



CITY OF PHOENIX PUBLIC TRANSIT DEPARTMENT
REQUEST FOR PROPOSAL RFP PTD24-005

FIXED-ROUTE SERVICES – WEST TRANSIT FACILITY

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Date posted on website (JUNE 13, 2024)



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ATTACHMENTS:

- Attachment A Fee Schedule – separately posted with solicitation as excel spreadsheet
- Attachment B E01 Form, in its entirety, to be submitted with offer
- Attachment C E02 Form, in its entirety, to be submitted within **three business days** following issuance of the notice of contract award recommendation
- E03 Form, in its entirety, to be submitted within **three business days** following issuance of the notice of contract award recommendation
- Attachment D Disadvantaged Business Enterprise/Small Business Participation Plan, in its entirety, to be submitted within **three business days** following issuance of the notice of contract award recommendation

EXHIBITS:

- Exhibit 1 Phoenix Fare Policy and Uniform Fare Structure
- Exhibit 2 ATU Local 1433 Agreement
- Exhibit 3 Employee MOU and Wage Progression
- Exhibit 4 Restroom Facilities
- Exhibit 5 OPEIU Local 30 Agreement
- Exhibit 6 Operating Engineers Local 428 Agreement



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SOLICITATION RESPONSE CHECKLIST

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

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

- Completed and signed all forms, including Solicitation Disclosure form and applicable Federal Certifications.
- Included all Submittals.
- Reviewed and verified prices offered.
- Checked price extensions and totals.
- Included any required drawings or descriptive literature.
- Checked and included the amount of the offer surety, if required.
- Reviewed the insurance requirements, if any, to assure compliance.
- Included the specified number of copies of the offer as indicated in Submittals Section.
- Addressed the mailing envelope to the Procurement Officer on the solicitation front page, at the address listed.
- Ensured the mailing envelope clearly shows your company name and address, the solicitation number, solicitation title and the offer opening date. No electronic offers will be accepted.

Mail the response timely – the City must receive offers no later than the date and time indicated in the Schedule of Events or addenda.



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1.1. DESCRIPTION – STATEMENT OF NEED

The City of Phoenix Public Transit Department (“**City**”) invites sealed offers for fixed-route services out of the West Transit Facility commencing on **July 1, 2025**, in accordance with the specifications and provisions contained herein, or the “**Effective Date**” of contract award by City Council (conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code), whichever is later.

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

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

1.2. GOALS AND OBJECTIVES:

1.2.1. It is the CITY’s intent to: provide effective and efficient public transportation; enhance overall transportation capacity; reduce traffic congestion, air pollution, and the use of petroleum fuels; and improve the quality of urban development. The goals are:

- 1.2.1.1.** Provide a high-quality, safe, and secure public transportation system.
- 1.2.1.2.** Operate a system that is also sensitive to the needs of seniors and persons with disabilities.
- 1.2.1.3.** Operate as effectively as possible.
- 1.2.1.4.** Operate as efficiently and economically as possible to provide service at the lowest cost to both passengers and taxpayers.
- 1.2.1.5.** Achieve effective communication with passengers, the general public, news media, and community leaders.
- 1.2.1.6.** Provide greater mobility throughout the region by providing better access to public facilities and local/regional destinations.
- 1.2.1.7.** Avoid use of private automobiles for as many trips as possible, thus minimizing congestion and air pollution.
- 1.2.1.8.** Provide connections to local and commuter bus routes.
- 1.2.1.9.** Provide connections to outlying parking facilities.
- 1.2.1.10.** Provide connections to the METRO light rail system.

1.2.2. The CITY intends that its transit system adhere to a set of objectives by which progress towards achieving these goals can be measured. These objectives fall



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into four broad categories that address level of service, efficiency and economy, safety, and communications:

- 1.2.2.1. Seek for the system to reach potential riders by initiating new or improved service whenever possible and operating in concert with passenger demand.
- 1.2.2.2. Reduce operating costs, simplify fare collection, coordinate fixed-route and special-transit services, and improve operating efficiency (among several ways system productivity and economy are enhanced).
- 1.2.2.3. Ensure passenger and employee safety through well-maintained equipment, regularly monitored vehicles, well-trained staff, and the use of reasonable risk control techniques.
- 1.2.2.4. Maintain good public communications for the system and obtain valuable information about transportation demand and passenger needs, coordinating with other local and regional transportation agencies, cooperating with marketing programs developed by these agencies, and incorporating community input to promote transit use regionally.

1.2.3. Each transit contractor to the CITY is expected to strive to achieve these goals and objectives.

1.3. CITY’S VENDOR SELF-REGISTRATION AND NOTIFICATION

Vendors must be registered in the City’s procurePHX Self-Registration System at phoenix.gov/financesite/Pages/EProc-help.aspx to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from an Offeror who has not registered.

1.4. SCHEDULE OF EVENTS

ACTIVITY (All times are local Phoenix time)	DATE (all times are local Phoenix time)
Site Inspection	<p align="center">JUNE 27, 2024 at 9:00 AM MST</p> <p align="center">405 NORTH 79TH AVENUE, PHOENIX, ARIZONA 85043</p> <p>RSVP via email to cathy.lonnegren@phoenix.gov required by JUNE 26, 5:00 PM MST</p> <p>*A one-time walk-through site inspection tour will be conducted at the date and time indicated above. Submission of an offer will be prima facie evidence that the Offeror did, in fact, make a site inspection and is aware of all conditions affecting performance and offer prices.</p>



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Pre-Offer Conference	<p align="center">JUNE 28, 2024 at 9:00 AM MST</p> <p align="center">Conference to be conducted via WebEx by appointment only</p> <p>RSVP via email to cathy.lonnegren@phoenix.gov required by JUNE 27, 5:00 PM MST</p>
Written Inquiries Due Date	<p align="center">JULY 18, 2024 at 5:00 PM MST</p> <p align="center">Inquiries submitted by email to cathy.lonnegren@phoenix.gov</p>
Offer Due Date and Submittal Location	<p align="center">AUGUST 20, 2024 at 2:00 PM MST</p> <p align="center">Offer submitted by mail or in person to:</p> <p align="center">City of Phoenix Public Transit Department 302 N. 1st Avenue, Suite 900 Phoenix, AZ 85003</p> <p>*Please note that the EO1 Form (in its entirety) must be submitted with the offer.</p> <p>**Please also note that the EO2 Form (in its entirety) and EO3 Form (in its entirety) must be submitted within three business days following issuance of the notice of contract award recommendation.</p> <p>***Further, please note that the Disadvantaged Business Enterprise/Small Business Participation Plan (in its entirety) must be submitted within three business days following issuance of the notice of contract award recommendation.</p>

The City reserves the right to change dates and/or locations as necessary.

1.5. PREPARATION OF OFFER

- 1.5.1. All forms provided in the **Submittals Section** must be completed and submitted with your offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.
- 1.5.2. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the offer must be initialed in original ink by the authorized person signing the offer. No offer will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Offeror’s errors or omissions.
- 1.5.3. All time periods stated as a number of days will be calendar days.
- 1.5.4. It is the responsibility of all offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no



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right of withdrawal after due date and time. Offerors are strongly encouraged to:

- 1.5.4.1. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
- 1.5.4.2. Study and carefully correlate Offeror's knowledge and observations with the RFP document and other related data.
- 1.5.4.3. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which an offeror has discovered in or between the RFP document and such other related documents.
- 1.5.4.4. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
- 1.5.4.5. Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 1.5.4.6. Offer responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products offered. Offers submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
- 1.5.4.7. Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the offer to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

- 1.5.5. Alterations of electronic spreadsheet price proposals will be sufficient grounds for the City to consider your offer to be non-responsive.

1.6. OBTAINING A COPY OF THE SOLICITATION AND ADDENDA

Interested Offerors may download the complete solicitation and addenda from solicitations.phoenix.gov. Any interested offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business



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hours at the *City of Phoenix Public Transit Department, Contracts and Procurement Division, 302 N. 1st Avenue, 9th Floor, Phoenix, AZ*. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their offer.

1.7. EXCEPTIONS

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

1.8. INQUIRIES

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

No informal contact initiated by Offerors on the proposed service will be allowed with members of City's staff or City Council from date of distribution of this solicitation until after City Council awards the contract. All questions concerning or issues related to this solicitation must be presented **in writing**.

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

1.9. ADDENDA

The City of Phoenix will not be responsible for any oral instructions made by any employees or officers of the City of Phoenix regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

1.10. BUSINESS IN ARIZONA

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

1.11. LICENSES

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



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1.12. CERTIFICATION

By signing the Offer, offeror certifies:

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

1.13. SUBMISSION OF OFFER

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

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

- Offeror's Name
- Offeror's Address (as shown on the Certification Page)
- Solicitation Number
- Solicitation Title
- Offer Opening Date

Such offers must be completed in ink or typewritten. Include the number of copies that are required as indicated in the **Submittals Section**.

Any original documents (such as bonds, guaranties, powers of attorney), if required by the solicitation, must be delivered to and received by the City on or prior to the exact time and date indicated in the Schedule of Events, with a clear indication of the offer for which it is attributed.

1.14. WITHDRAWAL OF OFFER

At any time prior to the solicitation due date and time, an Offeror (or designated representative) may withdraw the offer by submitting a request in writing and signed by a duly authorized representative. If Offeror withdraws the offer electronically by email to PTDProcurement@phoenix.gov, the request to withdraw must be in the form of a letter attached to the email that includes either an image of the duly authorized representative's signature or an electronic signature from a verifiable source, such as Adobe Sign, DocuSign or a similar verifiable software program.

1.15. OFFER RESULTS

Offers will be opened on the offer due date, time and location indicated in the Schedule of Events, at which time the name of each Offeror may be read. Offers and other information



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received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

The City will post a preliminary offer tabulation on the City's website, solicitations.phoenix.gov/Awards within **five calendar days** of the offer opening. The City will post the information on the preliminary tabulation as it was read during the offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has evaluated the offers, the City will post an award recommendation on the website. By signing and submitting its offer, each Offeror agrees that this posting of the award recommendation to the City's website effectively serves as the Offeror's receipt of that notice of award recommendation. The City has no obligation to provide any further notification to unsuccessful Offerors.

1.16. MINIMUM QUALIFICATIONS

The following requirements must be met at offer due date and time, or else the City may determine that the offer is non-responsive, or the Offeror is non-responsive:

- 1.16.1. Offeror must have been in operation a minimum of **seven years**. Offeror must have a minimum of **seven years'** experience in providing fixed-route services.
- 1.16.2. Offeror's proposed General Manager shall have a minimum of **five years'** experience within the **last seven years** as a manager supervising and running a fixed-cost transit property/operation of similar size and scope.
- 1.16.3. Offeror's proposed Maintenance Manager shall have a minimum of **three years'** experience within the **last five years** in a management capacity overseeing a fixed-cost transit property/operation with an alternative fuel fleet of similar size and scope.
- 1.16.4. Offeror's proposed Operations Manager shall have a minimum of **five years'** experience within the **last seven years** in an Operations/Assistant General Manager capacity managing a transit property/operation of similar size and scope.
- 1.16.5. Offeror's proposed Environmental Manager shall have educational environmental training and a minimum of **three years'** environmental experience within the **last five years** and training in air quality management, underground storage tank management and monitoring, hazardous materials management, and stormwater and water pollution control management.
- 1.16.6. Offeror's proposed Information Technology Specialist shall have a minimum of **three years'** information technology experience within the **last five years**, having supported applications, network, servers, and desktops for a property/operation of similar size and scope.



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1.17. CERTIFICATES OF INSURANCE

Upon notification of a recommended award, the Offeror will have **14 calendar days** to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

1.18. AWARD OF CONTRACT

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

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

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

1.19. SOLICITATION TRANSPARENCY POLICY

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

1.19.2. As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Offerors may not discuss the solicitation with any City employees or evaluation panel members.

1.19.3. Offerors may discuss their offer 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.



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- 1.19.4.** With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.
- 1.19.5.** This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. **OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED.** After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.
- 1.19.6.** "To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

1.20. PROTEST PROCESS

- 1.20.1.** Offeror may protest the contents of a solicitation no later than **seven days** before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.
- 1.20.2.** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 1.20.3.** Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within **seven days** of the date the Offeror was notified of the adverse determination.
- 1.20.4.** Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations on the City's website to award the contract(s) to an Offeror(s). Offeror must submit award protests within **seven days** after the posting of the award recommendation, with exceptions only for good cause shown, within the City's full and final discretion.
- 1.20.5.** All protests will be in writing, filed with the Procurement Officer identified in the



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solicitation and include the following:

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

1.20.6. The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43) and any protests or appeals not submitted within the time requirements will not be considered. Protests must be filed with the Procurement Officer.

1.21. PUBLIC RECORD

All Offers submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If an Offeror believes that a specific section of its Offer response is confidential, the Offeror will isolate the pages marked confidential in a specific and clearly labeled section of its Offer response. An Offeror may request specific information contained within its Offer is treated by the Procurement Officer as confidential provided the Offeror clearly labels the information "**confidential.**" To the extent necessary for the evaluation process, information marked as "confidential" will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Offerors as "confidential" available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Offeror in writing of any request to view any portion of its Offer marked "confidential." The Offeror will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Offeror does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

1.22. LATE OFFERS

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

1.23. RIGHT TO DISQUALIFY

The City reserves the right to disqualify any Offeror who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Offeror on the basis of any real or apparent



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

1.24. SITE INSPECTION

A one-time walk-through site inspection of the facility will be held at the date and time indicated in **Section 1.4** (“Schedule of Events”) at the West Transit Facility, 405 North 79th Avenue, Phoenix, Arizona 85043. Offerors will have an opportunity to review a contingent of the vehicles currently assigned to the West Transit Facility immediately after the facility walk-through. Submission of an Offer will be prima facie evidence that the Offeror is, in fact, aware of all facility and vehicle conditions at the West Transit Facility affecting performance and proposal prices. Offerors’ staff are responsible for their own transportation to and from the site and must provide a government-issued form of identification to on-site security staff in order to gain visitor access.

1.25. PERFORMANCE BOND

A performance surety in the amount of **\$8,000,000** shall be provided to the Public Transit Department’s Contracts and Procurement Division by the prevailing offeror within **14 days** after notice of recommended award (unless additional time is agreed to by the Procurement Officer in writing). The City of Phoenix will not issue a written purchase order or give notice to proceed in any form until the surety is received by the Procurement Officer. The performance surety must be in the form of a bond, cashier’s check, certified check, or money order. Personal or company checks are not acceptable unless certified. If surety is in the form of a bond, the company issuing the surety must be authorized by the Insurance Department of Arizona to transact business in the State of Arizona or be named on the approved listing of non-admitted companies. A Certificate of Deposit (“**CD**”) issued by a local Phoenix bank may also be used as a form of surety provided that the CD is issued jointly in the name of the City of Phoenix and the Contractor, and that the Contractor endorses the CD over to the City at the beginning of the contract period. Interest earnings from the CD can be retained by the Contractor.

1.26. CONTRACT AWARD

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

1.27. DETERMINING RESPONSIVENESS AND RESPONSIBILITY

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



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- 1.27.2.** Responsiveness: Nonresponsive Offers will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Offers will render an Offer nonresponsive.
- 1.27.3.** Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and an Offer that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Offeror remove the conditions, exceptions, reservations or understandings. If the Offeror fails to do so in writing, the City may determine the Offer to be nonresponsive.
- 1.27.4.** Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by Contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Offeror be a responsible contractor. Responsibility includes the Offeror's integrity, compliance with public policy, skill, capacity, experience, record of past performance, financial and technical resources, and facilities for conducting the work to be performed.
- 1.27.5.** The Procurement Officer will review each Offer to determine if the Offeror is responsible. The City's determination as to whether an Offeror is responsible will be based on all information furnished by the Offeror, interviews (if any), any information at the City's request and information received from Offeror's references, including information about Offeror's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Offeror agrees to permit by submitting its Offer, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.
- 1.27.6.** The Offeror's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.

1.28. CLARIFICATIONS

The City may request written clarifications for such purposes as information gathering or eliminating minor irregularities in offers. Clarifications shall not otherwise afford the Offerors the opportunity to alter or change their offers.

1.29. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will



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be added to the overall consensus score. The overall consensus scores will determine the Offerors' rankings and which Offers are within the Competitive Range, when appropriate.

1.30. OFFERS NOT WITHIN THE COMPETITIVE RANGE

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

1.31. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE

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

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

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

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

1.32. BEST AND FINAL OFFERS (BAFO)

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



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- 1.32.2.** If an Offeror’s BAFO modifies its initial offer, the BAFO should include a “Change Log” identifying all modifications made to the Offer. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The City will adjust appropriately, at its sole discretion, the initial scores for criteria that have been affected by Offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.
- 1.32.3.** The Evaluation Panel will recommend the Offer that is the most advantageous to the City based on the evaluation criteria.
- 1.32.4.** The City reserves the right to make an award to an Offeror whose Offer is the highest rated and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

1.33. OFFER SUBMITTAL FORMAT

See **Submittals Section** for offer submittal instructions.

1.34. OFFER EVALUATION CRITERIA

See **Submittals Section** for offer evaluation criteria.



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2.1 DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

Shall, Will, Must:	Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of Offer as non-responsive.
Should:	Indicates something that is recommended but not mandatory. If the Contractor fails to provide recommended information, the City may, at its sole option, ask the Contractor to provide the information or evaluate the offer without the information.
May:	Indicates something that is not mandatory but permissible.

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

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



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“Employer”	Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent Contractor, employer means the independent Contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
“Offer”	Means a response from a supplier, Contractor or service provider to a solicitation request that, if awarded, binds the supplier, Contractor or service provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.
“Offeror”	Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.
“Solicitation”	Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed bids, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, bids, or quotes from suppliers.
“Suppliers”	Firms, entities, or individuals furnishing goods or services to the City.
“Vendor or Seller”	A seller of goods or services.

2.2. CONTRACT INTERPRETATION:

2.2.1. APPLICABLE LAW: This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.

2.2.2. CONTRACT ORDER OF PRECEDENCE: In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:



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- 2.2.2.1. Federal terms and conditions
- 2.2.2.2. Special terms and conditions
- 2.2.2.3. Standard terms and conditions
- 2.2.2.4. Amendments
- 2.2.2.5. Statement or scope of work
- 2.2.2.6. Specifications
- 2.2.2.7. Attachments
- 2.2.2.8. Exhibits
- 2.2.2.9. Instructions to Contractors
- 2.2.2.10. Other documents referenced or included in the Solicitation

2.2.3. ORGANIZATION – EMPLOYMENT DISCLAIMER: The Agreement resulting hereunder is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.

2.2.4. SEVERABILITY: The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

2.2.5. NON-WAIVER OF LIABILITY: The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.

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



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2.3. CONTRACT ADMINISTRATION AND OPERATION

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

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

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

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

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that



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this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, Contractor agreements or subleases of this agreement entered into by supplier/lessee.

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

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

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

2.3.4. LEGAL WORKER REQUIREMENTS: The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:

2.3.4.1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their



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employees and their compliance with A.R.S. § 23-214, subsection A.

2.3.4.2. A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.

2.3.4.3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

2.3.5. HEALTH, ENVIRONMENTAL AND SAFETY REQUIREMENTS: The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

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

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

2.3.5.2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this Agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

2.3.6. COMPLIANCE WITH LAWS: Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the Contractor will be acting as an independent Contractor, the City assumes no responsibility for the Contractor's acts.

2.3.7. LAWFUL PRESENCE REQUIREMENT: Pursuant to A.R.S. §§ 1-501 and - 502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order



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to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies

2.3.8. CONTINUATION DURING DISPUTES: Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.

2.3.9. EMERGENCY PURCHASES: The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

2.4. COSTS AND PAYMENTS

2.4.1. GENERAL: Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.

2.4.2. PAYMENT DEDUCTION OFFSET PROVISION: Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

2.4.3. LATE SUBMISSION OF CLAIM BY CONTRACTOR: The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

2.4.4. DISCOUNTS: Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

2.4.5. NO ADVANCE PAYMENTS: Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.

2.4.6. FUND APPROPRIATION CONTINGENCY: The Vendor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Vendor



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

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

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

2.5. CONTRACT CHANGES

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

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

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

2.6. RISK OF LOSS AND LIABILITY

2.6.1. TITLE AND RISK OF LOSS: The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any



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obligation hereunder.

2.6.2. ACCEPTANCE: All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

2.6.3. FORCE MAJEURE: Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "**force majeure**" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

2.6.4. LOSS OF MATERIALS: The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.

2.6.5. CONTRACT PERFORMANCE: Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

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



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

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

2.7. CITY'S CONTRACTUAL RIGHTS

2.7.1. Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

2.7.2. NON-EXCLUSIVE REMEDIES: The rights and remedies of the City under this Contract are non-exclusive.

2.7.3. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE BREACH: Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

2.7.4. ON TIME DELIVERY: Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

2.7.5. DEFAULT: In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

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



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

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

2.8. CONTRACT TERMINATION

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

2.8.2. CONDITIONS AND CAUSES FOR TERMINATION:

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

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

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in



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this contract;

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

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

2.9. STATE AND LOCAL TRANSACTION PRIVILEGE TAXES

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

2.10. TAX INDEMNIFICATION

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



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2.11. TAX RESPONSIBILITY QUALIFICATION

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

2.12. NO ISRAEL BOYCOTT

If this Contract is valued at \$100,000 or more and requires Contractor (a company engaging in for-profit activity and having ten or more full-time employees) to acquire or dispose of services, supplies, information technology, or construction, then Contractor must certify and agree that it does not and will not boycott goods or services from Israel, pursuant to Title 35, Chapter 2, Article 9 of the Arizona Revised Statutes. Provided that these statutory requirements are applicable, Contractor by entering this Contract now certifies that it is not currently engaged in and agrees for the duration of the Contract to not engage in, a boycott of goods or services from Israel.

2.13. NO FORCED LABOR OF ETHNIC UYGHURS

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

2.14. CONTRACTOR REQUIREMENTS FOR THE MITIGATION OF HEAT-RELATED ILLNESSES AND INJURIES IN THE WORKPLACE

2.14.1. Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The



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City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- 2.14.1.1.** Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
 - 2.14.1.2.** Ability to take regular and necessary breaks as needed and additional breaks for hydration.
 - 2.14.1.3.** Access to shaded areas and/or air conditioning.
 - 2.14.1.4.** Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
 - 2.14.1.5.** Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
 - 2.14.1.6.** Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.
- 2.14.2.** The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.



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3.1 TERM OF CONTRACT AND OPTION TO EXTEND

The Contract shall commence on **July 1, 2025 (“Contract’s start date”)**, and end on **June 30, 2030 (“Initial Term”)**. The CITY may, at its sole option, extend the period of this Contract for an additional **two (2) years (“Option Term”)**. In addition, if the CITY deems it necessary, the CITY may extend the Initial Term or the Option Term on a month-to-month basis for up to **six (6) months**.

3.2 POST AWARD CONFERENCE

A post award conference may be held by the CITY prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

3.3 ESTIMATED QUANTITIES

Quantities listed are the CITY’s best estimate and do not obligate the CITY to order or accept more than CITY’s actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the CITY with its complete actual requirement for the Contract period.

3.4 PRICING

The Cost per Revenue Mile shall be applied to all Revenue Miles planned for operation effective July 1 of each year of the Contract in accordance with **Attachment A** (Fee Schedule). All prices submitted shall be firm and fixed for the initial two years of the contract. Thereafter, a price adjustment not to exceed 3% per annum will be considered annually, provided the adjustment is submitted in writing with 90-days advance notice to the Procurement Officer at PTDprocurement@phoenix.gov, referencing the city contract number. Requests shall be accompanied with current written documentation from a US labor rate index, such as the U.S. Department of Labor, Bureau of Labor Statistics, Producer Price Index (PPI). The City of Phoenix will be the sole judge in determining the allowable increase amount. Price increases must be approved in advance by execution of a written contract amendment. If the CITY determines that this method of price adjustment has become unsuitable, a new method may be adopted by mutual agreement of the CITY and the Contractor.

3.5 ADDITION OR DELETION OF SERVICES

3.5.1 The CITY reserves the right to add and/or delete goods/services under the Contract, including innovations as provided in **Section 5.1.6**



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(“Innovation”). If the CITY requires a change that increases or decreases the annual revenue miles by more than **10%**, CONTRACTOR shall perform the work in accordance with this Contract’s Fee Schedule 2 from **Attachment A**. The CITY shall determine, in its sole discretion, the changes in the annual Revenue Miles based upon the total Revenue Miles according to the number and type of service days for the next CITY fiscal year. Application of the Fee Schedule 2 rate will be for all Revenue Miles operated and will be effective the date of the service change.

3.5.2 All Contract changes must be incorporated into written and signed amendments to the Contract at the sole discretion of the CITY. If applicable, each contract amendment will state any increase or decrease in the amount of the compensation due to Contractor for the change in service. Oral changes to the Contract are not authorized, but the CITY may provide changes by amendment to the Contract.

3.6 AUTHORIZED CHANGES

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

3.7 ALTERATION IN CHARACTER OF WORK

No changes in the scope, character, or complexity of work may be made by CONTRACTOR without first receiving approval by contract amendment properly defining and limiting the change. CITY will not pay any claim for extra work done or materials furnished by CONTRACTOR except as provided in this Contract, and CONTRACTOR may not do any work or furnish any materials not covered by this Contract unless first approved by CITY through contract amendment. Any such work or materials furnished by CONTRACTOR without prior contract amendment is CONTRACTOR’S sole risk, cost, and expense, and CONTRACTOR may not make any claim for compensation for any such work or materials.

3.8 METHOD OF INVOICING AND PAYMENT

3.8.1 The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the



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Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

- 3.8.2** Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the CITY for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, invoice amount, and number of revenue mile/revenue hours operated for that month. The amount invoiced shall be based on the actual number of Revenue Miles operated for that month. Advance payments are not authorized. Payment may only be made for actual services that have been received, less liquidated damages.
- 3.8.3** The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the CITY will return the invoice to CONTRACTOR. CONTRACTOR shall promptly resubmit the revised invoice to the CITY. Failure to identify an error does not waive any of the CITY's rights. The CITY shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.
- 3.8.4** Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the CITY. Monthly invoice must be sent for review to the CITY's Project Manager. The CITY shall notify the CONTRACTOR if the invoice has been approved or if it requires additional documentation and/or correction.
- 3.8.5** Following invoice approval, Contractor will email the invoice in PDF format to invoices@phoenix.gov, copying the CITY's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).
- 3.8.6** A "remit to" address must also be on the invoice and must match the address on file with the CITY. Any changes to the remit to address must be updated by the vendor in its ProcurePHX vendor profile at phoenix.gov/procure.

3.9 KEY PERSONNEL

- 3.9.1** CONTRACTOR's key personnel shall include, at minimum, a General Manager, a Maintenance Manager, Operations Manager, Environmental



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Manager, and Information Technology Specialist. CONTRACTOR's key personnel must be locally present and committed full-time for the project.

3.9.2 CONTRACTOR shall maintain the Key Personnel identified in its proposal for a minimum of **24 months** from the “**Effective Date**” of contract award by City Council unless they are no longer employed by CONTRACTOR. CONTRACTOR shall notify the CITY in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, CONTRACTOR shall fill vacancies with CITY approval within **45 calendar days** of the vacancy, unless otherwise approved by the CITY in writing. All of CONTRACTOR's Key Personnel shall be assigned full-time (a minimum of **40 hours per week**) to this project, unless otherwise approved in writing by the CITY. In the event one or more of CONTRACTOR's Key Personnel is permanently replaced, CONTRACTOR shall notify the CITY in writing at least **72 hours** prior to the replacement date and time. The replacement personnel shall be subject to the CITY's prior approval in writing.

3.9.3 Offices of all CONTRACTOR personnel assigned to this Contract will be physically located at the West Transit Facility.

3.10 STRICT PERFORMANCE

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

3.11 PERFORMANCE INTERFERENCE

Contractor shall notify the CITY's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

3.12 UNSATISFACTORY PERFORMANCE

3.12.1 Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the CITY facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The CITY shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the CITY. If, in the opinion of the CITY, performance



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becomes unsatisfactory, the CITY shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

- 3.12.2** If the unsatisfactory performance is not cured within the time specified, the CITY may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the CITY to complete the Work with other forces and the cost to the CITY for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

3.13 EMPLOYEE IDENTIFICATION AND FACILITY ACCESS

Only authorized Contractor employees are allowed on the premises of CITY facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

3.14 CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENT

3.14.1 Contractor and Subcontractor Workers Background Screening.

- (1) Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") that Contractor furnishes to the CITY pursuant to this Contract will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise addressed in the Technical Specification.
- (2) The CITY requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.
- (3) The Background Screening provided by Contractor will comply with all applicable laws, rules and regulations.
- (4) The Background Screening requirements set forth in this Section are the minimum requirements for the Contract. The CITY in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of the Contractor's services under this Contract or Contractor's failure to comply with this Section. Therefore, in addition to the specific measures set forth below, Contractor and its Contract Workers will take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this Contract.



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- (5) Unless otherwise addressed in the Scope of Work, the Public Transit Department will review and approve maximum risk background check results provided by Contractor. Information to verify the results will be returned to Contractor after the CITY's review. The CITY will not keep records related to background checks. The CITY will only respond with an approve or deny.

3.14.2 Background Screening Risk Level. Because of the varied types of services performed, the CITY has established two levels of risk and associated Background Screening: Standard and Maximum risk. The current risk level and Background Screening required is **MAXIMUM RISK**.

3.14.3 Maximum Risk Level. A maximum risk Background Screening will be performed every **five years** when the Contract Worker's work assignment will involve:

- (1) direct work with vulnerable adults or children, (under age 18); or
- (2) any responsibility for the receipt of payment of CITY funds or control of inventories, assets, or records that are at risk of misappropriation; or
- (3) unescorted access to:
 - CITY data centers, money rooms, high-value equipment rooms; or
 - unescorted access to private residences; or
 - access to critical infrastructure sites/facilities; or
 - direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.

3.14.4 Requirements. The Background Screening for maximum risk level will include a background check for real identity/legal name, and will include felony and misdemeanor records from any county in the United States, the State of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire. In addition, Maximum screening levels may require additional checks as included herein, depending on the Scope of Work, and may change with the Scope of Work.

3.14.5 Additional Maximum Risk Background Checks. Maximum screening will additionally require:

- (1) Credit Check (for cash handling, accounting, and compliance positions only)
- (2) Driving records (for driving positions only)



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- (3) Fingerprint verification (when Contract Worker is working directly with children or vulnerable adults or scope takes the individual to a CJIS location.)

3.14.6 Maximum Risk Background Check *Must Include*.

- (1) Criminal records - Conviction of a misdemeanor(s) (not including traffic or parking violation) or felony(ies)
- (2) Sexual offender search
- (3) All outstanding warrants
- (4) Currently the focus of a criminal investigation
- (5) Currently on parole or probation

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

- (1) Unless otherwise provided for in the Contract, Contractor will be responsible for:
 - determining whether Contract Worker(s) are disqualified from performing work for the CITY for maximum risk level background checks; and,
 - submitting results to the CITY for approval; and,
 - reviewing the results of the background check every five years; and,
 - engaging in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
 - submitting the list of qualified Contract Workers to the contracting department; and,
 - upon review of the background information, the CITY will advise Contractor if it believes a Contract Worker should be disqualified. Contractor will evaluate the Contract Worker and if Contractor believes that there are extenuating circumstances that suggest that the person should not be disqualified, Contractor will discuss those circumstances with the Public Transit Department. The Public Transit Department's decision on disqualification of a Contract Worker is final.
- (2) For sole proprietors, Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the Contract and for whom the requirements of the Contract apply.
- (3) By executing this Contract, Contractor certifies and warrants that Contractor has read the Background Screening requirements and



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criteria in this Section, and that all Background Screening information furnished to the CITY is accurate and current.

- (4) The CITY final documented decision will be an “approve” or “deny” for identified Contract Workers.
- (5) The CITY will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to Contractor, or any contracted agency that assists with review, after the CITY’s completed review.
- (6) By executing this Contract, Contractor further certifies and warrants that Contractor has satisfied all such Background Screening requirements for the maximum risk Background Screening, and verified legal worker status, as required for exiting employees and will satisfy such requirements for any additional employees hired to support this Contract by Contractor or its subcontractors.
- (7) Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Contractor has received the CITY’s written acceptance of Contract Worker’s maximum risk Background Screening. The CITY may, in its sole discretion, accept or reject any or all the Contract Workers proposed by Contractor for performing work under this Contract. A Contract Worker rejected for work at a maximum risk level under this Contract will not be proposed to perform work under other CITY contracts or engagements without CITY’s prior written approval.

