



City of Phoenix

REQUEST FOR PROPOSAL

RFP 24-0328

JET FUEL REMEDIATION AND TECHNICAL DISPUTE ENVIRONMENTAL CONSULTING SERVICES

City of Phoenix

Aviation

2485 East Buckeye Road

Phoenix, Arizona 85034

RELEASE DATE: October 16, 2024

DEADLINE FOR QUESTIONS: November 4, 2024

RESPONSE DEADLINE: December 6, 2024

City of Phoenix
REQUEST FOR PROPOSAL
RFP 24-0328
Jet Fuel Remediation and Technical Dispute Environmental
Consulting Services

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EXHIBITS:

- A- Required Submittal Documents
- B- Pricing Proposal
- C- Supplemental Terms and Conditions to All Airport Agreements
- D- Sensitive Security Information (SSI) Acknowledgement

1. Introduction

1.1. Summary

The City of Phoenix (City) Aviation Department Planning and Environmental Division is seeking the services of a qualified contractor to provide executive level Environmental Consulting Services in support of the City concerning the Airport Fueling Facilities Corporation (AFFC) Consent Decree and any subsequent agreements or plans (Services). These Services may be subject to a Technical Dispute Resolution which may include but not be limited to good faith negotiation, mediation, binding arbitration, or bench trial to resolve a civil dispute. In the future, the City may develop infrastructure in the footprint of areas remediated by AFFC to remove jet fuel and the City requires support to avoid potential construction conflicts, costs, or delays.

All activities undertaken under this Contract and the Scope of Work must be performed in accordance with the requirements of all applicable federal, state, and local laws, rules, regulations, and ordinances. This project requires a dedicated team of consultants specializing in Environmental Consulting Services with an expert level of experience in airport fueling, remediation oversight, brownfield development, and risk management.

1.2. Contact Information

Paul Pociask

Contract Specialist II
2485 East Buckeye Road
Phoenix, Arizona 85034
Email: paul.pociask@phoenix.gov
Phone: [\(602\) 273-2769](tel:602-273-2769)

Department:

Aviation

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. All times in the Schedule of Events are local Phoenix, Arizona time. All times in the Schedule of Events are local Phoenix time.

To request a reasonable accommodation or alternative format for any public meeting, please contact the Procurement Officer Paul Pociask at 602-273-2769/Voice or 711/TTY, or paul.pociask@phoenix.gov, not later than seven (7) Days prior to the meeting.

Solicitation Issue Date	October 16, 2024
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<p>Pre-Offer Conference (Non-Mandatory)</p>	<p>October 24, 2024, 11:00am **To RSVP / register, please visit: https://cityofphoenix.webex.com/weblink/register/rea7fefb35e95522020f52a87f5e6ff99 For any issues registering or signing into the Pre-Offer Conference, please contact busopps.aviation@phoenix.gov or 602-273-339</p>
<p>Written Inquiries Due Date</p>	<p>November 4, 2024, 4:00 pm</p>
<p>Offer Due Date</p>	<p>December 6, 2024, 3:00 pm Offer Opening to begin at 3:15 p.m. Meeting Link: https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m41b9b87ad11383c30880db9b4d607cf7 Join by phone I. +1-415-655-0001 US Toll II. Access code: 2867 137 7159</p>
<p>Evaluation of Proposals/Offers</p>	<p>December, 2024 - January, 2025</p>
<p>Award Recommendation (protest period begins – 7 Days)</p>	<p>February, 2025</p>
<p>City Council Approval</p>	<p>June, 2025</p>

2. Instructions

2.1. Description – Statement of Need

The City invites sealed Offers for Jet Fuel Remediation and Technical Dispute Environmental Consulting Services for a three-year period commencing on or about July 1, 2025, in accordance with the specifications and provisions contained in this Solicitation or the “Effective Date”, which is upon award by the Phoenix City Council and recording by the City Clerk, as required by the Phoenix City Code, whichever is later. This Contract includes two (2), one-year options to extend the Term, which may be exercised at the sole discretion of the City.

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

Notwithstanding the foregoing, this Contract will terminate upon the earlier of the following: Reaching the end of the Term, including any extensions, or termination pursuant to the provisions of this Contract.

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. The product category for this Solicitation is 918430000 (Environmental Consulting) and 918000000 (Consulting Services).

2.3. Minimum Qualifications

The qualified and responsive Offeror must meet **all** minimum requirements qualifications listed below. If an Offeror fails to meet even one of the minimum qualifications, the Offer will be disqualified as nonresponsive.

A. Contractor must have a minimum of five (5) years of experience providing executive level recommendations for Brownfield development, including large leaking underground storage tanks, hydrants, or petroleum remediation projects within the past ten (10) years.

B. Contractor must have demonstrated one (1) year of experience in expert witness testimony or expert level support of dispute resolution, arbitration, and mediation processes.

C. Contractor and its subcontractors must have no actual or perceived conflict of interest on any matter where the City may require representation.

2.4. Preparation of Offer

All forms provided in Exhibit A, Required Submittal Documents, must be completed and submitted with the Offer. The signed and completed Conflict of Interest and Transparency form must be included or the Offer may be deemed nonresponsive.

Submittal forms may be copied, 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 the due date and time. Offerors are strongly encouraged to:

A. Consider applicable laws and 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 this Solicitation and other related data.

C. Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies that Offeror has discovered in this Solicitation or other related documents.

D. The City does not reimburse any Offeror for 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. Offerors are 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 this Solicitation are the minimum level required and that Offers 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 in this Solicitation are nonresponsive and should not be submitted.

F. Offers 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 detailed product brochures for the City's use to evaluate the products offered. Offers submitted without this product information may be considered nonresponsive 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.

2.5. Fixed Offer Price Period

All Offers shall be firm and fixed for a period of 210 Days from the Solicitation opening date.

2.6. Obtaining a Copy of the Solicitation and Addenda

Offerors may download the complete Solicitation and addenda from <https://solicitations.phoenix.gov/>. Any Offeror 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, Public Works Department, 200 West Washington Street, 7th Floor, Phoenix, Arizona 85003. It is Offeror's responsibility to check the website, read the entire Solicitation, and verify all required information is submitted with the Offer.

2.7. Exceptions

Offeror must not take any exceptions to any term, condition, or material requirement of this Solicitation. Offers submitted with exceptions may be deemed nonresponsive and disqualified from further consideration in the City's sole discretion. Offerors must conform to all the

requirements specified in this Solicitation. The City encourages Offerors to send inquiries to the Procurement Officer rather than including exceptions in their Offer.

2.8. Inquiries

All questions that arise relating to this Solicitation should be directed by 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 Offer due date deadline.

No informal contact initiated by any Offeror on the proposed service will be allowed with members of City's staff from date of distribution of this Solicitation until after the resulting Contract(s) is awarded or all Offers are rejected and this Solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar Solicitation. All questions concerning or issues related to this Solicitation must be submitted in writing.

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

2.9. Addenda

The City is not responsible for any oral instructions made by any employees or officers of the City regarding this Solicitation. Any changes will be in the form of an addendum. **Offerors must acknowledge receipt of all addenda by signing and returning the document with the Offer submittal. Failure to acknowledge receipt and return the signed addenda may result in the rejection of the Offer as nonresponsive.**

2.10. Business in Arizona

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

2.11. Licenses

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

2.12. Certifications

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

- A. The submission of the Offer did not involve collusion or other anti-competitive practices.
- B. Offeror must not discriminate against any employee or applicant for employment in violation of federal or Arizona law.
- C. Offeror has not given, offered to give, or 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 a submitted Offer.

2.13. Submission of Offer

Submission of Offer – Hard Copy Submission:

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

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

- A. Offeror's Name
- B. Offeror's Address (as shown on the Certification Page)
- C. Solicitation Number
- D. Solicitation Title
- E. Offer Opening Date

All Offers must be completed in ink or typewritten, unless submitted electronically, and include the number of copies that are required as indicated in the Submittal section.

