



City of Phoenix

INVITATION FOR BID

IFB 25-0536

VIDEO SURVEILLANCE SYSTEM (VSS) LICENSING, MAINTENANCE AND REPAIR SERVICES

City of Phoenix
Aviation Department
2485 E. Buckeye Rd
Phoenix, AZ 85034

Procurement Officer:
Amy Turner
Amy.m.turner@phoenix.gov

RELEASE DATE: February 13, 2025
PRE-OFFER MEETING: February 20, 2025
DEADLINE FOR QUESTIONS: February 27, 2025
RESPONSE DEADLINE: March 13, 2025, 10:00 am

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Video Surveillance System (VSS) Licensing, Maintenance and
Repair Services

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1. Introduction

1.1. Summary

The City of Phoenix (City) is seeking a qualified Contractor to provide video surveillance camera(s), licensing, installation, maintenance, and repair services for the Video Surveillance System (VSS) for multiple City departments on an as-needed basis for a five (5) year contract term. Additionally, the City requires the same Contractor to install and configure Passenger Emergency Duress System (PEDS) equipment at Phoenix Sky Harbor International Airport. Contractor will be responsible for providing all labor, materials, parts and supplies, equipment, transportation, and documentation to perform all requested/required services under the resultant Contract.

1.2. Background

The resulting Contract will support multiple locations across the Aviation, Arts and Culture, Housing and Urban Development, Phoenix Convention Center, and Water Services Departments. Please see **paragraph 2.2** for a summary of services to be provided for each department. A detailed list of equipment to be serviced can be found in **Exhibit B – Equipment List**.

1.3. Minimum Qualifications Requirements

This Solicitation has minimum qualifications requirements. Please see **paragraph 2.2** for detailed requirements. All Offerors must satisfy all the minimum qualifications outlined in order for the submitted Offer to be deemed responsive.

1.4. Contact Information

Amy Turner

Contract Specialist II

2485 E. Buckeye Rd

Phoenix, AZ 85034

Email: amy.m.turner@phoenix.gov

Phone: [\(602\) 273-3349](tel:(602)273-3349)

Department:

Aviation

1.5. Timeline

Schedule of Events

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

To request a reasonable accommodation or alternative format for any public meeting, please contact the Procurement Officer (Amy Turner) at (602) 273-3349/Voice or 711/TTY, or amy.m.turner@phoenix.gov, no later than five (5) days prior to the meeting.

| | |
|---|---|
| Solicitation Issue Date | February 13, 2025 |
| Virtual Pre-Offer Conference (Non-Mandatory) | February 20, 2025, 10:00a.m. *Registration Link: https://cityofphoenix.webex.com/weblink/register/r2676fb114ecd4bb053308039d9d4af643 |
| Written Inquiries Due Date | February 27, 2025, 5:00p.m. |
| Offer Due Date | March 13, 2025, 10:00a.m. avn.solicitations@phoenix.gov AND Amy.m.turner@phoenix.gov |
| Offer Opening | March 13, 2025, 10:15a.m. Virtual Meeting Link: https://cityofphoenix.webex.com/cityofphoenix/j.php?MTID=m3ecc3ff0b15287eea5d0c27db10c07a9 Join by phone: +1-415-655-0001 US Toll Access code: 2863 911 9860 |
| Estimated Contract Award | June 2025 |

Please note, pre-registration or RSVP to participate in the Pre-Offer Conference is required in order to obtain the Pre-Offer Conference meeting information. An Offeror who wishes to join the Pre-Offer Conference for this solicitation is required to register using the weblink provided **prior to the meeting. Upon completion of pre-registration, the Pre-Offer Conference meeting information will be forwarded to the registered email address.

2. Instructions

2.1. Description – Statement of Need

The City of Phoenix invites sealed offers for video surveillance systems licensing, installation, maintenance and repair services for a five (5) year contract commencing on or about July 1, 2025, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.

The resulting Contract will provide services at various locations for the Aviation, Arts and Culture, Housing and Urban Development, Phoenix Convention Center, and Water Services Departments on an as needed basis. Please see **paragraph 2.2** for a summary of services to be provided. A detailed list of equipment to be serviced can be found in **Exhibit B**.

- A. Minimum Qualifications Requirement:** This Solicitation has minimum qualifications requirements. Please see **paragraph 2.2** for detailed requirements. All Offerors must satisfy all the minimum qualifications outlined in order for the submitted Offer to be deemed responsive.
- B.** This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- C.** Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

D. Security Requirements

1. Aviation Department:

The Aviation Department is subject to Federal Aviation Administration (FAA) security mandates. The Contractor and its employees will be required to work and operate a motor vehicle within the secured areas of the Airport. All staff working under this Contract must pass a Security Threat Assessment and Criminal Background Check as well as take the Airfield Driver Training Program and pass an interactive test to obtain the Airfield Driving permit endorsement on their security badge.

2. Water Services Department:

The Contractor and its staff will be required to operate a motor vehicle within the secured water, wastewater, and remote facilities operated and owned by the Water Services Department. The Contractor and its employees are subject to a Maximum Risk background screening. The Contractor is responsible for the cost of the background check and badging. The background screening for maximum risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the State of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker’s proposed date of hire. In addition, Maximum screening levels may require additional checks as included herein, depending on the scope of work, and may be amended if the scope of work changes.

Maximum screening will additionally require Driving records (for driving positions only).

2.2. Minimum Qualifications

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

- A. **OFFEROR EXPERIENCE:** Offeror shall have a minimum of three (3) years of experience within the last five (5) years in the sale, installation, licensing, maintenance and repair of video surveillance systems. Additionally, Offeror must demonstrate **experience supporting a minimum of 1,000 video surveillance cameras** [also interchangeable with the term of "Close-Circuit Television (CCTV)"].
1. Offeror may **NOT** use subcontractor experience to meet the minimum requirements.
 2. Experience for services provided outside of Arizona are acceptable, as long as the Offeror has a local branch office to provide services as required in this Contract. Maintenance and repair of the systems are provided onsite and in-person.
- B. **SUMMARY:** Offeror must provide a summary, describing how the company meets these minimum qualifications in **Exhibit A – Required Submittal Documents Work Summary**, to include:
1. Describe company's experience (including years of experience) in the sale, installation, licensing, maintenance and repair services of a minimum of 1,000 video surveillance cameras/CCTV.
 2. Brief overview of the represented camera manufacturer(s), if applicable.
 3. List all contracts Offeror has had and/or currently having. Offeror must include following:
 - each contract period,
 - quantities of camera(s) serviced and
 - scope of service, maintenance and installation activities provided for each contract.
- C. **ASSIGNED SERVICE REPRESENTATIVE** – Offeror must assign a service representative who will be the City's primary contact under this Contract. Offeror's assigned Service Representative must demonstrate that he/she has **one year** of video surveillance system maintenance and repair knowledge.
- D. **SUMMARY:** Offeror will provide experience information for the Assigned Service Representative to satisfy this requirement in **Exhibit A – Required Submittal Documents**.

2.3. City's Vendor Self-Registration and Notification

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

2.4. 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 your Offer may be deemed non-responsive.

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

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

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

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

2.5. Fixed Offer Price Period

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

2.6. Pre-Offer Meeting

Offerors may attend the pre-offer meeting via Cisco WebEx at the date and time listed in the Schedule of Events. Please register for this meeting by registering at the link listed in the Schedule of Events.

2.7. Obtaining a Copy of the Solicitation and Addenda

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/Solicitations/Details/2043>. Any interested Offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the **City of Phoenix, Aviation Headquarters, 2485 East Buckeye Road, Phoenix, Arizona 85034**. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their Offer.

2.8. Exceptions

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

2.9. Inquiries

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

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

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

2.10. Addenda

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

2.11. Business in Arizona

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

2.12. Licenses

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

2.13. Certifications

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

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

2.14. Submission of Offer

A. Submission of Offer – Hard Copy Submission:

1. 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 City Aviation City Department's clock.
2. Offers must be submitted in a sealed envelope and the following information should be noted on the outside of the envelope:
 - a. Offeror's Name
 - b. Offeror's Address (as shown on the Certification Page)
 - c. Solicitation Number
 - d. Solicitation Title
 - e. Offer Opening Date
3. All offers must be completed in ink or typewritten. Unless submitted electronically Include the number of copies that are required as indicated in the Submittal section.
4. 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 AZ 85034 in the lobby during normal business hours (8:00 am – 5:00 pm Local Phoenix, AZ Time). Offer should be clearly identified outside of the package as designated above.
5. The Offeror is responsible for managing potential delays. The City does not make exceptions for delays caused by the Carrier. It is the Offeror's responsibility to ensure that the Offer is submitted timely.

B. Submission of Offer – Electronic Submission:

1. The City of Phoenix 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.
2. For “Electronic” Submittal: Offers must be submitted via email to:
 - a. amy.m.turner@phoenix.gov

AND

- b. avn.solicitations@phoenix.gov
3. 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/stamped 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.
4. The solicitation number and title “**IFB 25-0536 VSS Licensing, Maintenance and Repair Services**” must be included on the subject line of the email when submitting your Offer.
5. Offeror 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 requirements in **Paragraph 2.14**.
6. It is the responsibility of the Offeror to ensure that the Offer is timely, including confirming that there are no technical reasons that any Offer submitted electronically may be delayed.

2.15. Withdrawal of Offer

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

2.16. Offer Results

The bid 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=m3ecc3ff0b15287eea5d0c27db10c07a9>

Join by phone:

+1-415-655-0001 US Toll

Access code:

2863 911 9860

The name of each Offeror, and the price may be read and/or 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 a preliminary offer tabulation on the City's website: <https://solicitations.phoenix.gov/Solicitations/Details/2043> within five business days of the offer opening. The City will post the information on the preliminary tabulation as it was read during the offer opening. The City makes no guarantee as to the accuracy of any information on the preliminary tabulation. Once the City has reviewed the offers, the City will post an award recommendation on the website. The City will not provide any further notification to unsuccessful Offerors.

2.17. Pre-Award Qualifications

- A. **MANUFACTURER AUTHORIZATION REQUIREMENTS:** Within 20 days of contract award, Offerors must obtain, in writing, an authorization from each of the manufacturers identified below respectively for camera licensing agreements:
1. Milestone System Gold Channel Partner
 2. Axis Communications Channel Partner
 3. Zenitel Authorized Dealer
- B. Upon notification of contract award, the Offeror will have twenty (20) calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this Agreement. Insurance requirements are non-negotiable.

2.18. Award of Contract

Unless otherwise indicated, award(s) will be made to the **lowest Offer Grand Total in Table E of Bid Price Schedule in Exhibit A** and most responsive, responsible Offeror(s) who are regularly established in the service, or providing the goods contained in this Solicitation and who have demonstrated the ability to perform in an acceptable manner.

- A. Factors that may be considered by the City include:
1. Technical capability of the Offeror to accomplish the scope of work required in the Solicitation. This may include performance history on past and current government or industrial contracts; and,

2. Demonstrated availability of the necessary manpower (both supervisory and operational personnel) and necessary equipment to accomplish the scope of work in the Solicitation; and,
 3. Safety record; and,
 4. Offeror history of complaints and termination for convenience or cause.
- B. Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.
- C. A response to a solicitation is an offer to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Offers do not become contracts until they are executed by the Chief Procurement Officer or Department Director or designee. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the Solicitation, and in any addendum or contract amendment.