3.14.8 Terms of This Section Applicable to all Contractor’s Contracts and Subcontracts. Contractor will include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for services furnished under this Contract.

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



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- 3.14.10** Continuing Duty; Audit. Contractor's obligations and requirements that Contract Workers satisfy this Background Screening Section will continue throughout the entire term of this Contract. Contractor will notify the CITY immediately of any change to a maximum risk Background Screening of a Contract Worker previously approved by the CITY. Contractor will maintain all records and documents related to all Background Screenings and the CITY reserves the right to audit Contractor's compliance with this Section.
- 3.14.11** Variations and Exemptions. There are federal and state regulations that necessitate an exemption from this policy. Certain Contract Workers may be exempt from this policy if they are also employees of the Department of Homeland Security, local police or fire departments.
- 3.14.12** Contractor's Default; Liquidated Damages; Reservation of Remedies for Material Breach. Contractor's default under this Section will include, but is not limited to, the following:
- (1) Contract Worker gains access to a CITY facility(s) without the proper badge or key;
 - (2) Contract Worker uses a badge or key of another to gain access to a CITY facility;
 - (3) Contract Worker commences services under this Contract without the proper badge, key or Background Screening;
 - (4) Contract Worker or Contractor submits false information or negligently submits wrong information to the CITY to obtain a badge, key or applicable Background Screening; or
 - (5) Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another CITY facility or upon the expiration, cancellation or termination of this Contract.
 - (6) Contractor acknowledges and agrees that the access control, badge and key requirements in this Section are necessary to preserve and protect the public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this Section within three Business Days (excluding weekends and CITY holidays) from the date notice of default is sent by the CITY. The parties agree that Contractor's failure to properly cure any default under this Section will constitute a breach of this Section. In addition to any other remedy available to the CITY at law or in equity, Contractor will be liable for and pay to the CITY the sum of \$1,000.00 for each breach by Contractor in this Section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the CITY at the time and making of this Contract if Contractor breaches this Section. Further, the parties expressly acknowledge



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and agree to the fixed sum set forth above because of the difficulty of proving the CITY's actual damages if Contractor breaches this Section. The parties further agree that three breaches by Contractor in this Section arising out of any default within a consecutive period of three months or three breaches by Contractor in this Section arising out of the same default within a period of 12 consecutive months will constitute a material breach of this Contract by Contractor and the CITY expressly reserves all of its rights, remedies and interests under this Contract, at law and in equity including, but not limited to, termination of this Contract.

3.14.13 Employee Identification and Access. It is mandatory that Contractor's employees always have badges and some form of verifiable company identification (badge, uniform, employee id or W-2) unless the CITY implements a verification procedure, addressed in the Scope of Work.

- (1) Contractor employees are forbidden access to designated restricted areas. Access to each building will be as directed by the authorized Phoenix authorized representative. Contractor employees are not authorized access other than during scheduled hours.
- (2) Only authorized Contractor employees are allowed on the premises of the CITY facilities/buildings. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor employee.
- (3) Unless otherwise provided for in the Scope of Work:
- (4) Contract Workers must always have badges and some form of verifiable company identification (badge, uniform, employee id).
- (5) Contractor will supply a list of the names and titles of all employees requiring access to the buildings. It is the Contractor's responsibility to provide updates and changes of personnel as necessary.

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

Primary Badging Office

West Transit Facility
405 N 79th Avenue
Phoenix, AZ 85043



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302 N. 1st Ave.
Phoenix, AZ 85003
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Back-Up Office

Public Transit Department
302 N 1st Avenue, 8th Floor
Phoenix, AZ 85003

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

3.14.16 Return of Badge or Key. All badges and keys are the property of the CITY and must be returned to the CITY at the badging office within one Business Day (excluding weekends and City holidays) of when the Contract Worker’s access to a CITY facility is no longer required to furnish the services under this Contract. Contractor will collect a Contract Worker’s badge and key(s) upon the termination of the Contract Worker’s employment; when the Contractor worker’s services are no longer required at a CITY facility(s); or upon termination, cancellation or expiration of this Contract.

3.14.17 Badge and Key Fees. The following constitute the badge and key fees under this Contract. The CITY reserves the right to amend these fees upon a 30-day prior written notice to Contractor.

Initial/Replacement Badge Fee:	\$55.00	per badge
Lost/Stolen Badge Fee:	\$55.00	per badge
Replacement Key Fee:	\$55.00	per key
Replacement Locks:	\$55.00	per lock

3.15 CONFIDENTIALITY

3.15.1 **“Confidential Information”** means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively **“Recipient”**), whether disclosed before or after the **“Effective Date”** of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts,



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personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

- 3.15.2** Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.
- 3.15.3** Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.
- 3.15.4** If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.



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

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

3.16 DATA PROTECTION

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

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

3.16.3 When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

- (1)** process PII only within the United States and only in accordance with the Contract and not for Contractor's own purposes, including product research, product development, marketing, or commercial data mining, even if the City's data has been aggregated, anonymized, or pseudonymized;
- (2)** implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; A.R.S. § 18-552 (Notification of



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Security System Breaches); A.R.S. § 44-7601 (Discard and Disposal of Personal Identifying Information Records); Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within **14 days** and vulnerabilities that are rated high within **30 days**. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)

- (3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- (4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within **30 days** of attestation report completion;
- (5) take reasonable steps to ensure the competence and reliability of Contractor's personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;
- (6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;
- (7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents,



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resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

3.16.4 If Contractor becomes aware of any actual or potential data breach (each an **"Incident"**) arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City at SOC@phoenix.gov without undue delay within **48 hours**; and:

- (1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;
- (2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;
- (3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and
- (4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

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

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



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3.17 SECURITY INQUIRIES

3.17.1 Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

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

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

3.18 CONTACTS WITH THIRD PARTIES

3.18.1 CONTRACTOR or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the CITY. Should CONTRACTOR or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with



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the CITY, CONTRACTOR or its subcontractors shall promptly inform the CITY, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the CITY or court order. The obligations of CONTRACTOR and its subcontractors under this Section shall survive the termination of this Contract.

3.18.2 CONTRACTOR agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by CONTRACTOR. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

3.19 NO THIRD-PARTY BENEFICIARIES

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

3.20 NON-DISCLOSURE

3.20.1 CONTRACTOR shall not disclose, without the CITY's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the CITY's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall CONTRACTOR make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the CITY.

3.20.2 CONTRACTOR agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by CONTRACTOR's relationship with the CITY. CONTRACTOR further represents to the CITY that, as an inducement to enter this Contract, CONTRACTOR will hold this information in trust and confidence for the CITY's sole benefit and use.

3.20.3 Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the CITY.



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3.20.4 Should the CITY, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, CONTRACTOR shall relinquish to the possession and control of the CITY its entire file related to this Contract and only those portions of said file deemed by the CITY to be not privileged shall be returned to CONTRACTOR pending the resolution of the existing or anticipated litigation.

3.20.5 CONTRACTOR agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by CONTRACTOR. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of CONTRACTOR under this Section shall survive the termination of this Contract.

3.21 ADVERTISING

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

3.22 CONTINUING OBLIGATIONS

3.22.1 All of the Revenue Vehicles to be managed and supervised by CONTRACTOR have previously been leased or purchased by CITY. All agreements, contracts (except labor contracts), indebtedness, and other similar obligations of the transit system existing before the “**Effective Date**” of contract award by City Council or arising at any time after the Effective Date, have been and will remain the CITY’s sole responsibility, except to the extent that CONTRACTOR assumes administrative responsibility for them under this Contract.

3.22.2 This Contract is entered into by CONTRACTOR and CITY for the benefit of the transit system. Upon the expiration or other termination of this Contract, all agreements, contracts (except labor contracts), indebtedness, and other similar obligations that have been administered by CONTRACTOR on CITY’s behalf or for its benefit shall automatically revert to CITY.



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3.23 ACCRUED LIABILITIES

CONTRACTOR shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between CONTRACTOR and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by CONTRACTOR at the end of the contract term and no additional compensation shall be provided by the CITY for such accrued liabilities. CONTRACTOR shall not have any obligation for the liabilities of the prior contractor to its employees.

3.24 CLAIMS OR DEMANDS AGAINST THE CITY

3.24.1 Contractor acknowledges and accepts the provisions of Chapter 18, Section 14 of the Charter of the City of Phoenix, pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in Chapter 18, Section 14 of the Charter of the City of Phoenix alters, amends or modifies the supplemental and complementary requirements of the State of Arizona Notice of Claim statutes, Arizona Revised Statutes §§ 12-821 and 12-821.01, pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

3.24.2 Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term as used in Arizona Revised Statutes § 12-821.01(C), sufficient to affect the date on which the cause of action accrues within Arizona Revised Statutes § 12-821.01(A) and (B).

3.25 CONFLICTS OF INTEREST

3.25.1 Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Phoenix City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.



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- 3.25.2** The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.
- 3.25.3** Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in an Arizona court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.
- 3.25.4** This Contract is subject to the requirements of Arizona Revised Statutes § 38-511.

3.26 TRANSITION COOPERATION AGREEMENT

- 3.26.1** Upon the expiration, termination, or other conclusion of this Contract and of CONTRACTOR's rights and obligations under the Contract, the parties anticipate that CITY will select a successor provider to perform the same or similar work. The parties further acknowledge that the successor provider may be CONTRACTOR or another individual, firm, or entity.
- 3.26.2** If the successor provider is an individual, firm, or entity other than CONTRACTOR, then CONTRACTOR shall cooperate fully with the successor provider to effect a smooth and seamless transition. This cooperation must include, but is not limited to, the following:
- (1)** CONTRACTOR shall share and permit the copying of all books and records necessary or convenient for the successor provider to undertake its work. These records include, but are not limited to, maintenance records, inventory records, supplier contracts, and support agreements.
 - (2)** If original records are necessary for the successor provider to properly perform its legal obligations, CONTRACTOR shall provide the originals to the successor, and CONTRACTOR shall keep copies of them.
 - (3)** CONTRACTOR shall execute documents necessary to effect a



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transfer of all contracts, goods, and services.

- (4) CONTRACTOR shall not sell, transfer, convey, or encumber any CITY assets or any of the assets to be transferred to the successor provider.
- (5) CONTRACTOR shall maintain all inventory levels necessary for the successor provider to continue to perform the work.
- (6) As CITY may direct, CONTRACTOR shall surrender to the successor provider or to CITY all CITY-owned real, personal, and/or intellectual property.
- (7) CONTRACTOR shall inventory all property (real, personal or mixed) purchased or leased with CITY funds and all property in which CITY has an ownership or possessory interest. CONTRACTOR shall include a description of the property and its location in sufficient detail to permit easy identification.

- 3.26.3** Until the date that the successor provider assumes its position, CONTRACTOR shall fully and conscientiously perform its obligations under this Contract in a professional and workmanlike manner.
- 3.26.4** If CITY elects to perform the same or similar work using CITY forces, CONTRACTOR's duty of cooperation, as described above, shall extend to CITY as the successor provider.



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4.1. STANDARD GENERAL DEFENSE AND INDEMNIFICATION

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

4.2. CONTRACTOR’S INSURANCE

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.



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4.3. SCOPE AND LIMITS OF INSURANCE

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

4.3.1.1. Commercial General Liability – Occurrence Form

General Aggregate	\$10,000,000
Products – Completed Operations Aggregate	\$10,000,000
Personal and Advertising Injury	\$10,000,000
Fire Damage	\$10,000,000
Each Occurrence	\$10,000,000

The policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.

City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor’s insurance coverage must be primary insurance and non- contributory with respect to any insurance or self-insurance carried by the City.

4.3.1.2. Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$10,000,000
UM/UIM Per Person Limit	\$500,000



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UM/UIM Per Accident Limit \$500,000

- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor’s insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

4.3.1.3. Worker’s Compensation and Employers’ Liability

Workers’ Compensation Statutory

Employers’ Liability:

Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

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

4.3.1.4. Property Insurance – Contractor’s Property and Equipment

Contractor must maintain all risk property insurance for Contractor’s personal property. The CITY will have no responsibility for any damage to Contractor’s personal property and Contractor’s property insurance must be endorsed to include a waiver of subrogation against the CITY.

4.3.1.5. Fidelity Bond or Crime Insurance

Bond or Policy Limit \$50,000

1. The bond or policy must be issued with limits based on the amount of cash and bus passes being handled by Contractor.



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

4.3.1.6. Contractor’s Pollution Liability

For losses caused by pollution conditions that arise from the operations of Contractor as described in the Scope of Services Section of this Contract.

Per Occurrence	\$1,000,000
General Aggregate	\$2,000,000

1. The policy should be written on an “occurrence” basis with no sunset clause or if written on a “claims-made” basis, it must be maintained for a period of not less than 8 years with the retroactive date to be prior to or held constant with the date of this Contract.
2. Such insurance must name the City of Phoenix and its subsidiaries and affiliates as Additional Insureds with respect to liability arising out of the activities performed by, or on behalf of Contractor.
3. The policy must provide coverage for pollution conditions that arise from the operations of Contractor described under the scope of services of the Contract. The policy should include the following coverages:



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- Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death and medical monitoring costs.
 - Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss if use of tangible property that has not been physically injured or destroyed including diminution in value.
 - Environmental damage including physical damage to soil, surface water or groundwater, or plant or animal life, caused by Pollution Conditions and giving rise to Clean-Up Costs.
 - Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages
 - Asbestos or lead – no exclusion
 - Mold coverage
 - Transportation cargo
 - Non-Owned Disposal Site coverage
4. Should any of the work involve treatment, storage or disposal of hazardous wastes from the job site, Contractor must furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 annual aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with work performed under this agreement.

4.3.1.7. Additional Insurance Requirements

Policies must 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 Contractor even if those limits of liability are in excess of those required by Contract.
2. Contractor's insurance coverage or self-insurance must be



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primary insurance and non-contributory with respect to all other available sources

3. Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

4.3.2. NOTICE OF CANCELLATION

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Phoenix Public Transit Department, Attn: Procurement, 302 North 1st Avenue, Suite 900, Phoenix, AZ 85003, ptdprocurement@phoenix.gov.

4.3.3. ACCEPTABILITY OF INSURERS

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

4.3.4. VERIFICATION OF COVERAGE

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

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

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Phoenix Public Transit Department, Attn: Procurement, 302 North 1st Avenue, Suite 900, Phoenix, AZ 85003, ptdprocurement@phoenix.gov. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies



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required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.

4.3.5. SUBCONTRACTORS

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

4.3.6. APPROVAL

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

4.4. RESPONSIBILITY FOR REVENUE VEHICLE PHYSICAL DAMAGE.

If an accident results in physical damage to a Revenue Vehicle and Contract Worker is found to be not at fault, the CITY will reimburse CONTRACTOR for costs incurred to repair physical damage to such Revenue Vehicle in excess of the non-refundable deductible of **\$50,000** per occurrence. CONTRACTOR is responsible for the first **\$50,000** of damage for all collision and comprehensive losses. CONTRACTOR must submit **two** itemized repair estimates, or other such documentation as agreed upon, to the CITY and provide the vehicle number, date of the accident, a copy of the police accident report and a narrative statement setting forth how the accident occurred. Requests for CONTRACTOR reimbursement must be presented to the CITY for payment on a monthly basis.

If damage to a Revenue Vehicle is caused by a third party ("**Other Party**"), CONTRACTOR must pursue, in a timely fashion, the Other Party for reimbursement of the total cost of the repairs or the total loss value of the Revenue Vehicle, if the Revenue Vehicle is a total loss. The CITY's agreement is required prior to CONTRACTOR entering into a settlement agreement for amounts less than the total repair cost or total loss value of the Revenue Vehicle, and for writing



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off uncollectible matters.

If the entire damage amount is recovered from the Other Party, the CITY must be reimbursed for the amount it has paid CONTRACTOR in excess of CONTRACTOR'S **\$50,000** deductible. If only a portion of the total damage is recovered, the amount collected will first be repaid to the CITY for the amount it has paid to CONTRACTOR for repairs made or for the total loss value of the Revenue Vehicle. Any remaining monies collected will be distributed to the CONTRACTOR. The CITY's share of recoveries must be paid to the CITY within **30 days** of receipt. CONTRACTOR is responsible for providing the CITY with copies of all documents relating to the subrogation/collection effort made by CONTRACTOR within **30 days** of commencing subrogation proceedings against the Other Party.



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5.1 SERVICE OVERVIEW.

5.1.1 Service Area:

5.1.1.1 The CITY, in its sole discretion, shall designate the area to be served and may modify the service area during the term of the Contract. In coordination with the Regional Public Transportation Authority (**RPTA**), the CITY and RPTA's total service area (operating under the name Valley Metro) currently encompasses the metropolitan Phoenix area, including but not limited to: the cities of Avondale, Buckeye, Chandler, El Mirage, Fountain Hills, Gilbert, Glendale, Goodyear, Maricopa County, Mesa, Peoria, Phoenix, Queen Creek, Scottsdale, Surprise, Tempe, Tolleson, and Youngtown.

5.1.1.2 This Contract does not encompass the entire service area, but will cover portions of Phoenix, Glendale, Avondale, Goodyear, Peoria, Tolleson, and Scottsdale. The current service area is shown on the Valley Metro website: valleymetro.org/maps-schedules.

5.1.2 Adjustment to Service:

5.1.2.1 The CITY reserves the right to adjust service at any time with written notice to the CONTRACTOR. Modifications to services may include, but are not limited to: extending, terminating, or adding routes or parts of routes; and adjusting route service, frequency, or service span. Scheduled revenue hours and revenue miles are determined by the CITY. See **Exhibit 31**, "Estimated Miles and Hours."

5.1.2.2 As early as 2029, the CITY anticipates introduction of a new Bus Rapid Transit (**BRT**) service on 35th Avenue/Van Buren Street followed by subsequent BRT routes. The order and timing of the initial and subsequent BRT route implementation may be revised based on future needs analysis. Introduction of BRT may require adjustments to existing local routes, as well as service adjustments and changes to operational parameters. BRT may introduce frequency-based service that prioritizes sustaining evenly-spaced headways over maintaining scheduled timepoints. The CITY and CONTRACTOR will adjust revenue hours



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and frequency assumptions prior to the initiation of the BRT service. Once BRT service is implemented and CONTRACTOR has begun performing such service, the Contractor shall submit to the CITY, pursuant to **Section 5.14.3**, a monthly BRT Ridership Report. The BRT Ridership Report is a report of monthly ridership for each BRT route, including but not limited to the quantities of total passengers, wheelchair/mobility aid boardings, and bicycle boardings.

5.1.3 Service Hours/Days:

5.1.3.1 While fixed route service hours may vary by route and jurisdiction, the CITY strives to provide a uniform service span within its jurisdiction that would allow for seamless transfer between routes for passengers. As of January 2024, the CITY's fixed route service hours are approximately: 4 a.m. to 11 p.m. on Monday through Friday; and 5 a.m. to 11 p.m. on Saturdays, Sundays, and Holidays.

5.1.3.2 The CITY reserves the right to adjust service hours at any time during the term of the Contract.

5.1.4 Saturday, Sunday, and Holiday Schedule: The CITY reserves the right to operate modified service as it deems appropriate for weekend and holiday schedules with 30 days' written notice to CONTRACTOR. Current service schedules can be found at: www.valleymetro.org.

5.1.5 Passenger Service and Community Engagement:

5.1.5.1 The CITY's residents and transit passengers are more than just customers that consume transit services. Residents and passengers play a substantive, collaborative, and responsible role in co-creating the CITY's public transit services.

5.1.5.2 The CITY's and RPTA's regional residents and passengers must be thought of as partners, regardless of the nature of interaction. This relationship enhances the standard principles that define good customer service, and it seeks to forge a fuller and more equal/engaged relationship with residents and passengers.



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5.1.5.3 CONTRACTOR's unequivocal mission is to ensure a pleasant, comfortable, safe, and engaging operating environment for passengers on in-service buses as well as at all interface points with transit facilities (e.g., bus stops, transit centers, Park-and-Ride facilities, etc.). CONTRACTOR shall also ensure transit operations and employee conduct are respectful of residents and their homes and/or businesses.

5.1.6 Innovation: As advancements occur in Contractor's industry, Contractor is encouraged, at any time, to submit an innovation proposal for consideration by the City. After review by the City, innovation proposals will either be approved for implementation or rejected denied by the City, at its sole discretion, in accordance with the requirements of **Section 3.5** ("Addition or Deletion of Services"). Innovation proposals may cover any, or multiple, aspects of the transit industry and should be considered for submission by Contractor if such proposals result in: improved quality of life for transit workers relative to workforce schedules and the retention and recruitment of personnel; improvements to transit services provided to the public; lower costs or other efficiencies to the provision of transit services; advancements in the use of the technological systems used to deliver or monitor transit operations in the region; the implementation of new propulsion systems (battery electric, fuel cell electric, hybrid electric) planned during the duration of this contract; or other areas the Contractor is proficient in that would result in improvements or advancements in the provision of transit services or the quality of life for transit personnel.

5.1.7 Transition/Start-Up: Any work necessary to prepare for the Contract's start date, including but not limited to vehicle inspections and background checks, will be performed by Contractor at its sole cost and expense.

5.2 SERVICE DESCRIPTION.

5.2.1 General Information:

5.2.1.1 This Contract provides for fixed-route transit services operated from the West Transit Facility at 405 N. 79th Avenue, Phoenix, Arizona 85043. As of January 2024, transit service included in this Contract operated from this facility per day is approximately:



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Days	Local Revenue Miles	Circulators Revenue Miles
Weekday – School Tripper	24	-
Weekday	19,225	707
Saturday	12,930	581
Sunday/Holiday	12,484	581

5.2.1.2 In Fiscal Year 2024-2025, the CITY expects to run the following days of service:

- A.** School – 180 days;
- B.** Weekday – 255 days;
- C.** Saturday – 52 days; and
- D.** Sunday/Holiday – 58 days.

5.2.1.3 In coordination with RPTA, the CITY operates certain holidays at a Sunday service level including but not limited to: New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

5.2.1.4 The CITY’s fixed route service that currently operates from the West Transit Facility consists of 12 fixed routes providing service to approximately 1.1 million passengers per month. Fixed-route transit service included in this Contract are: routes 3, 13, 17, 29, 41, 43, 51, 59, 67, 75, and 83; and one Phoenix neighborhood circulator identified as the Maryvale Area Ride for You (**MARY**). See **Exhibit 36**, “Peak Vehicle Statistics,” and **Exhibit 42**, “West Facility Routes Map.”

5.2.1.5 The CITY’s goals for fixed route transit service are: to operate as straight and fast as possible, to be easily understood, and to minimize travel time. Each route will have different movements, layover times, and locations. CONTRACTOR may be required to operate school trippers as part of its service. School trippers shall be operated in accordance with 49 CFR Part 605.



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- 5.2.2** Operating Statement Report: CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, an Operating Statement Report. This Report is a monthly report to include a summary of revenue and non-revenue hours, total scheduled miles, vehicle hours, revenue and Non-Revenue Miles, Missed Revenue Miles, total vehicle miles, passenger counts, wheelchair/mobility aid boardings, on-time performance, missed trips, vehicle accidents (including chargeable and non-chargeable accidents), and revenue. See, e.g., **Exhibit 43**, “West Transit History of Miles.” This report shall be presented by these indicators for services provided in Phoenix, Glendale, Scottsdale, and other cities as appropriate.
- 5.2.3** Monthly Management Report: CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, a Monthly Management Report (**MMR**). The MMR is a monthly report of key data, including but not limited to: weekday and weekend ridership for local, RAPID, Express, and circulator routes; on time performance; and other data as prescribed by the Contract. Monthly report of key data including, but not limited to weekday and weekend ridership for local, RAPID, Express, and circulator routes; on-time performance; and other data as prescribed by the Contract.
- 5.2.4** Neighborhood Circulator Service:
- 5.2.4.1** Neighborhood circulators are designed to operate continuously within a distinct geographic area to meet the transportation needs of the community. It is CONTRACTOR's responsibility that operators be relieved without delay, layover, or disruption for this continuous service.
- 5.2.4.2** Neighborhood circulator service consists of one MARY route. The length of the route is 21.2 miles, operating 7 days per week for: approximately 14 hours per day on Monday through Friday; and approximately 12 hours per day on Saturday and Sunday. The no-fare service is currently operated bi-directionally at 60-minute frequencies.
- 5.2.4.3** CONTRACTOR shall submit to the City, pursuant to **Section 5.14.3**, a monthly Neighborhood Circulator Ridership Report. This Report shall provide the monthly ridership for each neighborhood circulator route, including



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but not limited to the quantity of total passengers, wheelchair/mobilityaid boardings, and bicycle boardings.

- 5.2.5** Total Annual Scheduled Revenue Miles: “**Revenue Miles**” are defined as scheduled miles operated by a vehicle in service and available to the general public, with the expectation of carrying passengers. Annual Revenue Miles for routes operated from the West Transit Facility as of January 2024 are estimated to be approximately 6,547,461. The CITY may make changes to facilitate additional service or reductions in service. Those changes will be provided to CONTRACTOR in sufficient time to meet obligations for the selection of work.
- 5.2.6** Express and RAPID Routes: Express and RAPID routes are routes that service only a select number of Park-and-Ride facilities (some may also offer service to a select number of key bus stops) along specific corridors located between outlying communities before arriving at key destinations. Although no Express or RAPID routes are currently operated from the West Facility, a baseline annual mileage figure for these potential services is 63,000 Revenue Miles.
- 5.2.7** New BRT Routes: New BRT routes that augment, replicate, change, or overlap local routes will require the CITY and CONTRACTOR to redefine the allocation of Revenue Miles and service frequency. Any changes will be made in accordance with the terms of this Contract.
- 5.2.8** Special Event Service: As directed, CONTRACTOR will be required to provide special event service as requested by the CITY. These services will vary during the term of the Contract and may include using buses and personnel for marketing purposes, emergency responses, special events, and evacuations. For these events, CONTRACTOR shall provide increased levels of management, road supervision, administration, staff presence in the CITY's Operations Control Center, and planning and oversight during the preparation and provision of such specialized service. CONTRACTOR shall invoice the CITY separately for special event services at the established rate per service hour. CONTRACTOR shall be reimbursed for the time from leaving the transit facility to the time of return to the transit facility for each bus used. The rate per service hour shall also include any ancillary services (e.g., road supervision, maintenance, dispatch, etc.) as required to complete each request.
- 5.2.9** Light Rail Bus Bridging: As directed by the CITY, CONTRACTOR will be required to periodically coordinate with the CITY's and Valley



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Metro’s light-rail staff to participate in planning, training, practice exercises, and implementation of bus-bridging efforts during times of service interruptions or inoperability of the light rail system for any reason. Light-rail bus bridging includes, but is not limited to, the transport of passengers between designated light rail stations or bus stops during service interruptions. After conducting actual bus bridges and bus bridge practice exercises, CONTRACTOR shall invoice the CITY for total hours incurred during the provision of the bus bridging services. Hours incurred during the provision of the bus bridging services for such events shall be invoiced at CONTRACTOR’s Special Event Service hourly rate. All other efforts related to light-rail bus-bridge planning, including classroom training and meeting attendance, are considered part of CONTRACTOR’s training program. The CITY currently estimates approximately 12 total vehicle hours, using one or more buses for bus-bridge practice exercises on a semiannual (twice per year) basis.

5.2.10 Invoice Itemization: CONTRACTOR shall invoice the CITY monthly. See, e.g., **Exhibit 44**, “Year of Invoicing.” CONTRACTOR shall also submit to the City, pursuant to **Section 5.14.3**, a monthly Invoice Itemization Report with CONTRACTOR’s monthly invoicing. This Report shall provide a monthly itemization for CONTRACTOR’s services performed by category of weekday, Saturday, and Sunday, including but not limited to: total days, Revenue Miles operated, rate of payment per route type (including but not limited to local, Express, RAPID, and circulator); missed service; and maintenance costs. The itemized invoice will be printed on CONTRACTOR’s letterhead and signed by the General Manager.

5.3 CITY-FURNISHED VEHICLES.

5.3.1 The CITY will provide CONTRACTOR with air conditioned, accessible transit buses. The bus fleet to be managed by CONTRACTOR is comprised of approximately 69 diesel buses, 95 Compressed Natural Gas (CNG) and 7 unleaded gasoline fueled cutaway buses. See **Exhibit 14**, “Fleet Inventory.” The CITY is planning on acquiring hybrid-electric (diesel), battery-electric, and fuel-cell-electric (hydrogen) buses. The hybrid-electric buses will arrive in the 1st quarter of 2024, and the battery-electric and fuel-cell-electric buses will begin arriving in the 2nd quarter of 2025. The CITY may change the number and characteristics of the vehicles during the Contract’s term.

5.3.2 The CITY will provide a fleet of buses ranging in model years from



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2013 to 2024. With ongoing procurements, vehicle retirements, and vehicle transitions, the CITY fleet make-up will change. The CITY's current plan for its **entire** fleet is to replace approximately 40 buses each Contract year, contingent on funding and agreements with vehicle manufacturers. The oldest and/or highest mileage buses will be targeted for replacement from the bus fleet at the North, South, and West transit facilities.

- 5.3.3** Transit vehicles currently assigned to the West facility currently use gasoline, diesel, and renewable liquefied natural gas (RLNG) fuel.
- 5.3.4** CONTRACTOR shall operate and maintain all vehicles provided by the CITY during the term of the Contract. The CITY shall license and register CITY-provided vehicles. CONTRACTOR is responsible for emissions compliance and all associated costs. The CITY reserves the right to provide other vehicle types that are suitable for service.
- 5.3.5** All buses provided to CONTRACTOR by the CITY will be equipped with electronic destination signs, two-way radios, mobile-data terminals/transit control head, public announcement (**PA**) systems, automated annunciators, electronic message signs, mobile gateway routers, automated passenger counters, electronic fare boxes, Vix validators, and bike racks (but circulator buses do not have fareboxes). Passenger counts and associated data (wheelchair boardings, bicycle boardings, etc.) are to be recorded manually by bus operators and submitted to the CITY with all other required data.
- 5.3.6** The CITY reserves the right in its sole discretion to substitute vehicles for those described above during the term of the Contract and to negotiate any appropriate Contract modifications with CONTRACTOR, if necessary.
- 5.3.7** CONTRACTOR shall assist the CITY in identifying vehicles for retirement from revenue service that have reached their programmed life expectancy. The CITY will make all final determinations as to vehicle retirements and transfers. Vehicles taken out of revenue service must have all components and be in working condition other than normal wear and tear unless repairs are deemed not to be cost-effective as evidenced by written authorization from the CITY.
- 5.3.8** Due to local and climatic conditions, the CITY requires that any vehicle to be placed out of service if it has an inoperable: air conditioning system, farebox, ADA securement device, or wheelchair



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ramp/lift. The CITY will strive to provide a 17% to 20% spare fleet ratio. At least 25% of the fleet spare ratio must be road ready and available for immediate revenue service. This subject must be detailed in the CONTRACTOR's maintenance plan.

5.4 OPERATING MODE.

5.4.1 General Information:

5.4.1.1 For CITY-owned vehicles and equipment, CONTRACTOR shall be responsible for the following, in addition to other requirements under this Contract:

- A.** CONTRACTOR will not operate any vehicles on the streets without license plates required per Arizona law.
- B.** CONTRACTOR will ensure that all CITY-owned vehicles and equipment are plainly marked with the CITY's name/emblem and unit number. All graphics for vehicles must receive review and approval from the CITY in writing.
- C.** CONTRACTOR, before making any modifications to the CITY's vehicles or equipment, must first submit requests for modifications to such vehicles/equipment to the CITY for review and approval in writing. The removal, deactivation, or modification of any vehicle/equipment safety device is strictly prohibited. This restriction includes, but is not limited to: operator/passenger restraints, and automated warning signals or alarms.
- D.** CONTRACTOR must require its operators and passengers using the City's vehicles to wear seat belts and shoulder restraints if the vehicles are so equipped. CONTRACTOR's operators are responsible for ensuring all passengers are properly restrained before putting a vehicle in motion and shall not operate vehicles in which the operator or passenger restraints are inoperable or damaged.
- E.** CONTRACTOR must require its operators not to use cell phone or wireless communication devices, which includes text messages and hands-free devices, while the vehicle is moving, with the exception of reporting an emergency to



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a 911 Operator. Serious life-threatening injuries must be reported immediately to the appropriate law enforcement agency using 911. The injured person should not be moved and 911 should be informed that an ambulance is needed and how serious the injuries seem to appear.