For "In-Person" and "via Carrier (i.e. USPS, FedEx, UPS, etc.)" Delivery: Offers will be received at the Aviation Headquarters located at 2485 East Buckeye Road, Phoenix Arizona 85034 in the lobby during normal business hours (8:00 am – 5:00 pm Local Phoenix Time). Offer should be clearly identified outside of the package as designated above.

Offerors are responsible for managing potential delays. The City does not make exceptions for delays caused by a Carrier. It is each Offeror's responsibility to ensure that the Offer is timely submitted.

Submission of Offer – Electronic Submission:

The Aviation Department is accepting electronic Offers for this Solicitation in addition to other methods of submitting sealed Offer packages (hard copies). Offerors are responsible for submitting the electronic Offer on or before the Solicitation Deadline.

For "Electronic" Submittal: Offers must be submitted via email to avn.solicitations@phoenix.gov AND paul.pociask@phoenix.gov. Due to file size limitations of 100mb for electronic transmission (for sending or receiving), Offers sent by email may need to be sent in parts with multiple emails. The date and time on the email(s) as received by the City's inbox will provide proof of submission and verification whether the Offer (including all parts if sent in multiple emails) was received on or prior to the Solicitation Deadline. The Solicitation number and title "**AVN RFP 24-0328 Jet Fuel Remediation and Technical Dispute Environmental Consulting Services**" must be included on the subject line of the email when submitting an Offer.

Offerors may submit electronic signatures on documents that do not require notarization. Please ensure that electronically signed documents are submitted in separate PDF files. The City does not accept electronic signatures for notarized documents, including bonds, guaranties, powers of attorney, or affidavits. These documents must be submitted in paper form (hard copy) with original or "wet-signatures" at time of the Solicitation Deadline and submission must comply with the Hard Copy Submission requirements above.

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

2.14. Withdrawal of Offer

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

2.15. Offer Results

Offer openings will take place on their designated date and time indicated in the Schedule of Events through remote video and telephone conference with the link and dial-in phone number below:

Meeting Link

<https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m41b9b87ad11383c30880db9b4d607cf7>

Join by phone:

+1-415-655-0001 US Toll

Access code: 2867 137 7159

The name of each Offeror and the price may be read and viewed. 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 the Offeror's name on the City's website, <https://solicitations.phoenix.gov/Awards>, within five (5) business days of the Offer opening. Offers are not available for public inspection until after the City has posted the award recommendation on the City's website. After the City has reviewed the Offers, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors.

2.16. Certificates of Insurance

Upon notification of a recommended award, the successful Offeror will have **60 Days** to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this Solicitation. Insurance requirements are nonnegotiable.

2.17. 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, required by 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 Offeror to accomplish the Scope of Work required in this Solicitation, which may include performance history on past and current government or industrial contracts,

2. Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the Scope of Work in this Solicitation,
 3. Safety record, and
 4. Offeror history of complaints and terminations 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, (2) reject any or all Offers or portions thereof, or (3) reissue a solicitation.
- C. A response to this Solicitation is an Offer to enter into a contract with the City based upon the terms, conditions, and specifications contained in this Solicitation. Offers do not become contracts until they are executed by the Deputy Aviation Director 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 this Solicitation and in any addendum or contract amendment.

2.18. 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 law, 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.

2.19. Protest Process

Offerors may protest the contents of this Solicitation not later than seven (7) Days before the Solicitation deadline when the protest is based on an apparent alleged mistake, impropriety, or defect in this Solicitation. Protests filed regarding this Solicitation may be addressed by an amendment in the form of an addendum to this 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 or addendum, the Protester must adhere to all Solicitation dates and deadlines, including timely filing of an Offer, regardless of filing a protest.

Offerors may protest an adverse determination issued by the City regarding responsibility and responsiveness within seven (7) Days of the date the Offeror was notified of the adverse determination.

Offerors may protest an award recommendation if an 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). Offerors must submit award protests within seven (7) Days after the posting of the award recommendation, with exceptions only for good cause shown, within the City’s sole and final discretion.

All protests must be in writing, filed with the Procurement Officer identified in this Solicitation, and include all of the following:

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

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

2.20. 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 law. If an Offeror believes that a specific section of its Offer is confidential, the Offeror must isolate the pages marked confidential in a specific and clearly labeled section of its Offer. An Offeror may request specific information in its Offer be treated by the Procurement Officer as confidential, provided the Offeror clearly marks the information "confidential." To the extent necessary for the evaluation process, information marked "confidential" will not be treated as confidential. After the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by an Offeror 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 the request to view any portion of its Offer marked "confidential." 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.

2.21. Late Offers

Late Offers will be rejected, except for good cause. If a late Offer is submitted, the Aviation 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.

2.22. 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 an Offer, the Offeror waives any right to object now or at any time in the future before any agency or body including, the Phoenix City Council 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.

2.23. Contract Award

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

2.24. Determining Responsiveness and Responsibility

Offers will be reviewed for documentation of minimum qualifications, completeness, and compliance with 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 this Solicitation includes terms and conditions that, if included or excluded from Offers (as the case may be), will render an Offer nonresponsive.

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

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

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

Offeror's failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility with respect to the Offeror.

2.25. Evaluation of Competitive Sealed Offers

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

2.26. Detailed Evaluation of Offers and Determination of Competitive Range

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

2.27. Offers Not Within the Competitive Range

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

2.28. Discussions with Offerors in the Competitive Range

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

Demonstrations - Offerors in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the

evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

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

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

2.29. Best and Final Offers (BAFO)

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

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

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

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

3. Scope of Work

3.1. Introduction:

The City's Aviation Department's Planning and Environmental Division is seeking the services of a qualified contractor to provide executive level Environmental Consulting Services in support of the City concerning the Airport Fueling Facilities Corporation (AFFC) Consent Decree and any subsequent agreements or plans. These Services may be subject to a Technical Dispute Resolution which may include but not be limited to good faith negotiation, mediation, binding arbitration, or bench trial to resolve a civil dispute. In the future, the City may develop infrastructure in the footprint of areas remediated by AFFC to remove jet fuel and the City requires support to avoid potential construction conflicts, costs, or delays.

All activities undertaken under this Contract and the Scope of Work must be performed in accordance with the requirements of all applicable federal, state, and local laws, rules, regulations, and ordinances. This project requires a dedicated team of consultants specializing in Environmental Consulting Services with an expert level of experience in airport fueling, remediation oversight, brownfield development, and risk management.

3.2. Aviation Department Representative (ADR):

The ADR for this Contract is Rebecca Godley, Environmental Superintendent. The ADR will coordinate all work and will be the sole judge concerning acceptability and quality of work. Contractor will consult with the ADR on all concerns and issues arising during the Term of this Contract.

3.3. Conflict of Interest:

Contractor and its subcontractors must not have a conflict of interest that may affect the selection process or the consultancy. Contractor must avoid all potential or actual conflicts of interest. Therefore, Contractor and its subcontractors will not represent other clients where representation would constitute a potential conflict of interest on any matter where the City may require representation.

3.4. Consulting Hours:

The required Services listed in this Section 3, Scope of Work, is a level of estimates based on an annual schedule and is summarized as an annual level of effort hour quantities as defined in 3.6 E. Actual effort hour quantities may vary, but for budgeting and evaluation purposes, the following assumptions have been made: The City has estimated that Contractor will provide **348 hours** of Environmental Consulting Services each year during the Term of this Contract.

3.5. Environmental Consulting Services:

Contractor will provide Environmental Consulting Services associated with the AFFC Consent Decree and any subsequent agreements or plans, and these Services may be subject to a Technical Dispute Resolution. Under the provisions of this Contract, Contractor must provide the City with expert level technical support with matters related to the AFFC Consent Decree and any subsequent agreements or plans as described in this Scope of Work. Contractor must provide or subcontract the following positions: Principal/Project Manager; Experts in Hydrology,

Remediation and Risk Assessment; Technical Support Staff; Field Support Staff, and Administrative Support Staff.

3.6. General Requirements:

Contractor and its subcontractors must work in accordance with this Contract to review or develop plans, reports, and other goods and services pursuant to this Contract. Contractor must provide Jet Fuel Remediation and Technical Dispute Environmental Consulting Services associated with the AFFC Consent Decree and any subsequent agreements or plans and these Services may be subject to a Technical Dispute Resolution.

