



City of Phoenix

INVITATION FOR BID  
IFB-24-0373  
PARTS WASHER MAINTENANCE AND REPAIR

City of Phoenix  
Finance Central Procurement  
251 West Washington Street  
8th floor  
Phoenix, AZ  
85003

RELEASE DATE: July 10, 2024  
DEADLINE FOR QUESTIONS: July 19, 2024  
RESPONSE DEADLINE: July 31, 2024, 2:00 pm

City of Phoenix  
INVITATION FOR BID  
IFB-24-0373  
Parts Washer Maintenance and Repair

1. INTRODUCTION .....	3
2. INSTRUCTIONS .....	4
3. SCOPE OF WORK .....	13
4. STANDARD TERMS AND CONDITIONS .....	22
5. SPECIAL TERMS AND CONDITIONS .....	37
6. DEFENSE AND INDEMNIFICATION .....	50
7. INSURANCE REQUIREMENTS .....	51
8. SUBMITTALS .....	54

Exhibit A - Supplemental Terms and Conditions to All Airport Agreements

Attachments:

A - Submittals - Pricing Proposal IFB-24-0373

B - Submittals - References

C - Submittals - Conflict of Interest and Transparency

D - Submittals - Service Completion Date

E - Submittals - Debarment & Exclusion

F - Submittals - Place of Business

G - Submittals - Costs and Payments

H - Submittals - Offer Page

# 1. Introduction

## 1.1. Summary

The City of Phoenix is seeking as-needed preventative maintenance and repair services for City owned washers. Services shall include parts, equipment, tools for all necessary services, for replacement of cleaning solution, repairs, and preventative maintenance for all City departments.

## 1.2. Contact Information

### Luis Aguilera

Finance Procurement Officer  
251 West Washington Street  
8th floor  
Phoenix, AZ 85003  
Email: [luis.aguilera@phoenix.gov](mailto:luis.aguilera@phoenix.gov)  
Phone: [\(602\) 261-8778](tel:(602)261-8778)

### Department:

Finance Central Procurement

## 1.3. Timeline

### Schedule of Events

The City reserves the right to change dates, times, and locations, as necessary. The City does not always hold a Pre-Offer Conference or Site Visit.

To request a reasonable accommodation or alternative format for any public meeting, please contact the Procurement Officer (Luis Aguilera) at (602) 261-8778/Voice or 711/TTY, or [luis.aguilera@phoenix.gov](mailto:luis.aguilera@phoenix.gov), no later than three (3) days prior to the meeting.

<b>Solicitation Issue Date</b>	July 10, 2024
<b>Pre-Offer Conference (Non-Mandatory)</b>	July 17, 2024, 12:00pm <a href="https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=md575c7e4573d9673e108ae6d6c73aa19">https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=md575c7e4573d9673e108ae6d6c73aa19</a>
<b>Written Inquiries Due Date</b>	July 19, 2024, 5:00pm
<b>Offer Due Date</b>	July 31, 2024, 2:00pm

## 2. Instructions

### 2.1. Description – Statement of Need

The City of Phoenix invites sealed offers for Parts Washer Maintenance and Repair for a five-year contract commencing on or about September 1, 2024, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.

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

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

### 2.2. City's Vendor Self-Registration and Notification

Vendors must be registered in the City’s procurePHX Self-Registration System at <https://www.phoenix.gov/procure> to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from an Offeror who has not registered.

### 2.3. Preparation of Offer

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

It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of the Offer must be initialed in original ink by the authorized person signing the Offer. No offer will be altered, amended or withdrawn after the specified offer due date and time. The City is not responsible for Offeror’s errors or omissions.

All time periods stated as a number of days will be calendar days.

It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:

- A. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
- B. Study and carefully correlate Offeror’s knowledge and observations with the solicitation and other related data.
- C. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in or between the solicitation and other related documents.
- D. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Offers submitted for consideration should be prepared simply and

economically, providing adequate information in a straightforward and concise manner. The Offeror is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.

- E. Offerors are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Offers offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- F. 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.
- G. Prices will be submitted on a per unit basis by line item, when applicable. In the event of a disparity between the unit price and extended price, the unit price will prevail unless obviously in error.

## 2.4. Fixed Offer Price Period

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

## 2.5. Obtaining a Copy of the Solicitation and Addenda

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Any interested Offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix, Finance Department, Central Procurement Division, 251 W Washington Street, 8th 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.

## 2.6. Exceptions

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

## 2.7. Inquiries

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

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

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

## 2.8. 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.

## 2.9. Business in Arizona

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

## 2.10. Licenses

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

## 2.11. Certifications

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

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

## 2.12. 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 electronically by email to [Procurement@phoenix.gov](mailto:Procurement@phoenix.gov) and the following information should be noted in the email:

- A. Offeror's Name
- B. Offeror's Address (as shown on the Certification Page)
- C. Solicitation Number
- D. Solicitation Title
- E. Offer Opening Date
- F. Due to file size limitations for electronic transmission (for sending or receiving), Offers sent by email may need to be sent in parts with multiple emails. It is the responsibility of the Offeror to ensure that the Offer (including all parts if sent in multiple emails) is timely and to confirm that there are no technical reasons that any offer submitted electronically may be delayed. The date and time on the email(s) as received/stamped by the City's inbox will provide proof of submission and verification whether the Offer was received on or prior to the exact time and date indicated in the Schedule of Events.
- G. Any original documents (such as bonds, guaranties, powers of attorney), if required by the solicitation, must be separately 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.

## 2.13. Withdrawal of Offer

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

## 2.14. Offer Results

Offers will be opened on the offer due date, time and location indicated in the Schedule of Events, at which time the name of each Offeror, and the prices may be read. Offers and other information received in response to the solicitation will be shown only to authorized City personnel having a legitimate interest in them or persons assisting the City in the evaluation. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website.

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

## 2.15. Minimum Qualifications

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

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

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

## 2.16. Award of Contract

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

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

1. Technical capability of the Offeror to accomplish the scope of work required in the Solicitation. This may include performance history on past and current government or industrial contracts; and,
2. Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,
3. Safety record; and,
4. Offeror history of complaints and termination for convenience or cause.



