document its ongoing efforts to foster small business participation throughout the life of this Contract. The Successful Respondent is required to conduct a shortfall analysis and develop a corrective action plan in the event the Successful Respondent is unable to achieve its Small Business Participation Commitment.

**1. Failure to Foster Small Business Participation**

The Compliance Specialist will determine whether Successful Respondent has satisfied all outreach activities in the development of the **Small Business Participation Plan**. If the Compliance Specialist determines that Successful Respondent has failed to satisfy the **Small Business Participation Plan** requirements as specified in this clause, then the Compliance Specialist may determine that the Successful Respondent is not compliant. The City shall send a written notice to the Successful Respondent stating the basis for the Compliance Specialist's decision. The Successful Respondent has seven (7) business days to cure the deficiency. If Successful Respondent fails to submit the required forms and supporting documentation by the due dates, the City may formally deem the Successful Respondent noncompliant, in default of the Lease and not in good standing with the City of Phoenix.

**D. Counting of Small Business Participation:**





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1. In instances where Small Business participation occurs as the result of a JV arrangement with a Respondent, the Successful Respondent is required to complete JV documentation, and cooperate and participate in a review of the participation of the JV partners at least once a year. The review will determine the percentage of participation that will be counted for Small Businesses and the participation of ACDBE firms to be reported to the Federal Aviation Administration each year of the Lease.
2. If an approved ACDBE or DBE allows its ACDBE or DBE status to expire or its ACDBE or DBE certification is removed during the course of the subcontract, the City will consider all work performed by the ACDBE or DBE under the original contract to count as ACDBE or DBE participation. No increased scopes of work negotiated after expiration or revocation of the ACDBE's or DBE's certification may be counted. Likewise, any work performed under a Lease extension granted by the City may not be counted as ACDBE or DBE participation.





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### EXHIBIT 3 FORM EO1 - STATEMENT OF OUTREACH COMMITMENT (Due with Response submittal)

On behalf of the Respondent, I certify under penalty of perjury that the following information is true and correct.

If selected as the Successful Respondent, the Successful Respondent will:

- 1) Fulfill all required Small Business Outreach Requirements and submit a Small Business Participation Plan along with all required supporting documentation within 60 days following contract execution.
- 2) Submit to Airport any material changes to its Airport-approved Small Business Participation Plan along with supporting documentation of efforts to foster small business participation.
- 3) Comply with the Race- and Gender-Neutral post-award requirements stated in the ACDBE Program Plan and Contract Clause; and
- 4) Track and report all ACDBE, DBE, and/or small business participation that occurs at Airport as a result of contracts, procurements, purchase orders, subleases, JV, goods/services, or other arrangements involving sub-tier participation. Such participation and document must be entered monthly into the web-based reporting program Business2Government (B2G) System at [www.phoenix.diversitycompliance.com](http://www.phoenix.diversitycompliance.com).

Company Name: \_\_\_\_\_

Company Mailing Address: \_\_\_\_\_

Representative Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_



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### EXHIBIT 4

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### **SMALL BUSINESS OUTREACH EFFORTS - Form EO2** **(Due within 60 days following award of the contract)**

<b>Name of Company (Respondent):</b>	<b>Solicitation Name:</b>	<b>Contract Name:</b>
<b>Email:</b>	<b>Phone #:</b>	<b>Point of Contact:</b>

(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*
Name:		<input type="checkbox"/> ACDBE/DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified <input type="checkbox"/> Unknown	<b>List Scope(s) of            Work</b>	<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
Address:						
City, State, Zip:	Number of Employees:					
Phone Number:	Email or Fax:					
Number of Years in Business:	Range of Annual Gross Receipts:					



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### EXHIBIT 4

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### SMALL BUSINESS OUTREACH EFFORTS - Form EO2

Name:		<input type="checkbox"/> ACDBE/DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified <input type="checkbox"/> Unknown	<b>List Scope(s) of Work</b>	<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
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.**

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.