A. Contractor shall:

1. Comply with A.R.S. §§ 34-101 to 34-103.
2. Summarize the evidence and arguments supporting the City's position.
3. Provide City staff with technical expertise related to the environmental service areas.
4. Compile future oversight costs and future response costs, including whether monitoring or remedial costs associated that are reasonable and necessary.

B. Verbal Communications

1. Meeting preparation and attendance – Contractor will participate in one (1) **one- (1) hour** meeting every month with City staff, City management, counsel, or consultants (internal meetings); one (1) **three- (3) hour** meeting every quarter with City staff, consultants, and representatives of AFFC and, agencies or other public meetings. Attendance at each meeting will be requested by the City as needed and approved in advance by the ADR.
2. Teleconferences – Contractor will participate in technical discussions by telephone with City staff and consultants, and with the AFFC and its consultants, as approved in advance by the ADR, totaling **one (1) hour** per week or **four (4) hours** per month.

C. Technical Interpretations

1. Document Review – Contractor will spend **three (3) hours** every month reviewing and providing written comment on documents submitted to City by the AFFC and its consultants. Contractor will spend up to **three (3) hours** quarterly reviewing documents and providing written comments as well as graphical demonstration of issues. Documents are only reviewed as requested by City.
2. Independent Technical Work
 - i. Contractor is responsible for data collection from the AFFC and its consultants at the request of the City. In addition, Contractor may be directed by the City to collect soil vapor samples from field locations or existing wells for field and laboratory analysis for comparison to toxicity and safety

standards. Contractor will spend **four (4) hours** per month on field monitoring equipment and laboratory costs.

- i. Contractor is responsible for compiling any collected data and reporting to the City in a formal letter or report including that will include statistics, facts, and tables to validate all recommendations. Contractor will spend **four (4) hours** per month on these activities.
- ii. Contractor is responsible for maintaining all collected data in a database spreadsheet that must contain GPS location information suitable for inclusion into GIS database for data interpretation for future infrastructure locations. Contractor will spend **four (4) hours** per month on these activities.
- iii. Contractor is responsible for data interpretation to calculate key quantities associated with the AFFC site (e.g., oxygen utilization, well efficiency, water elevations, biological degradation, vapor partitioning, groundwater elevation, etc.) and risk management (e.g., % LEL, vapor action levels, vault air action levels, confined space entry criteria, vapor partitioning, vapor intrusion, etc.). Contractor will compare data to standards set in the Consent Decree or any subsequent agreements and plans. Contractor will spend **one (1) hour** every month to independently plot and interpret data.
- iv. Contractor is responsible for Risk Management by updating and interpreting the environmental industry standards of mass removal and remaining mass as well as making recommendations for remediation efficiency, risk management and mitigation approaches for infrastructure design, construction safety, and occupied locations. Contractor will spend **three (3) hours** every month to update, interpret, and consult on mass removal, remaining mass, and providing written recommendations.

D. Program Management

- a. Contractor must prepare three (3) memorandums per year, as assigned by the ADR, on project status, including recommendations for alignment with AFFC Consent Decree and any subsequent agreements or plans. In addition to three (3) memorandums, Contractor must develop an annual report of project accomplishments and recommendations before the end of each year in the Term of this Contract. The ADR may request additional information in this report as needed. The memorandums and annual report must include tables, figures, and graphical presentation of data and recommendations. Contractor will spend **three (3) hours** every month to compare project progress to project requirements.

E. Estimated Annual Use

- a. The City has estimated that Contractor will provide **348 hours** of Environmental Consulting Services each year during the Term of this Contract. The City reserves the right to request additional or fewer Services, as needed, within the scope and expertise of Contractor.

3.7. Environmental Key Personnel:

The City, on an as needed basis, will require that Contractor provide Jet Fuel Remediation and Technical Dispute Environmental Consulting Services and Contractor must have key personnel who are qualified subject matter experts in at least the following areas. Key personnel may take on multiple roles if they meet the following minimum education and experience requirements:

A. Principal/Project Manager

1. Minimum Education and Experience Requirements:

Master's Degree or higher in hydrogeology, geology, hydrology, engineering or geological, environmental, chemical, or biological sciences and fifteen (15) years of work experience, plus certification in Registered Geologist (R.G.), Professional Engineer (P.E.), and Certified Hazardous Materials Manager (C.H.M.M.). Demonstrated skills in project management, communication, and closure of complex environmental sites.

B. Hydrology Expert

1. Minimum Education and Experience Requirements:

Master's Degree or higher in hydrogeology, geology, hydrology, engineering or geological, environmental, chemical, or biological sciences and ten (10) years of work experience, plus certification in Registered Geologist (R.G.), Professional Engineer (P.E.), and Certified Hazardous Materials Manager (C.H.M.M.).

C. Remediation Expert

1. Minimum Education and Experience Requirements:

Master's Degree or higher in engineering or geological, environmental, chemical, or biological sciences and ten (10) years of work experience, plus certification in Registered Geologist (R.G.), Professional Engineer (P.E.), and Certified Hazardous Materials Manager (C.H.M.M.).

D. Risk Assessment Expert

1. Minimum Education and Experience Requirements:

Master's Degree or higher in biological sciences or pharmacology and five (5) years of work experience, plus Diplomate of the American Board of Toxicology (DABT), (Board Certified Toxicologist) or equivalent credentials.

E. Geographic Information System (GIS) Technical Support Staff (Data Interpretation)

1. Minimum Education and Experience Requirements:

Bachelor's Degree or higher in GIS or related field and two (2) years of work experience in GIS, database management, quality assurance controls, and mathematical and statistical interpretation of data.

F. Field Support Staff

1. Minimum Education and Experience Requirements

Associate degree or higher in science, engineering, or physics or related field and two (2) years of field work experience in environmental instrumentation, sample collection, field documentation, and record keeping. An additional five (5) years of field work experience may be substituted for associate degree.

G. Administrative Support

One (1) year of experience with word processing, spreadsheet development, accounting, and project controls.

3.8. Reporting:

The City, on an as needed basis and as listed above, will require Contractor to review provided reports and based upon technical interpretation propose guidance to meet City goals. The reports must be formatted and include the following sections: Introduction, Issue, Interpretation, Discussion, Conclusions and Recommendations.

Contractor will summarize data in tables, graphics and charts. Environmental consultant services will determine the effectiveness and accuracy of the project plans and project reports and compare them to the remediation standards, performance metrics, and toxicity and safety standards. Based on these comparisons, decisions will be made to optimize the system, change or discontinue monitoring, or shut down active remedial systems and consider alternative remedial system or contingency measures.

3.9. Reimbursable Expense:

Reimbursable expenses will be reimbursed with no additional charges for overhead, benefits, or administrative support. All reimbursable expenses shall be pre-approved by the ADR in writing and shall be reasonable and prudent. Travel will be reimbursable for projects that require out-of-state travel. Travel will **ONLY** be reimbursable with **PRIOR** ADR approval

3.10. Invoicing Requirements:

Contractor must provide detailed invoices to the City and supporting documentation sufficient to enable the City to determine that the costs incurred were reasonable, consistent with the Scope of Work, not previously reimbursed, and free of accounting errors.

1. **Supporting documentation must include:**

- a. Invoices with notes describing the work (i.e., document being reviewed, discussions with City or third-party staff, documents created by Contractor, etc.)
- b. Receipts
- c. Work orders
- d. Reports
- e. Authorizations
- f. Names of employees, contractors, vendors, and suppliers

- g. Accurate pay request form and cost breakdown form, which must be signed and dated by Contractor.
- 2. **Contractor's Responsibility:**
 - a. Provide copies of invoices as back-up documentation.
 - b. Cross reference all expenditures with the supporting documentation to ensure all invoices are correct.
 - c. Create a summary of the reasonable costs and a detailed listing of the reasonable costs.