- B. Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.
- C. A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the Chief Procurement Officer or Department Director. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

## 2.17. Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual Offerors or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated Procurement Officer) at a public meeting, posted under Arizona Statutes, until the resulting contract(s) are awarded to all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

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

Offerors may discuss their proposal or the solicitation with the Mayor or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Offerors, the City Manager and/or City Manager's Office will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and/or City Manager's Office and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Offerors, assure that contracts are awarded in public, and protect the integrity of the selection process. OFFERORS THAT VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Offeror may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

"To discuss" means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or a similar

solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

## 2.18. Protest Process

Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.

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

Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.

Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations on the City's website to award the contract(s) to an Offeror(s). Offeror must submit award protests within seven days after the posting of the award recommendation, with exceptions only for good cause shown, within the City's full and final discretion.

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

- 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.

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

## 2.19. Public Record

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

## 2.20. Late Offers

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

## 2.21. Right to Disqualify

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

## 2.22. Contract Award

In accordance with the City of Phoenix Code, Chapter 43, Section 43-12, Competitive Sealed Bidding, award(s) shall be made to the lowest responsible and responsive offeror(s) whose offer conforms in all material respects to the requirements set forth in this solicitation. The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award.

## 2.23. Determining Responsiveness and Responsibility

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

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

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

## 2.24. Equal Low Offer

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

### 3. Scope of Work

The City of Phoenix requires services from a Contractor experienced in providing full service washer preventative maintenance, repair and replacement services. The Contractor will provide all labor, materials, equipment, supplies, supervision, transportation and all other costs associated with providing full-service preventative maintenance and repair services.

#### 3.1. Contractor Requirements

- A. Perform preventative maintenance services and make necessary adjustments needed to ensure the equipment's integrity, safe operation and optimal performance, and in accordance with the Department's parts washers capacity/size and service interval per Item #D below.
- B. Replace rust inhibitor, as-needed.
- C. Supply detergent and replace solvent in parts washer, as-needed. The solution cleaner, by itself, will not be a characteristic or listed hazardous waste as defined in 40 CFR 261. Contractor will provide a copy of the SDS/MSDS to the City.
- D. Provide replacement equipment, parts and service as may be requested on an as-needed basis. Any purchases for replacement equipment, parts and services must be pre-approved by a City Department contact and will require written estimates. Contractor will be responsible to source all parts and components necessary to complete repairs. Contractor will have sufficient inventory of parts and equipment to perform routine repairs and maintenance services for the manufactures and models identified in section 3.4. This contract covers only the purchase of replacement equipment, it is not intended for purchase of brand new equipment.
- E. Water Based: Contractor will dispose on-site all waste water removed from parts washers. Waste water will not be removed from the City Department facility.
- F. Solvent Based: If the cleaner/solvent is recycled, the Contractor will maintain ownership and will arrange for all necessary disposal, recycling, etc. at no additional cost to the City. Recycling will be performed in compliance with all applicable local, state and federal regulations.
- G. Signage Requirements: Pursuant to Maricopa County rule 303.2, for all parts washer units using a cleaning solvent other than Low – VOC Cleaner in any solvent cleaning machine (degreaser) or dip tank, Contractor will provide on the machine, or within 3 ¼ feet (1 meter) of the machine, a permanent, conspicuous label or place card which includes, at a minimum, each of the following applicable instructions, or its equivalent, and indicated legibly:
  - Keep parts washer cover closed when parts are not being handled. This is not required for remote reservoir cleaners.
  - Drain parts until they can be removed without dripping.

- Wipe up spills and drips as soon as possible; store used spill rags or wiping material in covered container.
  - Don't leave cloth or any absorbent materials in or on this tank.
  - Labeled with appropriate hazard warning.
  - For cleaning machines with moving parts such as hoists, pumps or conveyors, Contractor shall post the following sign:  
"Operating instructions can be obtained from \_\_\_\_\_ (list a person or place where the instructions are available)."
- A. SDS/MSDS. Within 3 days prior to any anticipated chemical changes, Contractor will provide to the City SDS/MSDS for all chemicals to be provided.

### 3.2. General Requirements - Materials Receipt

- A. The Contractor will prepare two copies of a materials receipt service ticket:
- One legible copy will be presented to the authorized City representative at the requesting location at the time of service.
  - The second copy will be submitted with the invoice. See also Section III, Special Terms and Conditions, Item 4. Invoicing.
- B. The receipt will include the following:
- City Site Information.  
The City's department name, address, location, telephone number, and signature of the responsible City representative at the location of the washer being serviced (generating pick-up site).
  - Size of Parts Washer.
  - Date of the service/pick-up.
  - Material Description.  
The volume of waste cleaner/solvent picked-up at each site, if applicable.
  - Transporter name and signature.
  - Recycler Facility. (if applicable), including name, address, and telephone number.

### 3.3. City Department Contacts

Service will be pre-arranged with the City Department contacts listed in the table below.

<b>Department</b>	<b>Location</b>	<b>Department Contact Phone Number</b>
Aviation	Sky Harbor Airport 2515 E. Buckeye Rd	(602)273-2007 or (602)273-4099
Parks	Encanto Yard 1802 West Encanto Blvd	(602)534-6986
Parks	Mechanic Shop 4155 West Glenrosa Ave	(602)534-6986
Parks	Northeast Yard 1602 East Sahuaro Dr	(602)534-6986
Parks	Pecos Park Maintenance Yard 17010 S. 48th St	(602)534-6986
Parks	Cesar Chavez Park Maintenance Yard 7858 S. 35th Ave	(602)534-6986
Parks	Rio Salado 641 W Lower Buckeye Rd	(602)534-6986
Parks	Peoria Shop 9850 N. 23rd Ave	(602)534-6986
Public Works	South Shop 2441 South 22nd Ave	(602)262-6919
Public Works	North Truck Shop 2441 South 22nd Ave	(602)534-8071
Public Works	Union Hills Service Center 138 E. Union Hills Dr	(602)534-9845
Public Works	Glenrosa Service Center 4019 West Glenrosa Ave	(602)534-9856
Public Works	Okemah Service Center 3828 East Anne St	(602)262-6757
Public Works	Salt River Service Center 3045 S 22nd Ave	(602)495-5171
Public Works	19th Ave Fire Service Center 2625 S 19th Ave	(602)262-6707