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### EXHIBIT 5

(pg. 1 of 2)

#### **SMALL BUSINESS UTILIZATION COMMITMENT - Form EO3** (Due within 60 days following the award of the contract)



**City of Phoenix**

#### **Airport Concession Disadvantaged Business Enterprise (ACDBE) Program**

On behalf of the Successful Respondent, I certify under the penalty of perjury that the information submitted herein is true and correct:

- 1) The firms indicated as 'Selected' in **Form EO2 / Documentation of Outreach Efforts**, will participate in this contract;
- 2) The Successful Respondent will comply with the Race- and Gender-Neutral post-award requirements as stated in the ACDBE contract clause;
- 3) I understand and agree that any and all changes or substitutions must be authorized by the Equal Opportunity Department prior to implementation; and
- 4) The following statement is true and correct:

The proposed total participation of ACDBE, DBE, SBC, and SBE firms on this contract will be:

- 1) Participation as Partners as a percentage of this Lease's value: ACDBE \_\_\_\_\_ percent (\_\_\_%), DBE \_\_\_\_\_ percent (\_\_\_%), and Small Business \_\_\_\_\_ percent (\_\_\_%).
- 2) Participation as suppliers of goods and services as a percentage of the operating expenses or cost of goods sold associated with this Lease: Lessee: ACDBE \_\_\_\_\_ percent (\_\_\_%), DBE \_\_\_\_\_ percent (\_\_\_%), and Small Business \_\_\_\_\_ percent (\_\_\_%).



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### **EXHIBIT 5** (pg. 2 of 2)

#### **SMALL BUSINESS UTILIZATION COMMITMENT - Form EO3**

Company Name: \_\_\_\_\_

Company Mailing Address: \_\_\_\_\_

Company Representative Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



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### EXHIBIT 6

#### LETTER OF DECLARATION (EQUAL PAY)

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 Agreement.

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

By: \_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

---

#### **PHOENIX CITY CODE (PCC)**

#### **ARTICLE V. SUPPLIER'S AND LESSEE'S EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS**

##### **Sec. 18-21 Requirements of suppliers and lessees**

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



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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 shall 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.

### **FEDERAL**

#### **Equal Pay/Compensation**

The Federal Equal Pay Act of 1963 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**

#### **A.R.S. §23-341. Equal wage rates: variations: penalties: enforcement**

A. Notwithstanding the other provisions of this chapter, no employer shall 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 shall 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





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that the wages paid to such employee are less than the wages to which such employee is entitled under this section.

D. The commission shall 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 shall be instituted within six months after the date of the alleged violation, but in no event shall 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 shall 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.