4. Evaluation Process

4.1. Offer Evaluation Criteria

In accordance with the Administrative Regulation 3.10, Competitive Sealed Proposal awards shall be made to the responsive and responsible Offeror(s) whose Offer is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are listed in relative order of importance and more details are provided in Section 3 – Scope of Work. The following criteria will be used to evaluate all Offers:

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	<p>Method of Approach to Scope of Work (0-300 points)</p> <p>A narrative must be provided of the firm’s Overall Method of Approach to the Scope of Work. The Offer must address key technical points, including work plans, characterization reports, remediation status reports, site closure plans, post-closure monitoring plans, future construction plans for potential of toxicity and safety impacts, risk assessments, fate and transport models. The Offer must include effective communications, including presentation of complex data and concepts, project team method of communication, management method of communication, meetings, including web meetings and video meetings. The Offer should list Project Management Tools, including avoiding future actual or perceived conflict of interest, quality assurance and quality control plan, schedule and cost controls, invoicing, document management plan, health and safety plan. Provide example of an executive level recommendation report relevant to the Solicitation scope.</p>	Points Based	300 (30% of Total)

<p>2.</p>	<p>Qualifications and Experience of Consulting Staff (0-275 points)</p> <p>Offerors must provide the following: the names of key personnel who will be responsible for this Contract, their function in the company, title, and role as it pertains to the Scope of Work. The Offer must list qualifications, skills, and training of the firm’s staff relevant to the Scope of Work. The Offer must provide the number of years and type of experience of key personnel providing Environmental Consulting to Aviation and the airport industry, including: Relevant project roles and responsibilities; a narrative statement of any actual or perceived conflict of interest, specific staff location, availability, and current workload, the professional accreditations, education, and registrations/certifications of key personnel, expertise in aviation and airport experience and experience with Brownfields development or large Leaking Underground Storage Tank or Hydrant or Petroleum remediation projects. The Offer must provide two references for each key personnel, identifying project by name and project roles and responsibilities.</p>	<p>Points Based</p>	<p>275 (27.5% of Total)</p>
<p>3.</p>	<p>Firm Qualifications and Experience (0-225 points)</p> <p>Offerors must provide the following: number of years and type of experience providing Environmental Consulting to Aviation and/or airport industry, management philosophy that includes quality control and project safety, organizational Structure Chart for project, examples of managing project resources on time and within budget employing Environmental Consulting Services. The Offeror must provide, if applicable, a history of subconsultant experience and working relationship or summary of proposed subconsultant roles and responsibilities and interactions with Proposer. The Offer must provide relevant experience with Environmental Consulting in an airport and aviation environment, large Leaking Underground Storage Tank or Hydrant or Petroleum remediation projects and brownfields development, including roles and responsibilities. The Offer must include a portfolio of completed projects in an airport and/or aviation environment within the past ten (10) years including project name, dates, location, role. The Offer must list all experience relevant to the Scope of Work in expert witness testimony, informal and formal dispute resolution processes, or arbitration/mediation processes. The Offer must provide three (3) references from organizations or government agencies to which similar Environmental Consulting Services is currently being provided or has been provided in the past ten (10) years. For each reference, Offeror must provide: The name of the firm or organization, the name and title of contact person, contact person's address, telephone number, and email address.</p>	<p>Points Based</p>	<p>225 (22.5% of Total)</p>

4.	Fee schedule Proposal (0-200 points) Submit hourly rate Fee Schedules (Section VI – Submittals): Offerors must complete the Fee Schedule (Section VI – Submittals) in its entirety to be considered responsive. Proposals with incomplete fee schedules will be disqualified as non-responsive and rejected.	Points Based	200 <i>(20% of Total)</i>
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5. Standard Terms and Conditions

5.1. 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." means Arizona Revised Statutes

"Buyer" or "Procurement Officer" means 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 Contractor, and responsible for monitoring and overseeing Contractor's performance under this Contract.

"City" means the City of Phoenix

"Contractor" means 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" means the legal agreement executed between the City and the Contractor.

"Days" or "Day" means calendar Days unless otherwise specified.

"Deputy Aviation Director or Aviation Department Director" means the contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.

"Employer" means any individual or type of organization that transacts business in Arizona 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" means 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” means firms, entities or individuals furnishing goods or services to the City.

“Vendor or Seller” means a seller of goods or services.

5.2. Contract Interpretation

- A. **Applicable Law:** This Contract will be governed by the laws of the State of Arizona, and lawsuits pertaining to this Contract will be brought only in federal or state courts in Maricopa County, 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. Submittals
 9. Exhibits
 10. Instructions to Contractors
 11. Other documents referenced or included in the Solicitation
- C. **Organization – Employment Disclaimer:** The Contract 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 Contractor in the performance of Contractor’s obligations under this Contract are considered to be City’s employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. 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, 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 Contract 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 Contract. 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.

5.3. Contract Administration and Operation

- A. **Records:** All books, accounts, reports, files, and other records relating to this Contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of this Contract. Such records will be produced at a City office as designated by the City. Confidentiality will be maintained, and the City will not violate any proprietary or other confidentiality agreements Offeror has in place.
- B. **Discrimination Prohibited:** Contractor agrees to abide by the provisions of the Phoenix City Code, Chapter 18, Article V, as amended. 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. Contractor 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. 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 Contract entered into by Contractor.
- 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 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. 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. Contractor further agrees that this clause will be incorporated in all subcontracts related to this Contract that involve 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, Contractor agreements or subleases of this Contract entered into by Contractor.

2. **For a Contractor with more than 35 employees:** Contractor 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. 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. 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 Contract entered into by Contractor. 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:** Contractor 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 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(A).
 2. A breach of a warranty under paragraph 1 above will be deemed a material breach of this Contract that is subject to penalties up to and including termination of this Contract.
 3. The City retains the legal right to inspect the papers of Contractor or subcontractor employee who works on this Contract to ensure that Contractor or subcontractor is complying with the warranty under paragraph 1 above.
- E. **Health, Environmental, and Safety Requirements:** 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, 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 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 Contractor or subcontractor. The City will also have the right to inspect operations conducted by Contractor or subcontractor in the performance of this Contract. The City further reserves the right to make unannounced inspections of 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 Contractor will be acting as an independent contractor, the City assumes no responsibility for Contractor's acts. Contractor shall comply with the provisions of the Supplemental Terms and Conditions to All Airport Agreements, which is attached, marked Exhibit C, and incorporated herein by this reference.
- G. **Lawful Presence Requirement:** Pursuant to A.R.S. §§ 1-501 and -502, the City 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 Offeror is unable to satisfy this requirement, the City will offer the award to the next-highest scoring Offeror. 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 this Contract, 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 order.
- I. **Emergency Purchases:** The City reserves the right to purchase from other sources those items that are required on an emergency basis and cannot be supplied immediately from stock by Contractor.

5.4. Audit/Records

- A. The City reserves the right, at reasonable times, to audit Contractor's books and records relative to the performance of service under this Contract. All records pertaining to this Contract will be kept on a generally accepted accounting basis for a period of five years following termination of this Contract.
- B. If, following an audit of this Contract, the audit discloses Contractor has provided false, misleading, or inaccurate cost and pricing data, and the cost discrepancies exceed 1% of the total Contract billings, Contractor will be liable to the City for reimbursement of the reasonable, actual cost of the audit.

5.5. Independent Contractor Status; Employment Disclaimer

The parties agree that Contractor is providing the Services under this Contract on a part-time and/or temporary basis and that the relationship created by this Contract is that of independent contractors. Neither Contractor nor any of Contractor's agents, employees,

or helpers will be deemed to be the employee, agent, or servant of the City. The City is only interested in the results obtained under this Contract; the manner, means, and mode of completing the Services are under the sole control of Contractor.