Public Works	27th Avenue Transfer Station 3060 S 27th Ave	(602)757-0321
Public Works	91st Ave Repair Shop 5615 S 91st Ave	(602)819-2814
Public Works	Black Mountain Sub-Station 33355 N Cave Creek Rd	(602)495-5043
Public Works	Central City Sub-Station 1902 S 16th St	(602)534-6957
Public Works	Cactus Park Sub-Station 122209 N 39th Ave	(602)534-6954
Public Works	Desert Horizon Sub-Station 16030 N 56th St	(602)534-6953
Public Works	Estrella Mt Police Precinct 2111 S 99th Ave	(602)262-7628
Public Works	Maryvale Sub-Station 6180 W Encanto Blvd	(602)534-6959
Public Works	North Gateway Transfer Station 30205 N Black Canyon Hwy	(602)819-2814
Public Works	Southern Command Sub-Station 3443 S Central Ave	(602)534-3533
Public Works	South Mountain Sub-Station 400 W Southern Ave	(602)495-0855
Public Works	Mountain View Sub-Station 2075 E. Maryland Ave	(602)495-7478
Water	91st Avenue WWTP 5615 South 91st Ave Tolleson, AZ 85353	(602)495-7637
Water	Remote Facilities 5204 E. Thomas Rd	(602)534.2859
Water	Val Vista Water Treatment Plant 3200 E. McDowell Rd Mesa, AZ 85213	(602)534.9758
Water	Cave Creek Water Service Yard 21642 North 20th St	(602)495-5760
Water	Deer Valley Water Treatment Plant 3030 W. Dunlap Ave	(602)262.6896



Water	23rd Avenue WWTP 2470 South 22nd Ave	(602)495-7637
Water	24th St. WTP 6202 N 24th Street	602-262-4983
Water	Union Hills WTP 2001 E Deer Valley Rd	602-534-6679

### 3.4. City's Parts Washer Equipment

The following is the City's current parts washer inventory, location, and requested service interval. The City reserves the right to add or delete parts washers, as needed.

Department	Parts Washer Manufacturer (Name)	Manufacturer & Model Number	Location (physical address)	Size of Parts Washer (Gallon) and service term
Aviation	CUDA	H20-2216	2515 E. Buckeye Rd.	23 Gal – monthly service term
Aviation	CUDA	H20-2530	2515 E. Buckeye Rd.	40 Gal – monthly service term
Police	Graymills Clean-O-Matic	Model #100A S/N E-76	102 E. Deer Valley Road	40 Gal – quarterly service term
Parks	Safety-Kleen	Model 90.1 Aqueous	1802 W. Encanto Blvd.	30 Gal – quarterly service term
Parks	Safety-Kleen	90.1	9850 N 23 Ave	20 Gal – quarterly service term
Parks	Safety-Kleen	94 Aqueous	4155 W Glenrosa Ave	20 Gal – quarterly service term
Parks	Safety-Kleen	Model 94.1 Aqueous Parts washer	17010 S 48th St	30 Gal - quarterly service term
Parks	Safety-Kleen	Model 94	1602 E Sahuaro	20 Gal – quarterly service term
Parks	Safety-Kleen	Model 44	7858 S. 35th Ave	80 Gal – every 2 mo service term
Public Works	CUDA	CUDA 2836 Deluxe	91st Ave. WWTP	50 Gal – every 2 mo service term
Public Works	CUDA	CUDA 2840 Deluxe	27th Ave Transfer St.	50 Gal – every 2 mo service term
Public Works	CUDA	CUDA 2836 Deluxe	3045 S. 22nd Ave – Salt River	40 Gal – monthly service term
Public Works	CUDA	CUDA 2836 Deluxe	2441 S. 22nd Ave - North	50 Gal – monthly service term

Public Works	CUDA	CUDA 2836 Deluxe	2441 S. 22nd Ave - North	50 Gal – monthly service term
Public Works	CUDA	CUDA 2836 Deluxe	2441 S. 22nd Ave - South	23 Gal – monthly service term
Public Works	CUDA	CUDA 2836 Deluxe	2441 S. 22nd Ave - South	50 Gal – monthly service term
Public Works	CUDA	CUDA 2836 Deluxe	4021 W. Glenrosa Ave	50 Gal – monthly service term
Public Works	CUDA	CUDA 2530 Deluxe	4021 W. Glenrosa Ave	50 Gal – monthly service term
Public Works	CUDA	CUDA 2836 Deluxe	30205 N. Black Canyon Hwy	50 Gal – monthly service term
Public Works	CUDA	CUDA 2530 Deluxe	138 E. Union Hills	23 Gal – monthly service term
Public Works	CUDA	CUDA 2530 Deluxe	138 E. Union Hills	40 Gal – monthly service term
Public Works	CUDA	CUDA 2530 Deluxe	2625 S. 19th Ave (Fire Ops)	23 Gal – monthly service term
Public Works	CUDA	CUDA 2836 Deluxe	2625 S. 19th Ave (Fire Ops)	23 Gal – monthly service term
Public Works	CUDA	CUDA 2530 Deluxe	2625 S. 19th Ave (Fire Ops)	40 Gal – monthly service term
Public Works	CUDA	CUDA 2530 Deluxe	2625 S. 19th Ave (Fire Ops)	40 Gal – monthly service term
Public Works	CUDA	CUDA 2836 Deluxe	3828 E. Anne St.	45 Gal – monthly service term
Public Works	CUDA	CUDA 2350 Deluxe	3443 S. Central Ave.	30 Gal – every 2 mo service term
Public Works	CUDA	CUDA 2350 Deluxe	1902 S. 16th St.	30 Gal – every 2 mo service term
Public Works	CUDA	CUDA 2350 Deluxe	2075 E. Maryland	30 Gal – every 3 mo service term
Public Works	CUDA	CUDA 2350 Deluxe	16030 N. 56 St.	30 Gal – every 3 mo service term
Public Works	CUDA	CUDA 2350 Deluxe	6180 W. Encanto Blvd.	30 Gal – every 3 mo service term
Public Works	CUDA	CUDA 2350 Deluxe	2111 S. 99th Ave	30 Gal – every 2 mo service term
Public Works	CUDA	CUDA 2350 Deluxe	12220 N. 39th Ave	30 Gal – every 3 mo service term
Public Works	CUDA	CUDA 2350 Deluxe	400 W. Southern	30 Gal – every 3 mo service term