- F.** CONTRACTOR must immediately report all motor vehicle accidents and incidents involving the CITY's vehicles/equipment to the appropriate law enforcement agency and Public Transit Department. All motor vehicle accidents involving the City's vehicles/equipment must be investigated by the appropriate law enforcement agency. CONTRACTOR's personnel should not make statements to anyone except their supervisors and the investigating law enforcement agency and avoid getting into arguments with others at the scene. The law enforcement agency will respond to the scene and determine whether to make a report. If the law enforcement agency does not make a report, CONTRACTOR's personnel must obtain the following information before leaving the accident scene: (1) names, addresses, driver's license numbers and phone numbers of all parties; (2) make, model, year, and license plate number of all vehicles; (3) damage to all vehicles; (4) injuries to any parties and where treated if applicable; (5) insurance company and policy numbers of all parties involved; and (6) names, addresses, and phone numbers of witnesses, if available. See *also* **Section 5.23.7** below regarding supervisor responses to accidents.
- G.** CONTRACTOR must require its operators, at the scene of any motor vehicle accident or incident involving the CITY's vehicles/equipment to move the vehicle/equipment, if drivable, to the side of the road out of the way of traffic prior to arrival of the appropriate law enforcement agency. If the vehicle/equipment is non-drivable, then the CONTRACTOR will be responsible to arrange for towing of the vehicle/equipment to the West Transit Facility, at no additional cost to the CITY. If it is safe to do so, all non-injured operators and passengers should be moved to the sidewalk or other safe location out of the roadway as soon as possible and should not be permitted to return to the vehicle/equipment to retrieve items until it is cleared by the



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appropriate law enforcement agency to do so.

H. CONTRACTOR must require its operators to promptly and properly pay fines for any moving and non-moving traffic citations received while using the City's vehicles/equipment. In the event the CITY or CONTRACTOR receives a photo ticket showing a violation by CITY-owned vehicle/equipment operated by CONTRACTOR, it is CONTRACTOR's responsibility to investigate and identify the employee responsible for the violation and provide response to the issuing agency within the required time deadline. If found responsible, the CONTRACTOR's operator will be liable for all fines and associated costs.

5.4.1.2 The CITY provides all gasoline, diesel (biodiesel), fuel-cell electric (hydrogen), and renewable liquefied natural gas (**RLNG**) fuel and electricity for battery-electric bus charging (and any other fuel/electricity for new technologies to be used by the CITY) for the operation of CITY-owned vehicles required for scheduled revenue service. CONTRACTOR shall provide a written report daily of all fuel levels to the CITY to assist in estimating and ordering anticipated fuel needs. The CITY shall coordinate delivery of diesel, hydrogen, gasoline, RLNG, and electricity for battery-electric bus charging to the West Transit Facility.

5.4.1.3 CONTRACTOR will be responsible for: receiving delivery of fuels, notating fuel delivery in the Contractor Daily Fuel Report established by the CITY, recording and reporting to the CITY actual quantities used daily and reporting to the CITY all fuel usage monthly, pursuant to **Section 5.14.3**.

5.4.1.4 CONTRACTOR shall provide fuel and maintenance for all non-revenue transit vehicles, recognizing that the CITY may allow for the on-site fueling of CONTRACTOR's non-revenue transit vehicles. The CITY will offset CONTRACTOR's monthly invoicing for fuel usage by CONTRACTOR's non-revenue fleet.

5.4.2 Operations Control Center:

5.4.2.1 The CITY's Operations Control Center (**OCC**) directly manages vehicles in revenue service and/or with an



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assigned block, which operate from the North, South, and West transit operating facilities through radio and data communication. Additional responsibilities of the OCC include, but are not limited to: data collection, transit system monitoring and reporting, creating public service and bus stop announcements, farebox collection and malfunction reporting, providing CAD/AVL training to other agencies, and developing specialized operational reports. The OCC is managed under a separate agreement with the CITY and utilizes distinct personnel and management independent of the transit operations contract. This separate agreement does not preclude the OCC and CONTRACTOR from regularly communicating and coordinating to meet the CITY's transit performance goals. Regular communication and coordination are highly encouraged to ensure efficient and effective transit system performance. CONTRACTOR is responsible for all dispatch functions and cooperating with the OCC to implement the CITY's standard operating procedures, communications procedures, and collective bargaining agreement (**CBA**) work rules to maximize service efficiency.

5.4.2.2 CONTRACTOR will monitor and coordinate with the CITY's OCC to resolve operational problems, address detours, identify non-revenue turnaround loop routing, and perform other related activities. Decisions by CONTRACTOR, in conjunction with the CITY's OCC, will be made in the best interest of the passenger. Every effort should be made to minimize possible impacts to Revenue Miles. Issues concerning vehicle maintenance or personnel/labor will be directed to CONTRACTOR for resolution. CONTRACTOR may have staff present in the CITY's OCC as needed to facilitate service delivery.

5.4.3 Computer Aided Dispatch/Automatic Vehicle Locator (CAD/AVL) System:

5.4.3.1 The CITY currently uses the Clever Devices CAD/AVL system to manage and communicate with buses while in service or in the field. The CAD/AVL system helps monitor transit service by providing voice and text messaging to all equipped vehicles and by tracking and displaying vehicle location and schedule adherence using an automatic



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vehicle location system and a Geographic Information System (**GIS**). The system tracks bus on-time performance and collects data relative to bus operations, incidents, and accidents. Other notable events are recorded by the CAD/AVL system as well. CONTRACTOR plays a significant role in the maintenance and support of the CAD/AVL system, which is defined in the CITY's "Phoenix Technology Services Technical Requirements." See **Exhibit 25**.

- 5.4.3.2** Use of the Clever CAD/AVL data is expected to allow the CITY and its contractors to provide real-time reporting that is expected to enhance fleet performance, state of good repair, and improve the overall transit user experience.
- 5.4.3.3** CONTRACTOR will be responsible for the following tasks in relation to CAD/AVL maintenance:
- A.** CONTRACTOR shall maintain the on-board equipment to Original Equipment Manufacturer (OEM) specifications and shall be financially responsible for all maintenance/support costs associated with the non-warranted CAD/AVL parts. The CITY will supply CONTRACTOR with spare CAD/AVL components as currently maintained and warranted by the CITY's CAD/AVL Vendor. See **Exhibit 11**, "CAD/AVL Warranted Equipment."
 - B.** CONTRACTOR shall be fully responsible for supplying all other CAD/AVL non-warranted components, at CONTRACTOR's expense, to ensure CAD/AVL-equipped vehicles are programmed and fully operational prior to placement into Revenue Service.
 - C.** CONTRACTOR shall be financially responsible for the cost of repair or replacement of warranted components that are missing or damaged due to misuse or vandalism as determined by the CITY.
 - D.** CONTRACTOR shall be trained in the use of the CAD/AVL, with day-to-day management, control, and oversight of Revenue Vehicles in Revenue Service or in the field to be provided by the CITY's Operations Control Center (OCC). CONTRACTOR's tasks will include, but not



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be limited to the below:

1. Coordinate with the CITY to facilitate the installation of all necessary on-board and facility equipment for CAD/AVL system.
2. Participate in CAD/AVL training to include all relevant system users.
3. Run and compile system vehicle performance reporting.

5.4.4 HASTUS – Scheduling and Dispatch System: The CITY and the region utilize GIRO – HASTUS for bus schedule development. The detailed requirements and role of the CONTRACTOR in utilizing HASTUS are defined in **Exhibit 25**, “Phoenix Technology Services Technical Requirements.”

5.4.5 Blocking:

5.4.5.1 The CITY will provide CONTRACTOR with timetables and preliminary vehicle blocking solutions for the routes to be operated. This scheduling information will be provided electronically to CONTRACTOR. Timetables and preliminary vehicle blocking solutions are generated in HASTUS.

5.4.5.2 The CITY strives to place end-of-trip “layover” locations near establishments with public restrooms. This may not always be possible due to surrounding environments and roadway restrictions. In such cases, Contractor shall work to immediately identify alternative sites for layovers and public restroom availability.

5.4.5.3 The CITY will make every effort to ensure a minimum of 10% recovery time (or 5 minutes, whichever is greater) after each trip on the block. This requirement is not guaranteed due to roadway constraints. In the case where a minimum recovery time is not possible after a trip, CITY will strive to ensure the end of the next trip has adequate recovery time for the vehicle to catch up to start the next trip on-time.

5.4.5.4 The CITY will determine vehicle types to be assigned to routes or blocks, but changes may occur with the CITY’s



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written approval.

- 5.4.5.5** CONTRACTOR shall review blocking provided by the CITY and provide recommendations on runtimes, deadhead times, and blocking structure that would assist with efficient and on-time service delivery for passengers.
- 5.4.5.6** CONTRACTOR shall determine appropriate layover and restroom locations for operators that not only minimize disruptions to passenger service, but also maintain a high quality of life for operators relative to restroom availability and time allocated for breaks and layovers. Contractor's regular review and feedback on proposed schedules (blocks, runtimes, etc.) is imperative to achieving these strategies. See, e.g., **Exhibit 33**, "Layover Hours," **Exhibit 4**, "Restroom Facilities," and **Exhibit 41**, "Turnaround and Layover Guidelines."
- 5.4.5.7** CONTRACTOR shall ensure that all runcut information and final blocking solutions are provided to the CITY in an electronic HASTUS format for the purpose of accurately providing data to all peripheral systems, such as the Fare Collection System (**FCS**), CAD/AVL system, and other communications systems.
- 5.4.5.8** CONTRACTOR may modify preliminary blocks provided by the CITY for improved runcutting efficiencies, subject to CITY's review and written approval of proposed blocking changes. See **Exhibit 30**, "Driver Paddle," **Exhibit 37**, "Relief Vehicle Schedule," and **Exhibit 40**, "Runcut." With all information in HASTUS, the CITY will assist CONTRACTOR with production of reports, statistics, and employee bid materials, such as blocks, supervisor schedules, and operator "paddles."

5.4.6 Runcut:

- 5.4.6.1** The CITY will be responsible to set up appropriate booking calendar in the CITY's HASTUS environment to house timetables, blocking, runcut, and roster solutions that would be compatible to interface with CAD/AVL system, as well as supporting the operator bidding process for bid changes that occur within the CITY's HASTUS environment.



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5.4.6.2 CONTRACTOR shall provide adequate scheduling staff with extensive transit scheduling experience in HASTUS to work with the CITY during the schedule creation process during each bid changes.

5.4.6.3 CONTRACTOR shall provide final runcut solution to the CITY in an electronic HASTUS format for the purpose of accurately providing data to all peripheral systems such as the FCS, CAD/AVL system, and other communications systems. CONTRACTOR shall ensure the runcut solution is properly associated with the CITY's final blocking solution.

5.4.6.4 To optimize use of the CITY's resources, CONTRACTOR shall use the following guideline for runcut:

- A.** Relief points should be created only at timepoints and only at locations that would avoid blocking traffic (such as at transit centers or bus pullouts);
- B.** Relief point should be created at the end of revenue trips where possible in order to avoid delaying revenue service;
- C.** Relief points should require minimal travel time from operating facilities;
- D.** Any deviation in relief points requires CITY's written approval; and
- E.** CONTRACTOR shall not use revenue vehicles for the purpose of driver relief.

5.4.7 Rostering:

5.4.7.1 The CITY will be responsible to set up appropriate booking calendar in the CITY's HASTUS environment to house timetables, blocking, runcut, and roster solutions that would be compatible to interface with the CAD/AVL system, as well as supporting the operator bidding process.

5.4.7.2 CONTRACTOR shall provide adequate scheduling staff with extensive transit scheduling experience in HASTUS to



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work with the CITY during the schedule-creation process during each of the CITY's quarterly bid changes.

5.4.7.3 CONTRACTOR shall provide final roster solution to the CITY in an electronic HASTUS format for the purpose of accurately providing data to all peripheral systems, such as the FCS, CAD/AVL system, and other communications systems. See, e.g., **Exhibit 39**, "Roster." CONTRACTOR shall ensure roster solution is properly associated with the CITY's final blocking solution and the CONTRACTOR's final runcut solution.

5.4.8 Scheduling Process Communication and Coordination:

5.4.8.1 The CITY and CONTRACTOR will meet to determine appropriate timelines and processes for providing the above-mentioned route and schedule information to update the Region's published schedules (in print or electronic format) and meet CONTRACTOR's work deadlines. The process is performed using the scheduling application at least twice a year. Route and schedule changes generally occur each April and October, but July and January route and schedule changes may also occur. The CITY's scheduling team coordinates with CONTRACTOR and other agencies in the region to build the CITY's local schedules and Valley Metro's regional schedules. It is possible that special circumstances, such as BRT or light rail sections coming online, may necessitate special bid change dates (outside of the quarterly schedule), thus altering the normal pattern of January, April, July, and October route and schedule changes. Throughout the various stages of the scheduling process, Contractor shall seek input from its workforces and associated committees, and its Road Supervision team, to continuously make improvements to transit schedules and identify amenities for operators' use.

5.4.8.2 CONTRACTOR shall take all necessary steps to ensure operator training materials are updated to reflect any changes in service prior to the changes taking effect.

5.4.9 Non-Revenue Transit Vehicles:

5.4.9.1 CONTRACTOR shall provide all non-revenue transit vehicles required to effectively and efficiently operate,



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manage, and support the services that are the subject of this contract. See, e.g., **Exhibit 15**, “Non-Revenue Vehicles.” The CITY expects CONTRACTOR to supply an adequate number of non-revenue transit vehicles to not cause delay in relief activities and in turn delay revenue service for passengers. CONTRACTOR-supplied vehicles must not exceed five years of age or 75,000 miles as of the Contract’s start date.

- 5.4.9.2** CONTRACTOR shall ensure that all vehicles assigned to and/or operated by CONTRACTOR will bear corporate graphics or insignias as approved by the CITY.
- 5.4.9.3** CONTRACTOR shall provide fuel, insurance, and maintenance for all non-revenue transit vehicles. CONTRACTOR has the option to fuel non-revenue vehicles on site at the West Transit Facility using the CITY’s fuel and infrastructure, with the requirement that fuel dispensation be accurately recorded using the CITY’s fuel management system, and that CONTRACTOR be financially responsible for reimbursing the CITY for all fuels dispensed into non-revenue vehicles.
- 5.4.9.4** CONTRACTOR shall provide all accessible vehicles, as part of its non-revenue fleet, necessary to comply with 49 CFR Part 37 to support persons with disabilities whose transit service is disrupted or delayed due to mechanical failures.
- 5.4.9.5** All non-revenue transit vehicles must be regularly cleaned and maintained and kept neat in appearance (i.e., no missing decals or hubcaps, no broken or cracked glass, etc.).
- 5.4.9.6** The CITY reserves the right to reject a CONTRACTOR-supplied vehicle that does not satisfy the CITY’s quality standards.
- 5.4.10** Detours: CONTRACTOR is responsible for the planning, implementation, supervision, and coordination with the CITY’S OCC of all service detours. When necessary, CONTRACTOR’s detour planning efforts must include, but are not limited to:
 - 5.4.10.1** Attending event planning and detour coordination



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meetings;

5.4.10.2 Establishing detours for affected route(s);

5.4.10.3 Posting CITY-approved service change notices at affected bus stops;

5.4.10.4 Issuing bulletins and detour notices to all affected staff and agencies;

5.4.10.5 Directly communicating information concerning detours to customers at affected bus stops;

5.4.10.6 Assigning the requisite staff and resources to effectively and efficiently plan and implement detours as needed;

5.4.10.7 Notifying CITY of all planned and established detours; and

5.4.10.8 Notifying the regional customer service center of all established detours.

5.4.11 Transition Plan: CONTRACTOR shall promptly implement its proposed Transition Plan at the start of the Contract.

5.4.12 Road Supervision:

5.4.12.1 Dedicated supervisors are critical for overall operations and coordination with the CITY's OCC, maintaining headways, ensuring reliable service, identifying operational issues, and responding to incidents and accidents, and addressing disabled vehicles. See **Exhibit 32**, "Headway." A sufficient number of Road Supervisors **must always** be on hand in order to support transit operations during all hours of scheduled revenue services. CONTRACTOR shall implement and maintain a comprehensive Road Supervision Staffing Plan that allows for the proactive concurrent oversight on all the city's fixed route vehicles in revenue service. The Road Supervision Staffing Plan shall ensure sufficient staffing levels to perform operations oversight.

5.4.12.2 The Road Supervision Staffing Plan's primary purpose is to support transit services, not for filling in operator absences. The Road Supervision Staffing Plan shall be



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updated annually and reviewed by CITY staff.

- 5.4.13** Dispatch: CONTRACTOR shall assign a sufficient number of qualified, dedicated dispatching staff to effectively and efficiently manage operator manpower, including extra board, check-ins, yard pull-outs, and bus assignments. Dispatching staff will coordinate and communicate with OCC and maintenance staff while updating data systems, as required.
- 5.4.14** Service Interruptions:
- 5.4.14.1** The CITY expects CONTRACTOR to operate 100% of fixed-route service scheduled. In the event where transit service will be missed, CONTRACTOR shall cancel impacted service as soon as possible but no later than 10 minutes prior to the scheduled pull-out time or relief time. CONTRACTOR shall cancel service in HASTUS Daily and inform OCC in order to assist the CITY to relay service interruption to passengers via regional service alerts.
- 5.4.14.2** CONTRACTOR shall implement policies and procedures, including staging replacement buses and staff in the field, to monitor service delays and, if necessary, to replace or insert a bus to fill in for a portion of a trip to ensure timely completion of that trip.
- 5.4.14.3** Revenue trips starting more than 30 minutes after the scheduled starting time shall be considered missed service, with exception for the last full trip on each route/direction. In the event of revenue trips starting more than 60 minutes past scheduled starting time, CONTRACTOR shall immediately coordinate with OCC to reposition a vehicle to ensure on-time departure for the next revenue trip on the block and to reduce incidents of stranded passengers.
- 5.4.14.4** CONTRACTOR shall complete the last full revenue trip each day for all routes.
- 5.4.14.5** For tracking purposes, the CAD/AVL system will be used to determine whether a trip is missed, in whole or in part.
- 5.4.15** Headsign Codes: The CITY is responsible for assigning bus-headsign-display codes for the services under this Contract.



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5.4.15.1 The CITY will generate, in electronic format, and distribute to CONTRACTOR, the bus-headsign-display codes during each schedule change (the schedule change occurs at least twice a year and is coordinated regionally).

5.4.15.2 The CITY will first attempt to update the fleet with the most up-to-date bus-headsign-display codes by programming them through the CAD/AVL system.

5.4.15.3 In the event where the bus-headsign-display codes must be updated manually, CONTRACTOR shall work with the CITY to distribute the most up-to-date bus-headsign-display codes developed by the CITY to its assigned fleet.

5.4.15.4 CONTRACTOR must ensure appropriate destination sign information (headsign, side sign, rear sign) is displayed when the bus is in service and/or deadheading.

5.4.15.5 The CITY and CONTRACTOR will meet to determine appropriate schedules and processes for providing the above-mentioned information to meet CONTRACTOR's CAD/AVL update timelines.

5.4.16 Automated Annunciators: The CITY is responsible for assigning automated annunciator images through the CAD/AVL system. CONTRACTOR must ensure buses receive the full image download before buses are placed into revenue service. CONTRACTOR must ensure that the entire fleet has been updated with the correct automated annunciator images before the new schedule becomes effective.

5.5 VEHICLE MAINTENANCE AND TRANSIT-ASSET MANAGEMENT. CONTRACTOR shall provide, at no additional cost to the CITY, a vehicle maintenance and transit asset management software program for tracking maintenance records and inventory.

5.5.1 Software Tracking: CONTRACTOR shall, at a minimum, track and record:

5.5.1.1 Work orders;

5.5.1.2 Revenue and non-revenue fleet inventory;

5.5.1.3 Vehicle life mileage;



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- 5.5.1.4 Road calls;
- 5.5.1.5 Fuel usage;
- 5.5.1.6 Any vehicle history or work activity pertaining to CITY assets;
- 5.5.1.7 Labor hours;
- 5.5.1.8 Vehicle and farebox preventative maintenance inspections by vehicle number, date, and mileage;
- 5.5.1.9 Engine tune-ups;
- 5.5.1.10 Any inspection required by state or federal regulation;
- 5.5.1.11 Life cycle costs by unit;
- 5.5.1.12 Warranty tracking and Return Merchandise Authorization (**RMA**) tracking; and
- 5.5.1.13 Parts and costs.

5.5.2 Software Access: CONTRACTOR shall provide access to the vehicle maintenance software to CITY staff.

5.5.3 Software Reporting: CITY staff should be able to pull reports (including trend information) from the vehicle maintenance software that provide at a minimum all of the elements in **Section 5.5.1**.

5.6 DIGITAL VIDEO RECORDING SYSTEM. Buses (except circulators) operated by CONTRACTOR are equipped with Luminator Roadrunner 4K Camera systems and Apollo digital video recording systems (**DVRs**). The on-board mounted systems consist of interior and/or exterior mounted-and-focused cameras used to help mitigate insurance claims for liability and personal injury, resolve customer service issues, address crime and security problems, mitigate graffiti, investigate auto/pedestrian related accidents, and review operations. The DVRs are not specifically intended to monitor bus operator behavior.

5.6.1 As sole and exclusive custodian of the DVRs and the data images recorded, CONTRACTOR shall fully respond to any requests for DVR system footage from the Public Transit Department or Phoenix Police



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- 5.6.2** CONTRACTOR shall maintain DVRs according to OEM specifications and operate them according to CITY policies. No vehicle shall be put into revenue service without a properly functioning DVR system.
- 5.6.3** The surveillance system software allows for the remote downloading of video. The CITY will supply CONTRACTOR with all necessary in-vehicle system components.
- 5.6.4** CONTRACTOR is responsible to compile and maintain up-to-date surveillance administration and maintenance guides for the systems. CONTRACTOR is responsible for maintaining all system equipment, documentation, and software in operational order for the term of the contract. CONTRACTOR is responsible for supplying system diagnostic laptop(s) and obtaining any system software necessary for maintaining such systems to OEM specifications.
- 5.7 LOT/VEHICLE INSPECTIONS.** The CITY will conduct routine vehicle inspections, scheduled and unscheduled, with CONTRACTOR's designated representative at the CITY's request. The CITY will also conduct regular fleet lot and quarterly fleet inspections. See, e.g., **Exhibit 16**, "Vehicle Lot and Inspection Sheet."
- 5.7.1** Transitions: CONTRACTOR will receive each CITY vehicle after the vehicle has been thoroughly inspected by both the CITY and CONTRACTOR.
- 5.7.1.1** To transition the vehicles from the previous contract to this Contract, a pre-transfer and a post-transfer inspection shall be conducted.
- 5.7.1.2** The CITY will inspect the transitioning vehicle, with all apparent safety and operating repairs to be corrected. The CITY, in its sole discretion, shall make the final determination as to acceptable vehicle conditions for any vehicles transferred in anticipation of the Contract's start-up as well as during the Contract's term.
- 5.7.1.3** For each vehicle transferred, all parties involved shall approve a vehicle transfer checklist provided by the CITY.
- 5.7.1.4** CONTRACTOR shall inspect, assume responsibility for,



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and insure vehicles by the Contract's start date, at no cost or expense to the CITY.

5.7.1.5 Upon returning a vehicle to the CITY for any reason, CONTRACTOR shall ensure each vehicle is in the same operating condition and appearance as it was when received, subject to reasonable wear and tear based on mileage and age, unless otherwise authorized in writing by the CITY.

5.7.2 General Inspections: The CITY will assign oversight staff to be located at the CITY-owned transit facility. The CITY will designate a permanent, secure workspace for the CITY's oversight staff at the facility. During the Contract period, the CITY will have immediate and unrestricted access to all vehicles and all maintenance records during planned or unannounced visits or inspections of the facility. This includes total access to any electronic program(s) or system(s), which maintain any records (present or historical) for CITY assets supplied under the Contract.

5.7.2.1 CONTRACTOR shall maintain computerized maintenance records for all maintenance activities. Any work order generated by an inspection form must have the inspection form attached.

5.7.2.2 In its sole discretion, the CITY shall have authority, upon inspection, to take out of service any vehicle unit or fleet type for any safety reason until repairs are completed to ensure the vehicle unit or fleet type is safe for service. Such action does not relieve CONTRACTOR of the duty to provide service under the terms of the Contract.

5.7.2.3 All safety deficiencies must be corrected within five calendar days of the joint inspection and before the vehicle is put back into service.

5.7.2.4 All other deficiencies, with exception for deficiencies categorized as "Major Repairs" (see **Section 5.8.7**), must be corrected as follows:

A. Mechanical deficiencies within seven calendar days of the CITY's inspection;

B. Paint/body/aesthetic deficiencies within 30 calendar



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days; and

C. On-board system deficiencies prior to the vehicle's return to service.

5.7.2.5 The CITY will schedule a follow-up joint inspection to ensure that all items identified for repair have been corrected.

5.8 VEHICLE CONDITION AND MAINTENANCE. CONTRACTOR shall assign a full-time maintenance supervisor to remain on duty during all work shifts to ensure that CONTRACTOR's personnel maintain vehicles and facility equipment to the required specifications.

5.8.1 CONTRACTOR will be responsible for all vehicle maintenance and shall maintain records for same. Maintenance shall be performed to OEM standards and CONTRACTOR's Vehicle Maintenance Plan as submitted by CONTRACTOR to the CITY, pursuant to **Section 5.14.3 (and Section 5.11)**, subject to approval by the CITY in writing. The Vehicle Maintenance Plan is an annual plan for both preventive and corrective maintenance as well as graffiti abatement for the entire fleet.

5.8.2 CONTRACTOR shall perform all routine preventive maintenance, heavy repair, running repairs, body work of any type, and major and minor cleaning necessary to keep CITY-furnished vehicles in a safe, reliable, and well-maintained condition. Additionally, CONTRACTOR shall ensure that all on-board systems are fully functional and operational prior to placing vehicles into revenue service.

5.8.3 CONTRACTOR, at no additional cost to the CITY, shall maintain the vehicles, including tires, in the same operating condition and appearance in which the vehicles are received, subject to reasonable wear and tear based on mileage and age. Replacement tires are to be OEM quality or a grade better and shall be provided by CONTRACTOR. Retread tires are permitted under the following requirements:

5.8.3.1 All rubber materials must be from a domestic source and manufactured in the United States;

5.8.3.2 Retread tires must be analyzed by non-destructive testing equipment and computer-controlled machinery including, but not limited to laser shearography;



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- 5.8.3.3** New casings shall be retread no more than two times; and
- 5.8.3.4** Retread tires are only to be used on the center and rear axles of passenger-carrying vehicles.
- 5.8.4** CONTRACTOR is fully responsible, without exception, for ensuring that vehicles placed into service:

 - 5.8.4.1** Have a pre-trip inspection performed to ensure that each vehicle is safe before leaving the facility and entering revenue service (49 CFR 392.7) and have a post-trip inspection performed at the completion of each day's work (49 CFR 396.11), including a complete cycling of the wheelchair lift/ramp as required by the original equipment manufacturer.
 - 5.8.4.2** Have fully operational air conditioning and heating, wheelchair ramps and lifts, securement belts, flip seats, radios, DVRs, CAD/AVL components, APCs, fareboxes, Vix validators, destination signs, and any other on-board systems required for service. A current list of on-board equipment CONTRACTOR is responsible for installing or maintaining is provided in **Section 5.8.13** ("On-Board Equipment/Components").
 - 5.8.4.3** Have all required testings and certifications current, including Arizona Department of Transportation (**ADOT**) annual inspections, emissions, fire suppression systems, gas detection systems, and fire extinguishers. CONTRACTOR is responsible for all associated costs of these certification and testing requirements.
 - 5.8.4.4** Are free of any defects, flat tires, wheel curbing damage, and body/decal damage and have no missing/unpainted panels and no absent lugnuts for wheels, with tires at proper inflation.
 - 5.8.4.5** Are free of graffiti. CONTRACTOR shall submit a graffiti abatement plan to the CITY as part of CONTRACTOR's required annual Vehicle Maintenance Plan. CONTRACTOR's graffiti abatement plan shall include steps that will be taken to address graffiti on the interior and exterior of revenue vehicles, emphasizing



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CONTRACTOR's best efforts in minimizing any graffiti on buses. At a minimum, CONTRACTOR must replace on a monthly basis any graffiti protective film that has been damaged.

- 5.8.4.6** Have all safety items fully operational (e.g., lights, brakes, horn, tires, wheelchair tie downs, seat belts, fire suppression systems, camera systems, etc.)
 - 5.8.4.7** Have all parts properly installed and secured using the same number and quality of fasteners installed by the OEM.
 - 5.8.4.8** Maintain a clean appearance for both the vehicle exterior and interior while in service.
 - 5.8.4.9** Are not repaired with parts taken from another vehicle without prior written authorization from the CITY.
 - 5.8.4.10** Are maintained properly (and all vehicle systems are maintained properly) as required by this Contract, OEM requirements, and CONTRACTOR's Vehicle Maintenance Plan. CONTRACTOR may not jeopardize the continuation of any warranties that exist for a particular vehicle or part from the OEM. See **Exhibit 12**, "Gillig Warranties," and **Exhibit 13**, "New Flyer Warranties."
 - 5.8.4.11** Do not have their warranties voided (or their warranty claims denied for failure to submit in a timely manner) caused by the act, omission, negligence, misconduct, or other fault of the CONTRACTOR (e.g., lack of vehicle maintenance). CONTRACTOR shall fund the remainder of the warranty from the OEM to cover the time that was lost due to CONTRACTOR's wrongful, negligent, or willful acts, errors, or omissions and cover any other costs arising from CONTRACTOR's faulty warranty administration.
- 5.8.5** Down Vehicle List: CONTRACTOR shall submit to the CITY, pursuant to **Section 5.14.3**, a daily tracking report itemizing each unit that is out of service (**O.O.S.**). The report will contain the date taken out of service, reason, number of days currently O.O.S. and projected completion date. Report should include any parts on order (**P.O.O.**) and the estimated time of arrival (**ETA**).



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- 5.8.6** Running Repairs: CONTRACTOR is responsible for all running repairs. If running repairs are identified by the CITY or CONTRACTOR, CONTRACTOR shall complete the repairs **within seven calendar days** from the time the defect was identified.
- 5.8.7** Major Repairs: CONTRACTOR is responsible for all major repairs.
- 5.8.7.1** CONTRACTOR shall correct all deficiencies considered to be "Major Repairs," as defined below, including but not limited to:
- A.** Engine overhauls;
 - B.** Transmission rebuilds;
 - C.** Differential/rear axle rebuilds;
 - D.** Significant body damages and repairs; and
 - E.** Other repairs deemed major repairs by the CITY by providing such designation to the **CONTRACTOR** in writing.
- 5.8.7.2** Major repair work must be scheduled for repairs no later than **seven calendar days** from the time that repair needs are identified and must be completed within **ten calendar days** from the date that repair work is scheduled to begin. CONTRACTOR shall notify the City of any repair work requiring more than **ten calendar days** to complete and the reason for requiring additional time, subject to approval by the City in writing.
- 5.8.7.3** Failure by CONTRACTOR to repair or maintain CITY-furnished vehicles as defined by the manufacturer's technical manual may result in the CITY arranging for vehicle repair or maintenance by others at CONTRACTOR's expense, as well as the assessment of any applicable liquidated damages.
- 5.8.8** Preventative Maintenance:
- 5.8.8.1** Preventive Maintenance Inspections (**PMIs**) and/or safety inspections shall occur at the OEM-recommended intervals and shall include a review of accessibility equipment to



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ensure proper operation of annunciators, ramps/lifts, securements, seat/lap belts, CAD/AVL systems, Vix validators, fareboxes, and bus-headsign displays prior to a vehicle being returned to service. Such inspections shall be documented and tracked by CONTRACTOR and randomly audited by the CITY. PMIs and/or safety inspections shall not occur beyond **10%** from the OEM-required intervals. Also, CONTRACTOR shall monitor and track validator maintenance to ensure each bus leaves the yard with a functional validator.