2.19. Solicitation Transparency Policy

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

- E. 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.
- F. "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.

2.20. Protest Process

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

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

2.21. Public Record

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

2.22. Late Offers

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

2.23. Right to Disqualify

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

2.24. Contract Award

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

2.25. Determining Responsiveness and Responsibility

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

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

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

2.26. Equal Low Offer

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

3. Scope of Work

3.1. Introduction

The City of Phoenix invites sealed offers for video surveillance systems licensing, installation, maintenance and repair services for a five (5) -year contract commencing on or about July 1, 2025, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.

The resulting Contract will provide services at various locations for the Aviation, Arts and Culture, Housing and Urban Development, Phoenix Convention Center, and Water Services Departments on an as needed basis. Please see **paragraph 2.2** for a summary of services to be provided. A detailed list of equipment to be serviced can be found in **Exhibit B**.

3.2. City Department Representatives (CDR):

The City Department Representative (CDR), or designee, will coordinate all work and will be the sole judge concerning acceptability and quality of work. The CDR, or designee, will be consulted on any concerns and issues arising during the performance of this Contract. The CDRs for this Contract will be:

| Department | Contact | Phone | Email |
|-----------------------------|-----------------------|----------------------------------|-----------------------------------|
| Aviation | Jamie Ritchie | (602) 714-4589 | Jamie.ritchie@phoenix.gov |
| Arts & Culture | Nicole Armstrong-Best | (602) 534-1571 | Nicole.armstrong-best@phoenix.gov |
| Housing & Urban Development | David Wisniewski | (602) 261-8619 | David.wisniewski@phoenix.gov |
| Phoenix Convention Center | Greg Waller | (602) 283-6426 (602) 495-2478 | Greg.waller@phoenix.gov |
| Water Services | Estevan Castro | (602) 534-4308 | Estevan.castro@phoenix.gov |

3.3. Applicable Laws and Standards

The Contractor must comply with all city, state and Federal accepted industry standards, and best workmanship practices in all tasks performed. In addition, the Contractor must comply with all City guidelines as they pertain to insurance and security.

3.4. Definitions/Abbreviations

- A. AVN – Aviation Department, consisting of Phoenix Sky Harbor International Airport, Phoenix Deer Valley Airport, and Goodyear Airport
- B. ACD – Arts & Culture Department
- C. HOU – Housing Department
- D. PCC – Phoenix Convention Center
- E. PCTS – Process Control Technology Services (WSD)
- F. Proprietary – refers to hardware and software items that are available only from one source, such as the manufacturer or developer.
- G. PEDS – Passenger Emergency Duress System (AVN), assistance callboxes (blue phones) for both emergency and non-emergency situations. PEDS units reside in common areas to include but not limited to parking garages, lots and elevator lobbies at Phoenix Sky Harbor International Airport.
- H. PTZ – Pan, tilt, zoom (camera)
- I. SMU – Security Management Unit (WSD)
- J. SSI – Sensitive Security Information
- K. VSS – Video Surveillance System, refers to all the Video Surveillance System and components owned and operated by the City of Phoenix
- L. WSD – Water Services Department

3.5. Equipment Summary Information – **Aviation Department (AVN)**

AVN owns and operates a networked VSS utilizing approximately 2,300 cameras throughout facilities at Phoenix Sky Harbor International Airport (PHX), Goodyear Airport, and Deer Valley Airport (collectively refers to as “Airports”). The function of the VSS is to provide the Airports with the ability to monitor, record, store, playback and retrieve video of activities as required. The ongoing maintenance of VSS is essential to protect the integrity of recorded video and data. Additionally, the Airports is responsible for securing the collected video/data from unauthorized access.

Aviation VSS consists of the following:

- A. 10% analog cameras, 90% non-analog cameras
- B. 80% fixed cameras, 20% non-fixed cameras
- C. 50% cameras in secure areas of the Airport
- D. 16% of cameras are located over 15 feet
- E. 12% of cameras located in areas requiring additional coordination; restricted access, roadways closures, etc.

The City also owns and operates a callbox system referenced as Passenger Emergency Duress System (PEDS) utilizing approximately 240 call boxes (80% analog and 20% digital) throughout parking facilities and terminal buildings at PHX. The function of the PEDS is to provide employees and passengers with the ability to call for information or emergency help. Each PEDS unit has an associated VSS camera that is called up when the PEDS buttons are pushed. Contractor will be required to provide services to the associated VSS camera and PEDS units as requested.

3.5. Equipment Summary Information – **Arts & Culture Department (ACD)**

The ACD operates the S’edav Va’aki Museum and maintains a networked VSS utilizing 23 cameras located on a 50-acre campus with several buildings. Below is an overview of camera locations and types.

- A. 8 Outdoor, multi-lens cameras over 15 ft. high
- B. 1 Outdoor, single lens camera, over 15 ft. high
- C. 14 Indoor, fixed lens, 3 of which are over 15 ft. high
- D. 2 Outdoor cameras located on poles, over 15 ft. high
- E. 6 Outdoor cameras that can be accessed from building roofs

3.6. Equipment Summary Information – **Housing Department (HOU)**

The HOU utilizes a VSS with 20 cameras located at two (2) residential apartment complexes with approximately 100 units each.

3.7. Equipment Summary Information – **Phoenix Convention Center (PCC)**

PCC and its owned and maintained properties operate a networked VSS utilizing approximately 350 cameras, at various locations including but not limited to the following venues, collectively referred to as “Venues”:

- A. Phoenix Symphony Hall,
- B. Orpheum and Herberger Theaters and
- C. PCC parking garages including Tonto Marshalling Yard

3.8. Equipment Summary Information – **Water Services Department (WSD)**

WSD Process Control Technology Services (PCTS) on premises VSS is a 24/7/365 system consisting of an approximate 456 cameras, located within 2 wastewater, 4 water treatment plants, 7 water services yards, and 28 remote sites throughout the Phoenix metropolitan area. Future system integration will include 1 wastewater reclamation plant, 1 water treatment plant, and 3 remote sites.

- A. 90% PTZ and 10% fixed
- B. 100% are IP cameras
- C. We have 80% located within 6 water treatment plants and 20% at remote sites
- D. 75% of cameras are located over 10 feet and 40% require aerial equipment
- E. 10% cameras located in secured areas requiring access approval

3.9. General Requirements

The Contractor must:

- A. Maintain certifications and/or agreements with Milestone System and Axis Communications, Zenitel, and other software and hardware providers as required to support and maintain the VSS for the duration of this Contract. See Pre-Award Qualifications in **paragraph 2.17**.
- B. Remotely access and provide support for the VSS network without traversing the City's production network (wireless modem access preferred) except for services provided to the Water Services Department (WSD).
- C. **For services provided to WSD's PCTS Division**, the Contractor must access the CCTV on premises for all work to include but not limited to maintenance, installation, troubleshooting, and upgrades. VPN access is **not** permitted for WSD sites on the PCTS. Contractor will perform and complete WSD work in the Process Control Network (PCN) with a PCTS issued laptop to utilize when at WSD facilities.
- D. Provide all labor, supervision, material(s), equipment, tools, transportation, methods of communication, incidentals and, if required, additional miscellaneous services necessary to meet the requirements of specified services throughout the term of the Contract.
- E. All work shall be performed by qualified tradesmen and in the best workmanlike manner as known to the trade.
- F. Identify a 24-hour a day phone number for the primary and secondary contact personnel that will ensure response to meet the emergency needs of the City. This must be a qualified company representative able to respond within the required response time outlined in **paragraph 3.10. (M)** in this Section.
- G. Maintain adequate and competent staff or qualified personnel, as may be determined by the City, throughout the performance of this Contract to ensure acceptable and timely completion of the scope of service as detailed herein.
- H. A high level of customer service and professionalism is a priority for the City. Contractor and contract workers shall provide service in a professional, business-like, and efficient manner providing the highest level of assistance to the City's customers, tenants, and the traveling public.
 - 1. Complaints must be responded to within 48 hours and the CDR or designee must be informed of all customer issues and resolutions immediately.
 - 2. All project communications are to be coordinated through the CDR or designee.
- I. Maintain a high standard of cleanliness during and after each service. Contractor waste will be removed from City property. The disposal of waste must comply with all local, city, state and federal laws.
- J. All materials, tools, equipment, etc., must be removed or safely stored when not in use. The City is not responsible for theft or damage to the Contractor's property.

- K. Neither MP3 player, Walkman-type, nor other radios, which may impede hearing, will be allowed other than earplugs to be used in high noise environments.
- L. Provide trucks and vehicles licensed for use on public streets and licensed in the state of Arizona. Vehicles must have identification to include company's name and/or logo so that it is apparent as to the nature of business of the occupant of the vehicle. Identification must appear on both the left and right sides of the vehicle.
- M. Parking arrangements are the sole responsibility of the Contractor. The City of Phoenix will not provide, pay for, or reimburse parking expenses. This expense must be included in the hourly labor rate quoted in this IFB.
- N. Provide other equipment licensing, installation and repair services for VSS, PEDS or related systems, as needed by the department(s).

3.10. Service Requirements

The Contractor must:

- A. Assign a service representative who will be the primary contact under this Contract who has complete authority to act on behalf of the Contractor. The assigned service representative or designee must be available 24 hours a day in case of an emergency.
- B. Be responsible to obtain all required permits necessary to perform the work.
- C. **QUOTES:** Furnish a quote/project estimate within three (3) business days of each site assessment or initial estimate request from CDR.
 - 1. Prior to commencement of any work or project, the Contractor must obtain approval from the CDR or designee.
 - 2. Upon approval by the CDR or designee, a purchase order (PO) will be issued signifying approval for work to begin.
 - 3. Emergency repairs may be approved verbally to expedite service. The CDR will issue a PO as soon as is practical.
 - 4. Quotes/project estimates will include:
 - a. Estimated labor hours
 - b. Material costs, including licensing requirements
 - c. Removal of existing equipment
 - d. Clean up and
 - e. Ancillary site visits to complete the installation and integration of the camera to the VSS or PEDS unit.
- D. Be responsible for mounting, installing and coordinating with CDR to integrate new cameras or callboxes into the City's existing Milestone or PEDS software system.