Public Works	CUDA	CUDA 4142 Deluxe	33355 N. Cave Creek	30 Gal – every 2 mo service term
Public Works	Safety-Kleen	Model 26	138 E. Union Hills, Union Hills Shop	5 Gal Max Fill – 6 Week service term
Public Works	Safety-Kleen	Model 91	3045 S. 22nd Ave, Salt River Shop	50 Gal Max fill – 8 Week service term
Public Works	Safety-Kleen	Model 44R	2625 S. 19th Ave Ste 1, Fire Ops Shop	30.4 Gal Max Fill – 6 Week service term
Public Works	Safety-Kleen	Model 33.0	2625 S. 19th Ave Ste 1, Fire Ops Shop	24.5 Gal Max Fill– 6 Week service term
Public Works	Safety-Kleen	Model 34R	2625 S. 19th Ave Ste 1, Fire Ops Shop	23.2 Gal Max Fill – 6 Week service term
Public Works	Safety-Kleen	SK975954	2625 S. 19th Ave Ste 1, Fire Ops Shop	5 Gal – 6 Week service term
Public Works	Safety-Kleen	Model 30	2441 S. 22nd Ave., South Shop	15.2 Gal Max Fill – 8 Week service term
Public Works	Safety-Kleen	Model 26.1	2441 S. 22nd Ave., South Shop	5 Gal – 8 Week service term
Public Works	Safety-Kleen	Model 26.1	2441 S. 22nd Ave., Heavy Equip Shop	5 Gal – 8 Week service term
Public Works	Safety-Kleen	Model SK1111 - Aqueous	2441 S. 22nd Ave., Heavy Equip Shop	40 Gal Max Fill– 8 Week service term
Public Works	Safety-Kleen	Model 26	4021 W. Glenrosa Ave, Glenrosa Shop	5 Gal Max Fill– 12 Week service term
Public Works	Safety-Kleen	Model 91	3828 E. Anne St., Okemah Shop	50 Gal Max Fill – 6 Week service term
Public Works	Ranger	RS-500-D-601	138 E. Union Hills	50 Gal – monthly service term
Water Services Division	Karcher - CUDA Series	H20-2840 S/N 10434190-100013	Val Vista WTP 3200 E McDowell Mesa, AZ	50 Gal – quarterly service term
Water Services Division	CUDA	H20-2840 S/N 10434190-1000011	Deer Valley WTP 3030 West Dunlap Ave.	50 Gal – quarterly service term
Water Services Division	Safety-Kleen	90 S/N 90019305	Union Hills WTP 2001 E. Deer Valley Rd.	30 Gal – quarterly service term
Water Services Division	CUDA	H20-2530 S/N 10433660-100054	6202 N 24th Street Bldg.1	40 Gal – monthly service term

Water Services Division	CUDA	H20-2840 Deluxe 200.720 S/N C0306-62298 208 V1 Phase	5204 E. Thomas	50 Gal – monthly service term
Water Services Division	CUDA	H20-2840 S/N 01105-61792	21642 N. 20th St.	50 Gal – monthly service term
Water Services Division	CUDA	H20-2840	91st WWTP Maintenance Shop Building: 08 5615 S 91st Ave Tolleson, AZ	50 Gal – monthly service term
Water Services Division	CUDA	H20-2840	91st WWTP, SHF Building Solid Handling Facility 5615 S. 91st Ave Tolleson, AZ	50 Gal – monthly service term
Water Services Division	CUDA	H20-2840	23rd WWTP Building 40 2470 S. 22nd Ave.	50 Gal – monthly service term

### 3.5. Subcontractors

Contractor will not subcontract or use any other party to perform services without prior written authorization from the City Representative. Contractor’s use of a subcontractor or other party to perform services shall not relieve or release the Contractor from their duties, liabilities, or obligations under the contract. Subcontractor will be responsible for submitting their invoices to the Contractor.

### 3.6. Contractor's Response Time

-Contractor will call the City Representative within one (1) hour of a written or verbal notification for service.

- Contractor will be onsite per the following requirements:

- Same day Service: within 24 hours of written or verbal notification.

- Regular Service Call: within 48 hours of written or verbal notification.

- Emergency Response: within two (2) hours of written or verbal notification. Contractor will have sufficient staff to respond to an emergency.

- Emergency callouts may include, but are not limited to the following:

- An emergency will be declared if a delay in service would result in damage to either the facility or equipment.

- An emergency will be declared if equipment is not capable of maintaining proper cooling of occupied facilities as a result of missed routine service.

- If the system is operational but eminent equipment failure is apparent to City personnel, an emergency *may* be declared.
- Standing water that presents a slipping hazard or possibility of insect infestation.
- The City, at its sole discretion, will determine an emergency service.

### 3.7. Standards

All work must be in compliance with all applicable Codes, the City of Phoenix Fire Code, OSHA, and all other governing codes, permits, rules, laws, regulations, and statutes pertaining to the work being performed.

## 4. Standard Terms and Conditions

### 4.1. 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 Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the Offer without the information.

**May:** Indicates something that is not mandatory but permissible.

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

"A.R.S." Arizona Revised Statute

"Buyer" or "Procurement Officer" City of Phoenix staff person responsible for the solicitation. The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.

"City" The City of Phoenix

"Contractor" The individual, partnership, or corporation who, as a result of the competitive process, is awarded a contract by the City of Phoenix.

"Contract" or "Agreement" The legal agreement executed between the City of Phoenix, AZ and the Contractor.

"Days" Means calendar days unless otherwise specified.

"Chief Procurement Officer" The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.

"Employer" Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).

"Offer" Means a response from a Supplier, Contractor, or Service Provider to a solicitation request that, if awarded, binds the Supplier, Contractor, or Service Provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.

"Offeror" Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.

"Solicitation" Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed Offers, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, Offers, or quotes from suppliers.

“Suppliers” Firms, entities or individuals furnishing goods or services to the City.

“Vendor or Seller” A seller of goods or services.