- 5.8.8.2** PMIs will be based on the life miles of the vehicle rather than the hubometer miles. For example, if the hub is changed, the actual miles may conflict with the previously recorded inspection. Maintenance actions shall be based on time intervals, mileage intervals, or a combination of mileage and time intervals. CONTRACTOR shall track and record these inspections.
- 5.8.8.3** CONTRACTOR shall maintain a record of vehicle life miles and PMIs performed and provide a monthly PMI report to the CITY, pursuant to **Section 5.14.3**. This report shall include the past **30 days** of service activity, including PMIs performed by vehicle number and vehicle mileage for the current and previous PMIs conducted.
- 5.8.8.4** Engine oil, engine filter, and fuel filters must be changed every **6,000-mile** interval for diesel, CNG, and hybrid-electric (diesel) units, unless otherwise changed by mile interval recommended by the vehicle's OEM, or changed sooner as indicated by oil sampling.
- 5.8.8.5** CONTRACTOR shall obtain a fluid sample of engine oil and send it out for standard oil analysis at each oil fluid change.
- 5.8.8.6** CONTRACTOR shall obtain a fluid sample of transmission fluids and send it out for analysis at an interval of **24,000 miles** or as otherwise recommended by the OEM. CONTRACTOR shall review and take appropriate action based on results of oil sample analyses.
- 5.8.8.7** All fluid samples found to be out of specification must be addressed and a corrective work order made the same day



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of discovering the out-of-specification sample.

- 5.8.8.8** These samples must be drawn from the taps designed for obtaining fluid samples, and not the drains.
- 5.8.8.9** Any fluid samples found to be abnormal, critical, or out of OEM specifications must be reported to the City in writing and promptly addressed by CONTRACTOR with corrective repairs to the appropriate vehicle component(s) to ensure asset reliability and service life.
- 5.8.8.10** The air dryer must be rebuilt at every **36,000-mile** inspection at a minimum.
- 5.8.8.11** The air filter must be checked every inspection and replaced if the monometer reading is above **six inches** of water (and readings will be recorded in inspection records) or replaced at **24,000 miles**, whichever comes first.
- 5.8.8.12** Air conditioning filters must be changed or cleaned at every inspection, or as needed or as recommended by OEM.
- 5.8.8.13** Wheelchair lift or ramp inspection must be performed every **6,000 miles** and a long-form preventive maintenance inspection every **24,000 miles**. Wheelchair lifts or ramps must be cycled daily and also cycled immediately prior to entering revenue service. OEM maintenance standards must be used.
- 5.8.8.14** Air conditioning inspections must be performed every **6,000 miles**, and a long-form preventive maintenance inspections must be performed every **24,000 miles**. OEM maintenance standards must be used.
- 5.8.8.15** A yearly engine tune-up must be performed per the engine manufacturer's specifications. The tune-ups must be performed at either **36,000 miles, 5,000 hours** of operation, or **every 12 months**, whichever comes first. All valve settings and engine codes will be recorded in the work order for the CITY's review and approval in writing.
- 5.8.8.16** Front wheel bearing re-pack inspections must be performed at **36,000 miles** or as recommended by OEM.



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5.8.8.17 CONTRACTOR shall establish a quality assurance program within its Vehicle Maintenance Plan to ensure that the vehicles and all on-board equipment are maintained properly and are functioning properly before a vehicle is put into service.

5.8.8.18 Each time a vehicle enters a shop for inspection, the engine, transmission, radiator, and condensers must be cleaned. CONTRACTOR should take care so that no damage is done to electrical components or connectors.

5.8.9 Fueling and Servicing: CONTRACTOR shall have a full-time service island supervisor on duty to ensure service island personnel maintain vehicles to the required specifications. Service island staff shall accurately record fuel usage and vehicle miles and shall report this information to the CITY upon request. All vehicles returning from revenue service must be serviced daily, as described below:

5.8.9.1 All vehicles must be fueled and serviced daily by CONTRACTOR, with oil, transmission, coolant levels, and windshield-washer fluid checked and added, as necessary, with all tasks being recorded daily. CONTRACTOR shall inspect units nightly and complete a check-off list of such inspections. This listing must be provided to the CITY upon request.

5.8.9.2 All vehicle floors must be swept and mopped daily. Buses shall not be hosed out for cleaning. Operator's area must be wiped down, including but not limited to: dash controls, dashboard, above the operator area, and along the front dashboard.

5.8.9.3 Vehicle interiors and exteriors must be cleaned daily, including windshields, as often as prescribed or necessary to maintain the vehicle in a clean, dust-free, and professional appearance. Interiors must be wiped down to achieve cleanliness of the entire vehicle interior. Special attention must be given to ensuring the vehicle exterior is kept clean with special attention given to the rear of the vehicle. Vehicles used in revenue service must go through the bus wash bay for washing a minimum of **once per week** or as often as necessary to maintain the vehicle in a clean and professional appearance.



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- 5.8.9.4** Vehicle rims must be cleaned as often as necessary to maintain the vehicle in a clean and professional appearance.
- 5.8.9.5** All passenger and operator seats must be shampooed **twice per year**.
- 5.8.9.6** Every **30 days**, CONTRACTOR must perform a detailed, intense cleaning of the vehicle interior and exterior. Detailed cleaning involves such area as engine compartments, wheels, back-ends, and underbody. Detailed interior cleaning must address the entire interior. The intent is to have **12 yearly intensive cleanings** per vehicle at consistent intervals. This listing will be provided to the CITY upon request.
- 5.8.9.7** CONTRACTOR shall establish a quality assurance program within its Vehicle Maintenance Plan to ensure the vehicles are cleaned in compliance with the requirements set forth in this work scope.
- 5.8.9.8** To ensure vehicle miles and hours are accumulated equally, CONTRACTOR shall put all vehicles into service on a fixed rotation schedule.
- 5.8.9.9** CONTRACTOR shall ensure all vehicles are fueled in a manner that allows for the most efficient operation and use of the fuel station and fuel inventory. This includes fueling vehicles collectively and consistently within a consolidated timeframe.
- 5.8.9.10** CONTRACTOR shall manage and control all fuels to minimize loss due to theft, natural gas venting due to inefficient fueling practices, or other fuel-loss circumstances.
- 5.8.9.11** CONTRACTOR shall develop and implement a site-specific Vehicle Idling Policy that follows Maricopa County Ordinance P-21, "Vehicle Idling Restriction," as amended. Such idling policy must include allowed idling times, situations, and locations and must provide a specific monitoring and documentation program. The policy shall apply to all revenue vehicles regardless of fuel type. The monitoring program records must be available for



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inspection by CITY staff upon request. The vehicle idling policy must be developed and submitted to the CITY, pursuant to **Section 5.14.3**, for review and concurrence.

- 5.8.10** Body Work: CONTRACTOR shall be responsible for all vehicle body repair work and painting. The West Transit Facility does not have a body shop or full paint booth. The West Transit Facility has a small parts paint booth. The booth is equipped with the necessary ventilation/exhaust and filter systems for painting small parts. CONTRACTOR must perform all on-site painting in the paint booth, following all permit, health, and safety regulations. No painting is to occur at the facility in any location other than the paint booth. All body work and painting must be performed to OEM specifications, or if OEM specifications are not available, then body work and painting must be performed to the industry's best standards. No unit may be run in service with any type of major body damage to the vehicle. This standard includes dings, cracked glass, or major scratches to any surface of the vehicle. CONTRACTOR shall repair external body damages within **30 calendar days** of such defects being identified.
- 5.8.11** Road Calls: CONTRACTOR shall maintain accurate records of all service calls whether the vehicle is changed out, repaired on location, or returned to the facility. See, e.g., **Exhibit 35**, "Operating Statistics." CONTRACTOR shall provide to the City, pursuant to **Section 5.14.3**, a monthly Road Call Report.
- 5.8.11.1** A record and/or repair order must be made for every road call, whether a defect is found or not.
- 5.8.11.2** A road call is any disruption of service caused by a mechanical failure that results in the dispatch of a maintenance/supervisory vehicle to correct or remove/replace a vehicle operating in revenue service. Such mechanical failures shall not include those caused by issues related to passenger incidents and non-preventable accidents.
- 5.8.11.3** Any and all road-call records maintained by CONTRACTOR during the term of the Contract shall be furnished to the CITY upon request.
- 5.8.12** Mechanic Training: CONTRACTOR shall ensure that mechanics are sufficiently trained in all components of the vehicle, including the vehicle types of battery electric, fuel-cell electric (hydrogen), hybrid



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electric (diesel), diesel, and CNG, and the workplace-safety requirements necessary to ensure the safe completion of all repairs. All mechanics shall ensure that all equipment is in working order prior to leaving the facility. CONTRACTOR shall provide National Fire Protection Association (**NFPA**) 70E training for maintenance and service personnel (e.g., fueling staff) assigned to this Contract. New employees are required to take the NFPA 70E training. NFPA 70E retraining for new and existing employees is required at least every **three years**.

5.8.13 On-Board Equipment/Components: All the components for the following systems are installed on buses, have been programmed with current data, and are **fully functional prior to use in revenue service**:

5.8.13.1 All Destination Signs;

5.8.13.2 CAD/AVL Components;

5.8.13.3 DVRs;

5.8.13.4 Radio System;

5.8.13.5 Farebox;

5.8.13.6 APC System;

5.8.13.7 Scrolling Marquee;

5.8.13.8 Telematics System;

5.8.13.9 On-board Mobile Router;

5.8.13.10 PA System; and

5.8.13.11 Vix Validators.

5.8.14 Warranty Credits/Reimbursements: CONTRACTOR will retain warranty credits or reimbursements for work performed on a CITY-owned vehicle or component/system under warranty. CONTRACTOR is responsible for submitting any documentation required by the OEM for warranty reimbursements. CONTRACTOR shall track and provide this information to the CITY as necessary or as requested at any time, and seek reimbursements as warranted



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from the OEM.

5.8.15 Warranty Report: CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, a monthly Warranty Report. This Report is a detailed report of monthly warranty work completed and warranted parts submitted to the OEM that month.

5.9 TECHNICAL ENVIRONMENT GUIDELINES. The CITY is the host site for regional transit technology and maintains a complex combination of local and wide-area networks (**LAN/WAN**) that provide various forms of transit-related data. The CITY is responsible for applications used by Valley Metro’s agencies and affiliates in multiple jurisdictions. Nearly every member of regional transit operations has a direct dependency on the information network. Each member must be able to depend upon the electronic link to the system. To maintain a consistent and reliable technical environment, a complete list of technology requirements is provided in the CITY’s “Phoenix Technology Services Technical Requirements.” See **Exhibit 25**.

5.10 WEST TRANSIT FACILITY SITE. The West Transit Operating Facility is located at 405 North 79th Avenue, Phoenix, Arizona 85043. The facility sits at the northeast corner of 79th Avenue and Van Buren Street. See **Exhibit 22**, “West Facility Site Plan.” The facility was designed and sized for the maintenance and operation of a fleet of **250 buses**, plus a small fleet of non-revenue transit vehicles. The facility has two entrances off 79th Avenue and an emergency entrance off Van Buren Street. The southernmost entrance off 79th Avenue is only for facility employees and visitors. The northernmost entrance off 79th Avenue is only for buses, non-revenue transit vehicles, and deliveries.

5.10.1 Employee and Visitor Parking: The parking area at the main entrance and the main-entrance area will accommodate **17 visitor parking spaces** and facilitate drop-off/pick-up for employees. The northern parking lot is adjacent to the operations and administration building and will accommodate **228 employee vehicles**. The southern parking lot is adjacent to the maintenance building and will accommodate **139 employee vehicles**. All three parking areas have designated parking for persons with disabilities. All three parking lots have shade canopies. The two-employee parking lots are accessible only via CITY-provided identification card access. Personal vehicles shall only be parked in areas designated for employee or visitor parking.

5.10.2 Bus Parking: The largest area is for bus parking. This area is sized for **250 buses**, with spaces dedicated for each specific vehicle. All



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bus parking spaces have shade canopies. Non-revenue transit-vehicle parking is also provided in various areas around the site. Additional uncovered parking areas on the northern portion of the facility provide parking spaces for the remainder of the fleet.

5.10.3 Maintenance Facility: The second area at the south end of the site is the maintenance building. This building is equipped with **22 maintenance bays**, in addition to component and facility-maintenance shops, other maintenance areas, parts storage, mechanic locker rooms, and administration/personnel spaces. The building totals **97,660 square feet**.

5.10.4 Administration Facilities: The third area in the middle of the site is the operations and administration building. The building includes space for bus operator locker rooms, dispatch, training, offices, telecommunications/IT server rooms, lobby, and CITY and CONTRACTOR personnel areas. The building totals **19,960 square feet**.

5.10.5 Servicing and Fueling Facility

5.10.5.1 The fourth area at the northwest corner is the fueling/cleaning area. This area is comprised of a fueling building, fueling space, bus-cleaning lanes, and fuel storage. The fueling building includes space for fueling personnel, bus cleaning and servicing supplies and equipment, and fare collection. The fueling area is comprised of four fueling, cleaning, and servicing lanes. Each lane is equipped with a diesel dispenser, CNG dispenser, bus vacuum station, consumable fluids service reels, and fluid management system controller. One island is also equipped with an unleaded gasoline dispenser. The fuel storage area is comprised of three 20,000-gallon underground diesel storage tanks, one 10,000-gallon unleaded gasoline storage tank, two 30,000-gallon above-ground liquefied natural gas storage tanks, five 10,000 supercritical fluid (SCF) CNG above-ground storage tank system, and related pumps and piping. This area totals 10,115 square feet.

5.10.5.2 The CITY is in the process of acquiring battery-electric buses. The CITY anticipates installing electric-bus charging stations underneath the northeast canopies on the east side of the facility. See **Exhibit 21**, “West Facility



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Onsite Improvement Plans,” and **Exhibit 22**, “West Facility Site Plan.” The CITY will install and manage separate electric-usage meters and stations for the charging. The CITY will be responsible for covering the costs of the electricity used to charge the buses.

- 5.10.5.3** The CITY is in the process of acquiring fuel-cell-electric (hydrogen) buses. The CITY anticipates installing hydrogen dispensing pumps in the northwest area of the facility (in the island area currently occupied by the no-longer-used LNG dispensers in the fueling lanes). See **Exhibit 21 and Exhibit 22**. Additionally, the CITY anticipates installing hydrogen storage tanks on the west side of the north canopy.
- 5.10.6** Washing and Inspection Facilities: The fifth area just south of the fueling/cleaning area is the washing/inspection area. The washing/inspection area is comprised of two bus washing bays, two undercarriage chassis wash bays, one chassis dynamometer bay, one brake inspection bay, and one facilities maintenance shop. The washing/inspection area totals 10,536 square feet.
- 5.10.7** Security: The entire facility is equipped with an identification card access system, CCTV surveillance system, and intrusion detection system. At the northern bus entrance off 79th Avenue, there is a security kiosk. This entrance is restricted to official vehicle traffic only. Access is granted through this entrance: through positive identification by the municipal security guard or contract security guard stationed at the kiosk; or by identification card access. A second municipal security guard or contract security guard is posted in the security office of the Administration Building to monitor CCTV, access control, and provide escorts.
- 5.10.8** Space Allocation: CONTRACTOR may allocate office and workspace to its employees as it determines necessary. The CITY shall allocate its own spaces and CONTRACTOR should not plan to utilize those areas allocated for the CITY’s own spaces. See **Exhibit 19**, “Space Plan.” Fare vaulting rooms are secure areas and are not available for CONTRACTOR’s use. Under no circumstances shall modifications to any part or system of the facility be made without the CITY’s express written consent.
- 5.10.9** Furniture: CONTRACTOR shall provide its own furniture for its employees. See, e.g., **Exhibit 18**, “Sample Furniture Plan.” Only



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modular or free-standing furniture will be allowed. Furniture cannot be affixed to the structure of the facility.

5.10.10 Electric, Voice and Data: CONTRACTOR is responsible for its own telephone system at the facility. CONTRACTOR shall work with the telephone utility to install and activate its own telephone service at the facility. CONTRACTOR will have access to the facility telecommunications rooms around the facility for this purpose.

5.10.11 Facility Maintenance:

5.10.11.1 As the operator of the West Transit Facility, CONTRACTOR is responsible for the safe and proper care/operation of the facility as stated in this Scope of Work. Due to the industrial and hazardous nature of the work conducted at the facility, all work functions are to be actively supervised on site by CONTRACTOR's designated staff. Except as provided below for CONTRACTOR repairs, the CITY's facility maintenance contractor (**FMC**) staff shall be responsible for making repairs to the facility, systems, components, and equipment owned and provided by the CITY under this Contract. CONTRACTOR shall work directly with CITY-designated staff on all issues pertaining to facilities maintenance (including work status, scheduling, equipment downtime, etc.). The CITY's FMC will coordinate with CONTRACTOR to ensure facilities maintenance work is scheduled to minimize disruption and impacts to CONTRACTOR's operations. CONTRACTOR shall make reasonable adjustments to its operations to accommodate necessary facilities maintenance work. CONTRACTOR shall also communicate to CITY-designated staff any significant impacts and disruptions to its operations caused by issues or problems with facility systems, components, or equipment.

5.10.11.2 CONTRACTOR shall maintain a clean and safe work area in all areas used by CONTRACTOR. Areas include, but are not limited to, the maintenance building, administration building, fuel and wash building, revenue and non-revenue vehicle parking areas, and employee parking areas. CONTRACTOR shall make repairs to the facility, systems, or components during times of emergency when the CITY's facility maintenance staff is



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unavailable and the repair is immediate in nature, creates an unsafe working condition, or affects CONTRACTOR's ability to conduct operations. CONTRACTOR shall notify the CITY's Contract Administrator when this type of repair is required, subject to approval by the CITY in writing.

5.10.11.3 The CITY currently provides vending services to the facilities through its own contractor. CONTRACTOR shall not install, or have installed, vending machines or other such equipment. In the event that vending services are no longer provided by the CITY for the facility, the CITY may authorize installation of vending machines and related equipment by CONTRACTOR through a written amendment to the Contract. The CITY at its sole discretion may perform refurbishments to upgrade and update the facility as deemed necessary. CONTRACTOR shall work collectively with the CITY during such activities.

5.10.12 Facility and Equipment Damage:

5.10.12.1 CONTRACTOR is financially responsible for any facility or equipment damage throughout the facility caused by CONTRACTOR or its subcontractors' misuse (accidents, improper operation, theft, unauthorized installation, modification of equipment, etc.).

5.10.12.2 Repairs (or replacements) for which CONTRACTOR is financially responsible will be performed by and resolved through CITY's facilities maintenance staff. All damage must follow the CITY's "Phoenix Facility Damage Incident Report Procedure." See **Exhibit 28**. The CITY shall invoice CONTRACTOR for any and all damage determined to be the responsibility of CONTRACTOR. The CITY, at its sole discretion, shall determine the responsible party for all facility damage claims.

5.10.12.3 During the first **ten days** of the Contract's start date. CONTRACTOR and the CITY shall conduct a walk-through and document the facility condition. This will establish the baseline facility condition for the contract term and closeout of the Contract. At the time of Contract closeout, CONTRACTOR shall be responsible for any damages to the facility, as determined by the CITY, in its sole discretion, based on the documented facility condition.



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5.10.13 Custodial Services: CONTRACTOR is responsible for providing custodial services for the entire facility, including but not limited to biannual (twice per year) carpet and window washing, removing all fluid waste generated by CONTRACTOR, and sweeping/cleaning all areas and parking lots. Lot sweeping and cleaning shall include the areas for bus parking, employee parking, visitor parking, non-revenue parking, and all other areas within the perimeter. The minimum custodial services required are listed in the CITY’s “West Facility Custodial Specifications.” See **Exhibit 20**. CONTRACTOR shall provide to the City, pursuant to **Section 5.14.3**, a facility custodial service schedule.

5.10.14 Signage: CONTRACTOR is responsible for all safety, office, and operational signage for the entire facility pertaining to the service delivery identified in this Contract. The CITY is responsible for all speed-limit calculations and signage. All sign installations must be approved through CITY-designated staff and performed by the CITY’s facility maintenance staff.

5.10.15 Capital and Fixed Equipment:

5.10.15.1 The CITY will provide certain capital and fixed equipment available for CONTRACTOR’s use. See **Exhibit 17**, “West Transit Facility Asset and Equipment List.” The CITY will retain ownership of CITY-provided equipment and CONTRACTOR will retain ownership of CONTRACTOR-provided equipment.

5.10.15.2 CONTRACTOR will operate and maintain the CITY-provided equipment according to OEM specifications and guidelines. CONTRACTOR shall provide a maintenance program and any necessary formal documentation to maintain CITY-provided equipment, and CONTRACTOR shall make these available upon the CITY’s request. Preventative maintenance of CITY-provided equipment shall be completed on schedule, pursuant to FTA guidelines, for a minimum of **90%** of the CITY-approved service schedule. CONTRACTOR shall replace with like item any CITY-provided and CONTRACTOR-maintained equipment that becomes damaged or inoperable due to CONTRACTOR’s or its subcontractors’ misuse (accidents, improper operation, theft, etc.). The new equipment that replaces equipment damaged by CONTRACTOR will become CITY-provided equipment. The CITY, at its sole



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discretion, shall determine when CITY-owned equipment has reached the end of its useful life and the value of that equipment.

5.10.15.3 CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, a CITY-provided equipment maintenance program.

5.10.16 CONTRACTOR-Provided Equipment:

5.10.16.1 In order to render the services required in this Contract, CONTRACTOR is solely responsible for providing any additional equipment or infrastructure not explicitly discussed in this Contract or included in the exhibits that may be required in execution of the work under the Contract. CONTRACTOR shall provide its own equipment, and maintain an updated inventory of that equipment, to supplement the equipment provided at the facility by the CITY. Any installation of additional equipment or infrastructure requires the authorization of CITY-designated staff and, if required, any permitting authorities having jurisdiction. All work required to install or upgrade any equipment must be performed by the CITY's facilities maintenance staff, or an approved contractor by the CITY, and shall be charged to CONTRACTOR.

5.10.16.2 CONTRACTOR will be responsible to maintain any equipment and the sites holding the equipment by keeping them clean, uncluttered, and organized. Some of the network closets might be shared with the CITY's and CONTRACTOR's authorized information technology (IT) personnel. CONTRACTOR shall maintain these equipment areas in an organized manner by not having any surplus equipment stored other than the in-place network equipment (e.g., no extra boxes, monitors, or old equipment that impacts the accessibility of the closet).

5.10.17 Utility Costs:

5.10.17.1 CONTRACTOR shall provide, at no additional cost to the CITY, all utilities at the facility, including service for electricity (except as otherwise provided for battery-electric buses), natural gas, telephone, cable/internet, water, refuse/recycling, and sewer.



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5.10.17.2 CONTRACTOR shall utilize the CITY's Public Works Department Solid Waste Division for refuse and recycling services at the facility. CONTRACTOR shall ensure trash and materials for recycling are removed from all spaces daily and stored neatly in the designated area or container/dumpster, as directed by the CITY's Public Works Refuse Service. CONTRACTOR shall implement and maintain a recycling program for the facility, to include receptacles in all areas of the property, as directed by the CITY's Public Works Department Recycling Program.

5.10.17.3 CONTRACTOR is responsible for the environmentally safe removal of waste interceptors, sludge tanks, underground storage tanks, trenches and any waste generated by CONTRACTOR in performing the Scope of Work.

5.10.17.4 The account holder on each of these services/utilities shall be CONTRACTOR. CONTRACTOR shall assume and pay all service/utility bills, including start-up and subsequent monthly costs, directly to the subject service company/utility. On an annual basis, CONTRACTOR shall submit a report, including usage and costs of all utilities (electric, gas, water, etc.) paid by CONTRACTOR. This report will be used to track the efficiency of building systems and for future refurbishment/renovation projects. Approximate historical facilities cost as calculated by the current service provider for electric, water, and gas utilities are listed in the following table.

Utility	2021	2022	2023
Electric	\$188,859	\$218,789	\$213,439
Water	\$30,376	\$26,703	\$38,831
Gas	\$34,747	\$38,677	\$76,450

5.10.17.5 The cost for all utilities shall be included in CONTRACTOR's overall price for the Contract.

5.10.17.6 CONTRACTOR shall submit to the CITY, pursuant to **Section 5.14.3**, a monthly Utility Usage and Cost Report. This Report shall provide the monthly usage of all utilities (electric, gas, water) and detail the costs paid for such utilities



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by CONTRACTOR. The CITY may use this report to track the efficiency of building systems for future refurbishments/renovations.

5.10.18 Facility and Building Access: The CITY shall establish and maintain control over the access control system for the facility, including access required for all of CONTRACTOR's and CITY's employees at the facility. See **Exhibit 23**, "PTD Security Access and Control." Contractor shall comply with the following requirements for all facility and building access.

5.10.18.1 CONTRACTOR must ensure that its employees and subcontractors *shall*:

- A.** Comply with all terms and conditions of the Contract.
- B.** Provide all necessary permissions and disclosures for background checks, which may include affidavits of prior criminal records listing all criminal convictions and detailing the nature of any crimes, dates of conviction, and locations where such crimes and convictions occurred.
- C.** Read and sign a Contractor Badge Key Intrusion Responsibility Agreement acknowledging their responsibilities related to safeguarding and caring for their CITY-issued badge.
- D.** Take precautions to secure their badging and keys. (Badging and keys should never be left on a desk, in a vehicle, or any place exposed to the general public.)
- E.** Display badges visibly on their person at all times while at the CITY's facilities.
- F.** Use their assigned access cards to gain entry into work areas that have card readers.
- G.** Use their assigned keys, if any, only where no other reasonable means of access is available or in an emergency situation (which may cause alarms to be activated).
- H.** Understand that possession of an unauthorized badge or key may result in liability or legal action for its use.



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- I. Make sure that doors are secure and never left open.
- J. Question the presence of un-badged persons and report infractions.
- K. Immediately notify the CITY's badge liaison or appropriate badging/security office of lost/stolen badging so that cards can be deactivated and other appropriate precautions taken. (If they are unaware of whom to notify, they shall contact their supervisor to find the appropriate contact.)
- L. Immediately notify the CITY's key control custodian and applicable Locksmith Services of lost/stolen keys so that locks can be re-keyed and other appropriate precautions taken. (If they are unaware of whom to notify, they shall contact their supervisor to find the appropriate contact.)
- M. Report stolen badging or keys to the police and provide the CITY with the associated police report.
- N. Pay any fees to reissue badging or keys. (Recovery costs may be waived with police report submittals.)
- O. Notify the CITY's badge liaison or appropriate badging/security office if a lost badge is found.
- P. Notify the CITY's key control custodian if lost keys are found.
- Q. Remain responsible for use of their badging until it has been properly returned to the CITY's badge liaison or appropriate badging/security office.
- R. Return badges to the CITY's badge liaison or appropriate badging/security office when they are no longer needed or upon badge-holder termination/transfer.
- S. Remain responsible for use of their keys until they have been properly returned to the CITY's key control custodian.
- T. Return any obsolete or unneeded keys to the CITY's Key Control Custodian when they are obsolete or no longer



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needed or upon key-holder termination/transfer.

U. Pay any fees for failure to return badging or keys.

5.10.18.2 Contractor must ensure that its employees and subcontractors *shall not*:

A. Loan, borrow, or share badges, keys or PIN codes.

B. Tamper, interfere, compromise, modify, or circumvent any security system, measures, or procedures.

C. Allow non-badged persons to follow them into a restricted or controlled environment unless being escorted by a badged CITY employee.

D. Duplicate or modify badges or keys in any way.

E. Follow another vehicle (tailgate) at any entrance gate or exit at CITY facilities without using their badge.

5.10.19 Environmental Management:

5.10.19.1 CONTRACTOR shall submit to the CITY an Environmental Management Program (**EMP**), pursuant to **Section 5.14.3**, and shall develop an Environmental Management System (**EMS**) following ISO 14001 (available at iso.org/standard/60857.html), as amended, or equivalent guidelines. The EMP and EMS must be specific to the West Transit Facility and must comply with all regulations and requirements of the City of Phoenix, Maricopa County and State of Arizona. Development of the EMP and EMS must incorporate the intent and applicable aspects of the CITY's: hazardous materials management program; pollution prevention policy; storm water management program; and spill prevention, response, and reporting program. See, e.g., **Exhibit 9**, "Spill Prevention Control and Countermeasure (SPCC) Plan," and **Exhibit 10**, "Storm Water Pollution Prevention Plan." The EMP and EMS are subject to review and approval in writing by the CITY.

5.10.19.2 The EMP and EMS must also address CONTRACTOR's areas of responsibility, including: environmental health and safety; hazardous materials management; air quality



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management and permitting; fluid management and reconciliation; vehicle idling; underground storage tank testing; dry well maintenance and permitting; wastewater management, storm water management and storm water pollution prevention plan; pollution prevention; and staff environmental training program.

5.10.19.3 It is the responsibility of the CONTRACTOR to ensure that underground storage tank documentation is kept up-to-date and daily, weekly, monthly, and annual inspections are being conducted and recorded. It is also the CONTRACTOR's responsibility to submit all required reports and documentation to the city, state, and county authorities as required. The CONTRACTOR shall conduct underground storage tank spill bucket, turbine sump, interstitial and line leak inspections. Further, it is the CONTRACTOR's responsibility to report to the CITY a Veeder-Root product failure or related underground storage tank (**UST**) issue immediately when discovered.

5.10.19.4 CONTRACTOR shall apply for and obtain all required regulatory environmental permits, including CONTRACTOR'S payment of permit fees, for construction/revision of new or existing units and/or operation of the facility in its entirety. See, e.g., **Exhibit 8**, "Permit List," providing examples related to environmental compliance.

5.10.19.5 Annual reports and other routinely required documentation will be produced by CONTRACTOR as needed to maintain facility compliance, including but not limited to documentation for the Maricopa County Air Quality Department and Arizona Department of Environmental Quality. As part of the EMP and the EMS, CONTRACTOR's Environmental Management Administrator will work closely with CITY-designated staff to ensure that daily operations comply with environmental requirements, but overall environmental compliance remains solely CONTRACTOR's responsibility.

5.10.19.6 CONTRACTOR's operational responsibilities may include routine on-site inspections to ensure that work procedures, record keeping, equipment/product labeling, signage, and personal protective equipment all meet the EMP, EMS, and



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regulatory requirements.

5.10.19.7 CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, and maintain a Facility Emergency Response Plan (**FERP**), which includes training staff on the FERP, to cover all elements listed in this Contract as well as any other related activities needed to meet the safety needs of the site environments and the CITY Office of Emergency Management. The FERP is a contingency plan for continuation of operations and service in case of security alerts and natural or man-made emergencies. CONTRACTOR, at no cost or expense to the CITY unless the CITY otherwise provides in writing, must identify and address safety issues as they arise, submit work orders to the CITY for safety issues, and update the FERP annually. CONTRACTOR shall coordinate the FERP with other workgroups that occupy the site to ensure continuity during an emergency.

5.10.19.8 CONTRACTOR shall understand environmental laws and regulations required to build a comprehensive environmental compliance program that includes, but is not limited to, the duties described above.

5.11 VEHICLE MAINTENANCE PLAN AND PROGRAM

5.11.1 The FTA, per FTA Circular 9030.1E, requires each recipient of federal funding to have a current written maintenance plan for its federally funded rolling stock. CONTRACTOR shall fully comply with this Circular and provide a formal written vehicle maintenance plan for maintaining transit vehicles, pursuant to **Section 5.14.3**, for the CITY's review and written approval.

5.11.2 An effective maintenance plan and program addresses the unique needs of each type of transit vehicle and the unique characteristics of each operating environment. At a minimum, the plan and program shall be updated annually and shall:

5.11.2.1 Identify and define goals and objectives and provide tangible evidence of how they are achieved, including any workforce development strategies or apprenticeships needed in conjunction with the implementation of newer propulsion systems (battery electric, fuel cell electric, hybrid electric).



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- 5.11.2.2** Identify and describe the current mix of rolling stock assigned to CONTRACTOR.
- 5.11.2.3** Outline procedures for maintaining safety and accessibility equipment, including but not limited to all on-board systems as outlined in **Section 5.8.13**.
- 5.11.2.4** Describe preventive maintenance procedures.
- 5.11.2.5** Adhere to OEM requirements for vehicles and parts under warranty.
- 5.11.2.6** Be updated annually to account for industry changes; and
- 5.11.2.7** Be submitted to the CITY annually in electronic form, subject to the City's review and written approval.