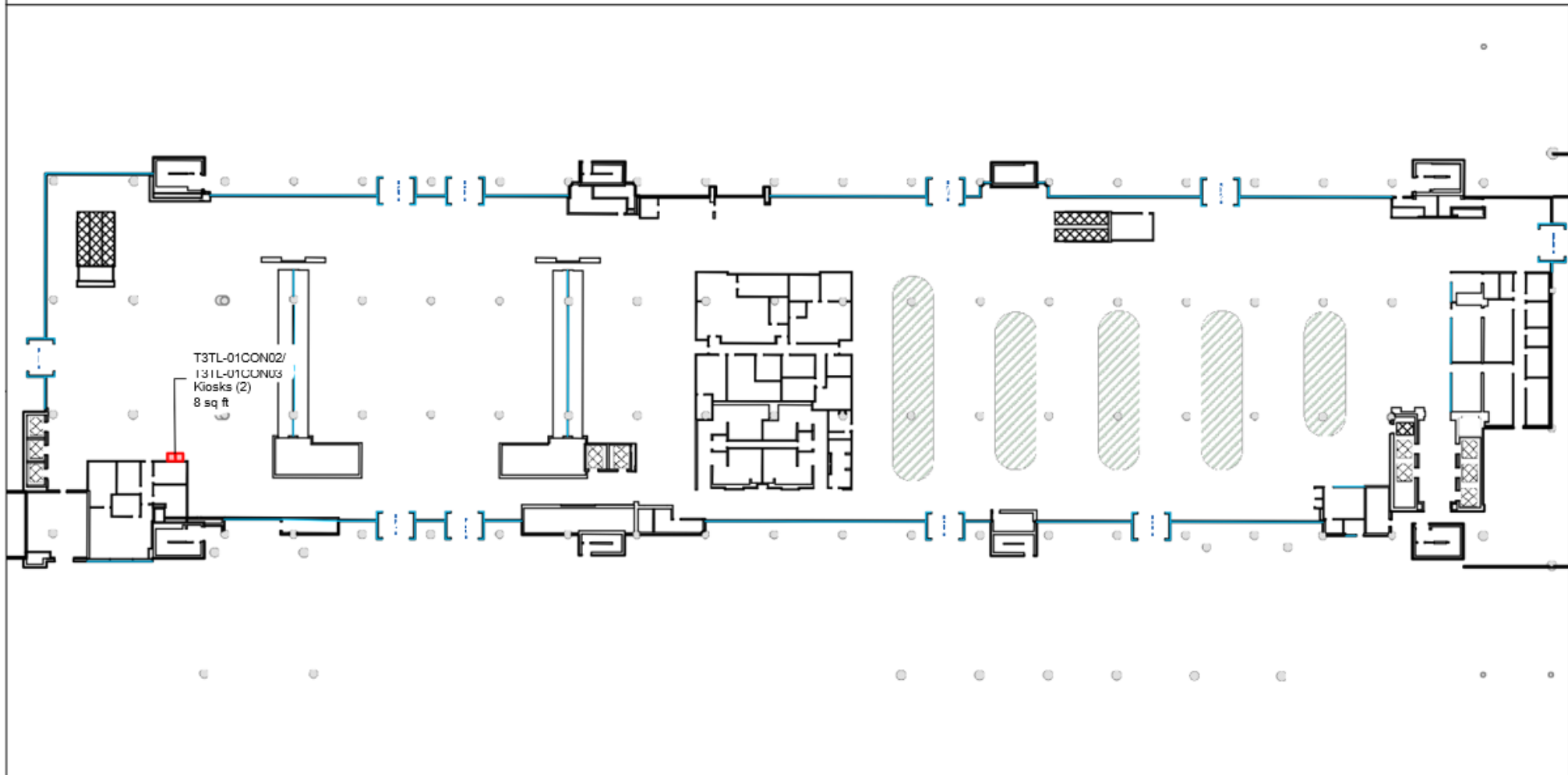
## SECTION VI – EXHIBITS

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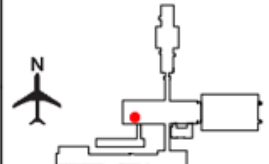
### EXHIBIT 7 - TERMINAL KIOSKS (pg. 1 of 2)