5.6. Costs and Payments

- A. Under this Contract, the City will pay for Services at a fixed or hourly bill rate of \$ dollars cents (\$ hourly or fixed rate USD) per hour, with no additional charges for overhead, benefits, local travel, or administrative support. The total amount to be remitted by the City to Contractor for all Services satisfactorily performed under this Contract shall not exceed \$250,000 USD per year, including reasonable and necessary travel expenses (if such travel expenses are approved in advance by the City and included in the Fee Schedule, Exhibit B attached. Payments shall be made in proportion to the Services performed and no more than ninety percent (90%) of the total Contract price shall be paid before the work is totally completed and accepted by the City.
- B. City will pay any sales or use taxes resulting from this Contract. Contractor shall be solely responsible for payment of taxes based on Contractor's income. Contractor agrees that on all billings, invoices, books, and records relating to this Contract, Contractor will state the charges imposed for the sale, transfer, and licensing of tangible personal property separately from charges imposed for professional, personal, and technological Services, including but not limited to, software installation, modification, training, consulting and technical telephone support.
- C. **Invoices.** Contractor shall submit invoices in arrears, on every other week basis. Each invoice will clearly note any Purchase Order number and be accompanied with itemized receipts that include approved timesheets. The invoice will be submitted free of mathematical errors and/or missing supporting documentation. All appropriate documentation supporting the charges reflected in the invoice will be provided with the invoice. Upon finding of an error and/or missing documentation, the City may return the invoice to Contractor. Contractor will promptly resubmit the revised invoice to the City. Each revised invoice will document the date that the revised invoice is submitted to the City. Requests for payment must be submitted with documentation of dates and hours worked, hourly rate charged, and a detailed description of the Services performed. Oversight by the City in identifying an error does not result in waiver of any of the City's rights. All properly submitted invoices will be paid promptly after the City's receipt of the invoice.
- D. **Commencement of Work.** Contractor shall not commence any billable work or provide any material or service under this Contract until Contractor receives a fully executed Contract document or otherwise directed to do so in writing by the City.
- E. **Late Submission of Claim by Contactor.** The City will not honor any invoices or claims that are tendered one (1) year after the last item of the account accrued.

- F. **No Advance Payments.** Advance payments are not authorized. Payment will be made only for actual Services or commodities that have been received.
- G. **Fund appropriation Contingency.** Contractor agrees that this Contract shall commence upon the Day first provided and continue in full force and effect until termination in accordance with its provisions. Contractor and the City agree that the continuation of this Contract after the close of any given fiscal year of the City, which fiscal year ends on June 30 of each year, shall 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.
- H. **IRS W9 Form.** In order to receive payment, Contractor shall have a current IRS W-9 form on file with the City. The form can be downloaded at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

5.7. Contract Changes

- A. **Contract Amendments:** Whenever an addition, deletion, or alteration to the Services described in Section 3, Scope of Work, substantially changes the Scope of Work thereby materially increasing or decreasing the cost of performance, a supplemental agreement must first be approved in writing by the City and Contractor before such addition, deletion, or alteration will be performed. Changes to the Services may be made and the compensation to be paid to Contractor may be adjusted by mutual agreement, but in no event may the compensation exceed the amount authorized without further written authorization. It is specifically understood and agreed that no claim for extra work done or materials furnished by Contractor will be allowed except as provided herein, nor will Contractor do any work or furnish any materials not covered by this Contract unless first authorized in writing. Any work or materials furnished by Contractor without prior written authorization will be at Contractor's risk, cost and expense, and Contractor agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.
- B. **Non-Assignability:** This Contract is in the nature of a personal services contract and Contractor shall have no power to assign this Contract, including any right, duty, or obligation of Contractor under this Contract, without the prior written consent of the City. Contractor shall not subcontract with any third party for any component of the Services without the prior written consent of the City. Any attempt to assign or subcontract without the City's prior written consent shall be void. An essential consideration provided to the City by Contractor to induce the City to enter into this Contract is Contractor's representation that the individual(s) performing Services shall include Contractor's principals as selected through the Qualified Vendor solicitation process. Therefore, should such named individual(s) sever their relationship with Contractor, or otherwise be unavailable to carry out Contractor's duties under this Contract for a period of time

deemed to be excessive by the City in its sole and absolute discretion, then the City may, without Notice, immediately terminate this Contract for cause.

- C. **Non-Exclusive Contract:** This Contract is being 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.

5.8. 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 Contractor 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 Contractor. If so returned, all costs are the responsibility of Contractor. Noncompliance will conform to the cancellation clause set forth in this Contract.
- 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 Contract. The City's authorized representative will decide all questions that may arise as to the quality and acceptability of any work performed under this Contract. If, in the opinion of the City's

authorized representative, performance becomes unsatisfactory, the City will notify Contractor. 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 this Contract. 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 Contractor. Repeated incidences of unsatisfactory performance may result in termination of this contract for default.

- F. **Damage to City Property:** Contractor will perform all work so that no damage to City-owned buildings or property 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.

5.9. 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 Contract 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 Contract and constitutes a total breach of this Contract 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 Contractor.
- D. **Default:** In case of default by 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:** Contractor 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 terminate this 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 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, and materials created or purchased under this Contract belong 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.

5.10. Contract Termination

- A. **Gratuities:** The City may, by written Notice to Contractor, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by Contractor or any agent or representative of 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 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. Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.
 - 2. Immediately upon receiving a written Notice to terminate or suspend Services, Contractor will:
 - a. Discontinue advancing the work in progress, or such part that is described in the Notice.
 - b. Deliver to the City all collected raw data, draft reports, preliminary reports, working papers, estimates and forecasts entirely or partially completed, together with all unused materials supplied by the City.

- c. Appraise the work it has completed and submit its appraisal to the City for evaluation.
 - d. Be paid in full the pro rata value for Services performed to the date of its receipt of the Notice of Termination, including reimbursement for all reasonable costs and expenses incurred by Contractor in terminating the work, including demobilization of field service. No payment will be made for loss of anticipated profits or unperformed Services.
 3. 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 this Contract. The City will issue a written Notice of default to Contractor for acting or failing to act as in any of the following:
 - a. In the opinion of the City, Contractor provides personnel who do not meet the requirements of this Contract;
 - b. In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions, or Services/specifications required in this Contract;
 - c. In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products, or workmanship that is of an unacceptable quality;
 - d. Contractor fails to furnish the required service and/or product within the time stipulated in this Contract;
 - e. In the opinion of the City, Contractor fails to make progress in the performance of the requirements of this Contract and/or gives the City a positive indication that Contractor will not or cannot perform to the requirements of this Contract.
- C. **Final Payment:** The City shall make final payment for all Services performed and accepted within sixty (60) Days after Contractor has delivered to the City any final progress reports, documentation, materials and evidence of costs and disbursement as required under this Contract.
- D. **Temporary Suspension.** The City may, by written Notice, direct Contractor to suspend performance on all or any part of the Services for such period of time as may be determined by the City to be necessary or desirable for its convenience. If such suspension causes additional expense to Contractor in performance, and such additional expense is not due to fault or negligence of Contractor, then the payment will be adjusted on the basis of actual costs resulting directly from the suspension, and the period for performance of the Services will be extended by mutual agreement. Any claim by Contractor for a price adjustment must be supported by appropriate documentation asserted promptly after Contractor has been notified to suspend performance.
- E. **Contract Cancellation:** All parties acknowledge that this Contract is subject to cancellation by the City of Phoenix pursuant to the provision of A.R.S. § 38-511.

5.11. Notice

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

Notices to the City shall be sent to both:

City of Phoenix Aviation Department
Aviation Headquarters
ATTN: Contracts & Services Division
2485 East Buckeye Road
Phoenix, AZ 85034
Facsimile: 602-273-2080
Email: avn.contract.services@phoenix.gov

City of Phoenix Aviation Department
Aviation Headquarters
ATTN: Superintendent Environmental Services
2485 East Buckeye Road
Phoenix, AZ 85034
Email: AVN.PE@phoenix.gov

Notice given in compliance with this Section is deemed received (A) on the Day it is personally delivered, (B) on the Day it is sent by email, (C) on the Day it is sent by facsimile transmittal, (D) two (2) Days after it is deposited with any commercial air courier or express delivery service, or (E) five (5) Days after it is sent by registered or certified mail as provided above. Any time period stated in a Notice shall commence on the date the Notice is deemed received. Actual receipt is not required.