5.12 REVENUE COLLECTION AND CONTROL. All fares collected are the property of the CITY. All cash boxes must be emptied from the fareboxes, and all fareboxes must be probed by CONTRACTOR's staff, with cash-box and vehicle-probing activities to be recorded daily for all revenue vehicles and reported to the CITY in the monthly operation report. CONTRACTOR shall keep a log of each cash box emptied and revenue vehicle probed, reporting daily to the CITY any problems encountered with these activities. CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, a monthly farebox probing report.

- 5.12.1** The CITY may periodically conduct on-board farebox checks, including observations to ensure that CONTRACTOR's operators properly: interface with the farebox and Vix validators according to instructions provided by the FCS provider; and report any problems. CONTRACTOR shall cooperate with the CITY for any such on-board checks.
- 5.12.2** CONTRACTOR's bus operators shall ensure collection and recording of each boarding by fare type, including recording of each non-fare boarding, as set forth by the CITY's fare policy, as amended. See **Exhibit 1**, "Phoenix Fare Policy and Uniform Fare Structure," for the latest fare policy.
- 5.12.3** CONTRACTOR shall enforce the Phoenix City Council's approved regional fare structure. CONTRACTOR shall ensure fares are charged and collected from all passengers and that passengers



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paying reduced cash fares, purchasing reduced fare media, or boarding with reduced fare media are eligible for such reductions. Cancelled or expired Smartcards are not allowed for fare payment. CONTRACTOR shall ensure that Smartcards with mutilated pictures or graphics are confirmed eligible for fare payment and that all passengers activate/validate their passes in an approved manner with the farebox. CONTRACTOR shall be liable to the CITY for uncollected fares, except where a properly maintained farebox has malfunctioned or is unable to accept fare media or cash fares. The recovery of uncollected fares for which CONTRACTOR is liable to the CITY will be determined by the CITY in its sole discretion.

5.12.4 CONTRACTOR shall provide sufficient revenue employees and training to ensure that each day: all buses in revenue service have the cash boxes emptied; all data is downloaded from the farebox into the CITY's FCS; all buses are supplied with the requisite amount of passes required to complete revenue service, if needed; and all information is uploaded into the farebox from the FCS. CONTRACTOR shall also provide the requisite amount of staff to perform farebox fingertip maintenance and any repairs and preventive maintenance tasks as outlined in FCS manuals or as otherwise directed by the Contract including the fixes to remedy farebox malfunctions while vehicles are in revenue service. Introduction of a BRT system may include off-board fare payment and/or modified payment enforcement conducted by someone other than the bus operator.

5.12.5 CONTRACTOR shall implement adequate controls over every facet of the FCS, including but not limited to ensuring malfunctioning fareboxes are immediately reported to: the CITY's OCC for prompt repair by CONTRACTOR in accordance with fingertip maintenance procedures described and jointly approved by the CITY and the FCS contractor; or the CITY's FCS contractor helpdesk for prompt repair (that cannot be accomplished by fingertip maintenance procedures) by the FCS contractor as soon as the malfunctioning farebox or vault equipment is identified. When a repair is beyond the scope of the Contract, CONTRACTOR shall use the CITY's current corrective action/incident report form to report farebox malfunctions and request farebox repairs from the CITY's FCS contractor. CONTRACTOR shall ensure preventive maintenance is performed in a timely manner. CONTRACTOR shall perform:

5.12.5.1 Fingertip maintenance procedures as prescribed on page 142 (Section 9.2.1) of **Exhibit 24**, "Scheidt & Bachmann



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Farebox Repair and Maintenance Manual.”

- 5.12.5.2** Farebox preventive maintenance procedures as prescribed in the Farebox Repair and Maintenance Manual. See **Exhibit 24**. Farebox preventive maintenance tasks to be performed by CONTRACTOR are as follows:

Farebox/Validator Preventive Maintenance Tasks	Frequency
Monitor and Track Validator Maintenance	Daily (before vehicle leaves yard)
Cleaning of Farebox Exterior	Monthly
Cleaning of Operator Control Unit (OCU)	Monthly
Cleaning of Coin Verifier	Monthly
Cleaning of Bank Note System (BNS) With Cleaning Pad	Monthly

- 5.12.5.3** The CITY will perform periodic inspections of CONTRACTOR's farebox preventive maintenance records to ensure the requisite maintenance is performed at the intervals listed above. Also, CONTRACTOR shall monitor and track validator maintenance to ensure each bus leaves the yard with a functional validator.

- 5.12.5.4** Reimbursement of the CITY's FCS contractor for the cost of any out-of-scope repairs, unless the CITY determines in its sole discretion that the FCS contractor is otherwise responsible for those repairs. Out-of-scope repairs include, but are not limited to, damage to farebox components due to misuse, negligence, unauthorized maintenance, and vandalism by the public or any of the CONTRACTOR's employees.

- 5.12.5.5** CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, a monthly report as generated by CONTRACTOR's vehicle maintenance software program of all completed farebox prevention maintenance inspections.

- 5.12.6** CONTRACTOR shall ensure that strict controls are maintained over cash collected. Audits will be conducted by the CITY to ensure that: CONTRACTOR's employees follow the CITY's Fare Policy; and CONTRACTOR's supervisory staff monitor fare collecting



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procedures as needed. CITY shall be notified of any proposed changes to CONTRACTOR's fare collecting procedures or policies.

- 5.12.7** CONTRACTOR shall maintain a log of all buses in revenue service each day and reconcile the log to the buses probed every day, to verify that all buses in revenue service were probed and the cash boxes emptied in compliance with procedures described in the FCS documents. See page 85 (Sections 7.2.2 and 7.3) of **Exhibit 24**. A copy of the daily reconciliation must be provided to the CITY and kept on file by CONTRACTOR for the CITY's auditing purposes.
- 5.12.8** CONTRACTOR shall exchange the facility mobile vaults with empty vaults when they are full. The CITY shall make available an adequate supply of mobile vaults to CONTRACTOR. The CITY will empty the mobile vaults each day to separate cash to allow for reconciliation and prepare the cash for pick up by the CITY's armored car service Monday through Friday, except CITY-observed holidays, unless required to ensure CONTRACTOR can continue to probe and empty the cash boxes. The CITY shall randomly select the buses that will have the cash boxes audited as often as deemed necessary by the CITY to ensure the accuracy of the farebox. CONTRACTOR staff shall complete a separate tag for each cash box and attach it to the cash box handle. The audit tag must be filled out thoroughly with the following information: date, time, bus number, and cash-box puller's name. The cash boxes must be locked in a secure location until the CITY's staff arrives to audit and record the cash in each cash box.
- 5.12.9** The CITY's armored car service will transport all fare revenue from the transit facility to a location where the cash will be counted and deposited into the CITY's bank account.
- 5.12.10** CONTRACTOR must provide to the CITY, pursuant to **Section 5.14.3**, a Fare Collection System Key Control Policy subject to approval by the CITY in writing. The Policy will identify the key-control authorities, the individual(s) requiring revenue keys and/or probing cards, and the individual(s) responsible for securing keys and/or probing cards. The Policy shall include: the process for acquiring revenue keys and probing cards; the procedures to follow for notification of lost, stolen, or damaged keys and probing cards; and the process to follow for the return of a terminated employee's revenue keys and probing cards. Upon the CITY's receipt of this Policy, CONTRACTOR shall submit the appropriate forms to request employee rights/access to the FCS and issuance of revenue keys and probing cards. Upon CONTRACTOR's separation of any



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revenue employee, CONTRACTOR shall immediately collect all revenue keys and probing cards.

- 5.12.11** Any personnel involved in cash-box pulling or supervision at any level must undergo a background check prior to hiring. CONTRACTOR shall provide the CITY with the names of the cash-box pullers and allow the CITY an opportunity to review the cash box pullers' background checks.
- 5.12.12** Each fare revenue employee will be provided an identification card that will also provide access to the fare revenue room. Upon CONTRACTOR's separation of any revenue employee, CONTRACTOR shall collect the identification card and notify the CITY within **72 hours** of the effective date of separation.
- 5.12.13** CONTRACTOR shall ensure that the CITY's fare revenue is safeguarded to the maximum extent possible. If CONTRACTOR fails to provide adequate safeguards or is negligent in applying such safeguards, as determined by the CITY in its sole discretion, then CONTRACTOR is liable for all uncollected, lost, stolen, or misplaced revenues for which the CITY will invoice CONTRACTOR.

5.13 LOST AND FOUND POLICY

- 5.13.1** CONTRACTOR shall make a reasonable attempt to identify and return lost items as provided below within **24 hours**. The CITY provides lost-and-found tags and "found item" log sheets for the CONTRACTOR's use. See **Exhibit 29**, "Lost-and-Found Procedure (Log and Tag)." When it is not possible to return the item, CONTRACTOR shall:
 - 5.13.1.1** Tag the item, noting the route/location/trip number where the item was found and the date on which the item was found.
 - 5.13.1.2** Include the name of the person turning in the item, with a brief description of the item; and
 - 5.13.1.3** Maintain a log of lost and found items.
- 5.13.2** CONTRACTOR shall coordinate the delivery of lost items to the CITY's Central Station transit center located in downtown Phoenix. Central Station staff is responsible for the disposition of any property delivered to the CITY by CONTRACTOR. Under no circumstance



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may any lost and found items be taken by CONTRACTOR's employees.

- 5.13.3** CONTRACTOR must deliver all lost and found items within **24 hours** on Monday through Friday between the hours of 8:00 a.m. to 10:00 a.m., excluding holidays.

5.14 DATA GATHERING AND REPORTING REQUIREMENTS

- 5.14.1** CONTRACTOR shall collect data as required and outlined by the CITY and provide periodic statements showing a comparison of the transit system's past performance. Monthly and quarterly reports are due on or before the 10th of the following month. Annual reports are due by July 1 of each year, unless otherwise indicated by the CITY in writing.

- 5.14.2** CONTRACTOR shall provide all information and reports required by the CITY or the FTA and will permit access to books, records, accounts, or any other sources of information and facilities as may be requested by the CITY. Where any information required is in exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY or FTA, as appropriate, and shall set forth what efforts it has made to obtain the information. All data gathering and reporting must conform to the CITY's and FTA's requirements. CONTRACTOR shall remit all reports to the CITY in a format prescribed by the CITY. Any report may be revised, reorganized, changed, increased, or decreased in number and frequency as directed by the CITY in its sole discretion.

- 5.14.3** The table below provides the frequency for CONTRACTOR's preparation of policies, programs, schedules, reporting, procedures, plans, reports, etc. Additional details for these deliverables are provided below.

Name	Frequency
Small Business Participation Plan (see Section 6.43(F)(3))	Due within 3 business days after Notice of Contract Award recommendation and annually from the Contract's start (see Attachment D and Exhibit 45 for initial and annual plan submission templates)
City-Provided Equipment Maintenance Program (see Section	Due within 60 days after the Contract's start



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5.10.15.3)	
Environmental Management Program and Environmental Management System (see Section 5.10.19.1)	Due within 60 days after the Contract's start
Facility Custodial Service Schedule (see Section 5.10.13)	Due within 60 days after the Contract's start
Idling Policy (see Section 5.8.9.11)	Due within 60 days after the Contract's start
ADA and Title VI Complaint Resolution Plan (see Section 5.25.3)	Due within 60 days after the Contract's start and annually from the Contract's start
ADA Training Plan and Curriculum (see Section 5.24.3.2)	Due within 60 days after the Contract's start and annually from the Contract's start
Drug and Alcohol (Substance Abuse) Plan (see Section 5.18.2)	Due within 60 days after the Contract's start and annually from the Contract's start
Emergency Operations Plan (see Section 5.20.1)	Due within 60 days after the Contract's start and annually from the Contract's start
Facility Emergency Response Plan (FERP) (see Section 5.10.19.7)	Due within 60 days after the Contract's start and annually from the Contract's start
Fare Collection System Key Control Policy (see Section 5.12.10)	Due within 60 days after the Contract's start and annually from the Contract's start
Operations Staff Training Plan and Program (see Section 5.24)	Due within 60 days after the Contract's start and annually from the Contract's start
Public Transportation Agency Safety Plan (PTASP) (see Section 5.15.10.1)	Due within 60 days after the Contract's start and annually from the Contract's start
Risk Control and Safety Plan (see Section 5.15.9).	Due within 60 days after the Contract's start and annually from the Contract's start
Vehicle Maintenance Plan (see Sections 5.8.1 and 5.11.1)	Due within 60 days after the Contract's start and annually from the Contract's start
Equal Employment Opportunity (EEO) Plan (see Section 5.26.1)	Due within 60 days after the Contract's start and quadrennially (every four years) from the Contract's start
Down Vehicle List (see Section	Daily



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5.8.5)	
Fuel Use (Daily) Report (see Section 5.4.1.3))	Daily
BRT Ridership (see Section 5.1.2.2))	Monthly (once BRT service is implemented and CONTRACTOR has begun performing such service)
Disadvantaged Business Enterprise (DBE) Report (see Section 5.26.2))	Monthly
Farebox Probing Report (see Section 5.12))	Monthly
Farebox Report (see Section 5.12.5.5))	Monthly
Fuel Use (Monthly) Report (see Section 5.4.1.3))	Monthly
Invoice Itemization Report (see Section 5.2.10))	Monthly
Monthly Management Report (MMR) (see Section 5.2.3))	Monthly
National Transit Database Accident Report (see Section 5.26.3))	Monthly
Neighborhood Circulator Ridership Report (see Section 5.2.4.3))	Monthly
Operating Statement Report (see Section 5.2.2))	Monthly
Road Call Report (see Section 5.8.11))	Monthly
Utility Usage and Cost Report (see Section 5.10.17.6))	Monthly
Vehicle PMI Report (see Section 5.8.8.3))	Monthly
Warranty Report (see Section 5.8.15))	Monthly
Management Information System (MIS) Report (see Section 5.18.1))	Annually (by February 28 th each year)
National Transit Database Mileage Report (see Section 5.26.4))	Annually

5.15 RISK CONTROL AND SAFETY PROGRAM.

5.15.1 CONTRACTOR is solely responsible for safety under the Contract. CONTRACTOR shall safely render all services and perform all work under the Contract. CONTRACTOR shall develop a comprehensive,



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ongoing systematic review of hazards involving the environment, vehicles, equipment, machines, and people, and take action to avoid identifiable hazards pertaining to CONTRACTOR's services. The goal is to provide a safe environment for the public and CONTRACTOR.

- 5.15.2** CONTRACTOR shall be responsible for compliance with all applicable federal, state, and local (city/county) laws, ordinances, and regulations during the performance of this work. CONTRACTOR shall indemnify the CITY from fines, penalties, and corrective measures that result from acts of commission or omission by CONTRACTOR and its subcontractors (if any), agents, employees, or assigns and their failure to comply with safety requirements.
- 5.15.3** CONTRACTOR shall enforce the use of any and all personal protective equipment needed to complete the tasks required by this Contract.
- 5.15.4** CONTRACTOR shall provide warning signs, barricades, and verbal warnings as required to provide proper guidance to its workforce.
- 5.15.5** CONTRACTOR shall inform its employees of emergency procedures to be followed in case of a fire, medical emergency, or any other life-threatening matter.
- 5.15.6** CONTRACTOR shall notify the CITY immediately of any accident involving personnel or damage to material and equipment. All accidents involving a CITY-owned vehicle shall also be logged into the CAD/AVL system by the CITY's OCC.
- 5.15.7** CONTRACTOR shall perform job-site safety inspections monthly. A report of CONTRACTOR's findings/observations, and corrective measures taken, if any, shall be made available to the CITY upon request.
- 5.15.8** CONTRACTOR shall provide and maintain first-aid kits on the site at all times, which must contain all emergency medical supplies likely to be required by persons in the facility.
- 5.15.9** CONTRACTOR shall provide a Risk Control and Safety Plan, pursuant to **Section 5.14.3**, with written rules and procedures for the assessment of preventable and non-preventable accidents. CONTRACTOR also shall:



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- 5.15.9.1** Conduct monthly safety inspections.
- 5.15.9.2** Hold monthly safety committee meetings.
- 5.15.9.3** Annually review vehicular and passenger accidents.
- 5.15.9.4** Develop and implement safety-related training.
- 5.15.9.5** Conduct hazardous materials training.

5.15.10 To comply with the FTA’s Public Transportation Agency Safety Plan (**PTASP**) final rule, 49 CFR Part 673, published on July 19, 2018, the CITY requires all service-provider contractors to develop and implement a PTASP unique to the contractor’s system and scope of operation that follows established FTA guidelines for plans.

5.15.10.1 The PTASP should be submitted to CITY for approval and implementation, pursuant to **Section 5.14.3**, and should be developed utilizing federally-required processes and procedures that implement safety management systems (**SMS**) principles and methods. Such processes include the establishment and regular meetings of a Safety Committee that includes an equal number of frontline employee representatives and management representatives, as outlined by the FTA.

5.15.10.2 The CONTRACTOR’s SMS shall include the PTASP’s Safety Management Policy Statement and Safety Risk Management, Safety Assurance, and Safety Promotion policies and procedures that encompass a top-down and data-driven approach to safety risk management and ensure the effectiveness of safety risk mitigation. The plan should address the seven Safety Performance Baselines and Targets as identified below:

Category	Operator
Fatalities: Total number of reportable fatalities	Baseline: # Target: #
Fatalities: Reportable rate per total vehicle revenue miles by mode	Baseline: # / # of miles Target: # / # of miles



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Injuries: Total number of reportable injuries	Baseline: # Target: #
Injuries: Reportable rate per total vehicle revenue miles by mode	Baseline: # / # of miles Target: # / # of miles
Safety Events: Total number of reportable events	Baseline: # Target: #
Safety Events: Reportable rate per total vehicle revenue miles by mode	Baseline: # / # of miles Target: # / # of miles
System Reliability: Mean distance between major mechanical failures by mode	Baseline: # miles Target: # miles

5.16 VEHICULAR-EMPLOYEE ACCIDENT AND INJURY INVESTIGATION

5.16.1 For investigation of accidents and injuries, CONTRACTOR shall:

5.16.1.1 Interview supervisors and employees involved or relevant to accident/injury.

5.16.1.2 Assist employee in filing proper accident/injury reports in a timely manner.

5.16.1.3 Process accident/injury claims through appropriate local/state agencies.

5.16.1.4 Submit appropriate monthly, quarterly, and annual reports concerning accidents/injuries.

5.16.1.5 Work as liaison with police departments.

5.16.1.6 Report all accidents promptly to designated CITY staff.

5.16.2 Contractor shall report all accidents involving a CITY-owned vehicle, including minor accidents that occur on CITY property, to the CITY and CITY’s OCC.

5.17 ACCIDENTS AND INCIDENTS NOTIFICATION REQUIREMENT AND PROCESS. Accidents are defined per 49 CFR Part 655.4. CONTRACTOR



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must report to the CITY on a monthly basis any major safety and security incidents, as well as any non-major safety and security incidents, per the reporting thresholds outlined in the NTD Safety and Security Reporting Manual, as amended (currently available at transit.dot.gov/sites/fta.dot.gov/files/2023-04/2023-Safety-and-Security-Policy-Manual-1-1.pdf). The CITY must be notified immediately of any accident that meets the above criteria, results in anyone being transported for medical attention, or draws the media to respond to accident scene (or when it is anticipated that the media will respond to the accident scene). See, e.g., **Exhibit 34**, “Monthly Incidents.”

5.18 SUBSTANCE ABUSE PREVENTION POLICY

5.18.1 CONTRACTOR shall: establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 40 and 655; produce any documentation necessary to establish its compliance with Part 40 and Part 655; and permit any authorized representative of the United States Department of Transportation or the CITY to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under Part 40 and Part 655 and review the testing process. CONTRACTOR shall submit to the CITY, pursuant to **Section 5.14.3**, its annual Management Information System (**MIS**) Report.

5.18.2 Contractor shall maintain and submit to the CITY, pursuant to **Section 5.14.3** (and **Section 6.26**), a comprehensive Drug and Alcohol (Substance Abuse) Plan. See, e.g., **Exhibit 26**, “Substance Abuse Policy,” which details the CITY’s own policy as an example. This Plan is an annual plan outlining substance abuse testing as required by 49 CFR Parts 40 and 655. At the conclusion of the Contract’s term, CONTRACTOR shall submit all reports and documentation as required by federal, state, and local regulations and in accordance with the Contract’s terms. Further, CONTRACTOR shall ensure that all reports are current and complete. The Plan shall include, but is not limited to:

5.18.2.1 An adopted drug and alcohol use policy.

5.18.2.2 A minimum required training for all safety-sensitive covered employees and supervisors.

5.18.2.3 Drug and Alcohol testing procedures consistent with 49 CFR Part 40 and 655, as amended.



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5.18.2.4 Verification to ensure medical review officers, substance abuse professionals, breath alcohol technicians, and collectors in the drug and alcohol testing program have the required qualifications.

5.19 OPERATION DURING A DECLARED EMERGENCY. In the event of a declared emergency, CONTRACTOR must deploy operators, vehicles, and support staff in a manner prescribed by the CITY. The CITY will compensate CONTRACTOR during such period of declared emergency for services that exceed the normal expense of operating service under this Contract.

5.20 EMERGENCIES.

5.20.1 CONTRACTOR shall develop, implement, and maintain an Emergency Operations Plan to respond to emergencies and routine problems that may occur. CONTRACTOR must submit to the CITY, pursuant to **Section 5.14.3**, its Emergency Operations Plan. Occurrences include, but are not limited to:

- 5.20.1.1** Passenger injuries;
- 5.20.1.2** Deaths;
- 5.20.1.3** Disturbances;
- 5.20.1.4** Illness;
- 5.20.1.5** Inclement weather;
- 5.20.1.6** Accidents;
- 5.20.1.7** Detours;
- 5.20.1.8** Employee injuries; and
- 5.20.1.9** Strikes/walkouts/work stoppage(s).

5.20.2 CONTRACTOR shall prepare and maintain during the Contract's term a Continuity of Operations Plan (**COOP**) that complies with Federal Preparedness Circular 65, as amended. The CITY may request, and CONTRACTOR shall provide, the COOP at any time during the term of the Contract. The CITY may request an updated COOP at any time during the term of the Contract, and CONTRACTOR shall immediately remit an updated COOP to the CITY. As needed, CONTRACTOR shall also assist the CITY in developing and maintaining emergency planning efforts, including emergency preparedness and disaster recovery planning.

5.20.3 CONTRACTOR shall immediately inform the CITY of any known or possible work stoppage or concerted work action. The CITY may request, and CONTRACTOR shall provide, a written strike plan in response to, and specific to, any possible impending work stoppage



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or related actions by its workforce, in whole or in part. The CITY may also request an updated written strike plan at any time during the term of the Contract and CONTRACTOR shall immediately remit the updated strike plan to the CITY.

5.20.4 During a work stoppage of any kind, CONTRACTOR shall be wholly responsible to operate and track daily revenue service at a level equal to or greater than Sunday level service. By the beginning of the **fifth day** from the initiation of the strike or concerted work action, CONTRACTOR shall fully implement the required Sunday level service, recognizing that CONTRACTOR will use its best efforts to allocate any and all identified resources toward the provision of service beginning on **day one** of a strike or concerted work action. As resources allow, service shall be initially concentrated on the routes with the most ridership or as otherwise directed by the CITY.

5.20.4.1 CONTRACTOR is responsible for all costs associated with development and implementation of this reduced service level, recognizing that the CITY will pay CONTRACTOR only for Revenue Miles tracked and operated during such a time.

5.20.4.2 If CONTRACTOR has not provided services in full compliance with this Section by the aforementioned **fifth calendar day** from the initiation of the strike or concerted work action, then the CITY may (in lieu of finding CONTRACTOR in default) use a replacement operator to provide the services (collectively referred to as "**replacement services**").

5.20.4.3 The CITY may utilize such replacement services as a substitute for all or any part of CONTRACTOR's services and may maintain replacement services in effect until CONTRACTOR is able to resume performance in full compliance with this Contract. Before implementing replacement services, the CITY shall notify CONTRACTOR in writing to cure its noncompliance with the Contract.

5.20.4.4 If the CITY utilizes replacement services under the Contract, CONTRACTOR shall be liable to the CITY for the actual amount by which the cost of the services exceeds the amount that would have been payable under this Contract for comparable services. During the period in which any replacement services are provided, the only



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compensation payable to CONTRACTOR will be for the Revenue Miles that CONTRACTOR itself actually provides.

5.20.4.5 Any action taken by the CITY in response to CONTRACTOR's failure to perform shall not preclude the CITY from subsequently finding CONTRACTOR in default of this Contract for the same or any related failure to perform.

5.21 MARKETING AND PUBLIC RELATIONS.

- 5.21.1** The CITY provides all schedules, maps, interior car cards, fare media, and other printed passenger information materials required for marketing the transit service.
- 5.21.2** CONTRACTOR shall distribute and/or install CITY passenger notices or interior car cards. CONTRACTOR shall also cooperate in marketing, promotion, advertising, public relations, and public education programs/projects undertaken by the CITY from time to time. These materials are subject to CITY approval prior to being installed. All signage, except those required by the CITY, is subject to placement on a space-available basis, with paid advertising having priority in placement.
- 5.21.3** The CITY shall be the exclusive public media spokesman in connection with transportation service, unless media inquiries are specific to CONTRACTOR's proprietary information or involve matters for which only CONTRACTOR can respond.
- 5.21.4** Before taking action, CONTRACTOR shall notify the CITY of any court subpoenas or public/media requests for records, data, or other information in possession of CONTRACTOR related to performance of the Contract's requirements, terms, or conditions.
- 5.21.5** The CITY has established guidelines for communicative activities on public transit properties and assets. Under no circumstances may CONTRACTOR or its employees distribute or allow the placement or distribution of any unauthorized printed or written materials on public transit properties or assets without express written permission from the CITY.



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5.22 ADVERTISING ON EXTERIOR AND INTERIOR OF VEHICLES

- 5.22.1** CONTRACTOR shall allow the CITY's contracted bus advertising vendor and its subcontractors access to all buses assigned under this Contract for them to install and remove advertising material and to accommodate their need to accomplish those tasks through CONTRACTOR's provision of working space and available vehicles for them to the extent it does not unreasonably interfere with CONTRACTOR's primary duties in performing transit services.
- 5.22.2** CONTRACTOR shall communicate regularly with the CITY's bus advertising vendor regarding issues affecting bus availability for advertising installation and removal, such as providing the CITY's vendor a copy of the daily bus out-of-service list and 90-day paint-cure-period list.
- 5.22.3** CONTRACTOR, at no additional cost to the CITY, may remove exterior advertisements to conduct vehicle repairs if CONTRACTOR receives prior approval from the CITY, who will communicate with the CITY's bus advertising vendor regarding the removal.
- 5.22.4** CONTRACTOR shall ensure buses are washed, dried, and prepared for advertising installation when the CITY or the CITY's bus advertising vendor provides **three business days'** advance notice.
- 5.22.5** CONTRACTOR shall regularly install and remove selected interior passenger notices and signage bus cards at the CITY's direction. All signage, except those required by the CITY, are subject to placement on a space-available basis, with paid advertising as the priority. All non-paid interior advertising (passenger notices and signage bus cards) shall be displayed in a clean and neat condition acceptable to the CITY. CONTRACTOR shall inspect non-paid interior advertising daily during the fueling and cleaning of buses and remove and replace any passenger notices and signage bus cards in disrepair (rips, tears, graffiti marks, excessively dirty or faded advertising, etc.).
- 5.22.6** Advertising materials shall be posted with adherence to the dates provided in the individual advertising contracts between the CITY's advertising vendor and its clients.
- 5.22.7** CONTRACTOR shall conduct a pre-installation inspection of buses and approve buses for advertising installation and a post-installation inspection of the buses for damages during installation. Any bus damage discovered by CONTRACTOR shall be documented during



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any pre-installation or post-installation inspections conducted by CONTRACTOR. CONTRACTOR shall reject the damaged bus from advertising installation until repairs are complete and notify the CITY. The CITY, in its sole opinion, will determine the responsible party for any bus damage repair after CONTRACTOR conducts a pre-installation or post-installation inspection.

- 5.22.8** The CITY's bus advertising vendor is responsible for repairing any damage to a bus that the CITY, in its sole opinion, determines to have resulted from the installation or removal of advertising material by the CITY's bus advertising vendor. The City's bus advertising vendor can choose to work directly with CONTRACTOR to affect repairs. CONTRACTOR shall develop a system to document such damage to distinguish it from other types of damage. This system must include the bus number, area(s) needing repair, and digital pictures of vehicle's condition. If CONTRACTOR provides the repair work, CONTRACTOR shall obtain the concurrence of the CITY's bus advertising vendor to invoice the vendor within **30 calendar days** for such repairs at the current standard hourly rates for CONTRACTOR, a cost agreed upon between CONTRACTOR and the CITY's advertising vendor, subject to review and approval in writing by the CITY.

5.23 CONTRACTED SERVICE PERSONNEL.

5.23.1 Independent Contractor/Employer Responsibilities:

5.23.1.1 This Contract is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement, partnership, joint employer arrangement, or other relationship between the CITY and CONTRACTOR, nor does the Contract establish a formal business organization of any kind, and the parties' rights and obligations shall be only those expressly set forth in the Contract. The parties agree that no persons supplied by CONTRACTOR in the performance of CONTRACTOR's obligations under the Contract are considered to be CITY employees, and no rights of CITY civil service, retirement, or personnel rules apply or accrue to such persons. CONTRACTOR shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, occupational disease compensation, unemployment compensation, other employee benefits, and all taxes and premiums appurtenant thereto for its employees, and CONTRACTOR shall defend, indemnify, save, and hold the



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CITY harmless with respect thereto.

5.23.1.2 CONTRACTOR shall be solely responsible for the satisfactory work performance of all its employees as described in this Contract or in any performance standards established by the CITY. CONTRACTOR shall be solely responsible for payment of all its employees' and/or subcontractors' wages and benefits. See **Exhibit 3**, "Employee MOU and Wage Progression."

5.23.1.3 In addition, CONTRACTOR shall be responsible for identifying and arranging restroom and break facilities for use by its bus operators while in the provision of service on all designated routes. It is imperative that the Contractor regularly monitor the availability of such facilities, meet with its personnel to seek input on the location and condition of such facilities, and provide feedback to the City during the schedule development process in order to incorporate the location of such facilities into regional transit schedules. See **Exhibit 4**, "Restroom Facilities."

5.23.1.4 CONTRACTOR's key personnel must be locally present and committed full-time for the project.

5.23.1.5 If the CITY approves a variance to the time dedication level of any supervisory staff, this variance is subject to immediate reversal at the sole discretion of the CITY. Offices for all of CONTRACTOR's personnel assigned to this Contract will be physically located at the West Transit Facility.

5.23.2 General Manager: CONTRACTOR shall provide contract management through a General Manager at a level and capability sufficient to oversee and manage all activities associated with every aspect of this Scope of Work and the Contract. The principal function of the General Manager shall be to supervise and provide expertise in all transit operations. The General Manager will work cooperatively with the CITY in assuring service quality.

Minimum Qualifications: The General Manager shall have a minimum of **five years'** experience within the **last seven years** as a manager supervising and running a fixed-cost transit property/operation of similar size and scope.



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5.23.3 Maintenance Manager: CONTRACTOR shall provide maintenance management through a Maintenance Manager at a level and capability sufficient to oversee its functions and employees. The principal function of the Maintenance Manager will be to supervise fleet maintenance functions and employees.

Minimum Qualifications: The Maintenance Manager shall have a minimum of **three years**' experience within the **last five years** in a management capacity overseeing a fixed-cost transit property/operation with an alternative fuel fleet of similar size and scope.

5.23.4 Operations Manager: CONTRACTOR shall provide operations management through an Operations Manager at a level and capability sufficient to oversee its functions and employees. The principal function of the Operations Manager will be to supervise the operations division and employees.

Minimum Qualifications: The Operations Manager shall have a minimum of **five years**' experience within the **last seven years** in an Operations/Assistant General Manager capacity managing a transit property/operation of similar size and scope.