- E. Provide installation services for City-owned equipment or install new equipment as requested by the CDR. Additionally, Contractor will relocate or remove equipment as directed. All equipment removed will remain the City's property and must be returned to the CDR within 5 business days after completion of the service.
- F. Coordinate to obtain device configuration information prior to installation. Upon completing device installations, Contractor will contact CDR for final walk-through inspection and obtain project approval prior to submitting invoice for payment processing.
- G. Correct work performance that is deemed unsatisfactory. The Contractor will be notified and given 24-hours to remedy the defective work at no additional cost to the City.
- H. Provide and maintain sufficient communication devices required to communicate with the City and complete the work as required within the specified period. Contractor will provide a computer and/or tablet to complete preventive maintenance (PM) duties and update mapping of camera and PEDS unit locations. Additionally, Contractor is required to comply with City's standards for remote access and securing such devices.
- I. Provide installation services for replacing the existing legacy PEDS, where needed, with new devices for ongoing operational and business continuity.
- J. Work with City's construction coordination vendor to obtain the required approvals, permits, signage and equipment to close or restrict roadways, vehicular lanes or public areas to ensure services are performed and completed in a safe and effective manner. City's construction coordination vendor is PSM² (602) 468-0046 or psmsquare@psm-2.com.
- K. **TRAVEL TIME:** Travel time to and from job site will **not** be reimbursable. All mileage and travel costs, including per diem, must be included in the hourly rate quoted for labor in this IFB.
- L. **LABOR HOURS:**
 - 1. **NORMAL BUSINESS HOURS:** are defined as Monday through Friday from 6 AM - 6 PM.
 - 2. **PREMIUM HOURS:** are defined as all other times outside of normal business hours. Premium hourly rate includes evenings, weekends and all City of Phoenix observed holidays. Premium hours must be approved by the CDR PRIOR to work being performed. Failure to obtain CDR may result in a delay in payment.
 - 3. Reimbursable labor hour(s) shall begin when the technician arrives at the designated sign in location and terminate when the technician signs out at the designated location.
 - 4. All contractor personnel must sign in and out at each visit including when leaving the premises for parts/supplies, lunches, breaks etc. Contractor may use the City's approved time management system to document when they arrive on job site to begin service work and when they leave the job site. The City will provide application licensing for Contractor. Alternatively, the Contractor can use their own inhouse "time clock" system and provide weekly attendance reports to the City, if applicable.

5. Upon arrival and prior to beginning any work on the premises, Contractor shall document start and finish times and submit documentation with the invoice for every project.

NOTE: ACD – Contractor must contact the CDR to arrange for access to restricted areas prior to beginning any services.

6. Failure to sign in and out may result in the delay or non-payment of services. For emergency service, the contractor will contact the CDR or designee when they arrive onsite and when work is complete.

M. RESPONSE TIME:

1. **NON-EMERGENCY SERVICE:** Upon initial notification by CDR or designee, Contractor's initial response must be (via telephone or email) within two (2) hours. Contractor must coordinate site assessment and inspections with CDR within two (2) business days of the request to ensure there is no disruption in City services.
2. **EMERGENCY SERVICE:** Upon initial notification by CDR or designee, Contractor's initial response must be (via telephone or email) within 30 minutes of the notification by the City. On-site response (physical presence) must be within two (2) hours of initial notification.

N. SUBCONTRACTING: Be responsible to obtain CDR written authorization for subcontracting or use of any other parties to perform services under the resultant Contract.

1. Contractor's use of any subcontractors or other parties to perform services and provide technical knowledge shall not relieve, release or affect Contractor's duties, liabilities or obligations hereunder, and Contractor shall at all times be and remain fully liable.
2. **AVN:** Contractor will be responsible for escorting subcontractors as required in secure areas that require badging.
3. **WSD:** Contractor will coordinate with WSD personnel to provide subcontractor info to Security Management Unit (SMU) for access to plants without badging. However, subcontractor(s) will be escorted by WSD staff, **not** Contractor.

O. EQUIPMENT INVENTORY

1. City will maintain a minimal level of spare parts such as cameras, accessories, and mounting hardware for emergency needs.
2. Contractor will be requested to purchase spare parts and equipment on behalf of the City for various project needs.

3.11. Preventative Maintenance Inspections

Contractor must:

- A. Provide Preventative Maintenance Inspections (PMI) to be undertaken at regular intervals and up to three (3) times per year, per camera. The Contractor will work with CDR to establish the annual preventative maintenance schedules for each Department.

B. Ensure PMI services include but are not limited to:

1. Cleaning the exterior camera housing.
2. Cleaning the translucent housing the camera “sees” through inside and outside.
3. Cleaning the camera lens in a method specified by the lens manufacturer.
4. Test the functions of the camera movement and optical systems.
5. Verify the camera is capturing the intended field of view.
6. Adjust the focus, zoom, iris, contrast etc. of the camera for the various lighting conditions within the field of view.
7. Tighten all fasteners and cables on the camera and mounting hardware.
8. The PMI will also include any applicable software patches, and any other upgrades pertaining to the VSS hardware.

C. Submit a camera PMI checklist for CDR review and approval within 30 days of Contract award.

D. Utilize the approved camera PMI checklist to conduct the preventative maintenance. The completed camera PMI checklist must be submitted with the invoice for payment.

3.12. Specialized Equipment

A. The Contractor is expected to have the tools, equipment and/or vehicle(s) considered standard to the trade available and at no extra cost to the City.

B. Contractor may be required to utilize special equipment such as lifts, scaffolding, etc. Contractor may be reimbursed for the rental of any specialized equipment (that has been pre-approved by the CDR) required to complete a job.

C. Reimbursement for equipment rental will be for the actual cost to the Contractor. Documentation of the cost must be included with the final invoice and **no mark-up** will be permitted. The City **will not** accept any invoice that has been altered in any matter.

D. Special equipment may be stored temporarily on-site if the CDR is able to coordinate a storage location/space. During the temporary storage on-site, the City is not responsible for lost, stolen or damaged equipment. It is the responsibility of the Contractor to secure this equipment.

3.13. Warranty

A. Contractor warrants all workmanship for ninety (90) days from the day work is completed and accepted by the City. Contractor will correct work that is unsatisfactory to the City, at no additional cost.

B. Contractor will take full responsibility should there be any damage to the City property during work performance. Contractor will take necessary actions to repair, replace and restore such damage to its original state at no cost to the City.

- C. All repairs made under the terms of the Contract will receive a warranty from the Contractor. Any existing manufacturers' warranties for equipment will remain unaffected.

3.14. Focused Performance Standards

| Performance Standard | Measurement | How to Measure | Weight or Value |
|---|--|--|--|
| Emergency service request is being responded to within the time described in the scope of work. | Contractor fails to make contact within 30 minutes after receiving a request for emergency service or fails to be on site within two hours after call. | Contractor must make verbal contact with on-site Technician or CDR within 30 minutes of call and be on site within two hours after call. | Calculated at \$500 for each incident up to 2 incidents. Calculated at \$1000 for each incident over 2 incidents. |
| Routine service request is being responded to within the time described in the scope of work | Contractor fails to make contact within two hours of CDR request for non-emergency requests. | Contractor must make verbal contact with on-site Technician or CDR within two hours for non-emergency requests. | Calculated at \$100 for each incident up to 2 incidents. Calculated at \$200 for each incident over 2 incidents |

4. Standard Terms and Conditions

4.1. Definition of Key Words Used in the Solicitation

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

- A. **Will, Must, Shall:** Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of Offer as non-responsive.
- B. **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.
- C. **May:** Indicates something that is not mandatory but permissible.
- D. **“A.R.S.”** Arizona Revised Statute
- E. **“Buyer” or “Procurement Officer”** City of Phoenix staff person responsible for the solicitation. The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.
- F. **“City”** The City of Phoenix
- G. **“Contract Administrator”** Shall refer to the contract administrator as designated by the Director.
- H. **“Contract Manager”** Shall refer to a staff member designated by the Director.
- I. **“Contractor”** The individual, partnership, or corporation who, as a result of the competitive process, is awarded a contract by the City of Phoenix.
- J. **“Contract” or “Agreement”** The legal agreement executed between the City of Phoenix, AZ and the Contractor.
- K. **“Days”** Means calendar days unless otherwise specified.
- L. **“Deputy Aviation Director” or “Aviation Director”** The contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.
- M. **“Employer”** Any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
- N. **“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.
- O. **“Offeror”** Any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.
- P. **“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.
- Q. **“Suppliers”** Firms, entities or individuals furnishing goods or services to the City.
- R. **“Vendor” or “Seller”** A seller of goods or services.

4.2. Contract Interpretation

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

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

4.3. Contract Administration and Operation

- A. **Records:** All books, accounts, reports, files and other records relating to the Contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the Contract. Such records will be produced at a City of Phoenix office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements Vendor has in place.
- B. **Discrimination Prohibited:** Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended. Any contractor, in performing under this Contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The Supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this Agreement entered into by Supplier/Lessee.
- C. **Equal Employment Opportunity and Pay:** In order to do business with the City, Contractor must comply with Phoenix City Code, 1969, Chapter 18, Article V, as amended, Equal Employment Opportunity Requirements. Contractor will direct any questions in regard to these requirements to the Equal Opportunity Department, (602) 262-6790.

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

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

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

1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.
2. A breach of a warranty under paragraph 1 will be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract.
3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.

E. **Health, Environmental, and Safety Requirements:** The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City. At the request of City representatives, the Contractor will provide the City:

1. Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.
2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.
3. The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

- F. **Compliance with Laws:** Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records, to verify any such compliance. Because the Contractor will be acting as an independent contractor, the City assumes no responsibility for the Contractor's acts. Contractor shall comply with the provisions of the Supplemental Terms and Conditions to All Airport Agreements attached, marked **Exhibit C**, and incorporated herein by this reference.
- G. **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>.
- H. **Lawful Presence Requirement:** Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.
- I. **Continuation During Disputes:** Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.
- J. **Emergency Purchases:** The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

4.4. Costs and Payments

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

- B. **Payment Deduction Offset Provision:** Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.
- C. **Late Submission of Claim by Contractor:** The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.
- D. **Discounts:** If applicable, payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.
- E. **No Advance Payments:** Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.
- F. **Fund Appropriation Contingency:** The Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.
- G. **Maximum Prices:** The City will not be invoiced at prices higher than those stated in any contract resulting from this Offer. Contractor certifies by signing this Offer that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Offer and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.
- H. **F.O.B. Point:** All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

4.5. Contract Changes

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

- B. **Assignment - Delegation:** No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.
- C. **Non-Exclusive Contract:** Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

4.6. Risk of Loss and Liability

- A. **Title and Risk of Loss:** The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.
- B. **Acceptance:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.
- C. **Force Majeure:** Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition. If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.
- D. **Loss of Materials:** The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the City.

- E. **Contract Performance:** Contractor will furnish all necessary labor, tools, equipment, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor. The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidents of unsatisfactory performance may result in cancellation of the agreement for default.

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

4.7. City's Contractual Rights

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

- A. **Non-Exclusive Remedies:** The rights and remedies of the City under this Contract are non-exclusive.

- B. **Default in One Installment to Constitute Breach:** Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

- C. **On Time Delivery:** Because the City provides services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

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

- E. **Covenant Against Contingent Fees:** Seller warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.
- F. **Cost Justification:** In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Offer price is fair and reasonable.
- G. **Work Product, Equipment, and Materials:** All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

4.8. Contract Termination

- A. **Gratuities:** The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performance of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
- B. **Conditions and Causes for Termination:**
 - 1. This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Seller will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.
 - 2. The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

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

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

4.9. Notice

All notices, consents, approvals, and other communications (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, Technology Division
ATTN: Jamie Ritchie
2485 East Buckeye Road
Phoenix, Arizona 85034
Jamie.Ritchie@phoenix.gov

City of Phoenix Aviation Department
Aviation Department, Contracts & Services Division
ATTN: Amy Turner
2485 East Buckeye Road
Phoenix, AZ 85034
amy.m.turner@phoenix.gov

Notice to Contractor shall be sent to the person at the mailing address, email address, or fax number listed by Contractor in its Offer in **Exhibit A – Required Submittal Documents** of this Contract.