## 4.2. Contract Interpretation

- A. **Applicable Law:** This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.
- B. **Contract Order of Precedence:** In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:
1. Federal terms and conditions, if any
  2. Special terms and conditions
  3. Standard terms and conditions
  4. Amendments
  5. Statement or scope of work
  6. Specifications
  7. Attachments
  8. Exhibits
  9. Instructions to Contractors
  10. Other documents referenced or included in the Solicitation
- C. **Organization – Employment Disclaimer:** The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor’s obligations under the agreement are considered to be City’s employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen’s compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and will save and hold the City harmless with respect thereto.
- D. **Severability:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

- E. **Non-Waiver of Liability:** The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.
- F. **Parol Evidence:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

#### 4.3. Contract Administration and Operation

- A. **Records:** All books, accounts, reports, files and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.
- B. **Discrimination Prohibited:** Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended. Any contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee.
- C. **Equal Employment Opportunity and Pay:** In order to do business with the City, Contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended,



Equal Employment Opportunity Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

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

3. **Documentation:** Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.
  4. **Monitoring:** The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.
- D. **Legal Worker Requirements:** The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:
1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.
  2. A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
  3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.
- E. **Health, Environmental, and Safety Requirements:** The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City. At the request of City representatives, the Contractor will provide the City:
1. Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.
  2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.
  3. The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).
- F. **Compliance with Laws:** Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when

performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance. Because the contractor will be acting as an independent contractor, the City assumes no responsibility for the Contractor's acts. Contractor shall comply with the provisions of the Supplemental Terms and Conditions to All Airport Agreements attached, marked Exhibit A, and incorporated herein by this reference.

- G. **Lawful Presence Requirement:** Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.
- H. **Continuation During Disputes:** Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.
- I. **Emergency Purchases:** The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

#### 4.4. Costs and Payments

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

- D. **Discounts:** If applicable, 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.
- E. **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.
- F. **Fund Appropriation Contingency:** The Contractor 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 Contractor 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.
- G. **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.
- H. **F.O.B. Point:** All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

#### 4.5. Contract Changes

- A. **Contract Amendments:** Contracts will be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.
- B. **Assignment - Delegation:** No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

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

#### 4.6. Risk of Loss and Liability

- A. **Title and Risk of Loss:** The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.
- B. **Acceptance:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.
- C. **Force Majeure:** Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition. If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.
- D. **Loss of Materials:** The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the City.
- E. **Contract Performance:** Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor. The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and

will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

- F. **Damage to City Property:** Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City. Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

#### 4.7. City's Contractual Rights

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

- A. **Non-Exclusive Remedies:** The rights and remedies of the City under this Contract are non-exclusive.
- B. **Default in One Installment to Constitute Breach:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.
- C. **On Time Delivery:** Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.
- D. **Default:** In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the Solicitation and/or Performance Bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.
- E. **Covenant Against Contingent Fees:** Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.
- F. **Cost Justification:** In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.

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

#### 4.8. Contract Termination

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

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

1. This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.
2. The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:
  - In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
  - In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
  - In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality;
  - Contractor fails to furnish the required service and/or product within the time stipulated in the contract;

- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or gives the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

C. **Contract Cancellation:** All parties acknowledge that this contract is subject to cancellation by the City of Phoenix pursuant to the provision of Section 38-511, Arizona Revised Statutes.

#### 4.9. Notice

All notices, consents, approvals, and other communications ("Notice") between the City and Contractor that are required to be given under this Contract shall be in writing and given by (1) personal delivery, (2) email with return receipt requested (read receipt), (3) facsimile transmittal with delivery confirmation, (4) prepaid delivery to any commercial air courier or express delivery service, or (5) registered or certified mail, postage prepaid and return receipt requested, through the United States Postal Service.

Notices to the City shall be sent to: City of Phoenix Finance Department, Procurement Division [Procurement@phoenix.gov](mailto:Procurement@phoenix.gov).

Notice to Contractor shall be sent to the person at the mailing address, email address, or fax number listed by Contractor in its Offer in Submittal Forms - Offer Page.

#### 4.10. State and Local Transaction Privilege Taxes

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

#### 4.11. Tax Indemnification

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



#### 4.12. Tax Responsibility Qualification

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

#### 4.13. No Israel Boycott

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

#### 4.14. No Forced Labor of Ethnic Uyghurs

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

#### 4.15. Advertising

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

#### **4.16. Strict Performance**

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

#### **4.17. 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.

#### **4.18. Attorney Fees**

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

#### **4.19. Headings**

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

#### **4.20. National Emergency**

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

#### **4.21. No Impairment of Title**

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

#### **4.22. No Personal Liability**

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

#### **4.23. Successors and Assigns**

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

#### 4.24. Termination for Non-Appropriation of Funds

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

#### 4.25. Breach and Remedies for Breach

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

- Contractor fails to pay any amount when due and the failure continues for ten (10) days after notice from the City.
- Except for the non-monetary events of breach listed below, Contractor fails to perform any non-monetary obligation under this Contract and the failure continues for ten (10) days after notice from the City.
- Contractor fails to procure and maintain the insurance coverages required under this Contract and the failure continues for one (1) day after notice from the City.
- Contractor breaches any other lease, contract, agreement, or permit it has with the City.
- Contractor files a voluntary petition in bankruptcy; is adjudicated bankrupt or insolvent; takes the benefit of any law applicable to bankrupt or insolvent debtors; files a petition or action seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief; seeks or acquiesces to the appointment of a trustee, receiver, or liquidator of all or a substantial part of Contractor's assets; or makes any general assignment for the benefit of creditors.
- Contractor violates any federal, state, or local law, rule, regulation, or ordinance related to this Contract and the violation continues for ten (10) days after notice from the City.

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

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

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

#### **4.26. Claims Against the City**

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

#### **4.27. Delinquent Account Fee**

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

#### **4.28. Entire Agreement**

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

#### **4.29. Fair Interpretation**

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

#### **4.30. No Third-Party Beneficiaries**

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

## **5. Special Terms and Conditions**

### **5.1. Term of Contract**

The term of this Contract will commence on or about September 1, 2024 and will continue for a period of five (5) years thereafter.

### **5.2. Free on Board (FOB)**

Prices quoted shall be FOB destination and delivered, as required, to the following point(s): as specified on the City of Phoenix purchase order.