If Notice is sent by email or facsimile transmittal, then a paper copy shall be sent by prepaid regular first-class mail through the United States Postal Service to the Party at the address listed above. Duplicate Notice is merely a courtesy and does not change or extend the effective date of the Notice. The failure to receive the duplicate Notice does not affect the validity of the Notice sent by email or facsimile transmittal.

5.12. Integration

This Contract constitutes and embodies the full and complete understanding and agreement of the parties hereto and supersedes all prior understandings, agreements, discussions, proposals, bids, negotiations, communications, and correspondence, whether oral or written. No representation, promise, inducement or statement of intention has been made by any party hereto which is not embodied in this Contract, and no party will be bound by or liable for any statement of intention not so set forth.

5.13. Conflicts of Interest

- A. The City reserves the right to immediately terminate this Contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.
- B. Upon a finding by the City that gratuities in the form of entertainment, gifts, or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar Day written Notice to Contractor, terminate Contractor's right to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in an Arizona court. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

5.14. Waiver of Claims for Anticipated Profits

Contractor waives any claims against the City and its officers, officials, agents and employees for loss of anticipated profits caused by any suit or proceeding, directly or indirectly, involving any part of this Contract.

5.15. 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 each Offeror 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>. After 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.

5.16. Tax Indemnification

Contractor will pay all federal, state, and local taxes applicable to its operation and any persons employed by 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, 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.

5.17. 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 law 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 this Contract.

5.18. 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 A.R.S. §§ 35-393 to 35-393.03. Provided that these statutory requirements are applicable, Contractor, by entering into this Contract, certifies that it is not currently engaged in and agrees for the Term of this Contract, to not engage in a boycott of goods or services from Israel.

5.19. 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 A.R.S. § 35-394, 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 Term of this 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.

5.20. Advertising

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

5.21. Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of this Contract or to exercise or delay the exercise of any right or remedy provided in this 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 this Contract.

5.22. 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 Deputy Aviation Director prior to the institution of the change.

5.23. 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.

5.24. 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.

5.25. National Emergency

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

5.26. No Impairment of Title

Contractor and its agents, employees, and subcontractors 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.

5.27. 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.

5.28. Successors and Assigns

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

5.29. Breach and Remedies for Breach

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

- A. Contractor fails to pay any amount when due and the failure continues for ten (10) Days after Notice from the City.
- B. 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.
- C. 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.
- D. Contractor breaches any other lease, contract, agreement, or permit it has with the City.
- E. 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.
- F. 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:

- 1. 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.
- 2. Exercise any and all remedies allowed at law or in equity.
- 3. 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.

5.30. 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).

5.31. 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.

5.32. 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.

5.33. 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.

5.34. No Third-Party Beneficiaries

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

5.35. 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.

6. Special Terms and Conditions

6.1. Term of Contract

The Term of this Contract will commence on or about July 1, 2025 and will continue for **three (3) years**. This Contract includes **two (2) one-year options** to extend the Term for an aggregate **five (5) years** if both options are exercised, which may be at the sole discretion of the City.

6.2. Price

All prices submitted shall be firm and fixed for the initial one-year of this 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 Term of this Contract.

The City will be the sole judge in determining the allowable increase amount. Price increases agreed to by any staff other than the Aviation Deputy Director or Aviation Department Director are invalid. 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 Deputy Aviation Director or the Director of the Aviation Department.

6.3. Method of Ordering

Contractor shall deliver goods and Services only upon receipt of a written purchase order. All Contractor invoices and packing and delivery tickets must include the City's purchase order number.

6.4. Method of Invoicing

Invoices must be emailed in .pdf format to invoices@phoenix.gov and rebecca.godley@phoenix.gov and must include all of the following:

- A. City purchase order number or shopping cart number
- B. Contract employee name
- C. Contract employee position title
- D. Total number of hours worked during the month
- E. Unit price, extended and totaled
- F. Applicable tax
- G. Invoice number and date
- H. Requesting department and ship-to address
- I. Payment terms
- J. FOB terms

K. Remit to address

L. Approved timesheets of every staff member assigned to the Aviation Department

6.5. Method of Payment

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

6.6. Partial Payments

Partial payments are authorized on individual purchase orders. Payment will be made for actual goods and Services received and accepted by the City.

6.7. Supplier Profile Changes

It is the responsibility of Contractor to promptly update its profile in procurePHX at <https://www.phoenix.gov/procure>. If Contractor's legal status changes, the Procurement Officer must be notified in writing immediately. Failure to do so may result in nonpayment of invoices and termination of this Contract.

6.8. 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 Term of this Contract, as determined by actual needs and availability or appropriated funds. It is expressly understood and agreed that this Contract is to supply the City with its complete actual requirement for the Term of this Contract.

6.9. Suspensions of Work

The City reserves the right to suspend work wholly or in part if deemed necessary for the best interest of the City. The suspension will be without compensation to Contractor, other than to adjust the Contract completion or delivery requirements.

6.10. Hours of Work

All work under this Contract shall be coordinated with the ADR. Any changes to the established schedule must have prior written approval of the ADR.

6.11. Post Award Conference

A post-award conference will be held prior to commencement of any work on the project. The purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.

6.12. Performance Interference

Contractor shall notify the ADR immediately of any occurrence and condition that interferes with the full performance of this Contract and confirm it in writing within 24 hours to:

ADR: Rebecca Godley, Aviation Superintendent

Email: rebecca.godley@phoenix.gov

6.13. Cooperative Agreement

With approval of Contractor, the City may extend this Contract for use by other municipalities and government agencies in the State of Arizona.

6.14. Exclusive Possession

All Services, information, computer program elements, reports, and other deliverables that may be created under this Contract are the sole property of the City and will not be used by Contractor or any other person except with the prior written permission of the City.

6.15. Licenses and Permits

Contractor will keep current federal, state, and local licenses and permits required for the operation of the business conducted by Contractor under this Contract.

6.16. 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 Contract. Travel hours and other incidental fees are not permitted under this Contract. Labor hours will be from "check-in" to "check-out" at the worksite.

6.17. Contacts with Third Parties

- A. Contractor or its subcontractors will not contact third parties to provide any information in connection to the Services provided under this Contract without the prior written consent of the City. If Contractor or its subcontractors are contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing agreement with the City, Contractor or its subcontractors will promptly inform the City giving the particulars of the information sought and will not disclose the information or give testimony without the written consent of the City or pursuant to a court order. The obligations of Contractor and its subcontractors under this Section will survive the termination of this Contract.
- B. Contractor agrees that the requirements of this Section will be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without Notice.

6.18. SBE / DBE Utilization

The City extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary

utilization of small and/or disadvantaged businesses to reflect both the industry and community ethnic composition. The use of such businesses is encouraged whenever practical.

6.19. Fiscal Year Clause

The City's fiscal year begins on July 1 and ends on June 30 each calendar year. The City may make payment for Services rendered or costs encumbered only during a fiscal year and for a period of 60 Days immediately following the close of the fiscal year under the provisions of A.R.S. § 42-17108. Therefore, Contractor must submit billings for Services performed or costs incurred prior to the close of a fiscal year within ample time to allow payment within this 60-Day period.

6.20. Final Payment

- A. **PAYMENT:** The City will make final payment for all Services performed and accepted within 60 Days after Contractor has delivered to the City any final progress reports, documentation, materials, and evidence of costs and disbursement as required under this Contract. Any use by the City of preliminary reports, raw data, or other incomplete material returned by Contractor will be at the City's sole risk.
- B. **TEMPORARY SUSPENSION:** The City may, by written Notice, direct Contractor to suspend performance on all or any part of the Services for such period of time as may be determined by the City to be necessary or desirable for its convenience. If such suspension causes additional expense to Contractor in performance, and not due to fault or negligence of Contractor, the payment will be adjusted on the basis of actual costs resulting directly from the suspension, and the period for performance of the Services will be extended by mutual agreement. Any claim by Contractor for a price adjustment must be supported by appropriate documentation asserted promptly after Contractor has been notified to suspend performance.