#### TERMINAL 3 - STREET LEVEL - PHOENIX SKY HARBOR INTERNATIONAL AIRPORT



 Kiosk Location



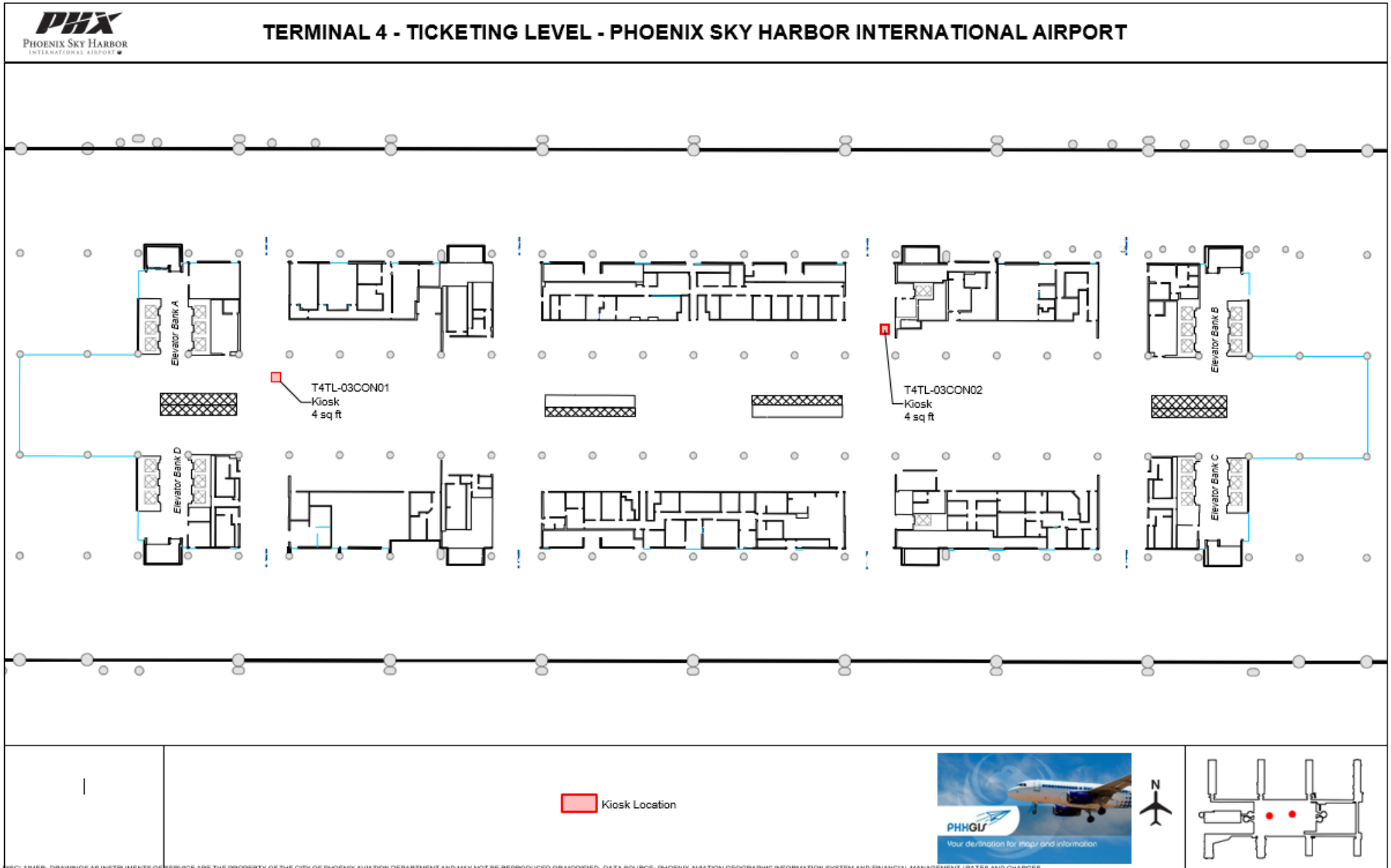
DISCLAIMER: DRAWINGS AS INSTRUMENTS OF SERVICE ARE THE PROPERTY OF THE CITY OF PHOENIX AVIATION DEPARTMENT AND MAY NOT BE REPRODUCED OR MODIFIED. DATA SOURCE: PHOENIX AVIATION GEOGRAPHIC INFORMATION SYSTEM AND FINANCIAL MANAGEMENT / RATES AND CHARGES



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### EXHIBIT 7 – TERMINAL KIOSKS (pg. 2 of 2)





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### EXHIBIT 8 PROPOSED MINIMUM ANNUAL GUARANTEE (MAG)

Respondent: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

#### **Proposed Minimum Annual Guarantee**

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

Responses that propose an amount less than the First Year MAG of \$10,000 shall be deemed Non-Responsive.

Proposed MAG amount will be included in the Agreement terms to which the Successful Respondent will be bound.

Authorized Signature: \_\_\_\_\_ Authorized Signature: \_\_\_\_\_

Typed Name: \_\_\_\_\_ Typed Name: \_\_\_\_\_

Typed Title: \_\_\_\_\_ Typed Title: \_\_\_\_\_



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### **EXHIBIT 9** **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 Agreement.
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 shall be borne solely by Respondent. Under no circumstances shall the City be responsible for



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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.
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** ☐



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

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Printed Name of Authorized Person: 

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*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 \_\_\_\_\_, 2024  
by \_\_\_\_\_ (full name of the affiant).