5.23.5 Environmental Manager: CONTRACTOR shall engage the services of a full-time environmental management administrator, stationed at all times in the West Transit Facility, who will develop and implement a comprehensive Environmental Management Program (**EMP**) and an Environmental Management System (**EMS**) (see **Section 10.19**). The Environmental Manager will work cooperatively with the CITY and be accountable for substantive matters pertaining to environmental maintenance and management as provided under this Contract. These responsibilities for the Environmental Manager include, but are not limited to:

5.23.5.1 Ensure compliance with federal, state, and local regulations, including FTA requirements;

5.23.5.2 Perform chemical inventory, data collections, and environmental record keeping;

5.23.5.3 Maintain effective environmental compliance and sustainability management;

5.23.5.4 Conduct required environmental training for all staff under this



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Contract;

5.23.5.5 Confirm all environmental requirements are met for the fleet, materials, and equipment; and

5.23.5.6 Provide a clean and safe environment.

Minimum Qualifications: The Environmental Manager shall have educational environmental training and a minimum of **three years'** environmental experience within the **last five years** and training in air quality management, underground storage tank management and monitoring, hazardous materials management, and stormwater and water pollution control management.

5.23.6 Information Technology Specialist: Contractor shall engage the services of a full-time information technology specialist who will fulfill the CITY's "Phoenix Technology Services Technical Requirements." See **Exhibit 25**. The Information Technology Specialist shall operate onsite to support the transit operations, acting as a technology liaison between the CONTRACTOR and the CITY. Also, the Information Technology Specialist shall have experience and expertise to support various Information Technology Administrator functions. The Information Technology Specialist shall also be able to provide the administrator level permissions for the desktops, servers, network, etc. to support the technology needs.

Minimum Qualifications: The Information Technology Specialist shall have a minimum of **three years'** information technology experience within the **last five years**, having supported applications, network, servers, and desktops for a property/operation of similar size and scope.

5.23.7 Road Supervision: CONTRACTOR shall provide sufficient supervision of contracted services, including the monitoring of schedule adherence, accident/incident investigation, on-road operation, and on-route compliance. This supervision must include conducting ride checks (on-board) to ensure operator adherence to procedures (e.g., collecting fares, complying with ADA requirements, and maintaining good passenger relations). Such supervision must also include responding in person to investigate accidents/incidents within **20 minutes or less** of occurrence and assisting the appropriate law enforcement agency in any way possible. Road supervision must be present at all times and in sufficient quantity when services are scheduled to operate. The CITY reserves the right to provide similar investigations and adherence checks of its own



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without notice to ensure CONTRACTOR's compliance with the terms of the Contract.

5.23.8 Dispatch Monitoring Personnel: CONTRACTOR shall provide adequate dispatch monitoring personnel to enable effective operator/vehicle assignments and prompt responses to all areas of operations when situations occur that could impact CONTRACTOR's service. CONTRACTOR shall monitor communications between the CITY's OCC staff and buses and respond as necessary or as directed by the CITY's OCC. CONTRACTOR's dispatch monitoring personnel shall be on duty at all times when services are scheduled to operate. CONTRACTOR's dispatch monitoring personnel shall follow the "Phoenix Call Escalation Process" prescribed by the CITY for CAD/AVL-related functional or performance issues. See **Exhibit 27**.

5.23.9 ADA Staff:

5.23.9.1 ADA-Compliant Process: CONTRACTOR shall assign staff and establish a process that complies with ADA requirements, as amended. CONTRACTOR staff shall provide an effective rescue system when passengers who use a wheelchair or authorized mobility device require a lift or ramp and are stranded due to an inoperable lift, ramp, or vehicle.

5.23.9.2 Minimum Rescue Policy Standards for Passengers Using Wheelchairs:

- A.** If the passenger will be stranded for more than **30 minutes**, CONTRACTOR shall rescue the passenger.
- B.** Vehicles that are dispatched for rescue shall make every effort to pick up the stranded passenger within **30 minutes** of the request for rescue.
- C.** CONTRACTOR shall ensure that all managers, operators, road supervisors, and dispatchers are trained annually on rescue procedures, mobility device movement, securement, safety, and passenger sensitivity.



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5.23.10 Operator Qualifications:

5.23.10.1 Driving Record Required Qualifications:

- A. Operators must have a valid Arizona commercial driver's license.
- B. Operators must be a minimum of **21 years** of age.
- C. Operators must have a five-year driving record unless a five-year record is unavailable, and in that case, the operator must have at least a three-year driving record. CONTRACTOR must review a **five-year** record (or **three-year** record as provided above) issued within the past **45 days** from any state where the applicant has held an operator's license in the past **five years**.
- D. Operators must have possessed a valid operator's license in the U.S. for the past **three years** if an out-of-country driving record is unavailable.
- E. Operators must **not** have driving records that reflect more than **two** moving violations in the past **five years**. (Under A.R.S. § 28-3392, a Driving Safety Course taken for a moving violation will not change the record for a commercial driver's license holder.)
- F. Operators must **not** have driving records that reflect more than **two** accidents in the past **five years**.
- G. Operators must **not** have driving records that reflect **any** conviction of a serious traffic violation (DUI, reckless driving, driving with a suspended license, etc.) in the past **seven years**.
- H. Operators must **not** have driving records that reflect more than **two** convictions of serious traffic violations (DUI, reckless driving, driving with a suspended license, etc.) in their **lifetime**.
- I. Operators must **not** have driving records that reflect more than **two** violations for "no liability insurance" in the past **five years**.



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- J. Operators must pass their background screenings. (Any proposed hiring should be conditioned upon the prospective employee being allowed within the facilities and cleared with his or her background screening.)
- K. Operators must not have **any** felony or misdemeanor drug offense, theft, assault, or other conviction for an offense that conflicts with the duties of the position within the past **seven years**.
- L. Operators must not have **any** conviction or deferred adjudication for a felony or misdemeanor offense that is serious enough to be considered in conflict with the duties of the position in their **lifetime** (e.g., murder or sexual assault conviction).

5.23.10.2 Other Qualifications:

- A. All bus operators must be employees (full or part time) of CONTRACTOR.
- B. All bus operators must have the ability to effectively read, write, and speak English.
- C. All bus operators must have sensitivity to passenger needs.
- D. All bus operators must have the ability to resolve complaints and problems as required.
- E. All bus operators must pass a biennial U.S. Department of Transportation (**DOT**) physical exam and be included in a pool of safety sensitive positions for random drug and alcohol testing as required by FTA regulations.

5.23.11 Any safety-sensitive employees, and any other employees that will have public contact through the course of their duties, must meet the following criteria upon hire:

5.23.11.1 No such employees may have **any** conviction for a felony offense within the past **seven years**.

5.23.11.2 No such employees may have **any** conviction or deferred adjudication for a felony or misdemeanor offense beyond



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seven years that is serious enough in nature to be considered in conflict with the duties of the position in their **lifetime** (e.g., murder or sexual assault conviction).

5.23.12 Any employees with no responsibility for public contact must meet the following criteria upon hire:

5.23.12.1 No such employees may have any conviction or deferred adjudication for a felony offense within the past **seven years**.

5.23.12.2 No such employees may have **any** conviction or deferred adjudication for a misdemeanor offense that conflicts with the duties of the position within the past **seven years**.

5.23.13 CONTRACTOR shall conduct an annual review and provide a comprehensive report to the CITY by July 15 of each Contract year concerning driving records, as required by 49 CFR 391.25, to ensure that all employees continue to meet the preceding qualifications. Employees failing to meet these qualifications shall not be used to perform services under this Contract. For the final year of the Contract, the report shall be submitted on the date requested by the CITY.

5.23.14 At no additional cost to the CITY, CONTRACTOR's staff shall attend training as needed and directed by the CITY, including but not limited to: Terrorism Awareness Recognition and Reaction (**TARR**), CAD/AVL and other Information Technology training and user groups, National Incident Management System (**NIMS**), Customer Assistance System (**CAS**), FCS and fingertip maintenance, and other training as required.

5.23.15 CONTRACTOR shall provide training for all personnel working on this Contract. CONTRACTOR shall ensure that individuals are fully knowledgeable of their duties and responsibilities and that appropriate personnel can operate a bus, fuel a bus, and operate equipment used to maintain a bus in a safe manner.

5.23.16 CONTRACTOR is responsible for providing transit passes to be used by CONTRACTOR's employees or their dependents, should CONTRACTOR decide to provide such a benefit to its employees. Any such costs shall be paid by CONTRACTOR.



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5.24 VEHICLE OPERATIONS PERSONNEL TRAINING.

CONTRACTOR shall submit to the CITY, pursuant to **Section 5.14.3**, an operations staff training plan and program.

5.24.1 Training of Operations Staff: CONTRACTOR shall develop, implement, and maintain a formal training and re-training plan and program for all personnel that may operate a bus in the completion of their duties. The training plan and program must be submitted to the CITY for review. All training must be documented, and the CITY may audit CONTRACTOR's compliance with its training plan and program and its documentation at any time.

5.24.1.1 CONTRACTOR's training plans must include classroom instruction, behind-the-wheel training under supervision of a qualified instructor, and in-service training. Such training shall include training and familiarization with assigned route(s), fare collection, and bus-stop placement prior to the bus operator's assignment to revenue service. The plan and program must provide formal re-training measures, including criteria for determining the success of re-training efforts.

5.24.1.2 Staff must be trained to proficiency, as appropriate for their duties, in the assisting of passengers with disabilities, including those using mobility aids (official ADA training or equal with prior approval by the CITY in writing).

5.24.1.3 CONTRACTOR's training plans must include, at a minimum, training in personal safety, theft/robbery prevention, violence in the workplace, assault prevention, conflict resolution and de-escalation, ADA sensitivity and annual refresher training, and information regarding operator responsibilities and training on each vehicle type: Battery Electric, Diesel Hybrids, Fuel-Cell Electric (Hydrogen), Diesel, and CNG.

5.24.1.4 Persons designated as a "qualified instructor" under the Contract must have a proven, documented record of safe driving and at least **two years'** experience of driving professionally, and a demonstrated ability to provide high quality customer service.

5.24.1.5 Annual re-training measures shall include refresher



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courses on systems installed on buses, including but not limited to: Computer Aided Dispatch/Automatic Vehicle Locator (CAD/AVL), fare collection system, and headsigns and annunciators.

5.24.1.6 At no additional cost to the CITY, CONTRACTOR shall assume and pay for all of CONTRACTOR's ancillary training for its personnel.

5.24.2 Additional Operator Training: At a minimum, operator training must comply with the following requirements:

5.24.2.1 Operators must acquire a valid CDL "Class B" license with applicable endorsements and required medical certifications prior to operating any CITY-owned vehicles on roadways.

5.24.2.2 Operators must have a working knowledge of all assigned routes and procedures prior to their release to operate in revenue service. Under supervision and without passengers, operators shall drive all routes to which they are assigned before they are allowed to drive in service unsupervised.

5.24.2.3 Operators must receive the requisite number of hours of ADA Sensitivity Training for working with persons with disabilities (see **Section 5.24.3**) prior to their release to operate in revenue service.

5.24.2.4 Operators must be trained and signed off by a qualified instructor (as to the operator's successful attainment of the skills necessary to properly operate the vehicle type to which the operator has been assigned) prior to their release to operate in revenue service.

5.24.2.5 Operators must successfully complete a defensive driving course prior to their release to operate in revenue service.

5.24.2.6 Operators must be checked by CONTRACTOR for licensing and medical certifications at least once every **six months**.

5.24.2.7 Operators shall be re-evaluated and re-trained, if necessary, by CONTRACTOR's qualified instructor, after



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riding with the operators.

5.24.3 ADA and Title VI Training (Initial and Refresher): CONTRACTOR shall provide ADA and Title VI training to all personnel providing service to the public. Such personnel shall be included whether they perform such service on a regular, intermittent, or infrequent basis. At a minimum, such training shall include:

5.24.3.1 Initial Training:

A. CONTRACTOR shall provide **four full hours** of classroom ADA sensitivity training. This training shall include:

1. Lecture on the ADA law with hands-on employee participation and also such other appropriate instructional media (e.g., slides, video, etc.) as may be successfully integrated into the instructional process.
2. Panel discussion led by persons with disabilities presenting information regarding different types of disabilities.

B. CONTRACTOR shall provide **three full hours** of classroom ADA operational training. This training shall include:

1. Discussion of various disabilities that present transportation issues.
2. Scenarios regarding service to passengers with disabilities and the practical remediation of access problems presented in those scenarios.
3. Instruction on equipment and other resources available to make public transit a viable transportation alternative to passengers with disabilities, including education about operator responsibilities, equipment, and devices currently in use, proper use and securement of such equipment and devices; and other matters as CONTRACTOR deems appropriate.
4. Field time on the bus, with instructors to evaluate the



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operators' expertise in boarding, securement, and de-boarding of mobility-aid devices and the operators' familiarity with other equipment and devices then in use. Several types of mobility-aid devices shall be used to conduct this hands-on training. For use in hands-on training and hands-on evaluation, CONTRACTOR shall provide at least one of each of the following: manual wheelchair, electric scooter, and electric wheelchair.

5.24.3.2 Annual Refresher Training:

A. CONTRACTOR shall provide **60 full minutes** of classroom ADA sensitivity and Title VI training each year. This training shall include:

1. A review of ADA complaints filed by passengers with disabilities during the preceding year by category.
2. A review of Title VI complaints filed by passengers during the preceding year.
3. A review of passengers with disabilities requiring special service needs.
4. A panel discussion led by persons with disabilities on recommended improvements to accessible transit service.
5. ADA operational training, including: discussion of scenarios regarding service to passengers with disabilities and the practical remediation of access problems presented in those scenarios; instruction on equipment and other resources available to make public transit a viable transportation alternative for passengers with disabilities; and education about operator responsibilities, boarding and securement equipment and devices currently in use, proper use of such equipment and devices, and other matters as CONTRACTOR deems appropriate.

B. CONTRACTOR shall provide a minimum of one hands-on check to evaluate operators' expertise in on-boarding, securement, and de-boarding of mobility-aid



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devices and operators' familiarity with other equipment and devices then in use. Several types of mobility-aid devices shall be used to conduct the hands-on training. For use in hands-on training and hands on evaluation, CONTRACTOR shall provide at least one of each of the following: manual wheelchair, electric scooter, and electric wheelchair.

C. CONTRACTOR shall submit to the CITY, pursuant to **Section 5.14.3**, its ADA Training Plan and Curriculum.

5.25 ADA AND TITLE VI (RACIAL DISCRIMINATION) COMPLAINT RESOLUTION.

It is the CITY's policy to assure full compliance with Title VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act, and related statutes and regulations in all programs and activities. These federal statutes require that no person shall, on the grounds of race, color, national origin, or disability be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program, activity, or service that the CITY administers.

5.25.1 Resolution Process: CONTRACTOR shall establish a process for the thorough and prompt resolution of all ADA and Title VI complaints. The process shall include contemporaneous documentation of the nature of the complaint, its processing, its resolution, any remedial actions undertaken, and communication of a final response to the complainant. At a minimum, the process shall include:

5.25.1.1 Intake procedures and complaint evaluation;

5.25.1.2 Investigation, follow-up, and investigative reports (including the information described below for investigative reports in **Section 5.25.2**);

5.25.1.3 Complaint resolution;

5.25.1.4 Passenger contact; and

5.25.1.5 Remedial action taken.

5.25.2 Complaint Investigation: CONTRACTOR must investigate ADA and Title VI passenger complaints. After CONTRACTOR performs each investigation and completes its investigative report, that report must be evaluated by the CITY for compliance with federal requirements. Each



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completed investigative report must provide full and complete documentation for the following steps:

5.25.2.1 Step One: CONTRACTOR must review the complaint information entered into CAS by customer service staff of Valley Metro (who the CITY has authorized to serve this function on the CITY'S behalf). Any new issues identified during the investigation should be documented by CONTRACTOR in CAS.

5.25.2.2 Step Two: CONTRACTOR must conduct interviews and collect facts.

5.25.2.3 Step Three: CONTRACTOR must document in CAS (under the case number assigned) all pertinent regulations, rules, policies, and procedures that apply to the investigation.

5.25.2.4 Step Four: CONTRACTOR must make its determinations regarding the validity of the complaint, describing the analysis for validity/invalidity in detail.

5.25.2.5 Step Five: CONTRACTOR must make its determinations regarding resolution for each valid complaint, if any, describing every resolution in detail.

5.25.2.6 Step Six: CONTRACTOR must carry out complaint resolution, if any, describing all actions taken or to be taken.

5.25.2.7 Step Seven: CONTRACTOR shall respond to the customer regarding its determinations and resolutions, if any, and document that response in CAS.

5.25.3 Complaint Resolution Plan: CONTRACTOR shall submit to the CITY, pursuant to **Section 5.14.3**, its ADA and Title VI Complaint Resolution Plan for the CITY'S evaluation and approval in writing. CONTRACTOR may not implement this Plan without the CITY'S approval in writing.

5.25.3.1 If a complaint is considered ADA in nature as defined by 49 CFR, Part 27, CONTRACTOR shall follow the procedures established by the CITY in documenting, investigating, and responding to the complaint with corrective actions taken for this type of complaint.



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5.25.3.2 If a complaint is considered Title VI in nature as defined by 49 CFR, Part 21, CONTRACTOR shall follow the procedures established by the CITY in documenting, investigating, and responding to the complainant with corrective actions taken for this type of complaint.

5.25.4 Complaint and Resolution Training: In addition to the foregoing, CONTRACTOR shall provide appropriate classroom and hands-on training to each individual involved in the ADA and Title VI complaint resolution process.

5.25.5 Uniform Specifications and Appearance Standards:

5.25.5.1 The consideration for safety must be applied to all dress code components for all staffing levels and duty assignments. All employees of CONTRACTOR must wear their CITY-issued employee ID/security badge visibly (between chest and shoulder areas, on the employee's right-hand side) while on the CITY's property and when in revenue service.

5.25.5.2 At all times while on duty, operators must be well groomed, clean, and in complete uniform. The complete uniform includes a collared shirt and professional pants. All operator uniforms must be: the same color(s), with the same decal or logo placement; neat in appearance; and cleaned/pressed. Also, the operator shoes must be shined and hair must be neatly cared for and clean. Operators must always conform to these standards of appearance.

5.26 EQUAL EMPLOYMENT OPPORTUNITY PLAN, DISADVANTAGED BUSINESS ENTERPRISE REPORT, AND NATIONAL TRANSIT DATABASE REPORTING.

5.26.1 Equal Employment Opportunity (EEO) Plan: CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3** an Equal Employment Opportunity Plan throughout the Contract's term. This Plan shall comply with the Federal Transit Administration Circular 4704.1A, EEO Requirements and Guidelines for FTA Recipients, as amended. CONTRACTOR shall fully comply with EEO regulations as they pertain to subcontractors.

5.26.2 Disadvantaged Business Enterprise (DBE) Report: CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, a monthly Disadvantaged Business Enterprise Report. This Report must be



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entered into the CCS monthly to assist with complying with 49 CFR Part 26. CONTRACTOR agrees that in connection with performance of this Contract, CONTRACTOR will cooperate with the CITY in meeting its commitments and goals with regard to the maximum utilization of DBE, and CONTRACTOR will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this Contract. This assurance is given by CONTRACTOR and is binding upon it and upon its sub-grantees, contractors, subcontractors, transferees, successors in interest and other participants.

5.26.3 National Transit Database (NTD) Accident Report: CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, a monthly NTD Accident Report. This Report is a report of monthly transit accident statistics as prescribed by the CITY and NTD Reporting Manual, as revised, available at transit.dot.gov/ntd/manuals.

5.26.4 National Transit Database (NTD) Mileage Report: CONTRACTOR shall provide to the CITY, pursuant to **Section 5.14.3**, an annual NTD Mileage Report. This Report is a report of annual transit mileage statistics as prescribed by the CITY and NTD Reporting Manual, as revised, available at transit.dot.gov/ntd/manuals.

5.27 CUSTOMER RELATIONS.

5.27.1 CONTRACTOR's staff must respond initially to all inquiries or complaints through the Customer Service Section of Valley Metro's Regional Services Division within **five business days** for inquiries/complaints requesting a response.

5.27.2 Verification of the date that Contractor responded will be based on the date when the response is entered into the regional Customer Assistance System (**CAS**). CONTRACTOR shall keep the CITY informed of the status of all complaints received. All complaints, even those received directly by CONTRACTOR, shall be directed to the Customer Service Section of the Valley Metro's Regional Services Division at 602- 253-5000.

5.27.3 CONTRACTOR's customer service staff shall coordinate and receive training for the use of Valley Metro's CAS. CONTRACTOR's customer service staff shall coordinate all inquiries or complaints received from any and all individuals.



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- 5.27.4** Valley Metro's Customer Service Section will monitor and report on the quantity, nature of contacts, and timeliness of CONTRACTOR's response. Each complaint will have a deadline for action to be taken. CONTRACTOR shall adhere to those deadlines. All complaints received directly by CONTRACTOR will be recorded with documented actions taken and copies of all documentation will be entered into Valley Metro's CAS.
- 5.27.5** Any complaints about CONTRACTOR's service that are received through the offices of the Mayor, City Council, City Manager's Office, or the City's Public Transit Department must be responded to by CONTRACTOR's staff, in coordination with the City's Public Transit Department, within **three calendar days** from CONTRACTOR's receipt of the complaint from the CITY.
- 5.28 REMOVAL FROM SERVICE.** Pending an investigation and the results of that investigation, the CITY may require CONTRACTOR to immediately remove any operator from CITY service for any one of the following:
- 5.28.1** Committing unsafe or inappropriate acts while providing service.
- 5.28.2** Failure to follow CITY's requirements as outlined in the Contract (e.g., use of cell phone or other electronic device while operating a transit vehicle).
- 5.28.3** Revocation, suspension, or non-renewal of a valid Arizona commercial driver's license.
- 5.28.4** Conviction of any felony criminal offense.
- 5.28.5** Failure to wear CONTRACTOR's approved uniform while in service.
- 5.28.6** Use of any tobacco product on or near a CITY vehicle.
- 5.28.7** Failure to follow CONTRACTOR's safety rules and regulations.
- 5.28.8** Failure to follow CONTRACTOR's or CITY's security policies, guidelines, and procedures.
- 5.28.9** Notice of an active warrant for the operator that is received by CONTRACTOR or the CITY.
- 5.28.10** Failure to comply with any policy or procedure established by the CITY for the purpose of maintaining or enhancing the quality of



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transit and customer service.

5.28.11 Any other misconduct that the City, in its sole discretion, finds serious enough to affect the integrity of the City's transit service program.

5.29 EMPLOYEES OF PRIOR CONTRACTOR. CONTRACTOR shall afford a preference in hiring to the existing employees of the prior service provider in the bargaining unit(s) represented by Amalgamated Transit Union, Local 1433 [and International Union of Operating Engineers, Local 428] as follows:

5.29.1 The preference in hiring shall not require the hiring of any existing employees if CONTRACTOR determines that such employee: is not qualified for the position (under the terms of the Contract or under CONTRACTOR's employment standards and personnel policies); or should not be hired because of unsatisfactory past employment history (such as documented disciplinary actions, habitual absenteeism, etc.). This preference in hiring shall not extend to: any individuals who were dismissed from their employment for cause; and key management staff of the prior service provider; and hiring into a position that is not reasonably comparable to the position the employee held with the prior service provider.

5.29.2 Nothing in this Section shall be construed as requiring CONTRACTOR to: recognize any union that represented the workforce of the prior service provider (except as may otherwise be required by applicable law); or assume or otherwise be bound by the terms and conditions of any collective bargaining agreement between that prior service provider and any union.

5.30 LABOR RELATIONS REQUIREMENTS.

5.30.1 CONTRACTOR must provide labor contract negotiations and administration of the Contract's terms as required for services under this Contract.

5.30.2 CONTRACTOR shall: fully comply with the legal requirements and labor protective provisions of Section 5333(b) of Title 49 U.S. Code chapter 53 (formerly Section 13(c) of the Federal Transit Act); and assume the obligations of the existing 13(c) Agreement(s) between the CITY's previous fixed route bus service providers, the CITY, and the signatory union(s). See **Exhibit 7**, "Phoenix 1991 Section 13(c) Agreement and Side Letter to Agreement."

5.30.3 CONTRACTOR shall be required to follow the National Labor



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Relations Act. Except as may otherwise be required by applicable law, nothing in this Section shall be construed as requiring CONTRACTOR to assume or otherwise be bound by the terms and conditions of any collective bargaining agreement between the prior service provider and any union.

- 5.30.4** The agreement between the incumbent contractor and Amalgamated Transit Union, Local 1433 is provided in **Exhibit 2**, “ATU Local 1433 Agreement.” The agreement between the incumbent contractor and the Office and Professional Employees International Union is provided in **Exhibit 5**, “OPEIU Local 30 Agreement.” The agreement between the incumbent contractor and the International Union of Operating Engineers, Local 428, is provided in **Exhibit 6**, “Operating Engineers Local 428 Agreement.”

5.31 PERFORMANCE INDICATORS/LIQUIDATED DAMAGES

5.31.1 Performance Measures:

5.31.1.1 All performance indicators and liquidated damage clauses will be strictly enforced. All performance specifications must be strictly adhered to in order to provide the highest level of quality service possible. The CITY reserves the right to monitor CONTRACTOR in its performance of the Contract to ensure adherence to all performance specifications.

5.31.1.2 Performance indicators are metrics developed by the CITY to measure CONTRACTOR's performance. The CITY will make all final determinations as to performance levels and liquidated damage assessments. CITY representatives may, without prior notice, ride in CONTRACTOR-operated vehicles and monitor transit services to ensure compliance with the Contract. The CITY will make all final determinations as to CONTRACTOR's performance relative to the assessment of liquidated damages, with consideration of any performance impacted by extraneous factors that are beyond the control of CONTRACTOR.

5.31.1.3 To receive maximum compensation, CONTRACTOR is required to meet or exceed the following standards on a monthly basis. For the following performance goals, if CONTRACTOR fails to meet acceptable standards, liquidated damage amounts will be deducted from



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CONTRACTOR's total monthly invoice amount. The City does not offer incentives for Contractor performance, but rather expects minimum, high levels of performance at all times.

5.31.1.4 Liquidated damages may also be imposed by the CITY on CONTRACTOR based on each observed violation committed by CONTRACTOR's personnel. CONTRACTOR agrees that a violation of any of the liquidated damage provisions as provided for in this Contract will result in the CITY incurring damages that are impractical or impossible to determine. CONTRACTOR agrees that these monetary assessments are a reasonable approximation of such damages.

5.31.1.5 All liquidated damage assessments as identified by the CITY shall be made and applied to the next available monthly invoice.

5.31.2 On-time Performance:

5.31.2.1 The CITY's expectation for the bus is to depart each time point on time as according to the provided schedule. CONTRACTOR shall instruct bus operators to hold at time points to avoid running early where possible. For the purpose of calculating on-time performance of the CONTRACTOR, grace periods for early and late departures are set in place to account for occasional clock deviations and traffic conditions. On-time performance is calculated by obtaining departure times at all designated time points within the CAD/AVL system. Per CAD/AVL parameters, a bus is considered **on time** if it departs at a time point no more than **one minute (1:00) before** the scheduled time and departs no more than **five minutes and fifty-nine seconds (5:59) after** the scheduled time. A bus is considered **early** if it departs at a time point **one or more minutes (1:00) before** the scheduled time and **late** if it departs from a time point **six or more minutes (6:00) after** the scheduled time.

5.31.2.2 The CITY will assess liquidated damages for failure to provide on-time performance on a **per-route basis for each month** on local, circulator, and RAPID routes as follows:



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On-Time Performance %	Liquidated Damage
84.99% - 82%	\$1,000 per route
81.99% - 79%	\$2,000 per route
78.99% and below	\$3,000 per route

5.31.2.3 The total monthly liquidated damage assessment for the on-time performance indicator shall not exceed **0.50%** of CONTRACTOR's total monthly invoice. Embedded in the performance standard are allowances for GPS anomalies, service delays, incidents/accidents, vehicle breakdowns and schedule adjustments. The CITY will not consider adjustments to on-time performance for any of the above-mentioned occurrences. If the CITY identifies route under-performance due to circumstances under CONTRACTOR's control or due to CONTRACTOR's non-compliance with the Contract's requirements, then CONTRACTOR will have **30 calendar days** from the review date, unless otherwise approved by the CITY, to bring the route(s) into compliance, otherwise assessments will continue.

5.31.3 Missed Revenue Miles:

5.31.3.1 Revenue Miles are the scheduled miles operated with a vehicle in service and available to the general public, with the expectation of carrying passengers (see **Section 5.2.5**). Revenue Miles also include miles operated due to detours (planned or unplanned). Revenue Miles exclude deadhead mileage, vehicle maintenance or bus operator testing, charter/special event and/or bus bridge service, and scheduled miles not operated due to unforeseen incidents/accidents (preventable or non-preventable) and vehicle breakdowns. For purposes of reporting revenue service (miles, hours, and trips), the NTD definitions will be followed. CONTRACTOR shall implement policies and procedures, including staging replacement buses and staff in the field, to monitor service delays, and if necessary, replace or insert a bus to fill in for a portion of a trip to ensure timely completion of that trip. Buses involved in accidents or mechanical breakdowns must be immediately replaced. Under any of the circumstances described above, CONTRACTOR shall take appropriate action to minimize the disruption of service.

5.31.3.2 Revenue trips starting more than **30 minutes** after the scheduled starting time shall be considered missed service,



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with exception for the last full trip on each route/direction. In the event of revenue trips starting more than **60 minutes** after the scheduled starting time, CONTRACTOR shall coordinate with OCC to reposition a vehicle to ensure on-time departure for the next revenue trip on the block to reduce incidents of stranded passengers. CONTRACTOR shall make every effort to deliver last full revenue trip each day for all routes.

- 5.31.3.3** Missed Revenue Miles will be reported on a **monthly basis** as documented by the CITY's OCC and measured as a percentage the total scheduled Revenue Miles for the month. The performance standard for Missed Revenue Miles is **0.40%** or less. The CITY will assess liquidated damages for failure to achieve the performance standards **for any month** as follows:

Missed Miles	Liquidated Damages
0.41% - 0.50%	\$5,000
0.51% - 0.70%	\$7,000
0.71% and above	\$9,000

- 5.31.4** Overall Vehicle Appearance: The CITY, with input from CONTRACTOR, will develop the standards for bus appearance (including graffiti and body damage) and cleanliness. Compliance with the standards will be determined as the bus enters service or leaves the facility yard. The CITY reserves the right to reasonably direct CONTRACTOR to replace vehicle(s) in revenue service that are observed to have excessive or atypical conditions or inoperable system(s). If any revenue or non-revenue transit vehicle fails to comply with the CITY's standards regarding appearance, the CITY will assess liquidated damages in the amount of \$100 per occurrence.
- 5.31.5** Late or Inaccurate Reports or Data: If CONTRACTOR fails to comply with the CITY's reporting requirements either by submitting reports, information, or data after the due date and time, or by submitting inaccurate reports, information, or data, the CITY will assess liquidated damages in the amount of \$500 for each month in which a failure to comply occurs.
- 5.31.6** CONTRACTOR-Influenced Customer Contact: A CONTRACTOR-influenced customer contact is any customer contact received, including those logged in Valley Metro's CAS database, which alleges



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that CONTRACTOR or its employee failed to perform the required service appropriately (including complaints of late bus regardless of reason for lateness, operator rudeness, etc.). This metric will be measured **monthly per 10,000 boardings** as measured by **monthly counts** of total customer contacts received. See, e.g., **Exhibit 35**, “Operating Statistics.” Embedded in the schedule is an allowance for potentially invalid complaints. The performance standard is **five or less customer contacts per 10,000 boardings**. The CITY will not consider arguments pertaining to complaint validity. The CITY will assess liquidated damages for CONTRACTOR’s failure to meet this metric in any month as follows:

Complaint Rate	Liquidated Damage
5.01 - 6.00	\$5,000
6.01 - 7.00	\$7,000
7.01 and above	\$9,000

5.31.7 Total Preventable Accidents per 100,000 Revenue Vehicle Miles:

5.31.7.1 For reporting purposes, an accident means an occurrence associated with the operation of a vehicle if as a result: an individual dies; an individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident; or, with respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle (49 CFR Part 655.4). The term accident does not include an occurrence involving only the boarding or alighting from a stationary motor vehicle (49 CFR Part 390.5). A preventable accident is defined as an occurrence involving a motor vehicle that results in an accident in which the bus operator in question failed to exercise every reasonable precaution to prevent it.