### **5.3. Price**

All prices submitted shall be firm and fixed for the initial one-year of the contract. Thereafter, price increases will be considered annually provided the adjustments are submitted in writing with 60 days' notice to the Procurement Officer. Price increase requests shall be accompanied with written documentation to support the increase, such as a letter from the manufacturer, published price index, applicable change in law, etc. Price decrease requests do not require supporting documentation and are allowed at any time during the contract term.

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

### **5.4. Method of Ordering**

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

### **5.5. Method of Invoicing**

Invoice must be emailed in .pdf format to [invoices@phoenix.gov](mailto:invoices@phoenix.gov) and must include the following:

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

- Remit to address

## 5.6. Method of Payment

Payment to be made from Contractor's invoice and a copy of the signed delivery/service ticket submitted to cover items received and accepted during the billing period.

## 5.7. Supplier Profile Changes

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

## 5.8. Estimated Quantities or Dollar Amounts (Requirements Contracts Only)

Quantities and dollar amounts listed are the City's best estimate and do not obligate the City to order or accept more than City's actual requirements during the period of this agreement, as determined by actual needs and availability or appropriated funds. It is expressly understood and agreed that the resulting contract is to supply the City with its complete actual requirement for the contract period.

## 5.9. Delivery / Service Ticket

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

- Date
- City purchase order number
- Written description of services which were provided
- Itemized list of materials which were delivered, including quantity
- A unique identification number and Contractor name
- Signature of City employee who accepted for the materials/services

## 5.10. Miscellaneous Fees

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

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

### 5.11. Non-Warranty Maintenance Parts and Repair

Contractor is requested to provide a percent discount for parts off manufacturers' most current established published price list. Repair parts will be an OEM (Original Equipment Manufacturer) part or an OEM equivalent, or remanufactured according to OEM specifications. All aftermarket parts need to be approved by the City prior to installation.

Contractor is required to submit a shop labor rate for services performed. All labor performed shall be in accordance with OEM labor policies, specifications and procedures. Labor times will be no greater than times published in an industry recognized labor guide or times that are standard in the industry if labor guides are not available.

### 5.12. Repair and Replacement Parts Guarantee

Following the expiration of any express or implied warranty applicable to those goods, furnished to the City under this contract, Contractor agrees to supply the City (as well as its agents, representatives, Contractors, and hires) with in-stock repair and replacement parts carrying a full manufacturer's warranty at a cost that shall not exceed the cost it would charge if it were contracted to service or install those repair and replacement parts.

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

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

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

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

#### 5.14. Cleaning

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

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

#### 5.15. Employee Identification and Access

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

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

Unless otherwise provided for in the scope of work:

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

#### 5.16. Stolen or Lost Badges or Keys

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



### 5.17. Return of Badge or Key

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

### 5.18. Badge and Key Fees

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

Initial Badge Fee: \$55.00 per application

Replacement Badge Fee: \$55.00 per badge

Lost/Stolen Badge Fee: \$55.00 per badge

Replacement Key Fee: \$55.00 per key

Replacement Locks: \$55.00 per lock

### 5.19. Contract Worker Background Screening

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

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

### 5.20. Contractor Certification

By entering into this Contract, Contractor certifies that Contractor has read the Background Screening requirements and criteria in this Section, understands them, and that all Background Screening information furnished to the City is accurate, complete, and current. A Contract Worker that is rejected for work under this Contract shall not perform any work under any other contract or engagement Contractor has with the City without the City's prior written approval.

## 5.21. Contractor's Contracts and Subcontracts

Contractor shall include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for work performed under this Contract, including supervision and oversight services.

## 5.22. Materiality of Background Screening Requirements and Indemnity

The Background Screening requirements of this Section are material to the City's decision to enter into this Contract. Any breach of this Section by Contractor shall be deemed a material breach of this Contract. In addition to any other indemnification provision in this Contract, Contractor shall defend, indemnify, and hold harmless the City from and against any and all claims, actions, liabilities, damages, losses, and expenses (Claims) arising out of this Background Screening Section, including the Contractor's disqualification of any Contract Worker or the City's failure to enforce this Section.

## 5.23. Continuing Duty and Audit

Contractor's obligation to ensure that all Contract Workers pass a Background Screening pursuant to Section shall continue throughout the entire term of this Contract. Contractor shall immediately notify the City of any change to a Contract Worker's Background Screening. Contractor shall maintain all records and documents related to all Background Screenings and the City reserves the right to audit Contractor's compliance with this Section.

## 5.24. Contract Worker Access Controls and Airport Security Badge Requirements

Contractor shall not allow a Contract Worker to begin work under this Contract until Contractor has completed the Background Screening required by the City and the City has issued the appropriate airport security badge to the Contract Worker. The airport security badge will grant the Contract Worker unescorted access authority only to the area or areas of the Airport that the Contract Worker must enter in order to perform work under this Contract. When a Contract Worker's work in any area ends, the Contract Worker's access authority to that area ends. Any Contract Worker that attempts to enter a restricted area or sterile area, as those terms are defined below, of the Airport without proper authority is an immediate breach of this Contract.

## 5.25. Security Identification Display Area (SIDA) Badge Process

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

4-22(D) of the Phoenix City Code. Current badging procedures and fees are available for review at: <https://www.skyharbor.com/airport-business/security-badging/>.

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

## 5.26. Risk-Based Background Check Process

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

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

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

- A. Before any work is performed under this Contract, Contractor shall provide the City with a list of its Contract Workers.
- B. If any dispute arises related to a background check process or criminal history check information, then Contractor and the affected Contract Worker will resolve the dispute. The City will not get involved in resolving any such dispute.
- C. In making the determination whether information in a background check renders the Contract Worker disqualified, Contractor should be guided by the following principles and guidelines:
  - 1. Disqualification should not be based solely on a criminal conviction, unless the conviction related to performance under this Contract.
  - 2. Arrests that did not result in a conviction being entered or charges being filed may not be considered.
  - 3. Not all criminal convictions or other negative information obtained in a background check will disqualify a Contract Worker from working under this Contract.
  - 4. Contractor must evaluate the relevance of the information to the work the Contract Worker will perform under this Contract.