\_\_\_\_\_  
Notary Public (signature)

Affix Notary Seal



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### EXHIBIT 10

#### CONFLICT OF INTEREST AND SOLICITATION TRANSPARENCY DISCLOSURE FORM

This form must be signed and submitted to the City and all questions must be answered or your Offer may be considered non-responsive.			
1. Name of person submitting this disclosure form.			
First:	MI:	Last:	Suffix:
2. Agreement Information			
Solicitation # or Name:			
3. Name of individual(s) or entity(ies) seeking an agreement with the City (i.e. parties to the Contract)			
4. List any individuals(s) or entity(ies) that are partners, parent, joint venture or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.			
5. List any individuals or entities that will be subcontractors on this agreement or indicate N/A.			
<input type="checkbox"/> Subcontractors may be retained, but not known as of the time of this submission.			
<input type="checkbox"/> List of subcontracts, including the name of the owner(s) and business name:			



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

**7. Disclosure of conflict of interest:**

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

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

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

**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 agreement 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](http://www.azleg.gov)).



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- ☐ 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:

### 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](mailto: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 11 PROOF OF MINIMUM QUALIFICATIONS

Respondent must meet the Minimum Qualifications list in paragraph B, Section I – Instructions. By checking “Met,” the Respondent certifies that each requirement is fully satisfied. Respondents not completing and/or not meeting each requirement in full will be deemed non-responsive.

**Minimum Qualification #1:** Respondent must have experience operating a Cash to Card Kiosk business in the U.S for at least three (3) years within the last (5) years.

☐ MET ☐ NOT MET

List specific companies, licenses, certificates, dates, contact information, etc. below to demonstrate the Respondent meets this minimum qualification. Additional supporting documentation can be submitted with Section III – Response Instructions, B. Delivery of Responses.

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**Minimum Qualification #2:** Respondent must have conducted a minimum of 10,000 cash to card transactions in one (1) year within the last five (5) years in the Cash to Card Kiosk business.

☐ MET ☐ NOT MET

List specific companies, licenses, certificates, dates, contact information, etc. below to demonstrate the Respondent meets this minimum qualification. Additional supporting



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documentation can be submitted with Section III – Response Instructions, B. Delivery of Responses.

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**Minimum Qualification #3:** Respondent must have achieved minimum gross sales of \$50,000 annually in the Cash to Card Kiosk business for at least one (1) year within the last five (5) years.

☐

MET

☐

NOT MET

List specific companies, licenses, certificates, dates, contact information, etc. below to demonstrate the Respondent meets this minimum qualification. Additional supporting documentation can be submitted with Section III – Response Instructions, B. Delivery of Responses.

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**Minimum Qualification #4:** Respondent must clearly demonstrate its financial ability for the proposed Cash to Card Kiosks by submitting relevant financial documents that demonstrate the sustainability of the Respondent's financial ability to operate through the entirety of the five-year Lease.

☐

MET

☐

NOT MET



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List specific companies, licenses, certificates, dates, contact information, etc. below to demonstrate the Respondent meets this minimum qualification. Additional supporting documentation can be submitted with Section III – Response Instructions, B. Delivery of Responses.

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### EXHIBIT 12

#### INSURANCE REQUIREMENTS

Respondents (referred to in this Exhibit as “Contractor”) must provide evidence of ability to obtain the required insurance, such as a commitment letter from an underwriter confirming that Contractor is insurable for the required coverages in the required limits.

#### **INDEMNIFICATION CLAUSE:**

1. Contractor (“Indemnitor”) must indemnify, defend, save and hold harmless the City and its officers, officials, agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs; attorney fees; and costs of claim processing, investigation and litigation) (“Claims”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, errors, or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors in connection with the Lease and this RCS. This indemnity includes any Claim arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Contractor must indemnify Indemnitee from and against any and all Claims, except those arising solely from Indemnitee’s own negligent or willful acts or omissions. Contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of the Lease, Contractor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Contractor for the City. The obligations of Contractor under this provision survive the termination or expiration of the Lease.

#### **2. INSURANCE REQUIREMENTS:**

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 the Lease.

These insurance requirements are minimum requirements for the Lease and in no way limit the indemnity covenants contained in this RCS. The City in no way warrants that the minimum limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under the Lease by the Contractor, its agents, representatives, employees or subcontractors and



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Contractor is free to purchase additional insurance as may be determined necessary.

- A. MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

**1. Commercial General Liability – Occurrence Form**

Policy must cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury and liability assumed under an insured contract.