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 to be 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.

4.10. State and Local Transaction Privilege Taxes

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

4.11. Tax Indemnification

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

4.12. Tax Responsibility Qualification

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

4.13. No Israel Boycott

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

4.14. No Forced Labor of Ethnic Uyghurs

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

4.15. Advertising

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

4.16. Strict Performance

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

4.17. Authorized Changes

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

4.18. Attorney Fees

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

4.19. Headings

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

4.20. National Emergency

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

4.21. No Impairment of Title

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

4.22. No Personal Liability

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

4.23. Successors and Assigns

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

4.24. Termination for Non-Appropriation of Funds

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

4.25. Breach and Remedies for Breach

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

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

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

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

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

4.26. Claims Against the City

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

4.27. Delinquent Account Fee

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

4.28. Entire Agreement

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

4.29. Fair Interpretation

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

4.30. No Third-Party Beneficiaries

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

4.31. Contractor Requirements for the Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The city may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- A. Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.

- B. Ability to take regular and necessary breaks as needed and additional breaks for hydration.
- C. Access to shaded areas and/or air conditioning.
- D. Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
- E. Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
- F. Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures and how to report heat illness and injury to emergency medical personnel.

The contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the contractor to ensure compliance by its subcontractors.

4.32. Title VI Solicitation Notice

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

5. Special Terms and Conditions

5.1. Term of Contract

The term of this Contract will commence on or about July 1, 2025, and will continue for a period of five (5) years thereafter.

5.2. Free on Board (FOB)

Prices quoted shall be FOB destination and delivered, as required, to the locations designated on subsequent purchase orders.

5.3. Price

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

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

5.4. Discounts from Published Catalogs / Price Lists

Contractor must indicate and provide with its submittal, if reasonable, the manufacturer's price list, or catalog that will be in effect at the commencement of the contract and from which the discounts offered will be evaluated. The Procurement Officer must be informed 60 days in advance of any new price list or catalogs and the respective date(s).

Any terms and conditions contained in the parts price list(s) or catalog(s) will not take precedence over the City's terms and conditions specified herein.

Offers will be submitted based on a discount from a manufacturer's most recent Published Price List(s) or Catalog which is common to, and accepted by, the industry in general. The lists must be printed or available online, properly identified, and dated as to issuance and effectiveness.

Revised Price Lists or Catalogs may be used as a means of price adjustment. However, all offers are to be firm for a period of one-year after the Solicitation due date and pricing cannot be revised during that time. Revised pricing will be accepted only in the event of an industry-wide price change, as evidenced by the issuance of revised price lists, by the manufacturer. Price adjustments will not be made for changes in freight costs. New pricing will not become effective until revised list(s) are submitted to the City under Contractor cover letter identifying the applicable Contract number. Contractor cover letter and pricing list(s) must be dated, signed, and submitted to the Procurement Officer. One revised price list will be required.

5.5. Method of Ordering

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

5.6. Method of Invoicing

Invoice must be emailed in .pdf format to invoices@phoenix.gov and to the respective CDR for processing. Invoices must include the following:

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

5.7. Method of Payment

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

5.8. 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.

5.9. Supplier Profile Changes

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

5.10. Estimated Quantities or Dollar Amounts (Requirements Contracts Only)

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

5.11. Suspension of Work

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

5.12. Hours of Work

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

5.13. 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.

5.14. Performance Interference

Contractor shall notify the CDR immediately of any occurrence and/or condition that interferes with the full performance of the Contract and confirm it in writing within 24 hours.

5.15. Cooperative Agreement

In addition to the City and with approval of the Contractor, this contract may be extended for use by other municipalities and government agencies in the state of Arizona.

5.16. Exclusive Possession

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

5.17. Licenses and Permits

Contractor will keep current Federal, state, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

5.18. Miscellaneous Fees

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

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

5.19. Liquidated Damages

If the Contractor fails to deliver the supplies or perform the Services within the time specified in its contract, or any extension thereof, the actual damages to the City for the delay will be difficult or impossible to determine. Therefore, in lieu of actual damages, the Contractor shall pay to the City as fixed, agreed and liquidated damages for each calendar day of the delay, the amount specified in the Scope of Work. The City may terminate this contract in whole or in part as provided in the "Default" provision. In that event, the Contractor shall be liable for such liquidated damages accruing until the City may reasonably obtain delivery or performance of similar supplies and services. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond its control and without fault or negligence, as determined by the City. The Aviation Director will be the sole judge in determining the liquidated damages.

5.20. Single Source for Warranty Work

Contractor shall be fully responsible for all warranty work. In addition, Contractor shall have or establish a single local Phoenix source that will accomplish or coordinate any necessary warranty work. Contractor shall respond to requests for repairs by telephone or email within two hours. On-site response will be required within two days unless approved by the CDR. after a verbal request by the City.

5.21. Warranty

Contractor warrants the hardware, software, application(s), or other technology assets provided to the City pursuant to this Contract (collectively, the "Technology Assets"), for a period of one year starting with the date of final acceptance (the "Warranty Period"), to be substantially free of any condition which would make the Technology Assets fail to perform in material accordance with the requirements set forth in this Agreement, including any statement-of-work or scope-of-work document (each such condition to be considered an "Error"). Contractor specifically warrants that all software Technology Assets shall be free of any condition which could make them fail to perform in material accordance with this Agreement (each such condition to also be considered an "Error") for a period of nine months after actual installation of the software. If the City reports to Contractor any errors in the system during the Warranty Period, then Contractor shall, at its expense, use reasonable commercial efforts to modify, replace, or otherwise remedy the faulty hardware, software, electrical component or other Technology Assets as quickly as reasonably practicable. Where possible, both parties shall attempt to resolve Errors through telephone instruction, issuance of updated documentation, corrective code, or hardware replacement or modification.

STANDARDS AND PRACTICES:

Technology Assets shall conform to the generally accepted standards and practices of the trade or industry involved. All work shall be executed by personnel skilled in their respective lines of work.

QUALIFICATIONS:

Contractor represents that it is fully experienced and properly qualified; is in compliance with all applicable license requirements; and, is equipped, organized, and financed to provide and/or perform the goods and/or services purchased by the City pursuant to this Agreement.

INTELLECTUAL PROPERTY WARRANTIES:

Contractor warrants that:

- A. The Technology Assets will be free of the rightful claim of any third party for or by way of infringement or misappropriation of patent, copyright, trade secret, trademark or other rights arising under the laws of the United States;
- B. No act or omission of Contractor will result in a third party holding any other claim that interferes with the City's enjoyment or use of the Technology Assets;
- C. Contractor owns or possesses all right(s), title(s) and license(s) necessary to perform its obligations hereunder; and
- D. As of the effective date and throughout the term of this Agreement, Contractor has not conveyed and will not convey any rights or licenses to any third party regarding the Technology Assets, except to the extent the Technology Assets consist of commercial-off-the-shelf or similar software product(s).

5.22. Equipment Installation

All equipment shall be completely assembled and installed by the Contractor and ready for use on the City's property at per purchase order.

5.23. Inspection and Acceptance

Each product delivered shall be subject to complete inspection by the City prior to acceptance. Inspection criteria shall include, but not be limited to, conformity to the specifications, mechanical integrity, quality, workmanship and materials. Ten business days will be allowed for this process. If delivered items are unacceptable and returned to the Contractor prior to acceptance, an additional five business days will be allowed for inspection when subsequent delivery occurs. It shall be the Contractor's responsibility to pick up unacceptable products, correct the deficiencies, and return the product following the corrections.

5.24. Repair and Replacement Parts Guarantee

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

5.25. Communication in English

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

5.26. Contract Manager

For project or department specific contact information, please contact the City Department Representative (CDR) for the relevant department. CDR contact information is located in **paragraph 3.2.**

5.27. Contract Administrator

Department Contact: Amy Turner, Contract Specialist II

Department Contact Address: 2485 E. Buckeye Rd, Phoenix, AZ 85034

Phone: (602) 273-3349

Email: Amy.m.turner@phoenix.gov

5.28. Contractor Assignments

The Contractor hereby agrees that any of its employees who may be assigned to a City site to satisfy obligations under this Contract shall be used exclusively for that purpose during the hours when they are working in areas covered by this Contract and shall perform no work at other City facilities. If other services, in addition to or separate from, the services specified herein may be deemed necessary by the Aviation Director or his authorized representative, the Contractor may be requested to perform the additional or special service.

5.29. Final Inspection and Approval

The Contractor will request the CDR to conduct a site inspection after the project is complete. The CDR will prepare a “punch-list” during the inspection and will forward a copy to the Contractor.

After the “punch-list” items have been corrected, the Contractor will request a final inspection with the CDR. Final project approval is contingent upon the CDR’s final inspection and written approval.

5.30. Specifications

The specifications and/or drawings associated with this project are intended to generally describe a complete installation. Any additional materials or labor required for the complete project as intended shall be provided by the Contractor, even if it has not been detailed in this document.

5.31. Transition of Contract

Contractor will, without limitation, provide important information to a successor Contractor and the City to ensure continuity of service at the required level of proficiency and agrees to provide to the City all files, supplies, data, records, and any other properties or materials of the City, which the City owns or has rights to pursuant to this Contract and which are in the possession of Contractor. The provisions of this section will survive the expiration or termination of this Contract.

5.32. Types of Work Supervision

The Contractor shall provide onsite supervision and appropriate training to assure competent performance of the work. Contractor or authorized agent will make sufficient daily routine inspections to ensure the work is performed as required by this Contract.

5.33. Data Protection

The parties agree this Section shall apply to the City’s Confidential Information and all categories of legally protected personally identifiable information (collectively “PII”) that Contractor processes pursuant to the Agreement. “Personally identifiable information” is defined as in the Federal Privacy Council’s Glossary available at: <https://www.fpc.gov/resources/glossary/>.

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

- A. When Contractor processes PII pursuant to the Agreement, Contractor shall, at no additional cost to the City:
1. Process PII only within the United States and only in accordance with the Agreement and not for Contractor’s own purposes, including product research, product development, marketing, or commercial data mining, even if the City’s data has been aggregated, anonymized, or pseudonymized;
 2. Implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; A.R.S. § 18-552 (Notification of Security System Breaches); A.R.S. § 44-7601 (Discard and Disposal of Personal Identifying Information Records); Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice; (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)
 3. Not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
 4. As applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
 5. Take reasonable steps to ensure the competence and reliability of Contractor’s personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

6. Maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Agreement and applicable laws;
 7. Allow the City or its authorized agents to conduct audit inspection during the term of the Agreement, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section;
- B. If the Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Agreement, Contractor shall notify the City at SOC@phoenix.gov without undue delay within 48 hours; and:
1. Provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;
 2. Take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;
 3. Cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and
 4. Not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

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 (Data Protection). Contractor's obligations pursuant to this Section (Data Protection) shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Agreement.

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

5.34. Confidentiality

“Confidential Information” means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively “Recipient”), whether disclosed before or after the Effective Date, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

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

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

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

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

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

5.35. Intellectual Property Rights

Contractor grants to City a nonexclusive, non-transferable (except to a wholly owned subsidiary of the City), and royalty-free right and license to install, use, and maintain the software, application(s), or similar technology to be provided to the City pursuant to this Agreement (collectively, the "Deliverables") for the City's internal or business purposes. The City shall further have the right to reproduce the Deliverables to the extent reasonably necessary for such purposes. The City shall not, without the Contractor's prior written consent, transfer or sub-license its foregoing license rights (except to a wholly owned subsidiary of the City) or reverse engineer, decompile, or otherwise attempt to derive source code from the Deliverables.