6.21. Professional Competency

- A. **QUALIFICATIONS:** Contractor represents that it is familiar with the nature and extent of this Contract, the Services, and any conditions that may affect its performance under this Contract. Contractor further represents that it is fully experienced and properly qualified; is in compliance with all applicable license requirements; and is equipped, organized, and financed to perform the Services.
- B. **LEVEL OF CARE AND SKILL:** Services provided by Contractor will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of Contractor's profession currently practicing in the same industry under similar conditions. Acceptance or approval by the City of Contractor's work will in no way relieve Contractor of liability to the City for damages suffered or incurred arising from the failure of Contractor to adhere to the aforesaid standard of professional competence.

6.22. Specific Performance

Contractor agrees that in the event of a breach by Contractor of any provision of this Contract, the City will, upon proper action instituted by it, be entitled to a decree of specific performance

according to the provisions of this Contract. If the City elects to treat the breach by Contractor as a discharge of this Contract, the City may nevertheless maintain an action to recover damages arising out of such breach. This Section is not intended as a limitation of such other remedies as may be available to the City under law or equity.

6.23. Documentation

- A. **DISSEMINATION AND RETENTION:** There will be no dissemination or publication of any information gathered or documents prepared in the course of performing the Services without the prior written consent of the City. If the City deems it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and nondisclosure with regard to the subject matter of this Contract, then upon written demand, Contractor will relinquish to the possession and control of the City its entire file related to this Contract and only those portions of the file deemed by the City to be not privileged will be returned to Contractor pending the resolution of the existing or anticipated litigation.
- B. **FORMAT AND QUALITY:** All documents prepared by Contractor will be prepared in a format and at a quality approved by the City.
- C. **DOCUMENT REVIEW:** Contractor will review all documents provided by the City related to the performance of the Services and will promptly notify the City of any defects or deficiencies discovered in its review.
- D. **SUBMITTALS:** Contractor will provide timely and periodic submittals of all documents required of Contractor, including subcontracts, if any, as they become available to the City for review.

6.24. Public Records

- A. Notwithstanding any provisions of this Contract regarding confidentiality, secrets, or protected rights, Contractor acknowledges that all documents provided to the City may be subject to disclosure by Arizona laws related to open public records. Consequently, Contractor understands that disclosure of some or all of the documents subject to this Contract may be required by law.
- B. If the City receives a public records request for disclosure of documentation that is reasonably calculated to incorporate information that might be considered confidential by Contractor, then the City will provide Contractor with Notice of the request, which shall be deemed given when deposited by the City with the United States Postal Service for delivery by first-class mail to the address of Contractor specified in Section 5.13 of this Contract. Within ten Days of Notice by the City, Contractor will inform the City in writing of any objection by Contractor to the disclosure of the requested information. Failure by Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure.
- C. If Contractor objects to disclosure within the time specified, Contractor shall handle all aspects related to public records request, including properly communicating with the

requestor and timely responding with information the disclosure of which Contractor does not object to. Furthermore, Contractor shall indemnify and hold harmless the City from any claims, actions, lawsuits, and any other controversy or remedy, in whatever form, that arises from Contractor's failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Contract.

6.25. Communication in English

It is mandatory that the Contractor's lead person assigned to any City facility can speak, read, and write in English in order to effectively communicate with City staff.

6.26. Background Screening Risk Level

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

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

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

6.28. Materiality of Background Screening Requirements; Indemnity

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

6.29. Continuing Duty; Audit

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

6.30. Variances and Exemptions

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

- A. Federal Homeland Defense Bureau.
- B. Transportation Security Administration.

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

6.31. Background Screening – Standard Risk

- A. **Determined Risk Level:** The current risk level and background screening required is STANDARD RISK LEVEL
- B. **Standard Risk Level:** A standard risk background screening will be performed when the Contract Worker’s work assignment will:
 - 1. Require a badge or key for access to City facilities; or
 - 2. Allow any access to sensitive, confidential records, personal identifying information or restricted City information; or
 - 3. Allow unescorted access to City facilities during normal and nonbusiness hours.
- C. **Requirements:** The background screening for this standard risk level will include a background check for real identity and legal name and will include felony and misdemeanor records from any county in the United States, the State of Arizona, in addition to any other jurisdiction where a Contractor Worker has lived at any time in the preceding seven years from the Contract Worker’s proposed date of hire.
- D. **Contractor Certification; City Approval of Background Screening:** Unless otherwise provided for in the Scope of Work, Contractor is responsible for:
 - 1. Determining whether its Contract Workers are disqualified from performing work for the City for standard risk level background checks; and,
 - 2. For reviewing the results of the background check every five years; and,
 - 3. To engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
 - 4. Submitting the list of qualified Contract Workers to the City’s.
 - 5. For sole proprietors, Contractor must comply with the background check for himself or herself and all business partners, members, or employees who will assist on this Contract and for whom the requirements of this Contract apply.
 - 6. By executing this Contract, Contractor certifies and warrants that Contractor has read the background screening requirements and criteria in this Section, and that all background screening information furnished to the City is accurate and current. Also, by executing this Contract, Contractor further certifies and warrants that Contractor

has satisfied all background screening requirements for the standard risk background screening and verified legal worker status, as required.

6.32. 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 are 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)

6.33. Legal Worker Background Check

Pursuant to A.R.S. § 41-4401, Contractor must verify the legal Arizona worker status of each Contract Worker. Contractor must conduct and all Contract Workers must pass a background check for their real identity and legal name prior to performing any work under this Contract.

6.34. City Rights Regarding Security Inquiries

In addition to a Legal Worker Background Check, the City reserves the right to require Contractor to:

- A. Have a Contract Worker provide fingerprints and execute any document that is necessary to obtain criminal justice information pursuant to A.R.S. § 41-1750(G)(4) or Phoenix City Code § 4-22 or both;
- B. Act on newly acquired information, whether or not the information should have been previously discovered;
- C. Unilaterally change its standards and criteria related to the acceptability of Contract Workers; and
- D. Object, at any time and for any reason, to a Contract Worker performing work under this Contract, including supervision and oversight services.

6.35. 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.

6.36. Contractor's Contracts and Subcontracts

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

6.37. 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.

6.38. 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.

6.39. 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.

6.40. 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 (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.

6.41. 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 STANDARD RISK [or MAXIMUM RISK] BACKGROUND CHECK is required for all nonexempt 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:
 - a. Duties of the position
 - b. Time, nature, and number of negative events and convictions
 - c. Attempts and extent of rehabilitation efforts
 - d. 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.

6.42. Standard Risk Background Check

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

- A. An airport security badge or key for access to City facilities,
- B. Access to sensitive information, confidential records, personal identifying information, or restricted City information, or
- C. Unescorted access to City facilities during normal and non-business hours.

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

6.43. Scope of the Standard Risk Background Check

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

6.44. Airport Security Badge Handling Procedures

Contractor will comply with the following airport security badge handling procedures:

Key Access Procedures. If a Contract Worker requires keyed access to enter a City facility, then a separate key will be issued and Contractor must complete a return form and submit it to the City for each key issued.

Stolen or Lost Badges or Keys. Contractor shall immediately report any lost or stolen airport security badge or key to the City. A new airport security badge application or key issue form must be completed and submitted along with payment of the applicable fee prior to issuance of a new airport security badge or key.

Return of Badges or Keys. All airport security badges and keys are the property of the City and must be returned to the Badging Office within one (1) business day after the Contract Worker's access to a City facility is no longer required under this Contract. Contractor shall collect a Contract Worker's airport security badge and all keys (1) when the Contract Worker's employment is terminated, (2) when the Contract Worker's services are no longer required at a City facility, or (3) when this Contract terminates, is cancelled, or expires, whichever occurs first.

Employee Identification and Access. Contract Workers must have an airport security badge and some form of verifiable company identification in their possession at all times while working under this Contract, unless otherwise provided in the Scope of Work. Contract Workers are strictly prohibited from entering any area of the Airport that is not authorized by the airport security badge or key issued to them by the Badging Office. The Aviation Department will determine who will have access to the Airport. Contract Workers access authority is only valid during their scheduled hours. Contractor shall provide the City with updates and changes in personnel as they occur.