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

- H. In a maximum risk background check, Contractor must conduct the same review as in a standard risk background check. However, when submitting its list of qualified Contract Workers, Contractor must also submit the results of the background checks to the City for review. After its review, the City will either approve or deny each Contract Worker.
1. If the City approves a Contract Worker, then the City will notify Contractor of that fact and the Aviation Department will issue the appropriate airport security badge to the Contract Worker.
  2. If the City denies a Contract Worker, then the City will notify Contractor of that fact and Contractor will reevaluate the Contract Worker to determine whether the person should be disqualified. If Contractor believes there are extenuating circumstances that suggest that the Contract Worker should not be disqualified, then Contractor will discuss those circumstances with the City. The City will review the matter and its decision on disqualification is final.
  3. The City may set up a secure folder or drop box for confidential materials related to maximum risk background checks. The City will not keep records related to maximum risk background checks after they are reviewed.
- I. If Contractor is a sole proprietor, Contractor must submit to the City a copy of his or her own background check and a background check for all business partners, member, and employees that will work under this Contract and for whom the background check requirements of City of Phoenix A.R. 4.45 apply.
- J. Contractor shall determine whether a Contract Worker is disqualified from performing work under this Contract.

## 5.27. Maximum Risk Background Check

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

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

## 5.28. Scope of the Maximum Risk Background Check

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

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

## 5.29. Contractor's Breach

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

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

## 5.30. Liquidated Damages and Remedies for Breach of Aviation Security Procedures

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

### 5.31. Contractor Certification

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

### 5.33. OSHA Laws and Regulations

**Emergency Spill Response Plan:** Contractor shall determine whether products selected could require an emergency spill response plan for any hazardous material used. If such determination is made, a plan for directing employees in proper response procedures must be submitted. At a minimum, the response plan must address the following:

- Provide a description of equipment on site available to contain and/or respond to an emergency/spill of the material.
- Notification procedures.
- Response coordination procedures between Contractor and the City.
- Provide a Site Plan showing the location of stored hazardous materials and location of spill containment/response equipment.
- Provide a description of the training provided to the Contractor employees.

**Hazardous Materials Storage and Labeling Specifications:** Contractor shall, to the satisfaction of the City of Phoenix's environmental representative, properly and safely store all hazardous materials, which shall include as a minimum, the following:

- Have a designated storage site for hazardous material, which includes secondary containment.
- Provide signage approved by the City of Phoenix's environmental representative clearly identifying the hazardous materials storage site. Signage must be in language understood by Contractor's on-site employees.
- All hazardous materials containers must be labeled according to OSHA requirements and bear applicable NFPA or HMIS labels.

**OSHA Guideline Compliance:** Contractor shall comply with all applicable Federal, State, City and local laws, regulations and rules including, but not limited to:

- Safety Data Sheets – Contractor shall furnish to the City's Department copies of Safety Data Sheets (SDS), or all products used, prior to beginning service in any facility. Contractor must update copies of the SDS on an annual basis. In addition, each time a new chemical or cleaning product is introduced into any facility, a copy of that product's SDS must be provided prior to the product being used in any facility. The Safety Data Sheets must be in compliance with OSHA Regulation 1910.1200, paragraph g.

- **Labeling of Hazardous Materials** – Contractor shall comply with the OSHA Regulation 1910.1200 paragraph f, concerning the labeling of all chemical containers
- **Caution Signs** – Contractor shall use caution signs as required by OSHA Regulation 1910.144 and 1910.145 at no cost to the City. Caution signs must be on-site during each scheduled cleaning.
- **Blood Borne Pathogens** – Contractor shall comply with OSHA Standard 29CFR 1910.1030 Blood Borne Pathogens as it pertains to the training, safety, and equipment needed for all employees engaged in contracted service. Contractor shall be responsible for compliance on date of contract acceptance and shall provide proof to the City's Department.

Proof of compliance with OSHA regulation 1910.1200, Hazard Communication, shall be provided to the City's Department, upon commencement of this Contract, and reviewed by the Department Safety Analyst for verification. Failure of the Contractor or their employees to comply with all applicable laws and rules shall permit the City to immediately terminate resultant Contract without liability.

**SDS Notebooks:** Contractor shall maintain on the site a notebook containing current (dated within the past three years or verified as most current by manufacturer) SDS for all materials being used on site, whether or not they are defined as a Hazardous Material. The notebook shall be kept in the Contractor's on-site storage area. The notebook must be kept up-to-date as materials are brought onto and removed from the site. A complete copy of the SDS notebook shall also be provided to the City. New products must be approved for use by the City by providing a copy of the product's SDS for review and approval.

**Non-Hazardous Materials Labeling Specifications:** The Contractor shall clearly label all packaged products, whether or not they are classified as Hazardous Materials under this Section. If any such unlabeled containers are discovered on the Site, the City's environmental representative will notify the Contractor and Contractor will within one hour clearly label the container or remove it from the site. Any containers that are filled from larger containers must also be labeled.

**Offsite Storage of Hazardous Materials:** The City encourages storage of hazardous materials off site until the materials are needed on site. Solvent based strippers and cleaners will NOT be stored on City property.

**Hazardous Materials Management Program Documentation:** The Contractor shall make all required documentation available immediately upon request of the City's environmental representative. The Contractor shall also provide the City's environmental representative with copies of all permits obtained from environmental regulatory agencies.

**Contractor Training Requirements:** The Contractor shall provide requested copies of the company's written Hazardous Communications Program to the City of Phoenix that satisfies requirements listed under sections e, f, g, and h of 29 CFR 1910.1200, Hazard Communications. The Contractor must demonstrate how employees are trained in the proper use, storage, and



disposal of chemical products and wastes in a language understood by the Contractor's on-site employees.