5.36. Security Inquiries

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

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

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

Aviation Department Security Procedures for Contractor and Subcontractor Worker Background Screening

5.37. Contract Worker Background Screening

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

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

A. Legal Worker Background Check

Pursuant to Arizona Revised Statutes (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.

B. City Rights Regarding Security Inquiries

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

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

C. 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.

D. Contractor's Contracts and Subcontracts

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

E. 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.

F. Continuing Duty and Audit

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

5.38. Contract Worker Access Controls and Airport Security Badge Requirements

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

5.39. Security Identification Display Area (SIDA) Badge Process

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

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

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

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

- A. Before any work is performed under this Contract, Contractor shall provide the City with a list of its Contract Workers.
- B. If any dispute arises related to a background check process or criminal history check information, then Contractor and the affected Contract Worker will resolve the dispute. The City will not get involved in resolving any such dispute.
- C. In making the determination whether information in a background check renders the Contract Worker disqualified, Contractor should be guided by the following principles and guidelines:
 1. Disqualification should not be based solely on a criminal conviction, unless the conviction related to performance under this Contract.

2. Arrests that did not result in a conviction being entered or charges being filed may not be considered.
 3. Not all criminal convictions or other negative information obtained in a background check will disqualify a Contract Worker from working under this Contract.
 4. Contractor must evaluate the relevance of the information to the work the Contract Worker will perform under this Contract.
 5. Contractor must consider the following factors in determining whether negative background information disqualifies a Contract Worker:
 - Duties of the position
 - Time, nature, and number of negative events and convictions
 - Attempts and extent of rehabilitation efforts
 - The relation between the duties of the position and the nature of the crime committed
- D. The analysis of whether any information in a background check is a potentially disqualifying factor involves looking at the requirements of the Contract, the Scope of Work, where the work will be performed, the need for access to restricted areas, and the type of persons or places the Contract Worker will encounter. Contractor should review the background check results and determine whether the nature of the conviction or crime reported would create a risk to the City based on the Contract's requirements.
1. For a Contract Worker requiring a standard risk background check, potentially disqualifying convictions include a record of theft, identity theft, computer fraud or abuse, burglary, arson, crimes against property, violent crimes, or other crimes involving dishonesty, or embezzlement.
 2. For a Contract Worker requiring a maximum risk background check, potentially disqualifying convictions include a record of child molestation, assault, sexual assault, crimes against a person, public indecency, drug offenses, forgery, theft, burglary, arson, crimes against property, violent crimes, crimes for financial gain, identity theft, computer fraud or abuse, and embezzlement.
- E. If a background check shows that the disposition of an arrest is unknown, then Contractor must determine the disposition of the arrest.
- F. Contractor will obtain a Contract Worker disclosure from each Contract Worker who will perform work under this Contract. Contractor will provide the Contract Worker disclosures to the City upon request. "Contract Worker disclosure" means an affidavit by a Contract Worker disclosing his or her prior criminal record. The Contract Worker disclosure must list all criminal convictions, including the nature of the crime, the date of the conviction, and the location where the crime and conviction occurred. The Contract Worker disclosure also grants to the City the right to review the background check results. (City of Phoenix A.R. 4.45)
- G. In a standard risk background check, Contractor must review the results of the background check and decide if a Contract Worker should be disqualified for work under this Contract. Contractor must engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker. After Contractor has made its decisions, a list of names of qualified Contract Workers will be provided to the City.

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

5.41. STANDARD RISK BACKGROUND CHECK

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

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

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

5.42. 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.

5.43. Airport Security Badge Handling Procedures

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

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

5.44. Contractor's Breach

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

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

5.45. Liquidated Damages and Remedies For Breach

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 this Section and for each time a Contract Worker entered a restricted or secured area of the Airport without proper authority. Contractor agrees that the stipulated damage amount is not a penalty but is a reasonable estimate of the actual harm to the City caused by a breach and that the harm was very difficult to estimate at the time this Contract was entered into.

5.46. 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.

Arts & Culture Department Security Procedures

5.47. Background Screening

Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

5.48. 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 the Contractor to incur additional contract costs to obtain background screens or badges.

5.49. 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 non-business hours.

- C. Requirements:** The background screening for this standard risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the state of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire.
- D. Contractor Certification; City Approval of Background Screening:** Unless otherwise provided for in the Scope, Contractor will be responsible for:
1. determining whether Contract Worker(s) 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 contracting department.
 5. For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
 6. By executing this agreement, 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 agreement, 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.

5.50. 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 Agreement.

5.51. Materiality of Background Screening Requirements; Indemnity

The background screening requirements are material to City's entry into this agreement 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 agreement, Contractor will defend, indemnify and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. 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 Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

5.52. Continuing Duty; Audit

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

5.53. Variances and Exemptions

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

- Federal Homeland Defense Bureau.
- Transportation Security Administration.
- Federal Aviation Administration.
- Department of Public Safety (DPS) Administration – presenting a current Level One Department of Public Safety fingerprint card.
- Arizona or other State Bars.
- 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.

5.54. Contractor’s Default; Liquidated Damages; Reservation of Remedies for Material Breach

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

- Contract Worker gains access to a City facility(s) without the proper badge or key;
- Contract Worker uses a badge or key of another to gain access to a City facility;
- Contract Worker commences services under this agreement without the proper badge, key or background screening;
- Contract Worker or Contractor submits false information or negligently submits wrong information to the City to obtain a badge, key or applicable background screening; or
- Contractor fails to collect and timely return Contract Worker’s badge or key upon termination of Contract Worker’s employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement.

- Contractor acknowledges and agrees that the access control, badge and key requirements in this section are necessary to preserve and protect the public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this section within three business days (excluding weekends and City holidays) from the date notice of default is sent by the City. The parties agree that Contractor's failure to properly cure any default under this section will constitute a breach of this section. In addition to any other remedy available to the City at law or in equity, the Contractor will be liable for and pay to the City the sum of \$1,000.00 for each breach by Contractor in this section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the City at the time and making of this agreement if Contractor breaches this section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City's actual damages if Contractor breaches this section. The parties further agree that three breaches by Contractor in this section arising out of any default within a consecutive period of three months or three breaches by Contractor in this section arising out of the same default within a period of 12 consecutive months will constitute a material breach of this agreement by Contractor and the City expressly reserves all of its rights, remedies and interests under this agreement, at law and in equity including, but not limited to, termination of this agreement.

5.55. Employee Identification and Access

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

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

Unless otherwise provided for in the scope of work:

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

5.56. Key Access Procedures

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

5.57. Stolen or Lost Badges or Keys

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

5.58. Return of Badge or Key

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

5.59. Badge and Key Fees

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

Initial Badge Fee: \$55.00 per application

Replacement Badge Fee: \$55.00 per badge

Lost/Stolen Badge Fee: \$55.00 per badge

Replacement Key Fee: \$55.00 per key

Replacement Locks: \$55.00 per lock

Housing, Phoenix Convention Center and Water Services Departments Security Procedures

5.60. Background Screening

Contractor agrees that all Contractor and subcontractors' workers (collectively "Contract Worker(s)") pursuant to this Agreement will be subject to background and security checks and screening (collectively "Background Screening") at Contractor's sole cost and expense, unless otherwise provided for in the scope of work. Contractor's background screening will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening is necessary to preserve and protect the public health, safety and welfare. The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.

5.61. 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 the Contractor to incur additional contract costs to obtain background screens or badges.

5.62. Background Screening – Maximum Risk

- A. **Determined Risk Level:** The current risk level and background screening required is MAXIMUM RISK.
- B. **Maximum Risk Level:** A maximum risk background screening will be performed every five years when the Contract Worker's work assignment will:
1. work directly with vulnerable adults or children, (under age 18); or
 2. any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation; or
 3. unescorted access to:
 - a. City data centers, money rooms, high-value equipment rooms; or
 - b. unescorted access to private residences; or
 - c. access to critical infrastructure sites/facilities; or
 - d. direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.
- C. **Requirements:** The background screening for maximum risk level will include a background check for real identity/legal name and will include felony and misdemeanor records from any county in the United States, the State of Arizona, plus any other jurisdiction where the Contractor worker has lived at any time in the preceding seven years from the Contract Worker's proposed date of hire. In addition, Maximum screening levels may require additional checks as included herein, depending on the scope of work, and may be amended if the scope of work changes.

5.63. Additional Maximum Risk Background Checks

Maximum screening will additionally require:

- Credit Check (for cash handling, accounting, and compliance positions only)
- Driving records (for driving positions only)
- Fingerprint verification (when Contract Worker is working directly with children or vulnerable adults or scope takes the individual to a City location with Criminal Justice Information System (CJIS) access.)

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

Unless otherwise provided for in the Scope of Work, Contractor will be responsible for:

- A. determining whether Contract Worker(s) are disqualified from performing work for the City for maximum risk level background checks; and,
- B. submitting pass/fail results to the City for approval; and,
- C. reviewing the results of the background check every three to five years, dependent on scope; and,
- D. to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,
- E. Submitting the list of qualified Contract Workers to the contracting department; and,

- F. If, upon review of the background information, the City will advise the Contractor if it believes a Contract Worker should be disqualified. The Contractor will evaluate the Contract Worker and if the Contractor believes that there are extenuating circumstances that suggest that the person should not be disqualified, the Contractor will discuss those circumstances with the contracting department. The contracting department decision on disqualification of a Contract Worker is final.
- G. For sole proprietors, the Contractor must comply with the background check for himself and any business partners, or members or employees who will assist on the contract and for whom the requirements of the Agreement apply.
- H. By executing this agreement, 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.
- I. The City final documented decision will be an “approve” or “deny” for identified Contract Workers.
- J. The City will not keep records related to background checks once they are confirmed. Information to verify the results will be returned to the Contractor, or any contracted agency that assists with review, after the City’s completed review.
- K. By executing this agreement, Contractor further certifies and warrants that Contractor has satisfied all such background screening requirements for the maximum risk background screening, and verified legal worker status, as required.
- L. Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Contractor has received the City’s written acceptance of Contract Worker’s maximum risk background screening. The City may, in its sole discretion, accept or reject any or all the Contract Workers proposed by Contractor for performing work under this Agreement. A Contract Worker rejected for work at a maximum risk level under this agreement will not be proposed to perform work under other city contracts or engagements without city’s prior written approval.
- M. For any childcare or health worker positions, or Criminal Justice Information Systems access in the scope of work, Contractor is required to send the City updated background checks every three years.
- N. The Contractor will submit prior to scheduling any services, a current list of names, addresses, and social security numbers of all employees requiring access to the facility. The Contractor is responsible for obtaining security clearance from the Police Department for all employees. The City reserves the right to change the restricted areas as needed. The Contractor grants the rights to the Police Department to conduct background checks of all employees entering the building. All employees will submit to the background check before access to the facility is given.
- O. The background checks will be conducted prior to any employee entering to work and will be based upon information provided to the Police Department including, but not limited to: name, address, date and place of birth, social security number, INS number if applicable, and a copy of a valid photo identification. The information will be provided to the City’s authorized Department representative at least five business days (excluding weekends and holidays) in advance of the need for access. The form will be provided by the City’s authorized Department representative. The City’s authorized Department representative will conduct the security check.
- P. The City may, at any time, in its sole discretion, refuse to allow an employee access to an area for any of the following reasons, but not limited to:

1. Conviction of a felony.
2. Conviction of a misdemeanor (not including traffic or parking violation).
3. Any outstanding warrants (including traffic and parking violations).
4. A person currently on parole or probation.
5. A person currently involved in an investigation.