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

6.45. 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. 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
- B. 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

- C. A Contract Worker begins work under this Contract without passing the appropriate Background Screening and being issued the proper airport security badge or key
- D. 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
- E. 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

6.46. 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.

6.47. 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.

6.48. Sensitive Security Information (SSI)

Contractor shall comply with the requirements 49 C.F.R. Parts 15 and 1520, prohibiting the unauthorized release of Sensitive Security Documents, which includes photographs and/or videos taken of secured areas of the airport. Upon the receipt or creation of any SSI documents, including photographs and/or videos taken of secured areas of the airport, Contractor shall be required to complete and submit the attached City of Phoenix Aviation Department Sensitive Security Information Acknowledgment Form, marked Exhibit D and incorporated herein by this reference. Information on the maintenance, safeguarding and disclosure of SSI is available at <https://www.tsa.gov/sites/default/files/ssi-best-practices-guide-for-non-dhs-employees.pdf>.

6.49. Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the Effective Date, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network

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

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Agreement; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Agreement; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written Notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

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

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

6.50. Accomodations

- A. Parking accommodations, including the cost thereof, shall be borne by Contractor.
- B. Badge and key fees as specified in Section 6.45 of this Contract shall be borne by Contractor.

7. Defense and Indemnification

7.1. 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.

7.2 Environmental 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 demands, claims, complaints, losses, damages, actions or causes of action, assessments, liabilities, costs or expenses including, without limitation, interest, penalties and reasonable attorney fees, expert fees, and reasonable expenses of investigation and remedial work (including but not limited to investigations and remediation by engineers, environmental consultants and similar technical personnel) asserted against or imposed upon or incurred by Indemnitee arising in connection with, or resulting from, any Environmental Law, including but not limited to, any use, generation, storage, spill, release, discharge or disposal of any Hazardous Substance that is now or comes to be located on, at, about or under the property or because of, or in connection with, the violation of any Environmental Law (hereinafter collectively referred to as “Losses”) to the extent that such Losses are caused by the fault of Indemnitor, its officers, officials, members, managers, agents, employees, contractors, volunteers, tenants, subtenants, invitees or licensees. 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. As used in this section: (a) “Hazardous Substances” are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, or other petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing

asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal, state or local laws and regulations, including common law, that relate to health, safety or environmental protection; and (c) "Fault" means those nonculpable acts or omissions giving rise to strict liability under any Environmental Law pertaining to Hazardous Substances, as well as culpable conduct (negligence or willful misconduct). In consideration of the award of this Contract, Indemnitor agrees to waive all rights of subrogation against Indemnitee for losses arising from or related to any work performed by Indemnitor or Indemnitor's Agents for the City of Phoenix. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

8. Insurance Requirements

8.1. 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 subconsultants. 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 Contractor from liabilities that might arise out of the performance of the work under this Contract by Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase additional insurance as they determined necessary.

8.2. 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.

8.3. Commercial General Liability – Occurrence Form

General Aggregate \$ 5,000,000

Products – Completed Operations Aggregate \$5,000,000

Personal and Advertising Injury \$5,000,000

Each Occurrence \$5,000,000

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

8.4. 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) \$5,000,000

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

8.5. 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

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

8.6. Contractor's Pollution Liability

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

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

- A. The policy should be written on an "occurrence" basis with no sunset clause.
- B. Such insurance must name the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of Contractor.
- C. The policy must provide coverage for pollution conditions that arise from the operations of Contractor described under the Scope of Work in this Contract. The policy should include the following coverages:
 - 1. Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death and medical monitoring costs.
 - 2. Property damage, including physical injury to or destruction of tangible property, including the resulting loss of use thereof, cleanup costs, and the loss of use of tangible property that has not been physically injured or destroyed including diminution in value.
 - 3. Environmental damage, including physical damage to soil, surface water or groundwater, or plant or animal life, caused by pollution conditions and giving rise

to cleanup costs.

4. Defense, including costs, charges, and expenses incurred in the investigation, adjustment, or defense of claims for such compensation damages.
 5. Asbestos or lead (no exclusion)
 6. Mold and legionella coverage
 7. Transportation of cargo
 8. Non-Owned Disposal sites
 9. Definition of pollution conditions shall include sediments
- C. If the Scope of Work involves treatment, storage or disposal of hazardous wastes from the job site, Contractor must furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 annual aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with work performed under this Contract.

8.7. Professional Liability (Errors and Omissions Liability)

Each Claim \$2,000,000

Annual Aggregate \$2,000,000

- A. The policy must cover liability arising from the failure to meet the professional standards required or expected in the delivery of those Services as defined in the Scope of Work of this Contract.
- B. Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

8.8. Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, Contractor must provide to the City, within five (5) business Days of receipt, a Notice if a policy is suspended, voided, or cancelled for any reason. The Notice must be mailed, emailed, or hand-delivered to City of Phoenix Aviation Department c/o EXIGIS Insurance Compliance Services P.O. Box 4668 – ecm #35050 New York, NY 10163-4668 inbox@cop.complianz.com.

8.9. Verification of Coverage

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

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

All certificates required by this Contract must be sent directly to City of Phoenix Aviation Department Contracts and Services Division, 2485 East Buckeye Road Phoenix, Arizona 85034-4301, paul.pociask@phoenix.gov. The City project or contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

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

City of Phoenix
Aviation Department
Contracts and Services Division
2485 E. Buckeye Rd.
Phoenix, AZ 85034
Email: paul.pociask@phoenix.gov

All subsequent and renewal certificates of Insurance and endorsements shall be sent directly to:

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

8.10. Acceptability of Insurers

Insurance shall 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 Consultant from potential insurer insolvency.

8.11. 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 this Contract, the City reserves the right to require proof from Consultant that its subconsultants have insurance coverage. All subcontractors providing Services included under this Contract's Scope of Work are subject to the insurance coverages identified above and must include the City of Phoenix as an additional insured. In certain circumstances, 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.

8.12. Approval

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

9. Submittals

9.1. Copies

Submission of Offer – Hard Copy Submission:

- A. Refer to “**SUBMISSION OF OFFER**” paragraph under the “**SECTION I – INSTRUCTIONS**” of this Solicitation document.
- B. Please submit **one original**, **1 copy**, and **two (2) electronic copy** (portable drive or CD) of the Submittal Section and all other required documentation.
- C. **Please submit only the Submittal Section, do not submit a copy of the entire solicitation document.** This Offer will remain in effect for 180 calendar Days from the opening date and is irrevocable unless it is in the City’s best interest to release the Offer(s).
- D. Please do not lock the electronic copy with password protection so that the City may digitally incorporate the successful Offer into the awarded Contract.

Submission of Offer – Electronic Submission:

- A. Refer “**SUBMISSION OF OFFER**” paragraph under the “**SECTION I – INSTRUCTIONS**” of this Solicitation document.
- B. **Electronic Bid Submission via email:** Offers are to be submitted electronically via email to the following email addresses:
 - 1. paul.pociask@phoenix.gov
 - 2. avn.solicitations@phoenix.gov
- C. **The email subject line must include Solicitation number and title.** For example:
Solicitation Number Solicitation Title.
- D. **Please submit only the Submittal Section, do not submit a copy of the entire Solicitation document.** This Offer will remain in effect for 180 calendar Days from the opening date and is irrevocable unless it is in the City’s best interest to release the Offer(s).
- E. Please do not lock the electronic copy with password protection so that the City may digitally incorporate the successful Offer into the awarded Contract.

9.2. Solicitation Response Check List

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

The written Offer should be:

- A. Typewritten for ease of evaluation

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

Offers must be in possession of the Aviation 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.

9.3. Additional Quantities

The City anticipates considerable activity under the resultant Contract(s). However, no guarantee can be made as to actual schedule of work that will be purchased under this Contract. The City reserves the right to add, change, or delete quantities or items as circumstances may require.

Note: Offers taking exception to this option for additional quantities clause shall indicate that in the Offer.

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