## **6. Defense and Indemnification**

### **6.1. 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.

## **7. Insurance Requirements**

### **7.1. Contractor's Insurance**

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

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

### **7.2. Scope and Limits of Insurance**

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

### **7.3. Commercial General Liability – Occurrence Form**

General Aggregate \$2,000,000

Products – Completed Operations Aggregate \$1,000,000

Personal and Advertising Injury \$1,000,000

Each Occurrence \$1,000,000

- The policy must name the City of Phoenix as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.
- There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Phoenix as an additional insured.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

## 7.4. Automobile Liability

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

Combined Single Limit (CSL) \$1,000,000

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

## 7.5. 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.

## 7.6. 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 [procurement@phoenix.gov](mailto:procurement@phoenix.gov).

## 7.7. Acceptability of Insurers

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

## 7.8. Verification of Coverage

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

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

All certificates required by this Contract must be sent directly to [procurement@phoenix.gov](mailto:procurement@phoenix.gov). The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

## 7.9. Subcontractors

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

## 7.10. Approval

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

## 8. Submittals

### 8.1. Copies

Please submit one original, One copies, and one electronic copy (portable drive or CD) of the Submittal Section and all other required documentation. Please do not lock the electronic copy with password protection so that the City may digitally incorporate the successful offer into the awarded contract.

**Please submit only the Submittal Section, do not submit a copy of the entire solicitation document.** This Offer will remain in effect for a period of 180 calendar days from the opening date, and is irrevocable unless it is in the City's best interest to release offer(s).

### 8.2. Solicitation Response Check List

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

The written offer should be:

- Typewritten for ease of evaluation
- Signed by an authorized representative of the Offeror
- Submitted with contact information for the individual(s) authorized to negotiate with the City
- A. Offeror's Proposal - A detailed proposal describing the firm or individual's qualifications and experience responsive to the requirements of the solicitation and evaluation criteria.
- B. Pricing Proposal - A completed pricing proposal with all requested prices, quantities, and/or discounts completed.
- C. Submittal Forms - All submittal forms are completed and signed.
- D. Addenda - Signed copies of all published addenda.

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

### 8.3. Additional Quantities

By signing and submitting this solicitation, Offeror agrees that the City may, at any time prior to the expiration of this contract, purchase additional quantities up to and including 100 percent of the quantities specified at these solicitation prices and conforming to solicitation specifications.

# EXHIBIT A

## SUPPLEMENTAL TERMS AND CONDITIONS TO ALL AIRPORT AGREEMENTS

### 1. **Definitions**

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

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

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

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

### 2. **Federal Aviation Administration (FAA) Grant Assurances**

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

During the performance of this Contract, Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations.** Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Nondiscrimination.** The Contractor, with regard to the work performed by it during the Contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate, directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

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

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

**5. Sanctions for Noncompliance.** In the event of Contractor's noncompliance with the nondiscrimination provisions of this Contract, the City of Phoenix will impose such Contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

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

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

**6. Incorporation of Provisions.** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. Contractor will take action with respect to any subcontract or procurement as the City of Phoenix or the Federal Aviation Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, that if Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Contractor may request the City of Phoenix to enter into any litigation to protect the interests of the City of Phoenix. In addition, Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**2.2. Transfer of Real Property Acquired or Improved Under the Airport Improvement Program.**

The following clauses will be included in deeds, licenses, leases, permits, or similar



instruments entered into by the City pursuant to the provisions of the Airport Improvement Program grant assurances:

A. Contractor for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this Contract for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Contractor will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits or similar documents, in the event of a breach of any of the above Nondiscrimination covenants, the City of Phoenix will have the right to terminate this Contract and to enter, re-enter and repossess said lands and facilities thereon, and hold the same as if this Contract had never been made or issued.

C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the City of Phoenix will have the right to enter or re-enter the lands and facilities thereon, and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of the City of Phoenix and its assigns.

### **2.3 CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the City pursuant to the provisions of the Airport Improvement Program grant assurances.

A. The grantee, licensee, permittee or as appropriate, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or

under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the grantee, licensee, lessee, permittee, or similarly situated person will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

B. With respect to licenses, leases, permits, or other similar documents, in the event of breach of any of the above Non-discrimination covenants, the City will have the right to terminate the license, permit, or other similar documents, and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said license, permit, or other similar documents had never been made or issued.

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the City will there upon revert to and vest in and become the absolute property of the City and its assigns.

**2.4. General Civil Rights Provisions (49 U.S.C. § 47123) Used for Contracts, Lease Agreements, and Transfer Agreements**

**A. General Civil Rights Provisions:** In all its activities within the scope of its airport program, Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by title VI of the Civil Rights Act of 1964.

**1. Specific Clause that Is Used for General Contract Agreements:**

The above provision binds Contractor and subcontractors from the bid solicitation period through the completion of this Contract.

**2. Specific Clause that Is Used for Lease Agreements or Transfer Agreements:**

If Contractor transfers its obligation to another, the transferee is obligated in the same manner as Contractor.

The above provision obligates Contractor for the period during which the property is owned, used or possessed by Contract and the City of Phoenix remains obligated to the Federal Aviation Administration.

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

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

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

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

## **2.6 Disadvantaged Business Enterprise Requirements – 49 C.F.R. Part 26**

**A. Contract Assurance (§ 26.13).** To the extent that this Contract is covered by 49 C.F.R. Part 26, Contractor agrees that this Contract is subject to the requirements of the U.S. Department of Transportation (DOT) regulations at 49 C.F.R. Part 26.

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 DOT-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 recipient 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.

Contractor agrees to include the foregoing statement in any subsequent contract that it enters into and cause those businesses to similarly include the statement in further agreements.

**B. Prompt Payment (§ 26.29).** Contractor agrees to pay each subcontractor under this Contract for satisfactory performance of its contract not later

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

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

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

## **2.8 Miscellaneous**

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

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

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

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

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

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

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

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

**I.** This Contract is subordinate to whatever rights the United States now has or in the future may acquire affecting the control, operation, regulation, and

taking-over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during a time of war or national emergency.

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

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

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

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

### **4. Conflict of Interest**

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

### **5. Legal Worker Requirements**

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

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

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

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

## **6. City of Phoenix Equal Employment Opportunity Requirement**

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

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

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

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

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

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

**6.3 Monitoring.** The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this Section 3 as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site

compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

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

During the performance of this Contract, Contractor, for itself, its assignees, and successors interest (hereinafter referred to as the “Contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);



- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

**8. Contractor Requirements for the Mitigation of Heat-Related Illnesses and Injuries in the Workplace, Phoenix City Code Sec. 18-411**

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 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:

- A.** Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
- B.** Ability to take regular and necessary breaks as needed and additional breaks for hydration.
- C.** Access to shaded areas and/or air conditioning.
- D.** Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
- E.** Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
- F.** 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.

**G.** 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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