5.65. 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 agreement.

5.66. Materiality of Background Screening Requirements; Indemnity

The background screening requirements are material to City's entry into this agreement 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 agreement, Contractor will defend, indemnify and hold harmless the City for all claims arising out of this background screening section including, but not limited to, the disqualifications of a Contract Worker by Contractor. The background screening requirements are the minimum requirements for the Agreement. 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 Agreement or Contractor's failure to comply with this section. Therefore, Contractor and its Contract Workers will take any reasonable, prudent and necessary measures to preserve and protect public health, safety and welfare when providing services under this Agreement.

5.67. Continuing Duty; Audit

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

5.68. Variances and Exemptions

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

- Federal Homeland Defense Bureau.
- Transportation Security Administration.
- Federal Aviation Administration.
- Department of Public Safety (DPS) Administration – presenting a current Level One Department of Public Safety fingerprint card.
- Arizona or other State Bars.

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.

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

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

- Contract Worker gains access to a City facility(s) without the proper badge or key;
- Contract Worker uses a badge or key of another to gain access to a City facility;
- Contract Worker commences services under this agreement without the proper badge, key or background screening;
- Contract Worker or Contractor submits false information or negligently submits wrong information to the City to obtain a badge, key or applicable background screening; or
- Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility or upon the expiration, cancellation or termination of this Agreement.
- Contractor acknowledges and agrees that the access control, badge and key requirements in this section are necessary to preserve and protect the public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this section within three business days (excluding weekends and City holidays) from the date notice of default is sent by the City. The parties agree that Contractor's failure to properly cure any default under this section will constitute a breach of this section. In addition to any other remedy available to the City at law or in equity, the Contractor will be liable for and pay to the City the sum of \$1,000.00 for each breach by Contractor in this section. The parties further agree that the sum fixed above is reasonable and approximates the actual or anticipated loss to the City at the time and making of this agreement if Contractor breaches this section. Further, the parties expressly acknowledge and agree to the fixed sum set forth above because of the difficulty of proving the City's actual damages if Contractor breaches this section. The parties further agree that three breaches by Contractor in this section arising out of any default within a consecutive period of three months or three breaches by Contractor in this section arising out of the same default within a period of 12 consecutive months will constitute a material breach of this agreement by Contractor and the City expressly reserves all of its rights, remedies and interests under this agreement, at law and in equity including, but not limited to, termination of this agreement.

5.70. Employee Identification and Access

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

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

Unless otherwise provided for in the scope of work:

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

5.71. Key Access Procedures

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

5.72. Stolen or Lost Badges or Keys

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

5.73. Return of Badge or Key

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

5.74. Badge and Key Fees

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

Initial Badge Fee: \$55.00 per application

Replacement Badge Fee: \$55.00 per badge

Lost/Stolen Badge Fee: \$55.00 per badge

Replacement Key Fee: \$55.00 per key

Replacement Locks: \$55.00 per lock

5.75. 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 Agreement.

6. Federal Contract Clauses - Housing HUD Specific

6.1. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Disadvantaged Business Enterprises

Pursuant to national and City policy to award a fair share of contracts to small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises, Contractor shall take affirmative steps to assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are utilized when possible as sources of supplies, equipment, construction, and services. Such affirmative steps shall include the following:

- A. Include qualified small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises on solicitation lists.
- B. Assure that small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises are solicited whenever they are potential sources.
- C. When economically feasible, divide total requirements into small tasks or quantities so as to permit maximum participation from small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises.
- D. Where the requirement permits, establish delivery schedules which encourage participation by small and minority businesses, women's business enterprises, and Disadvantaged Business Enterprises.
- E. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce and the Community Services Administration as required.
- F. Comply with the applicable requirements of the Small and Disadvantaged Business Enterprise Policy Plan for the City of Phoenix.
- G. Include affirmative steps, one through six in any subcontract.

6.2. Debarment and Suspension (Executive Orders 12549 and 12689)

in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension," Contractor agrees that neither it, nor its principals is presently debarred, suspended proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction evidenced by this Contract by any federal department, and agrees to comply with the requirements of 2 CFR 180 and **24 CFR 2424**.

6.3. Access to Records

The CITY, **FEDERAL AGENCY**, the Comptroller General of the United States, the Government Accounting Office or any of their duly authorized representatives shall have access to any books, documents, papers and records of the Contractor which are pertinent to any activity performed under this Contract as required under 2 CFR 200.333 et seq. and **24 CFR 570.502(7)(ii)** for the purpose of making audit, examination, excerpts and transcriptions. The Contractor shall keep and maintain such books, documents, papers and records in accordance with 2 CFR 200.333 et seq. and for a period of at least three (3) years after the expiration or termination of this Agreement **or three (3) years after the submission of the annual performance and evaluation report as prescribed in 24 CFR 91.520**. The Contractor shall permit independent auditors access to its records and financial statements as necessary to comply with federal audit requirements.

6.4. Termination for Cause and for Convenience

- A. The CITY may terminate this contract in whole, or from time to time in part, for the CITY's convenience or the failure of the Contractor to fulfill the Contract obligations (cause/default). The CITY shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the CITY all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.
- B. If the termination is for the convenience of the CITY, the CITY shall be liable only for payment for services rendered before the effective date of the termination.
- C. If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (cause/default), the CITY may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the CITY, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the CITY; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the CITY by the Contractor. In the event of termination for cause/default, the CITY shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.

6.5. Byrd Anti-Lobbying Certification (31 U.S.C. 1351)

In all contracts in excess of \$100,000 the Contractor hereby certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of and Federal contract, grant, loan, or cooperative agreement.
- B. Each Contractor tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization or influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C, 1352.
- C. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. Such disclosures are forwarded from tier to tier up to the non-Federal award.

6.6. Clean Air Act and Federal Water Pollution Control Act

Applicable to all contracts in excess of \$150,000. The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to the City, **FEDERAL AGENCY**, and the San Francisco Regional Office of the Environmental Protection Agency (EPA).

6.7. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)

- A. This Contract and employees working on this Contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
- B. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
- C. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

6.8. Audit

The Contractor shall submit a financial audit within ninety (90) days after the close of any Contractor fiscal year in which the aggregate of federal grant funds expended from all sources both inclusive and exclusive of this Agreement is Seven Hundred-Fifty Thousand Dollars (\$750,000) or more. The audit shall be in conformance with the audit requirements of 2 CFR Part 200.501. No funds resulting from this Contract shall be expended for the purpose of an audit without the prior written consent of the City. The decision to provide such consent shall be in the sole discretion of the City.

6.9. Conflicts of Interest

All parties hereto agree to abide by the provisions of 2 C.F.R. 200.318, which include (but are not limited to) the following:

- A. The Contractor shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by federal funds.
- B. No employee, officer, or agent of the Contractor shall participate in the selection, or in the award, or administration of, a contract supported by federal funds if a conflict of interest, real or apparent would be involved. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.
- C. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Contractor.

6.10. Drug-Free Workplace Act of 1988

The Contractor must comply with drug-free workplace requirements in Subpart B of 2 CFR § 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

6.11. Department of Labor Wage Decision

All Proposers should carefully review the Department of Labor Wage Decision and the applicable rates for Maricopa County and Residential. Applicable Wage Decisions are updated by the Department of Labor periodically. The current wage decision is: General Decision Number: AZ20230001 Modification #2 Last Revised 09/29/2023.

To see the current wage decision for Maricopa County and Residential, go to: [SAM.gov](https://www.sam.gov)

The prevailing basic hourly wage rates and fringe benefit payments, as determined by the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act, shall be the minimum wages paid to the described classes of laborers and mechanics employed, or working on the site, to perform the contract.

- A. **PAYMENT WITHHOLDING:** Payrolls, including subcontractor's payrolls, must be submitted weekly no later than seven (7) days after each pay period ending date. Payments may be withheld in part or in full until payrolls are received and reviewed to assure compliance of the Federal Labor Standards. Failure to clarify, when requested, discrepancies between hourly wages paid to individual workers and the minimum hourly wages required by the Federal Wage Decisions contained in the Contract documents may also affect the complete or timely release of payments.
- B. **WORKFORCE REPORTING REQUIREMENTS:** The Contractor shall submit payrolls electronically through the internet to the City of Phoenix web based certified payroll tracking system. The City of Phoenix uses the "LCP Tracker" website to track the certified payroll information. Additional information regarding the use of this system is available at <https://lcptracker.com> . This requirement shall also apply to every lower-tier subcontractor that is required to provide weekly certified payroll reports.
- C. **LABOR COMPLIANCE:** On all federally assisted projects, a Labor Compliance Conference must be held after project award and prior to the established Notice to Proceed. This meeting is separate from and in addition to the pre-bid conference. The successful bidder shall schedule the conference by calling City of Phoenix Housing Department Labor Compliance Office. Minimum attendance shall be a corporate officer, who is authorized to execute and sign documents for the firm and the payroll representative of the prime contractor. If any sub-and-lower-tier contractors are to be used, they must also provide the same representation and attend this meeting.
- D. **SUBCONTRACTORS:** City Approval Required. If Contractor wishes to utilize subcontractors, for performance of the Work, in addition to those listed in Contractor's original offer to the City, Contractor shall submit a current subcontractor list to the Housing Representative. No subcontractors may be used without prior approval of the Housing Representative. Subcontractors must be properly licensed for the type of work they will perform. City reserves the right to request the removal of Contractor's subcontractor if deemed unsatisfactory by the Housing Representative.
1. Work Quality. Subcontractors providing service under the Contract shall meet the same service requirements and provide the same quality of service required of Contractor. Contractor shall be fully responsible to the City for the acts and omissions of persons Contractor employs and/or subcontracts.
 2. Contractor Responsibility. Use of a subcontractor does **not** relieve Contractor of responsibility of service. Contractor will manage all schedules, quality, performance and project management for subcontractors. Contractor will be held solely responsible and accountable for the service and/or repairs for which Contractor has subcontracted.
 3. Payment. Subcontracting is at Contractor's expense. Contractor is responsible for all payments including, but not limited to, labor, parts, and materials incurred from subcontracting the services.

6.12. HUD Form 5370-C, Section 1

All Proposers should review the provisions in HUD Form 5370C, Section 1, incorporated herein by reference and is incorporated in the Contract between the successful Proposer and the City of Phoenix.

<https://www.hud.gov/sites/dfiles/OCHCO/documents/5370-C1.pdf>

6.13. HUD Form 5370-C, Section 2

All Proposers should review the provisions in HUD Form 5370C, Section 2, incorporated herein by reference and is incorporated in the Contract between the successful Proposer and the City of Phoenix.