5.31.7.2 Preventable accidents shall be recorded by CONTRACTOR on a monthly basis. The performance standard is **0.75 or less preventable accidents per 100,000 Revenue Miles**. The CITY will assess liquidated damages for CONTRACTOR’s failure to meet this metric in any month as follows:



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Accident Rate	Liquidated Damage
0.76 -1.00	\$3,000
1.01 - 1.25	\$5,000
1.26 and above	\$7,000

- 5.31.8** Total Miles Between Road Calls: A road call is any disruption of service caused by a mechanical malfunction that results in the dispatch of a maintenance or supervisory vehicle to correct and/or remove and replace the vehicle while in revenue service. Such mechanical failures shall not include those caused by issues related to passenger incidents and non-preventable accidents. CONTRACTOR shall document total miles (deadhead and revenue) as recorded between road calls on a monthly basis. See, e.g., **Exhibit 38**, “Revenue Miles Between Road Calls.” The performance standard is **11,000 total miles or above between road calls in October through March** and **9,500 total miles or above between road calls in April through September**. The CITY will assess liquidated damages for CONTRACTOR’s failure to meet this metric in any month as follows:

October through March

Miles Between Road Calls	Liquidated Damage
10,999 - 9,000	\$1,000
8,999 - 7,000	\$3,000
6,999 and below	\$5,000

April through September

Miles Between Road Calls	Liquidated Damage
9,499 - 7,500	\$1,000
7,499 - 5,500	\$3,000
5,499 and below	\$5,000

- 5.31.9** Traffic Citations: For all photo citations received by any CONTRACTOR employee while operating a CITY vehicle, the CITY will assess liquidated damages of **\$500 for each citation**.



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- 5.31.10** Contractor Maintaining Facility Cleanliness: CONTRACTOR must provide ongoing cleaning of the facilities as required in this Scope of Work. If CONTRACTOR fails to perform such cleaning for any areas/items within the facilities, the CITY will assess liquidated damages in the amount of **\$250 for each non-compliant area/item observed by the CITY.**
- 5.31.11** Contractor Fare Collection and Farebox/Validator Operation: For each instance in which CONTRACTOR fails to adhere to CITY's fare collection policy or where improper farebox or validator operation by CONTRACTOR's employee occurs, the CITY will assess liquidated damages in the amount of **\$250 for each instance observed by the CITY.**
- 5.31.12** Contractor Accessible Features Operation: The CITY's determination, in its sole discretion, regarding CONTRACTOR's compliance with this Section will be at the point after which the bus enters service or leaves the facility yard. The CITY reserves the right to direct CONTRACTOR to replace vehicle(s) in revenue service that are observed to have excessive or atypical conditions or multiple inoperable system(s). For each instance in which CONTRACTOR puts into service a vehicle with an improper operating annunciator, kneeling ramp/lift, securement device and seat/lap belts, the CITY will assess liquidated damages in the amount of **\$500 for each instance observed by the CITY.**
- 5.31.13** Announcement of Stops: For each instance in which CONTRACTOR fails to call out stops during the malfunction of a vehicle's annunciator system or as requested by a passenger, the CITY will assess liquidated damages in the amount of **\$250 for each instance observed by the CITY.**
- 5.31.14** Key Personnel: For all Key Personnel, CONTRACTOR will fill vacated positions with the persons, subject to prior approval by the CITY in writing, within **45 calendar days** of the position(s) becoming vacant. Failure to do so may result in liquidated damages of **\$500 per day per each vacated position.**
- 5.31.15** Customer Relations: For each instance that CONTRACTOR fails to initially respond to inquiries or complaints through the Customer Service Section of Valley Metro's Regional Services Division within **five working days** or fails to respond to inquiries or complaints received through the offices of the Mayor, City Council, City Manager's Office, or Public Transit Department within **three**



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calendar days, the CITY will assess liquidated damages in the amount of **\$250 per instance**.

- 5.31.16** Vehicle Inspections: If vehicle repairs are not completed as outlined in this Contract, the CITY will assess liquidated damages in the amount of **\$100 per day per vehicle** until all repairs are made and verified by the CITY.
- 5.31.17** Body Work: CONTRACTOR shall be responsible for all vehicle body repair work and painting. CONTRACTOR shall correct all body and paint deficiencies. For all repairs that are not completed as outlined throughout this Contract from the time the defect was identified, The CITY will assess liquidated damages in the amount of **\$100 per day per vehicle** until all repairs are completed and verified by the CITY.
- 5.31.18** Vehicle Preventive Maintenance and/or Safety Inspections: CONTRACTOR shall maintain a 95% or above on-time percentage for preventive maintenance inspections scheduled and completed as measured on a monthly basis. If CONTRACTOR fails to maintain the required on-time percentage, the CITY will assess liquidated damages for CONTRACTOR’s failure to meet this metric in any month as follows:

On-time Performance %	Liquidated Damage
94.99% - 90%	\$3,000
89.99% - 80%	\$5,000
79.99% and below	\$7,000

- 5.31.19** Preventative Maintenance - Record Keeping: If any inspection by the CITY’s staff of preventive maintenance records reveals the omission or lack of documentation for periodic maintenance service as required by this Contract, the CITY will assess liquidated damages in the amount of **\$250 per occurrence per vehicle**.
- 5.31.20** On-Board System Operation: The CITY shall have the right to direct the CONTRACTOR to replace a vehicle(s) in revenue service that is observed to have atypical conditions or multiple inoperable systems. For each instance in which a system installed on a bus (head signs, CAD/AVL, Digital Video Recorder System, radio, farebox, validator, Automated Passenger Counting (**APC**) system, scrolling marquee, public announcement system, etc.) are not functioning properly or not programmed with proper/current data, the CITY will assess liquidated damages in the amount of **\$250 per on-board system per occurrence observed by the CITY**.



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- 5.31.21** Work Stoppage: If CONTRACTOR fails to provide service levels required by **Section 5.20.4**, the CITY will assess liquidated damages in the amount of **\$50,000 for each day that CONTRACTOR fails to provide the required service levels.**



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Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the FTA recipient or subrecipient that is entering the Contract with Contractor.

6.1 NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES. *[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]*

The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

6.2 NOTIFICATION TO FTA. *[These requirements apply to all contracts and subcontracts in excess of \$25,000.]*

If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

A. Types of Legal Matters Requiring Notification. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

B. Matters Affecting the Federal Government. Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the Contract, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.

C. Additional Notice to U.S. DOT Inspector General. Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act,



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31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY, including divisions tasked with law enforcement or investigatory functions.

6.3 PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS. *[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]*

- A.** Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- B.** Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(I) on Contractor, to the extent the Federal Government deems appropriate.
- C.** Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.



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6.4 ACCESS TO RECORDS, REPORTS, & SITES.

- A. Record Retention.** Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- B. Retention Period.** Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- C. Access to Records.** Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.
- D. Access to the Sites of Performance.** Contractor shall permit FTA, the Agency, and their duly authorized representatives access to the sites of performance under this Contract as reasonably may be required.

6.5 FEDERAL CHANGES. Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Phoenix and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6.6 CIVIL RIGHTS. The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: **(a)** discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; **(b)** exclusion from participation in employment or a



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business opportunity for reasons identified in 49 U.S.C. § 5332; **(c)** denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and **(d)** discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.

2. Contractor must follow the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. Nondiscrimination – Title VI of the Civil Rights Act.

1. Contractor must prohibit discrimination based on race, color, or national origin;
2. Contractor must comply with: **(a)** Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; **(b)** U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21; and **(c)** Federal transit law, specifically 49 U.S.C. § 5332; and
3. Contractor must follow: **(a)** the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance; **(b)** U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and **(c)** all other applicable federal guidance that may be issued.

C. Equal Employment Opportunity.

1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: **(a)** Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; **(b)** Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; **(c)** Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; **(d)** federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and **(e)** FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients.” Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.
2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to:



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(a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.

3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.
4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.
5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."
6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).
7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

6.7 INCORPORATION OF FTA TERMS. *[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]*

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by



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reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

- 6.8 FREE SPEECH & RELIGIOUS LIBERTY.** All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.
- 6.9 FEDERAL TERMINATION RIGHTS.** The termination rights under this Contract are in addition to, and in no way limit, the Federal Government’s right to terminate as described in 2 CFR § 200.340.
- 6.10 DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION.**
[This requirement does not apply to contracts and subcontracts under \$25,000.]
- A.** Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Non-procurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement),” 2 CFR part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.
- B.** Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: **(1)** debarred from participation in any federally-assisted Award; **(2)** suspended from participation in any federally-assisted Award; **(3)** proposed for debarment from participation in any federally-assisted Award; **(4)** declared ineligible to participate in any federally-assisted Award; **(5)** voluntarily excluded from participation in any federally-assisted Award; or **(6)** disqualified from participation in any federally-assisted Award.
- C.** By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor



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knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- D.** Contractor agrees that it will not enter into any “covered transaction” (as defined at 2 CFR 180.220 and 1200.220) with any “third party participant” (as defined in Section 1 of FTA’s Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government’s “System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by USDOT regulations (2 C.F.R. Part 1200).

6.11 TERMINATION. The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

6.12 VIOLATION & BREACH OF CONTRACT. *[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at \$250,000).]*

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

- A. Dispute Resolution.** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.



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- B. Performance During Disputes.** Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.
- C. Rights and Remedies.** The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

6.13 LOBBYING RESTRICTIONS. *[These requirements do not apply to contracts and subcontracts under \$100,000.]*

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

6.14 CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS). *[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]*

- A.** At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and



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- reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR Part 381);
- B.** Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and
 - C.** Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

6.15 FLY AMERICA. *[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]*

- A.** As used in this clause: **(1) “international air transportation”** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) “United States”** means the 50 States, the District of Columbia, and outlying areas; and **(3) “U.S.-flag air carrier”** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- B.** When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- C.** If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- D.** If Contractor selects a carrier other than a U.S.-flag air carrier for international



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air transportation, then Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. *[State reasons]:*

(End of statement)

- E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

6.16 EMPLOYEE PROTECTIONS.

- A. Prevailing Wage & Anti-Kickback. *[These requirements apply to all prime construction, alteration, or repair contracts in excess of \$2,000.]*

1. For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.



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B. Contract Work Hours/Safety Standards for Awards Involving Construction. *[These requirements apply to all contracts involving construction in excess of \$100,000 that involve the employment of mechanics or laborers.]*

1. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.
2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.
3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.
4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be



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responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. Contract Work Hours/Safety Standards for Awards Not Involving Construction. *[These requirements apply to all contracts (not involving construction) in excess of \$100,000 that involve the employment of mechanics or laborers.]*

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 CFR part 5.
2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.
4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

6.17 SEISMIC SAFETY. *[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]*

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.



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6.18 VETERANS EMPLOYMENT. *[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]*

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

6.19 BONDING. *[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at \$250,000). See FTA Circular C 4220.1F for specific bonding requirements.]*

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

- A.** A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- B.** A performance bond on the part of Contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.
- C.** A payment bond on the part of Contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

6.20 PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS. *[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]*

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

- A. U.S. DOL Certification.** To the extent that FTA determines that this Contract



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- or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.
- B. Special Warranty.** If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
- C. Special Arrangements.** If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.
- D. Flow Down.** Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.



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6.21 CHARTER SERVICE. *[These requirements apply to contracts for operating public transportation service.]*

- A.** Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: **(1)** federal transit laws, specifically 49 U.S.C. § 5323(d); **(2)** FTA regulations, “Charter Service,” 49 CFR part 604; **(3)** any other federal Charter Service regulations; or **(4)** Federal guidance, except as FTA determines otherwise in writing.
- B.** If Contractor engages in a pattern of violations of FTA’s Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: **(1)** barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; **(2)** withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA’s Charter Service regulations; or **(3)** any other appropriate remedy that may apply.
- C.** Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

6.22 SCHOOL BUS OPERATIONS. *[These requirements apply to contracts for operating public transportation service.]*

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: **(A)** federal transit laws, specifically 49 U.S.C. § 5323(f); **(B)** FTA regulations, “School Bus Operations,” 49 CFR part 605; **(C)** any other Federal School Bus regulations; or **(D)** federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

6.23 MOTOR CARRIER SAFETY. *[These requirements apply to contracts for operating bus operation service.]*

- A. Financial Responsibility.** Contractor shall comply with the economic and insurance registration requirements of: **(1)** U.S. Federal Motor Carrier Safety



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Administration (U.S. FMCSA) regulations, “Minimum Levels of Financial Responsibility for Motor Carriers,” 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.

- B. U.S. FMCSA Requirements.** Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (**U.S. FMCSA**) regulations, “Federal Motor Carrier Safety Regulations,” 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. part 383, and “State Compliance with Commercial Driver’s License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements,” 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

6.24 SAFE OPERATIONS OF MOTOR VEHICLES.

- A. Seat Belt Use.** Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by Contractor or AGENCY.
- B. Distracted Driving.** Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.
- C. Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

6.25 CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. Definitions.** As used in this clause: (1) “**driving**” means operating a motor



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vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (**note:** "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and **(2) "text messaging"** means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (**note:** "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).

- B. Executive Order.** This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: **(1)** establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and **(2)** education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- C. Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

6.26 SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING). *[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, "Definitions."]*

- A.** Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Arizona, or the City of Phoenix, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.



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- B.** Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Phoenix Public Transit Department, 302 N. 1st Avenue, Phoenix, AZ 85003. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
- C.** Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

6.27 BUY AMERICA. *[These requirements apply to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]*

- A.** Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.
- B.** Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.
- C.** Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

6.28 PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT. The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical



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technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: **(A)** telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); **(B)** video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; **(C)** telecommunications or video surveillance services provided by such entities or using such equipment; and **(D)** telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

6.29 AIR POLLUTION & FUEL ECONOMY. *[These requirements apply to contracts for the purchase of rolling stock.]*

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, “Control of Air Pollution from Mobile Sources,” 40 CFR Part 85; EPA regulations, “Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines,” 40 CFR Part 86; and EPA regulations, “Fuel Economy of Motor Vehicles,” 40 CFR Part 600.

6.30 ROLLING STOCK LIMITATIONS. *[These requirements apply to contracts for the purchase of rolling stock.]*

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

6.31 PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES. *[These requirements apply to contracts for the purchase of rolling stock.]*

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.



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6.32 BUS TESTING. *[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]*

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

6.33 ENVIRONMENTAL PROTECTIONS. Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

A. National Environmental Policy Act.

1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: **(a)** federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; **(b)** the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; **(c)** joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; **(d)** Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and **(e)** other federal environmental protection laws, regulations, and requirements applicable to Contractor.
2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: **(a)** joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; **(b)** joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and **(c)** other federal environmental guidance applicable to the Contractor.

B. Environmental Justice. Contractor shall promote environmental justice by following: **(1)** Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; **(2)** U.S. DOT Order 5610.2, "Department of



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Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations,” 62 Fed. Reg. 18377, April 15, 1997; and **(3)** the most recent edition of FTA Circular 4703.1, “Environmental Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

- C. Other Environmental Federal Laws.** Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to “Protection of Wetlands,” and Executive Order Nos. 11988 and 13690 relating to “Floodplain Management.”
- D. Use of Certain Public Lands.** Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as “section 4(f)”), and joint FHWA and FTA regulations, “Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites,” 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.
- E. Historic Preservation.** Contractor shall comply with: **(1)** U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as “section 4(f)”), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; **(2)** federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; **(3)** the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; **(4)** U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic Properties,” 36 C.F.R. part 800; and **(5)** other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.
- F. Indian Sacred Sites.** Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, “Indian Sacred Sites,” May 24, 1996, 42 U.S.C. § 3161 note.

6.34 CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT. [These requirements do not apply to contracts and subcontracts under \$150,000.]

Contractor shall ensure that it: **(A)** will not use any violating facilities; **(B)** will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of



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Violating Facilities;” **(C)** will report violations of use of prohibited facilities to FTA; and **(D)** will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

6.35 ENERGY CONSERVATION. Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

6.36 RECYCLED PRODUCTS (SOLID WASTES). *[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of \$10,000. See 40 C.F.R part 247 for federal designation of items.]*

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR part 247. The requirements of Section 6002 include: **(A)** procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; **(B)** procuring solid waste management services in a manner that maximizes energy and resource recovery; and **(C)** establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

6.37 INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA. *[These requirements apply to contracts for the performance of experimental, developmental, or research work.]*

A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA or U.S. DOT. The terms of an



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- intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.
- B.** The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes”: **(1)** any subject data developed under the Contract, whether or not a copyright has been obtained; and **(2)** any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.
- C.** Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
- D.** Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- E.** Nothing contained in this clause on rights in data shall imply a license to the



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- Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- F.** Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.
- G.** Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

6.38 COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY. *[These requirements apply only to contracts for National Intelligent Transportation System projects.]*

Contractor shall conform to the National Intelligent Transportation Systems (**ITS**) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

6.39 NTD REPORTING. As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: **(A)** facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (**NTD**); **(B)** conform to the NTD reporting system and the Uniform System of Accounts and Records; **(C)** comply with FTA regulations, “Uniform System of Accounts and Records and Reporting System,” 49 CFR Part 630; **(D)** report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, “National Transit Database,” and applicable FTA instructions: **(1)** any information relating to a transit asset inventory or condition assessment; **(2)** any data on assaults on transit workers; **(3)** any data on fatalities that result from an impact with a bus; and **(4)** such other information as FTA may require; **(E)** comply with any other applicable reporting regulations, and requirements; and **(F)** follow FTA guidance.

6.40 TRAFFICKING IN PERSONS. Contractor and its subcontractors or their employees shall not: **(A)** engage in severe forms of trafficking in persons during the Contract Term; **(B)** procure a commercial sex act during the Contract Term; or **(C)** use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.



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- 6.41 PRIVACY ACT.** Contractor agrees to: **(A)** comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and **(B)** include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.
- 6.42 SECTION 508 COMPLIANCE.** Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.
- 6.43 DBE REQUIREMENTS.** Phoenix is one of the fastest growing, multicultural cities in the country and has shown a historical commitment to business diversity. The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Phoenix DBE Program is managed and administered by the City's Equal Opportunity Department, Contract Compliance Division. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. DEFINITIONS

Agency means the City of Phoenix for purposes of this Contract.

Arizona Unified Certification Program (AZUCP) means a consortium of government agencies organized to provide reciprocal DBE certification within Arizona pursuant to 49 Code of Federal Regulations (CFR) Part 26.

Arizona Unified Transportation Registration and Certification System (AZ UTRACS) means the official DBE database containing eligible DBE firms certified by AZUCP can be accessed at: utracs.azdot.gov.

City of Phoenix Certification & Compliance System (CCS) means the web-based system used to track and monitor DBE and Small Business Participation for certification and compliance, available at phoenix.diversitycompliance.com.



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Contract means a legally binding relationship obligating a seller to furnish supplies or services (including construction and professional services) and the buyer to pay for them.

DBE Compliance Specialist means an Agency employee responsible for compliance with this DBE Contract Clause.

EOD means the City of Phoenix Equal Opportunity Department.

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

Outreach Efforts means the diligent and good faith efforts demonstrated by a Submitter to solicit participation from interested and qualified DBEs and other Small Businesses. Submitter shall identify and document potential business opportunities for DBEs and other Small Businesses, describe what efforts were undertaken to solicit DBE and Small Business participation, disclose results of negotiations with DBEs and Small Businesses, and communicate and record Submitter's selection decisions relating to DBE and Small Business participants.

Disadvantaged Business Enterprise (DBE) means a Small Business Concern that has successfully completed the DBE certification process and has been granted DBE status by an AZUCP member pursuant to the criteria contained in 49 CFR Part 26.

Commercially Useful Function means that a 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 a DBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or if the 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 DBE is presumed not to be performing a Commercially Useful Function.

Goods and Services Providers are firms that provide goods and services that represent a Commercially Useful Function directly to Transit as a DBE or Small Business.

Manufacturer means a firm that owns (or leases) and operates a factory or



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establishment that produces on the premises the components, materials, or supplies obtained by the recipient, successful submitter, or Transit Vehicle Manufacturer.

Regular dealer/broker is a firm that owns (or leases) and operates a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in sufficient quantities, and regularly sold or released to the public in the usual course of business.

Supplier means a firm that engages in, as its principal business, the purchase and sale of material or supplies required for the performance of a contract. The firm must own, operate, and maintain a store, warehouse or other establishment where the supplies are bought, kept in stock, and regularly sold to the public in the usual course of business.

Distributor means an established business that engages in the regular sale or lease of the items specified by the contract. The business assumes responsibility for the items it purchases once they leave the point of origin (e.g., a manufacturer's facility), making it liable for any loss or damage not covered by the carrier's insurance.

Small Business Concern (SBC) means, with respect to firms seeking to participate 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). “Small Business” and “Small Business Concern” are used interchangeably in this DBE Contract Clause.

Small Business Enterprise (SBE) means a small business that has been determined to meet the requirements for SBE certification with the City of Phoenix and whose certification is in force at the time of the award of business by the City. A directory of currently certified SBE firms is located at phoenix.diversitycompliance.com.

Race- and Gender-Neutral (RGN) Measures means a measure or program that is, or can be used to assist all Small Businesses.

Subcontract means a contract at any tier below the prime contract, including a purchase order.

Subcontractor means an individual, partnership, JV, corporation or firm that



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holds a contract at any tier below the prime contract, including a vendor under a purchase order.

Submitter means an individual, partnership, JV, contractor, corporation, or firm that tenders a submittal to the Agency to perform services requested by a solicitation or procurement. The submittal may be direct or through an authorized representative. (Submitter is inclusive of the terms: *Bidder, Offeror, Proposer, Respondent*, etc.)

Responsive Submitter means a firm that has met the minimum program requirements as outlined in the solicitation and due at the time of submittal.

Successful Submitter means a firm that has been awarded the contract by the Agency to perform services or furnish supplies requested by a solicitation or procurement.

Responsible Submitter means a firm that has been selected to continue in the procurement process by the Agency.

Transit Vehicle Manufacturers (TVMs) means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale “off the lot” are not considered transit vehicle manufacturers.

Transit Vehicle Manufacturers Goals for FTA recipients each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26.49.

B. GENERAL REQUIREMENTS

- 1. Applicable Federal Regulations.** This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, JV, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.



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2. **DBE Participation.** For this solicitation, the Agency has *not* established a race- or gender-*conscious* DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-*neutral* measures to facilitate participation by DBEs and Small Businesses. The Agency *encourages* each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.
3. **Small Business Participation.** The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).
4. **DBE Certification.** *Only* firms (1) certified by the Agency 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 DBE participation resulting from RGN measures on this Contract. This DBE determination affects the Agency’s tracking and reporting obligations to USDOT.
5. **Civil Rights Assurances.** As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance *verbatim*:

“The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 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, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible.”

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



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- 6. Subcontracts.** If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms.

C. PRE-AWARD SUBMITTAL REQUIREMENTS

Form EO1 due by the offer due date.

- 1. Form EO1 – Statement of Outreach Commitment.** Each Submitter shall sign, date and submit a completed Form EO1 - Statement of Outreach Commitment, with its submittal.
- 2. Failure to Submit Form EO1.** Submittals that do not have this form completed and signed will be deemed nonresponsive. A nonresponsive submittal will be disqualified from further evaluation.

D. POST-AWARD SUBMITTAL REQUIREMENTS

The Agency has implemented outreach requirements for this Contract. Specifically, the Successful Submitter 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.

Following the award of the contract and prior to the execution of each phase, as a matter of compliance, the documentation of outreach efforts **must be submitted and approved on a date to be determined by Contract Owner:**

- 1. Form EO2 - Small Business Outreach Efforts.** Due within three (3) business days following issuance of the notice of contract award recommendation. Successful Submitter shall complete and submit **Form EO2 - Small Business Outreach Efforts**, documenting its diligent, earnest outreach efforts for professional services, as described in this clause.

Successful Submitter shall list **All DBEs and Small Businesses** contacted by the Successful Submitter. Successful Submitter shall also provide the following minimum information to document its Outreach Efforts in the designated columns within Form EO2:

- a. Column A - Small Business Name and Contact Information.** Must list each business’s full legal name and contact information. Successful



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Submitter shall inquire to obtain the following: the number of its employees, number of years in business and its estimated range of annual gross receipts.

b. Column B - Business Status. Indicate the business status. Check all that apply, if known.

- The official DBE database containing eligible DBE and SBC firms can be accessed at: utracs.azdot.gov
- City of Phoenix SBE Certification Directory can be accessed at: phoenix.diversitycompliance.com

c. Column C - Scope(s) of Work Solicited. List the scope(s) of work solicited for which the small business was considered for participation in the proposal. The solicitation shall include a description of the scope(s) of work being requested.

d. Column D - Solicitation Method. Indicate the solicitation method by which each small business was contacted for your outreach efforts, and provide supporting documentation. Supporting documentation must include a copy of the actual solicitation sent to DBEs and Small Businesses. The solicitation may be in the form of letters or attachments to email, phone logs, newspapers and trade papers, outreach events, etc. If using a log as supporting documentation, it must include:

- List the Solicitation Method
- Name of Submitter's Representative
- Name of Company Contacted
- Name of Person Contacted
- Date and Time of Contact
- Details of the Communication

e. Column E - Selection Decision. Indicate the Successful Submitters selection decision for each small business that responded to the solicitation.

If selected, indicate the Dollar Value.

If not selected, provide an explanation why firm was NOT selected.

f. Column F - Method of Communication of Final Selection Outcome. The Successful Submitter must notify the final selection outcome to all small businesses that responded. The supporting documentation for this notification may be in the form of an email, letter, or a telephone log, etc. This documentation must show the following information regarding the final selection:



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- List the Selection Outcome
- Name of Submitter's Representative
- Name of Company Contacted
- Name of Person Contacted
- Date and Time of Contact
- Details of the Communication

*Successful Submitter shall provide supporting documentation that shows Submitter has communicated its final selection decisions and outcomes to all DBE's and Small Businesses, including those not chosen to participate in this Contract.

- 2. Form EO3 - Small Business Utilization Commitment.** Due within three (3) business days following issuance of the notice of contract award recommendation. The Successful Submitter shall complete, sign, date and submit EO3 - Small Business Utilization Commitment, which commits Successful Submitter to the Agency as follows:
 - a. The firms indicated as "Selected" on Form EO2 Small Business Outreach Efforts, will participate in this Contract;
 - b. The Successful Submitter will comply with the Race- and Gender-Neutral post-award compliance requirements as stated in the DBE contract clause;
 - c. Successful Submitter understands and agrees that any and all changes or substitutions to subcontracts with DBE's and Small Businesses must be authorized by the Compliance Specialist for the Contract Owner prior to implementation; and
 - d. The following statement is true and correct: The proposed total participation of DBE, SBC and SBE firms on this contract will be designated on Form EO3 by the Successful Submitter.
- 3. Failure to Meet Outreach Requirements.** The DBE Compliance Specialist will determine, in writing, whether Successful Submitter has satisfied all small business outreach requirements. If the DBE Compliance Specialist determines that Successful Submitter has failed to satisfy the outreach requirements, then the DBE Compliance Specialist may determine that the submittal is noncompliant. The Agency shall send written notice to the Successful Submitter stating the basis for the DBE Compliance Specialist's decision. Failure to fulfill the small business outreach requirements is considered a breach of contract and shall result in a non-compliance determination.



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- 4. Administrative Reconsideration.** If the DBE Compliance Specialist determines that Successful Submitter is non-responsive, the Agency will permit Successful Submitter to request EOD to reconsider this determination. In its request for reconsideration, Successful Submitter may *clarify* its DBE documentation. The Successful Submitter may *not* submit or refer to new or revised documents or information. EOD will only reconsider the original DBE documentation as clarified in the request for reconsideration.

If Successful Submitter requests EOD to reconsider the Compliance Specialist's determination, Successful Submitter must provide written notice to the Agency and EOD within three (3) business days of the Agency's notice of noncompliance to Successful Submitter. The request for reconsideration should be addressed to:

City of Phoenix Equal Opportunity Department
Business Relations Division-Contract Compliance Section
200 West Washington Street, 15th Floor
Phoenix, AZ 85003

With a *copy* e-mailed to the Procurement Officer and the DBE Compliance Specialist.

E. POST-AWARD GENERAL REQUIREMENTS

- 1. Subcontracting Commitment.** The small business subcontractors identified and accepted in the Small Business Outreach documents must have an executed contract* in place prior to the performance of work.

Successful Submitter shall submit to Agency, through the CCS, all executed contracts, purchase orders, subleases, JV agreements, and other arrangements formalizing agreements between Successful Submitter and all subcontractors, upon execution throughout the life of this contract.

The Successful Submitter shall not terminate any approved DBE or Small Business Subcontracts, nor shall the Successful Submitter alter the scope of work or reduce the Subcontract amount, without the DBE Compliance Specialist's prior written approval. Any request to alter a DBE or Small Business Subcontract must be submitted in writing to the DBE Compliance Specialist before any change is made. If the Successful Submitter fails to do so, the Agency may declare Successful Submitter in breach of contract.

*Executed contracts and all lower tier contracts must contain the required



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Civil Rights Assurances and Prompt Payment provisions.

2. **Counting Small Business Participation.** The prime contractor may only count expenditures to AZUCP certified DBE subcontractors that perform a commercially useful function on the contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. A DBE subcontractor must perform a minimum of 30% of its subcontract value with its own workforce and equipment before its participation can be counted. DBEs must manage and control the performance of its contract and not be dependent on the prime's personnel and equipment to complete its work. Scope(s) of work not covered in the DBE firm's certification description **will not** be counted as DBE participation.

- a. **Commercially Useful Function & Counting of DBE Trucking/Hauling:** 49 CFR 26.55(d) defines Commercially Useful Function and the counting of DBE participation for Trucking/Hauling as follows:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose achieving DBE participation.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
- The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services on the contract provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck



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leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

- Amounts paid for dump fees or materials being hauled/dumped cannot be counted as DBE participation.

b. Counting Expenditures with DBEs for Materials or Supplies: 49 CFR 26.55(e) permits the counting of expenditures with DBEs for materials or supplies toward DBE participation as provided in the following:

- If the materials or supplies are obtained from a **DBE manufacturer**, count 100 percent of the cost of the materials or supplies toward DBE participation.
- If the materials or supplies are purchased from a **DBE regular dealer (supplier)**, count 60 percent of the cost of the materials or supplies toward DBE participation.
- If materials or supplies are purchased from a DBE distributor that neither maintains sufficient inventory nor uses its own distribution equipment for the products in question, count 40 percent of the cost of materials or supplies (including transportation costs).
- With respect to materials or supplies purchased from a DBE that is not a manufacturer, a regular dealer, or a distributor, count the entire amount of fees or commissions charged deemed to be reasonable, including transportation charges for the delivery of materials or supplies. Do not count any portion of the cost of the materials and supplies themselves.

If an approved DBE allows its DBE certification to expire, or the certification is revoked during the course of the Subcontract, the Agency will consider all work performed by the DBE under the original contract to count as DBE participation. No increased scope of work negotiated after expiration or revocation of the DBE's certification may be counted. Any work performed under a Contract extension granted by the Agency may not be counted as DBE participation.

3. Small Business Substitutions or Terminations. After Contract award, the Agency will not allow substitution or termination from the proposed Small Business utilization except in extraordinary circumstances. The Successful Bidder's request to modify Small Business participation must be in writing to the Phoenix DBE Compliance Specialist.

Successful Bidder's written request must set forth the amount of substitution or why termination is sought, evidence that demonstrates why it is necessary, and any additional relevant information that the Phoenix DBE



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Compliance Specialist should consider. The Successful Bidder shall include with the request all documentation of Bidder's attempts to subcontract with the Small Business and any other action taken to locate and solicit a replacement Small Business.

If the Small Business was approved by the Agency, the Phoenix DBE Compliance Specialist will consider whether or not the Successful Bidder has exercised diligent and good-faith efforts to find another Small Business as a replacement. The Successful Bidder shall notify the Phoenix DBE Compliance Specialist 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 Phoenix DBE Compliance Specialist's written approval has been obtained.

- 4. Prompt Payment of Subcontractors.** The prompt payment clause shall be included in every contract and subcontract.

Per A.R.S. § 32-1129.01, the Successful Bidder must promptly pay its subcontractors, subconsultants, or suppliers **within seven calendar days**. If the Successful Bidder diverts any payment received for a DBE's, Small Business's, or other Subcontractor's work performed on the Contract or fails to reasonably account for the application or use of the payment, the Agency may declare the Successful Bidder in breach of contract.