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

- a. The policy must be endorsed to include the following additional insured language: The City of Phoenix shall be named as an additional insured with respect to liability arising out of the use and/or occupancy of the property subject to this Lease.

- b. Policy must not contain any restrictions of coverage with regard to operations on or near airport premises.

**2. Automobile Liability**

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

- |   |             |
|---|-------------|
| • Combined Single Limit (CSL) non-airside driving | \$1,000,000 |
|---|-------------|

- a. The policy shall not contain any restrictions of coverage with regard to operations on or near the Airport.

**3. Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000



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Disease – Policy Limit

\$500,000

- a. Policy must contain a waiver of subrogation against the City of Phoenix.
- b. This requirement shall not apply when a contractor or subcontractor is exempt under A.R.S. 23-901, **AND** when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

#### 4. Fidelity Bond or Crime Insurance – Employee Theft

The bond or crime policy shall provide coverage for loss of monies belonging to the City under the terms of the Lease as a result of theft by Contractor's employees.

Bond or Policy Limit:

\$10,000

- a. The bond or policy shall include coverage for all directors, officers, agents, and employees of the Contractor.
- b. The bond or policy must include coverage for third party fidelity, i.e. property of the Contractor that is held by the Contractor in any capacity, or property for which the Contractor is legally liable.
- c. The bond or policy shall not contain a condition requiring an arrest and conviction.

**B. ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the City of Phoenix is named as an additional insured, the City of Phoenix must be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Lease.
2. The Contractor insurance coverage will be primary insurance and non-contributory with respect to all other available sources.

**C. NOTICE OF CANCELLATION:** For each insurance policy required by the insurance provisions of this Lease, the Contractor must provide to the City, within 2 business days of receipt, a notice if a policy is suspended, voided or



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cancelled for any reason. Such notice shall be mailed, emailed, hand-delivered or sent by facsimile transmission to:

City of Phoenix Aviation Department  
Business and Properties Division  
2485 E. Buckeye Road  
Phoenix, AZ 85034  
Fax Number: 602-273-4083  
Email: [aviation.business@phoenix.gov](mailto:aviation.business@phoenix.gov)

- D. 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 above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. VERIFICATION OF COVERAGE:** Contractor shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Lease. 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 Lease must be in effect at or prior to commencement of this Lease and remain in effect for the duration of the Lease. Failure to maintain the insurance policies as required by this Lease or to provide evidence of renewal is a material breach of contract.

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

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

City of Phoenix Aviation Department  
Business and Properties Division  
2485 E. Buckeye Road  
Phoenix, AZ 85034  
Fax Number: 602-273-4083  
Email: [aviation.business@phoenix.gov](mailto:aviation.business@phoenix.gov)



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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: [inbox@cop.complianz.com](mailto:inbox@cop.complianz.com)

- F. SUBCONTRACTORS:** Contractor's certificate(s) shall include all contractors and subcontractors as additional insureds under its policies or Contractor shall furnish to the City separate certificates and endorsements for each contractor or subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. APPROVAL:** Any modification or variation from the insurance requirements in this Lease must have prior approval from the City of Phoenix Law Department, whose decision shall be final. Such action will not require a formal contract amendment but may be made by administrative action.



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### EXHIBIT 13

#### 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,



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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.

**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





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Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities. In the event of a breach of any of the above Nondiscrimination covenants, the City of Phoenix will have the right to terminate this Contract and to enter, re-enter and repossess the property and facilities thereon and hold the same as if this Contract had never been made or issued.

**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 subtier 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





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remains obligated to the FAA. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

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

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

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

**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 thirty (30) days from the receipt of each payment Contractor receives from City of Phoenix. Contractor agrees further to return retainage payments to each subcontractor



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within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the City of Phoenix. This clause applies to both DBE and non-DBE subcontractors.

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

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

### **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.



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

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

**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



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grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. § 40103(e) (No exclusive rights at certain facilities).

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

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

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

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

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

### 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.



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**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.

### **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,



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and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.”

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

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

### **7. Title VI List of Pertinent Nondiscrimination Acts and Authorities**

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

- 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).
- D.** 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).
- E.** 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



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Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex).

**F.** 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).

**G.** 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).

**H.** 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.

**I.** 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).

**J.** 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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