<https://www.hud.gov/sites/dfiles/OCHCO/documents/5370-C2.pdf>

6.14. HUD Form 5370

All Proposers should carefully review HUD Form 5370, incorporated herein by reference. In the context of this procurement the term PHA as used in HUD Form 5370 refers to the City of Phoenix.

<https://www.hud.gov/sites/dfiles/OCHCO/documents/5370.pdf>

6.15. HUD Form 5370-EZ

All Proposers should carefully review HUD Form 5370-EZ, incorporated herein by reference. In the context of this procurement the term PHA as used in HUD Form 5370-EZ refers to the City of Phoenix.

<https://www.hud.gov/sites/dfiles/OCHCO/documents/5370-EZ.pdf>

6.16. HUD Form 4010

All Proposers should carefully review HUD Form 4010, incorporated herein by reference and is incorporated in the Contract between the successful Proposer and the City of Phoenix.

<http://portal.hud.gov/hudportal/documents/huddoc?id=4010.pdf>

6.17. Federal Funding Accountability and Transparency Act (FFATA)

The AGENCY will comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The AGENCY must have an active registration in SAM in accordance with 2 CFR part 25, appendix A, and have a Unique Entity Identifier (UEI). The AGENCY will also comply with the provisions of FFATA which includes requirements on executive compensation, and 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

6.18. Build America, Buy America (BABA)

The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

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. Technology Software and Hardware Contracts

INDEMNIFICATION – PATENT, COPYRIGHT AND TRADEMARK

In addition to any other indemnification required by this Agreement, Contractor agrees to defend, at its own expense, and to indemnify and hold harmless the City and its officers, agents, and employees from and against all judgments, claims, damages, suits, liabilities, settlements, costs and demands, including reasonable attorneys’ fees, suffered or incurred by the City as a result of any claim that the Technology Assets infringe the patents, copyrights, or other intellectual property rights of third parties, provided that Contractor is notified in writing of such claim. The City will reasonably cooperate with Contractor, at Contractor’s expense, to facilitate the settlement or defense of such claim. Without limiting in any way the Contractor obligations set forth herein, if, as a result of any claim of infringement with respect to the Technology Assets, the City is enjoined from using the Technology Assets, or if Contractor reasonably believes that the Technology Assets are likely to become the subject of a claim of infringement, Contractor may, at Contractor’s option and expense, (1) procure the right for the City to continue to use the Technology Assets, or (2) replace or modify the Technology Assets so as to make them non-infringing and of equal or superior functionality and capability for the purpose(s) for which the Technology Assets were provided.

The Contractor's obligation to indemnify, defend, and hold harmless the City pursuant to this subsection shall be reduced to the extent the applicable infringement is caused or alleged to be caused by the alteration or modification of the Technology Assets by the City (including its employees and contractors other than the Contractor and its subcontractors) other than in connection with the ordinary or expected use of the Technology Assets.

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 the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors and Contractor may purchase additional insurance as they 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 |

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

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 |
|-----------------------------|-------------|

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

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 |

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

8.6. Technology Errors and Omissions Liability

| | |
|------------------|-------------|
| Each Claim | \$1,000,000 |
| Annual Aggregate | \$1,000,000 |

- The policy must cover errors and omissions or negligent acts in the delivery of products, services, and/or licensed programs for those services as defined in the Scope of Services of this Contract.
- Contractor warrants that any retroactive date under the policy must precede the effective date of this Contract; and that either continuous coverage will be maintained, or an extended reporting period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

8.8. Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to 2485 E. Buckeye Rd, Phoenix, AZ 85034 OR amy.m.turner@phoenix.gov .

8.9. Acceptability of Insurers

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

8.10. Verification of Coverage

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

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

All certificates required by this Contract must be sent directly to 2485 E. Buckeye Rd, Phoenix, AZ 85034 OR amy.m.turner@phoenix.gov. The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

Send initial certificates to:

City of Phoenix

Aviation Department, Contracts & Services Division

Attn: Amy Turner

2485 E. Buckeye Road

Phoenix, AZ 85034-4301

[Amy.m.turner@phoenix.gov](mailto:amy.m.turner@phoenix.gov)

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

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. Submittal Information

9.1. Copies

A. Submission of Offer –Hard Copy Submission:

1. Refer to “SUBMISSION OF OFFER” information in paragraph 2.14. of this solicitation document.
2. Please submit **one original**, **one copy**, and **one electronic copy** (portable drive or CD) of the Submittal Section and all other required documentation.
3. **Please submit only Exhibit A – Required Submittal Documents, do not submit a copy of the entire solicitation document.**
4. This offer will remain in effect for a period of 180 calendar days from the opening date and is irrevocable unless it is in the City’s best interest to release offer(s).
5. Please do not lock the electronic copy with password protection so that the City may digitally incorporate the successful offer into the awarded contract.

B. Submission of Offer –Electronic Submission:

1. Refer to “SUBMISSION OF OFFER” information in paragraph 2.14. of this solicitation document.
2. **Electronic Bid Submission via email:** Offers is to be submitted electronically via email to the following email addresses:
 - a. Amy.m.turner@phoenix.gov AND avn.solicitations@phoenix.gov
 - b. **The email subject line must include solicitation number and title.** For example:
IFB 25-0536 VSS Licensing, Maintenance and Repair Services.
2. **Please submit only Exhibit A – Required Submittal Documents, do not submit a copy of the entire solicitation document.**
3. This offer will remain in effect for a period of 180 calendar days from the opening date and is irrevocable unless it is in the City’s best interest to release offer(s).
4. 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 submission to ensure that all required documents and forms are included.

The written offer should be:

- Typewritten for ease of evaluation
- Signed by an authorized representative of the Offeror
- Submitted with contact information for the individual(s) authorized to negotiate with the City

SOLICITATION RESPONSE CHECKLIST – SUBMITTALS SHOULD INCLUDE:

- A. **Exhibit A - Required Submittal Documents** which will include Offeror's Proposal and a detailed summary describing the firm or individual's qualifications and experience responsive to the requirements of the solicitation and evaluation criteria.
- B. **Addenda** - Signed copies of all published addenda, if applicable.
- C. **ENSURE ALL DOCUMENTS ARE COMPLETED AND SIGNED-** Please ensure all submittal forms are completed fully and signed.

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

9.3. Additional Quantities

The City anticipates considerable activity under the resultant contract(s). However, no guarantee can be made as to actual video surveillance systems licensing, installation, maintenance and repair services, 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: Offerors taking exception to this option for additional quantities clause shall indicate so in their Offer.

9.4. Discount from Published Price List

Offers may be submitted on the basis of a discount from a manufacturer's most recent Published Price List(s). Such Published Price List(s) must be common to, and accepted by, the industry in general. The lists must be properly identified and dated as to issuance and effectiveness.

Revised Published Price Lists may be used as a means of price adjustment. However, all offers are to be firm for a period of one-year after the Solicitation opening date and Revised Price Lists will not be accepted by the City until after that date. Revised Published Price Lists will be accepted only in the event of an industry-wide price change, as evidenced by the issuance of revised price lists, by the manufacturer. Price adjustments will not be made for changes in freight costs.

Revised Published Price(s) will not become effective until revised list(s) are submitted to the City under Contractor cover letter identifying the applicable contract agreement number. Contractor cover letter and pricing list(s) must be dated, signed, and submitted to the Procurement Officer. One of revised price list will be required.

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

BID PRICE SCHEDULE

(Please complete and return with Offer submittal.)

| Table A - Software Licensing Pricing | | | | |
|---|--|----------------------|-------------------|-----------------------|
| Item # | Description | Estimated Qty | Unit Price | Extended Price |
| Milestone Xprotect Corporate Licensing | | | | |
| 1 | One year Care Plus for Device License | 2700 | \$ | \$ |
| 2 | One year Care Plus for Base License | 1 | \$ | \$ |
| 3 | One year Care Premium for Device License | 2700 | \$ | \$ |
| 4 | One year Care Premium for Base License | 1 | \$ | \$ |
| 5 | Three-year Care Plus for Device License | 1 | \$ | \$ |
| 6 | Three-year Care Plus for Base License | 1 | \$ | \$ |
| 7 | Three-year Care Premium for Device License | 1 | \$ | \$ |
| 8 | Three-year Care Premium for Base License | 1 | \$ | \$ |
| 9 | Five-year Care Plus for Device License | 1 | \$ | \$ |
| 10 | Five-year Care Plus for Base License | 1 | \$ | \$ |
| 11 | Five-year Care Premium for Device License | 1 | \$ | \$ |
| 12 | Five-year Care Premium Base License | 400 | \$ | \$ |
| Zenitel Licensing | | | | |
| 13 | IP Station License | 10 | \$ | \$ |
| Total Table A | | | | \$ |

| Table B - Labor Rate ACD and PCC will utilize labor rate(s) for Preventative Maintenance Inspection work on an as-requested basis | | | | |
|--|---|----------------------------------|--------------------|-----------------------|
| Item # | Description | Estimated Hours (5 years) | Hourly Rate | Extended Price |
| 14 | Regular Hourly Rate (Monday-Friday, 6a.m.-6p.m.) | 22,000 | \$ | \$ |
| 15 | Premium Hourly Rate (Monday - Friday, 6:01p.m. - Monday 5:59p.m., including City observed Holidays) | 6,000 | \$ | \$ |
| Total Table B | | | | \$ |

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

BID PRICE SCHEDULE

(Please complete and return with Offer submittal.)

| Table C - Preventative Maintenance Inspection (PMI) (Per Camera) Pricing | | | | |
|---|---|--------------------------------|-------------------|-----------------------|
| Item # | Description | Estimated Qty (5 years) | Unit Price | Extended Price |
| 16 | Preventative Maintenance UNDER 15ft high - (1930 cameras x 3 times a year x 5yrs) | 28,950 | \$ | \$ |
| 17 | Preventative Maintenance OVER 15ft high - (370 cameras x 3 times a year x 5yrs) | 5,550 | \$ | \$ |
| Total Table C | | | | \$ |

| TABLE D - HARDWARE PRICING* | | | | |
|------------------------------------|--------------------|------------|-------------------|-----------------------|
| Item # | Description | Qty | Unit Price | Extended Price |
| PTZ Cameras | | | | |
| 18 | AXIS Q6075 | 10 | \$ | \$ |
| 19 | AXIS Q6075-E | 10 | \$ | \$ |
| 20 | AXIS Q6315-LE | 10 | \$ | \$ |
| Bullet | | | | |
| 21 | AXIS Q1809-LE | 10 | \$ | \$ |
| Fixed Cameras | | | | |
| 22 | AXIS P1385-E | 10 | \$ | \$ |
| 23 | AXIS P3265-LVE | 10 | \$ | \$ |
| 24 | AXIS Q3538-LVE | 10 | \$ | \$ |
| Panoramic | | | | |
| 25 | AXIS P3735-PLE | 10 | \$ | \$ |
| 26 | AXIS P3738-PLE | 10 | \$ | \$ |
| 27 | AXIS Q6010-E | 10 | \$ | \$ |
| 28 | AXIS Q6100-E | 10 | \$ | \$ |
| PEDS Callbox | | | | |
| 29 | Zenitel TCIS-C1 | 10 | \$ | \$ |
| Total Table D | | | | \$ |

***Each line-item price must be completed in this Table for the offer to be considered responsive.**

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

BID PRICE SCHEDULE

(Please complete and return with Offer submittal.)

| Table E – Grand Total of Offer | Totals |
|--|---------------|
| Table A – Software Licensing Pricing Total | \$ |
| Table B – Labor Rate Total | \$ |
| Table C – PMI Pricing Total | \$ |
| Table D – Equipment Pricing Total | \$ |
| Offer Grand Total | \$ |

| Table F - Percentage Discounts off Catalog/Price List, if applicable | | | | |
|---|--|--|------------------------------|-------------------------------------|
| Item # | Manufacturer | Percentage Discount Offered from Catalog* | Price List Identifier | Effective Date of Price List |
| 30 | AXIS | % | | |
| 31 | Advantech | % | | |
| 32 | Amano | % | | |
| 33 | Avigilon | % | | |
| 34 | Cisco | % | | |
| 35 | Cohu | % | | |
| 36 | Comnet | % | | |
| 37 | Flir | % | | |
| 38 | Milestone | % | | |
| 39 | Moog | % | | |
| 40 | Oncam | % | | |
| 41 | Pelco | % | | |
| 42 | Vicon | % | | |
| 43 | Zenitel | % | | |
| 44 | Other Manufacture(s) – please identify | % | | |

***Discounts must be in whole percentages. Discounts will not be evaluated for purposes of award.**

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

COSTS AND PAYMENTS

(Please complete and return with Offer submittal.)