Under the prompt-payment provisions of 49 CFR Part 26, the Successful Submitter must ensure prompt and full release of retentions to Subcontractors and suppliers when their scope of work is complete and the Agency has paid Successful Submitter for the work. The Successful Submitter shall pay each Subcontractor's and supplier's retention no later than 30 days after the Agency has paid for the scope(s) of work, regardless if there's outstanding retention held against the Successful Submitter. If the Agency reduces the Successful Submitter's retention, the Successful Submitter shall correspondingly reduce the retentions of Subcontractors and suppliers that have performed satisfactory work.

Nothing in this section prevents the Successful Submitter from enforcing its Subcontract with a Subcontractor or supplier for defective work, late performance, and other claims arising under the Subcontract.

- 5. Remedies.** If the Successful Bidder fails to comply with these contract provisions and the requirements set forth in 49 CFR 26.101 and 26.103, the Agency may take any one or more of the following actions:



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- a. Withhold future payments, including retention, until the Successful Submitter is determined to be in compliance; or
- b. Cancel the Contract.

F. RECORDS & REPORTING REQUIREMENTS

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

- a. A complete listing of all Subcontractors and suppliers on the project;
- b. Each Subcontractor's and supplier's scope performed;
- c. The dollar value of all subcontracting work, services, and procurement;
- d. Copies of all executed Subcontracts, purchase orders, and invoices;
- e. Total operating expenses and total costs of goods sales; and
- f. Copies of all payment documentation and Change Orders.

2. **Reports.** Successful Submitter is required to file the following payment reports in the CCS:

a. **Progress Payments:** By the 15th of *each* month, the Successful Submitter must enter payment information and related supporting documentation into the Agency's web-based certification and compliance reporting system.

- i. The total of all payments received from the Agency during the previous month.
- ii. All payments made to Subcontractors during the previous month.

The Successful Submitter is responsible for ensuring that subcontractors confirm receipt of payment in the CCS by the end of each month.

b. **Final Payment:** Before the Agency processes the Successful Submitter's final payment and/or outstanding retention held against the Successful Submitter, the Successful Submitter shall notate in the CCS:

- i. The payment to each subcontractor is considered "Final."
- ii. Every subcontractor must confirm they have received full and "Final" payment in the CCS.



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- iii. For federal reporting purposes, Attachment E must be completed and signed by the Successful Submitter and DBE firm(s) prior to Successful Submitter receiving final payment.

The Successful Submitter is responsible for ensuring that subcontractors confirm the receipt of full and "Final" payment in the CCS.

3. Disadvantaged Business Enterprise/Small Business Participation Plan. The Successful Submitter is required to maintain a Disadvantaged Business Enterprise/Small Business Participation Plan ("**SBPP**") and document its ongoing efforts to foster disadvantaged business enterprise/small business participation throughout the life of this Contract.

- a. **Initial Plan Submission:** Due within **three (3) business days** following issuance of the notice of contract award recommendation, the Successful Submitter shall complete and submit a SBPP, including any associated supporting documentation. The SBPP shall contain strategies to foster disadvantaged business enterprise/small business participation and information concerning the disadvantaged business enterprises/small businesses.
- b. **Annual Plan Update:** As a matter of compliance, the Successful Submitter shall complete and submit an updated SBPP, including any associated supporting documentation requested by the City, on an annual basis from the Contract start.
- c. **Shortfall Analysis:** The Successful Submitter is required to conduct a shortfall analysis and develop a corrective action plan in the event the Successful Submitter is unable to achieve its SBPP commitment.
- d. **Failure to Foster Disadvantaged Business Enterprise/Small Business Participation:** The City's Compliance Specialist will determine whether Successful Submitter has satisfied all outreach activities in the development of the SBPP. If the Compliance Specialist determines that the Successful Submitter has failed to satisfy the SBPP requirements as specified in this subsection, then the Compliance Specialist may determine that the Successful Submitter is not compliant.
 - i. The City shall send a written notice to the Successful Submitter stating the basis for the Compliance Specialist's decision.
 - ii. The Successful Submitter has **seven (7) business days** to cure the deficiency.



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- iii. If the Successful Submitter fails to submit the required forms and supporting documentation by the due dates, the City may formally deem the Successful Submitter noncompliant, in default of the Contract, and not in good standing with the City of Phoenix.



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FTA CERTIFICATIONS

**EACH CERTIFICATION PROVIDES
INSTRUCTION DESCRIBING WHEN
THE CERTIFICATION IS APPLICABLE**

**INAPPLICABLE FTA CERTIFICATIONS
MAY BE LEFT BLANK**

**OFFERS THAT DO NOT INCLUDE
COMPLETED CERTIFICATIONS,
IF APPLICABLE,
WILL BE REJECTED AS NONRESPONSIVE.**



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DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under \$25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

- The Proposer certifies that the Proposer and its principals:
 1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;
 2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;
 4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR -

- The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____



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BUY AMERICA CERTIFICATION

This certification applies to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of \$150,000 and **involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5)**, the Proposer hereby certifies that it:

- Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

- Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of \$150,000 and **involves the procurement of buses or other rolling stock (including associated equipment)**, the Proposer hereby certifies that it:

- Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

- Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____



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LOBBYING CERTIFICATION

This certification does not apply to contracts and subcontracts under \$100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Per paragraph 2 above, complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," if applicable.



SECTION VI – FTA TERMS AND CONDITIONS

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CERTIFICATE OF COMPLIANCE WITH BUS TESTING REQUIREMENT

This certification applies to contracts for the purchase or lease of any bus model that is new or has any major change in configuration or components to be acquired or leased. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

The Proposer understands that misrepresenting the testing status of a vehicle acquired with federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the Proposer understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____



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TRANSIT VEHICLE MANUFACTURER DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION

This certificate applies to contracts for the purchase of rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer, a Transit Vehicle Manufacturer, hereby certifies that it has complied with the requirements of 49 CFR § 26.49 by submitting an annual DBE goal to the Federal Transit Administration (FTA). The goal has either been **approved** or **is pending approval** by FTA.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____



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FEDERAL MOTOR VEHICLE SAFETY STANDARDS CERTIFICATION

This certificate applies to contracts for the purchase of rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that it shall submit, if awarded the Contract: (1) the manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS; or (2) the manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____



SECTION VI – FTA TERMS AND CONDITIONS

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TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability;
2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and
3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____



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7.1. COPIES:

Please submit **one** printed original of the Offer, including Cover Sheet, Technical Proposal, Price Proposal (Fee Schedule), and Required Submittal Forms, for the Procurement Officer's review. Please also submit **one** electronic copy (on a portable drive or compact disk) of the same for the Procurement Officer. Please do not lock the electronic copy with password protection so that the CITY may digitally incorporate the successful offer into the awarded contract.

Further, please submit **four** hard copies of the Offer, **but excluding the Price Proposal (Fee Schedule) and Required Submittal Forms**, for the evaluation panel's review. Please also submit **one** electronic copy (on portable drive or compact disk) of the same for the evaluation panel.

For the Required Submittal Forms, please submit only the Submittal Section and applicable Federal Certifications, as completed by Offeror, and do not submit a copy of the entire solicitation document.

7.2. OFFER VALIDITY:

This Offer will remain in effect from the opening date until contract award and execution, which is anticipated to occur for the prevailing offeror in or around late 2024/early 2025, with Year 1 fixed-route services to begin on July 1, 2025, and such Offer is irrevocable unless it is in the City's best interest to release offer(s).

7.3. OFFER SUBMITTAL FORMAT:

The written proposal shall be signed by an individual authorized to bind the Offeror. The proposal shall provide the name, title, address, and telephone number of individuals with authority to contractually bind the company and who may be contacted during the period of the contract. All fees quoted shall be firm and fixed in accordance with this solicitation's contract terms. Each response shall be:

- A. Typewritten for ease of evaluation.
- B. Submitted in an 8 ½ x 11 loose leaf three-ring binder, preferably using double sided copying and at least 30% post-consumer content paper. Offer may not exceed 100 single-sided pages exclusive of the following:
 - Cover Letter. A letter of introduction identifying the Offeror, including the name, title, address, telephone number and e-mail address of the Offeror's authorized representative, and signed by a representative authorized to bind the Offeror to the terms of the Offer.



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- Price Proposal (Fee Schedule)
 - Required Submittal Forms
- C. Set forth in the same sequence as this solicitation (i.e., Offerors should respond to this solicitation in sequence and each response should reference the applicable section of this solicitation).
- D. Signed (offer page, certifications, etc.) by a representative of the Offeror authorized to contractually bind the Offeror.
- E. All portions of this solicitation contain numbered sections. The CITY requires that the proposals in response to this solicitation be organized as indicated in **Section 7.4**, Technical Proposal, and **Attachment A**, Fee Schedule.

7.4. TECHNICAL PROPOSAL:

The Technical Proposal must be organized in a tabular format by section in accordance with the outline below and submitted in a separately sealed box/container. If Offeror fails to provide all data requested, the CITY may deem the Proposal non-responsive.

TAB 1 – Method of Approach (limit of 40 pages)

Required components

1. Offeror Abilities – Describe why the Offeror should be selected to perform the Contract. Describe the Offeror's value-added benefits, proposed innovations, if any, beyond the requirements in the Scope of Work, which benefits would provide the CITY with a higher quality, safer, more efficient and more responsive operation. Describe the Offer's ability to run multiple modes of service along existing routes (such as the frequency-based BRT service model).
2. Start-Up and Transition Plan – Provide a comprehensive, detailed implementation schedule and plan of how all transition and start-up tasks will be completed before commencement of service as well as how the Scope of Work will be performed. This plan must include all of the key elements, resources, activities and procedures required in advance of the Contract's start date to: (a) guarantee uninterrupted services, (b) occupy the CITY-owned facility, (c) assume control of the existing revenue fleet, and (d) effectuate the transition of eligible incumbent personnel to a new employer (if necessary). The plan must include a detailed chronology/calendar and explanation of all major milestones listed. Also, the plan must include a robust Road Supervision Staffing Plan for Contractor's regular input on potential schedule modifications in support of maintaining a high quality of life for transit personnel. The start-up plan must also document recruitment and training schedules, acquisition of necessary equipment, permits, and licenses, and



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all other activities necessary to implement a successful transit-service program. Describe how Offeror will achieve continuous, reliable, safe, and courteous fixed-route service during the transition period in order to meet the standard of service set forth in this solicitation. Specify the number, model, model year, and make of each type of Non-Revenue Vehicle that Offeror will provide for this Contract.

3. Road-Call Management Plan - Describe Offeror's approach to road-call management and resource allocations.
4. Transit-Vehicle Maintenance Program - Describe Offeror's transit-vehicle maintenance program specifically applicable to CITY vehicles provided for this service, including preventive, corrective maintenance, standard and emergency components, and interior and exterior cleaning and graffiti abatement.
5. Communications Program – Describe Offeror's internal communications program detailing methods of communicating instructions to supervisors and operators as well as other staff and receiving and responding to communications from the CITY.
6. Customer-Relations Program – Describe Offeror's customer-relations program, detailing the proposed method of handling customer and resident complaints, commendations, and suggestions.
7. Safety Program – Describe all aspects of Offeror's safety program, including: compliance with all written plans, regulations, and standards; investigation and reporting of all accidents and all other incidents; and training of all Offeror personnel. Emphasize training of bus operators, supervisors, mechanics, and service island/utility personnel. Describe the elements of Offeror's risk-control and safety program for this Contract. Describe the Offeror's knowledge of the FTA's Public Transportation Agency Safety Plan (**PTASP**) requirements.
8. Quality Control Plan – Describe all aspects of Offeror's quality-control plan to ensure that all Contract services meet the CITY's specifications. The plan must include Offeror's proposal to oversee: all services; identification, documentation, and resolution of deficiencies; corrective action; the process to prevent recurrent defective services; procedures to address and correct poor performance of working staff; identification of key quality-control and inspection personnel; the plan to interface with the CITY on a staffing level as well as through the various available technology solutions; control procedures for protection of the CITY'S property, facilities and equipment; and the specific records to be kept to comply with all requirements of the Scope of Work. Include a description of the Offeror's plan to identify unfavorable trends and problem areas and independently develop and implement long-term solutions.



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9. Collective Bargaining – Describe Offeror’s experience in administering and negotiating collective bargaining agreements, including agreements under the 49 U.S.C. Sec. 5333(b), commonly known as 13(c), and its predecessor provisions.
10. Reporting and Control Systems – Describe in detail Offeror’s computerized financial, accounting, work-order, and parts-inventory control systems and Offeror’s staffing and experience with these systems. Also describe Offeror’s approach to meet all CITY reporting requirements specified in the Scope of Work.

TAB 2 – Management Structure and Personnel (limit of 25 pages, not including the organizational chart and résumés)

Required components

1. Describe the proposed management structure, including an organizational chart, and identify Key Personnel and other senior staff/significant personnel. Describe the functional relationships, lines of authority and responsibility of employees; procedures for sustaining trained and qualified personnel; and responsibilities and workload of each organizational element. Include résumés for each of the Key Personnel, setting forth each person’s qualifications for the position. This description should include the record of the project team working together on similarly sized assignments.
2. Include a statement explaining and establishing the Offeror’s ability to perform the Scope of Work and the terms of its Offer, including a description of the Offeror’s operations and maintenance capability and its methods and resources to perform the Scope of Work, including all work pertaining to the CITY’s new low/zero emission vehicles. The statement should address any strategies or concepts the Offeror may have for enhancing service quality, reducing costs, or otherwise improving the productivity and performance of the services requested.
3. Include the Offeror’s plan for staffing and performing the services to be provided under this solicitation, including the number and identification (by title, position, or job classification) of personnel the Offeror intends to utilize to provide the services at each facility. List the individuals qualified to operate and maintain all vehicles, equipment, and systems, including the various available or required technology solutions, including but not limited to scheduling software, fareboxes, destination signs, and CAD/AVL. Offeror’s plan for staffing and performing the services must include:
 - A. Local Recruitment Plan – A description of the Offeror’s plan to utilize and partner with local human resources in fulfilling the requirements of this Contract, including local organizations for at-risk and under-employed communities consistent with the legal requirements and labor protective



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provisions of Section 5333(b) of Title 49 U.S. Code chapter 53 (formerly Section 13(c) of the Federal Transit Act). Describe plans for the recruitment and hiring of new hires and disadvantaged workers (such as disabled workers, veterans, those lacking a GED/diploma, individuals afflicted by poverty/homelessness, persons having a criminal record, etc.) for new positions, including any efforts to coordinate with nonprofits or governmental organizations to assist in the recruitment of new hires.

B. Employee Identification Table -- Provide a table identifying all employees proposed in response to this solicitation by the following employee major classifications with any sub-classifications as determined by the Offeror.

- Management
- Supervision
- Operators
- Dispatch
- Road Supervisor
- Maintenance/Fueling/Cleaning
- Administration
- Miscellaneous

4. Discuss foreseen challenges to maintaining adequate staffing and how those challenges will be mitigated. Demonstrate that the Offeror can hire and retain a sufficient number of qualified personnel to perform the services required. Include the following:

A. Employee Retention Program – A description of the Offeror’s plan and programs to promote employee retention, including the plan for adequate compensation and benefits, opportunities for advancement, work/life balance, and other means for promoting employee retention and preserving a stable workforce.

B. Employee Incentive Program – A description of the Offeror’s program for rewarding outstanding employee performance and for enhancing the overall quality and performance of the workforce.

C. Workforce Training – Describe training efforts for the project to create permanent, transferable skills for all hires by job category. Include in this description any plans to take advantage of publicly funded workforce development programs or union apprenticeship programs.

5. Discuss Offeror’s road-supervision plan including staffing levels, specific responsibilities, vehicle availability, communications tactics with the CITY’s



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Operations Control Center, and road supervisors' role in adhering to Contract performance standards.

6. Describe the training and re-training program for operators, road supervisors, dispatchers, and mechanics. Provide an outline of the number of hours of training, by subject, to be received by employees in each job category. Also include specific training outlines for transition employees and proposed innovative training and retraining programs.

TAB 3 – Corporate Experience and Past Performance (limit of 20 pages, not including the organizational chart and résumés)

Required components

1. List and describe Offeror's previous experience and significant accomplishments in providing transit services, including Fixed Route Services within the past **seven years**. Projects listed must demonstrate similarities to include the type of entity serviced the number of employees, and locations. If applicable, identify at least one project that involved successfully transitioning Fixed Route Service, where you were not the incumbent. Each project listed must include a brief narrative, describing the following:
 - A. Dates of service (months and year);
 - B. Names and specific experience of Offeror's team for each project;
 - C. Quality, timeliness and performance results for each project;
 - D. If applicable, describe experience operating and maintaining fleets with similar fuel/propulsion systems; and
 - E. Name and address of the entity for which the services were provided.
2. Describe any challenges for Offeror in performing work on current and previous public transit contracts over the **past five years**, and how Offeror overcame those challenges. Also, detail any concerns that were expressed by project owners regarding Offeror's work performance on current and previous public transit contracts over the **past five years**, and how Offeror addressed and resolved those concerns.
3. State the annualized number of Revenue Miles between accidents (preventable and non-preventable) for systems operated by Offeror for the most recent available year (an accident is defined as any incident that results in injury to any person, including staff or damage to any property, including third-party property).



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4. List citations and fines imposed on Offeror, in connection with its performance under a public transit contract, over the past **seven years**, in date order, relating to improper maintenance, operation of unsafe vehicles, or accidents caused by improper maintenance or other fault attributable to Offeror. Describe the cause of each citation or fine and Offeror's remedial action taken.

TAB 4 – Facilities Experience (limit of 15 pages)

Required components

1. Describe Offeror's experience maintaining and operating transit facilities, equipment, and vehicles used in projects of similar size and scope, including facility locations, size and general make-up, and alternative-fuel vehicles and transit technology solutions.
2. Describe Offeror's facility maintenance plans, including environmental management of all transit related facilities and environmental emergency-response plans.
3. Describe the availability and sufficiency of maintenance and support equipment to satisfactorily perform the Scope of Work.
4. Describe Offeror's understanding and proposed use of the existing facilities and vehicle technology (e.g., CNG/Diesel/Unleaded/Hydrogen fueling, electric vehicle charging, fluid management system, etc.).

7.5. PRICE PROPOSAL (FEE SCHEDULE):

Required components

Offeror must complete and submit the Fee Schedule (Attachment A) in hard copy and electronic copy (portable drive or CD) in a separate sealed envelope.

7.6. OFFER EVALUATION CRITERIA:

In accordance with the Administrative Regulation 3.10, Competitive Sealed Proposal awards shall be made to the responsible offeror whose offer is determined in writing to be the most advantageous to the CITY based upon the evaluation criteria listed below.

The evaluation criteria are listed in the relative order of importance. The criteria are shown in the table in bold font; evaluation sub-factors are shown in bullet points beneath each criterion.



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Table with 2 columns: Evaluation Criteria (Max 1000 points), Evaluation Criteria #1-5, and Points. Rows include Method of Approach (275 Points), Management Structure and Personnel (225 Points), Corporate Experience and Past Performance (100 Points), Facilities Experience (100 Points), and Price Proposal (300 Points).

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

- Contractor offers a prompt payment discount of either _____% - 30 days or 0% - 45 days - to apply after receipt of invoice or final acceptance of the products (invoice approval), whichever date is later, starts the 30 days. If no prompt payment discount is offered, the default is 0%, net 45 days; effective after receipt of invoice or final acceptance of the products, whichever is later. Payment terms offering a discount will not be considered in the price evaluation of your offer.
Contractor may be paid immediately upon invoice approval, if enrollment is made to the Single Use Account (SUA) Program, administered by the City's servicing bank ("Bank"). By checking this box, the vendor accepts transaction costs charged by their merchant bank and agrees not to transfer to the City those extra charges. The City will not pay an increase in our services for the SUA charges; if an audit uncovers an upcharge for the SUA charges the vendor will owe the City all costs. The vendor may opt-out of the SUA program once, but then may not rejoin during the same contract term. For more information about the SUA program or to enroll, send email to mailbox.sua@phoenix.gov.

7.8. EMERGENCY 24-HOUR SERVICE CONTACT:

Name _____
Telephone Number _____
Alternate Contact _____
Telephone Number _____



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7.9. CERTIFICATION OF BUSINESS/EXPERIENCE AND PROJECT COMMITMENT:

By signing below, Contractor certifies that:

- B.** Offeror has been in operation a minimum of seven years.
- C.** Offeror has a minimum of seven years' experience in providing fixed-route services.
- D.** Offeror's proposed General Manager has a minimum of five years' experience within the last seven years as a manager supervising and running a fixed-cost transit property/operation of similar size and scope.
- E.** Offeror's proposed Maintenance Manager has a minimum of three years' experience within the last five years in a management capacity overseeing a fixed-cost transit property/operation with an alternative fuel fleet of similar size and scope.
- F.** Offeror's proposed Operations Manager has a minimum of five years' experience within the last seven years in an Operations/Assistant General Manager capacity managing a transit property/operation of similar size and scope.
- G.** Offeror's proposed Environmental Manager has educational environmental training and a minimum of three years' environmental experience within the last five years and training in air quality management, underground storage tank management and monitoring, hazardous materials management, and stormwater and water pollution control management.
- H.** Offeror's proposed Information Technology Specialist shall have a minimum of three years' information technology experience within the last five years, having supported applications, network, servers, and desktops for a property/operation of similar size and scope.
- I.** Offeror's proposed General Manager, Maintenance Manager, Operations Manager, Environmental Manager, and Information Technology Specialist will be locally present and committed full-time for the project if Offeror is awarded the Contract.

Authorized Official: _____

Title of Authorized Official: _____

Company Name: _____



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7.10. REFERENCES:

Contractor shall furnish the names, addresses, and telephone numbers of a minimum of three firms or government organizations for which the Contractor is currently furnishing or has furnished similar services. **The City or its employees may not be used as a reference.**

Company Name _____ **Dates of Service** _____

Address _____ **Contact Name** _____

Telephone Number _____ **Email address** _____

Indicate how this work is comparable in size, quantity and type as stated in this scope of work

Company Name _____ **Dates of Service** _____

Address _____ **Contact Name** _____

Telephone Number _____ **Email address** _____

Indicate how this work is comparable in size, quantity and type as stated in this scope of work

Company Name _____ **Dates of Service** _____

Address _____ **Contact Name** _____

Telephone Number _____ **Email address** _____

Indicate how this work is comparable in size, quantity and type as stated in this scope of work



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7.11. SOLICITATION DISCLOSURE FORM

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

1. Name of person submitting this disclosure form.

Blank space for name entry

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

2. Contract Information

Blank space for contract information

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

Blank space for name of individual(s) or entity(ies)

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

Large blank space for listing individuals/entities



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

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

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

7. Disclosure of Conflict of Interest:

A. City Code Section 43-34

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

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

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



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

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

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

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

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

8. Acknowledgements

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

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



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B. Fraud Prevention and Reporting Policy

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

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

OATH

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.

PRINT NAME

TITLE

SIGNATURE

DATE

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



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7.12. FINANCIAL RESPONSIBILITY QUESTIONNAIRE:

This questionnaire must be submitted with Proposal documents. Failure to provide the completed questionnaire may cause rejection of the Proposal. All references and information must be current and traceable. If the Offeror is a Joint Venture, a separate form shall be prepared by each Joint Venture Partner.

A. Name of Offeror: _____

Principal Business Address: _____

Contact/Title: _____

Phone: _____ Email: _____

Website: _____ DUNS No. _____

B. How long has your organization been in business under present name? _____ years.

C. Describe your company's ability to meet the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

D. Have you or your organization, or any officer or partner thereof, failed to complete a Contract?

No Yes. If yes, give details: _____

E. Is any litigation pending against your organization?

No Yes. If yes, give details: _____



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F. Identify your principal financial institution for financial responsibility reference:

Name of Bank: _____

Street Address: _____

City and State: _____

Telephone: _____ E-Mail: _____

Officer Familiar with Offeror's Account: _____



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PTDProcurement@phoenix.gov

7.13. ADDENDA CERTIFICATION

The undersigned acknowledges receipt of the following addenda to RFP PTD24-005:

Addendum Number _____, dated _____

Addendum Number _____, dated _____

Addendum Number _____, dated _____

Addendum Number _____, dated _____

Addendum Number _____, dated _____

Addendum Number _____, dated _____

Addendum Number _____, dated _____

Failure to acknowledge receipt of all addenda may cause the proposal to be considered not responsive to the RFP. Include this acknowledged receipt of each addendum with the technical proposal.

Authorized Official: _____

Title of Authorized Official: _____

Company Name: _____



SECTION VII - SUBMITTALS

CITY OF PHOENIX

Public Transit Department
302 N. 1st Ave.
Phoenix, AZ 85003
PTDProcurement@phoenix.gov

7.14. OFFER

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

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

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

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

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

Authorized Signer

Date

Printed Name and Title

(Member, Manager, President)
(LLC, Inc., Sole Proprietor) _____
Address _____
City, State and Zip Code _____
Telephone Number _____
Company's Fax Number _____
Company's Toll Free # _____
Email Address _____



SECTION VII - SUBMITTALS

CITY OF PHOENIX
Public Transit Department
302 N. 1st Ave.
Phoenix, AZ 85003
PTDProcurement@phoenix.gov

7.15. ACCEPTANCE OF OFFER

The Offer is hereby accepted.

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

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

CITY OF PHOENIX
A Municipal Corporation
Jeffrey Barton, City Manager

Public Transit Department Director, or delegate
Jesus Sapien

Attest:

_____ this _____ day of _____ 20__
Denise Archibald, City Clerk

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



SECTION VII - SUBMITTALS

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ATTACHMENT A

Fee Schedule – separately posted with solicitation as excel spreadsheet



SECTION VII - SUBMITTALS

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ATTACHMENT B

FORM EO1 STATEMENT OF OUTREACH COMMITMENT

Due by the offer due date

Professional Services RFP

Table with 2 columns: Project Number, Project Title

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

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

- 1) Fulfill all required small business outreach requirements...
2) Conduct all required small business outreach...
3) Comply with the Race - and Gender-Neutral post-award requirements...

Company Name: _____

Company Mailing Address: _____

Representative Name: _____

Title: _____

Email Address: _____

Phone Number: _____

Signature: _____

Date: _____



SECTION VII - SUBMITTALS

CITY OF PHOENIX
 Public Transit Department
 302 N. 1st Ave.
 Phoenix, AZ 85003
 PTDProcurement@phoenix.gov

ATTACHMENT C (FORM 1 OF 2)

City of Phoenix Disadvantaged Business Enterprise (DBE) Program
Form EO2 SMALL BUSINESS OUTREACH EFFORTS Professional Services RFP
Due within three (3) business days following issuance of the notice of contract award recommendation

Name of Company (Submitter):	Contract # / Project #:	Contract Name:
Email:	Phone #:	Point of Contact:

Successful Submitter must conduct outreach efforts and submit supporting documentation of those outreach efforts as described in the Disadvantaged Business Enterprise (DBE) 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 Submitter should make additional copies of this form as needed.

(A) Small Business Name and Contact Information		(B) Business Status	(C) Scope(s) of Work Solicited	(D) Solicitation Method (Supporting Documentation Required)	(E) Selection Decision	(F) Communication Final Selection Outcome (Supporting Documentation Required)
Name:		<input type="checkbox"/> DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified <input type="checkbox"/> Unknown	List Scope(s) of Work	<input type="checkbox"/> E-mail Blast <input type="checkbox"/> Phone Call <input type="checkbox"/> In-Person <input type="checkbox"/> Newspaper <input type="checkbox"/> Website <input type="checkbox"/> Trade Listing <input type="checkbox"/> Outreach Event <input type="checkbox"/> Other	<input type="checkbox"/> Firm was selected Dollar Value: <input type="checkbox"/> Firm was not selected Provide explanation of why firm NOT selected _____ _____	Firms must be notified of final selection outcome prior to submittal of this form. 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:					



SECTION VII - SUBMITTALS

CITY OF PHOENIX

Public Transit Department
302 N. 1st Ave.
Phoenix, AZ 85003
PTDProcurement@phoenix.gov

Name:		<input type="checkbox"/> DBE <input type="checkbox"/> SBC - Small Business Concern <input type="checkbox"/> SBE - City of Phoenix Certified <input type="checkbox"/> Unknown	List Scope(s) of Work	<input type="checkbox"/> E-mail Blast <input type="checkbox"/> Phone Call <input type="checkbox"/> In-Person <input type="checkbox"/> Newspaper <input type="checkbox"/> Website <input type="checkbox"/> Trade Listing <input type="checkbox"/> Outreach Event <input type="checkbox"/> Other	<input type="checkbox"/> Firm was selected Dollar Value: <input type="checkbox"/> Firm was not selected Provide explanation of why firm NOT selected _____ _____	Firms must be notified of final selection outcome prior to submittal of this form. Date Firm was Notified: <hr/> 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:					



SECTION VII - SUBMITTALS

CITY OF PHOENIX
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PTDProcurement@phoenix.gov

ATTACHMENT C (FORM 2 OF 2)
FORM EO3 SMALL BUSINESS UTILIZATION COMMITMENT

**Due within three (3) business days following issuance
of the notice of contract award recommendation**

Project Number:	Project Title:
------------------------	-----------------------

On behalf of the Successful Submitter, 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 Small Business Outreach Efforts**, will participate in this contract;
2. The Successful Submitter will comply with the Race- and Gender-Neutral post-award compliance requirements as stated in the DBE contract clause;
3. Successful Submitter understands and agrees that any and all changes or substitutions to subcontracts with DBE's and Small Businesses must be authorized by the Phoenix DBE Compliance Specialist prior to implementation; and
4. The following statement is true and correct: The proposed total participation of DBE, SBC, and SBE firms on this contract will be:

\$ _____

Company Name: _____

Company Mailing Address: _____

Representative Name: _____

Title: _____

Email Address: _____

Phone Number: _____

Signature: _____

Date: _____



SECTION VII - SUBMITTALS

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PTDProcurement@phoenix.gov

ATTACHMENT D

Disadvantaged Business Enterprise/Small Business Participation Plan

Initial Plan Submission

Successful Submitter: _____

Solicitation **RFP PTD24-005** is subject to the Disadvantaged Business Enterprise (**DBE**) program requirements issued by United States Department of Transportation (**USDOT**) in 49 CFR part 26. Successful Submitter will track and report all the participation that occurs in any procurement, joint ventures, goods/services, and other arrangements involving a DBE-certified firm or small business. Successful Submitter submits its Disadvantaged Business Enterprise/Small Business Participation Plan (**SBPP**) and agrees to comply with the small business outreach requirements to use good faith and reasonable efforts to promote and foster the participation of DBE-certified firms and small businesses.

I. **Commitment for Participation of DBE-Certified Firms and Small Businesses**

Successful Submitter is committed to using good faith efforts by engaging and soliciting the services of DBE-certified firms and small businesses as new and existing needs for services arise. Successful Submitter will actively attempt to contract DBE-certified firms and small businesses, making best reasonable efforts to obtain and utilize their services.

Below is an outline of Successful Submitter's good faith plan to demonstrate efforts to foster participation by DBE-certified firms and small businesses:

1. Identify opportunities for DBE-certified and small-business suppliers and vendors to provide goods and services.
2. Identify DBE-certified firms in the AZ [UTRACS](#) database.
3. Engage in proactive outreach efforts to inform DBE-certified and small-business suppliers and vendors of opportunities, communicating with and encouraging these entities to submit proposals for delivery of goods and services.
4. Log all communications (e.g., letters, contacts, responses, and non-responses, etc.) with DBE-certified firms and small businesses.
5. Encourage suppliers and vendors who may be eligible to apply for DBE certification.

6. Other commitments:

II. Successful Submitter Responsibilities

Successful Submitter understands the requirements to comply with the SBPP and 49 CFR Part 26. Successful Submitter will track and report participation by all DBE-certified firms and small business that occurs as a result of contracts, procurements, purchase orders, subleases, joint venture agreements, goods/services, or arrangements involving sub-tier participation. This documentation **will** be entered monthly into the City's reporting program, "Certification and Compliance System," at phoenix.diversitycompliance.com.

III. List of Goods and Services

Successful Submitter has identified this list as potential categories of goods and services that can be purchased from DBE-certified firms and small businesses:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

VI. Successful Submitter Acknowledgement and Contact Information:

By signing below, Contractor verifies that the foregoing information is true and correct.

Authorized Signature: _____ Date: _____

Name: _____

Title: _____

Phone/Cell: _____

E-mail: _____