PAYMENT TERMS & OPTIONS: Vendors must choose an option, if a box is not checked, the City will default to **0% - net 45 days**:

- Contractor offers a prompt payment discount of either _____% - 30 days or 0% – 45 days - to apply after receipt of invoice or final acceptance of the products (invoice approval), whichever date is later, starts the 30 days. If no prompt payment discount is offered, the default is 0%, net 45 days; effective after receipt of invoice or final acceptance of the products, whichever is later. **Payment terms offering a discount will not be considered in the price evaluation of your offer.**

- Contractor may be paid immediately upon invoice approval if enrollment is made to the Single Use Account (SUA) Program administered by the City’s servicing bank (“Bank”). By checking this box, the vendor accepts transaction costs charged by their merchant bank and agrees not to transfer to the City those extra charges. The City will not pay an increase in our services for the SUA charges; if an audit uncovers an upcharge for the SUA charges the vendor will owe the City all costs. The vendor may opt out of the SUA program once but then may not rejoin during the same contract term. **For more information about the SUA program or to enroll, send email to mailbox.sua@phoenix.gov.**

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

EMERGENCY 24-HOUR SERVICE CONTACT

(Please complete and return with Offer submittal.)

Contact Name: _____

Telephone Number: _____

Alternate Contact: _____

Telephone Number: _____

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

(Please complete and return with Offer submittal.)

The prospective participant (Contractor for a federally funded project) certifies, by submission of this solicitation and certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. Where the prospective participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this solicitation. THE PARTICIPANT (Contractor for a federally funded project), CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. 3801 ET SEQ. ARE APPLICABLE THERETO.

Authorized Official Name

Title of Authorized Official

Signature

Date

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

MINIMUM QUALIFICATIONS CERTIFICATION

(Please complete and return with Offer submittal.)

Minimum Qualifications Requirements

Offerors must meet minimum qualifications to be considered for this Solicitation. Offerors must certify that they meet each of the minimum requirements and give written examples of meeting the minimum qualifications. **Offerors not completing and/or not meeting the Minimum Qualifications as specified below will be deemed non-responsive and will not be considered for award.**

- A. **OFFEROR EXPERIENCE:** Offeror shall have a minimum of three (3) years of experience within the last five (5) years in the sale, installation, licensing, maintenance and repair of video surveillance systems. Offeror must demonstrate experience supporting a minimum of a total of 1000 video surveillance cameras [also interchangeable with the term of “Close-Circuit Television (CCTV)”].

- B. **SUMMARY: Offeror must provide a summary, describing how the company meets these minimum qualifications to include:**
 - 1. Describe company’s experience (including years of experience) in the sale, installation, licensing, maintenance and repair services of a minimum of 1,000 video surveillance cameras/CCTV.
 - 2. Brief overview of the represented camera manufacturer(s), if applicable.
 - 3. List all contracts Offeror has had and/or currently having. Offeror must include following:
 - each contract period,
 - quantities of camera(s) serviced and
 - scope of service, maintenance and installation activities provided for each contract.
 - 4. **NOTE:** Offeror may NOT use subcontractor experience to meet the minimum requirements. Experience for services provided outside of Arizona are acceptable, as long as the Offeror has a local branch office to provide services as required in this Contract.

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS
MINIMUM QUALIFICATIONS CERTIFICATION
(Please complete and return with Offer submittal.)

A. **ASSIGNED SERVICE REPRESENTATIVE** – Offeror must assign a service representative who will be the City’s primary contact under this Contract. Offeror’s assigned Service Representative must demonstrate that he/she has **one year** of video surveillance system maintenance and repair knowledge.

B. **SUMMARY:** Offeror will provide experience information to satisfy this requirement below”

1. Please provide the name of the Assigned Service Representative who will be the main point of contact for this Contract: _____

2. Offeror must list experience information for the Assigned Service Representative below to demonstrate they meet the minimum qualifications:

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

YEARS IN BUSINESS AND REFERENCES

(Please complete and return with Offer submittal.)

Contractor certifies that they have provided video surveillance system maintenance and repair services as listed in this solicitation for a period of years.

Contractor shall furnish the names, addresses, and telephone numbers of a minimum of three firms or government organizations for which the Contractor is currently furnishing or has furnished, video surveillance system repair and maintenance services.

Name of Company: _____

Name of Contact: _____

Email Address: _____

Phone Number: _____

Name of Company: _____

Name of Contact: _____

Email Address: _____

Phone Number: _____

Name of Company: _____

Name of Contact: _____

Email Address: _____

Phone Number: _____

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

OFFER

(Please complete and return with Offer submittal.)

TO THE CITY OF PHOENIX - The Undersigned hereby offers and agrees to furnish the material and or service(s) in compliance with all terms, conditions, specifications, and addenda issued as a result of a solicitation.

Arizona Sales Tax No. _____
Use Tax No. for Out-of-State Suppliers _____
City of Phoenix Sales Tax No. _____
Arizona Corporation Commission File No. _____

Taxpayer’s Federal Identification No.: If recommended for contract award, Offeror agrees to provide its federal taxpayer identification number or as applicable its social security number to the City of Phoenix for the purposes of reporting to appropriate taxing authorities, monies paid by the City of Phoenix under the awarded contract. If the Offeror provides its social security number, the City will only share this number with appropriate state and federal officials. This submission is mandatory under 26 U.S.C. § 6041A.

| | |
|--|--|
| Enter City’s Registration System ID Number Located at City’s eProcurement website (see SECTION 2.3 – INSTRUCTIONS - CITY’S REGISTRATION) | |
|--|--|

Offeror has read, understands, and will fully and faithfully comply with this solicitation, its attachments and any referenced documents. Offeror certifies that the prices offered were independently developed without consultation with any other Offeror or potential Offerors.

Authorized Signature Date

Print Name and Title (President, Manager, Member) Offeror Legal Name and Company Type (LLC, Inc., Sole Proprietor)

Company Address: _____

Phone Number: _____

Email Address: _____

ACCEPTANCE OF OFFER

(To be completed by the City at time of Contract award.)

The Offer is hereby accepted.

The Contractor is now bound to sell the material(s) or service(s) listed by the attached Contract and based upon the Solicitation, including all terms, conditions, specifications, amendments, etc. and the Contractor's Offer as accepted by the City.

This Contract shall henceforth be referred to as Contract No._____. The Contractor has been cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order, or Contract documentation.

CITY OF PHOENIX
A Municipal Corporation Jeffrey
Barton, City Manager

Michael D. Hughes
Deputy Aviation Director

Attest:

_____ this _____ day of _____ 2025.
City Clerk

Approved as to form this 19th day of January 2017. This document has been approved as to form by the City Attorney and is on file with the City Clerk. It need not be submitted to the City Attorney for approval unless the form document is altered.

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

CONFLICT OF INTEREST AND TRANSPARENCY FORM

(Please complete and return with Offer submittal.)

This form must be signed and submitted to the City and all questions must be answered (or N/A) or your Offer may be considered non-responsive.

1. Name of person submitting this disclosure form.

| First | MI | Last | Suffix |
|-------|----|------|--------|
|-------|----|------|--------|

2. Contract Information

Solicitation # or Name:

3. Name of individual(s) or entity(ies) seeking a contract with the City (i.e. parties to the Contract)

4. List any individuals(s) or entity(ies) that are owners, partners, parent, sublessees, joint venture, or subsidiaries of the individual or entity listed in Question 3. Please include all Board members, executive committee members and officers for each entry. If not applicable, indicate N/A.

5. List any individuals or entities that will be subcontractors on this contract or indicate N/A.

Subcontractors may be retained but not known as of the time of this submission.
List of subcontractors, including the name of the owner(s) and business name:

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

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS
CONFLICT OF INTEREST AND TRANSPARENCY FORM CONT'D

(Please complete and return with Offer submittal.)

7. Disclosure of Conflict of Interest:

A. City Code Section 43-34

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

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

I am not aware of any conflict(s) of interest under City Code Section 43-34.

I am aware of the following potential or actual conflict(s) of interest:

B. ARS Sections 38-501 et. Seq. & City Charter Chapter 11

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

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

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

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

I am aware of the following conflict(s) of interest:

EXHIBIT A – REQUIRED SUBMITTAL DOCUMENTS

CONFLICT OF INTEREST AND TRANSPARENCY FORM CONT'D

(Please complete and return with Offer submittal.)

| | |
|--|---|
| 8. Acknowledgements | |
| A. Solicitation Transparency Policy – No Contact with City Officials or Staff During Evaluation | |
| <input type="checkbox"/> | I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted. |
| <input type="checkbox"/> | This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City officials or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision, set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to disqualification . |
| B. Fraud Prevention and Reporting Policy | |
| <input type="checkbox"/> | I acknowledge that the City has a fraud prevention and reporting policy and takes fraud seriously. I will report fraud, suspicion of fraud, or any other inappropriate action to telephone no. 602-261-8999 or 602-534-5500 (TDD); or aud.integrity.line@phoenix.gov . The purpose of the fraud policy is to maintain the City's high ethical standards. The policy includes a way for our business partners to report wrongdoing or bad behavior. Suspected fraud should be reported immediately to the Phoenix Integrity Line. The City has adopted a zero-tolerance policy regarding fraud. |
| OATH | |
| I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete. Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract. | |
| PRINT NAME (Below) | TITLE |
| | |
| SIGNATURE | DATE |
| | |
| COMPANY (CORPORATION, LLC, ETC.) NAME and DBA | |
| | |

**EXHIBIT B
EQUIPMENT LIST**

1. AVIATION VSS AND PEDS EQUIPMENT

| AVN VSS Equipment |
|--|
| PTZ Cameras |
| AXIS Q6075 |
| AXIS Q6075-E |
| AXIS Q6135 |
| AXIS Q6315-LE |
| AXIS M5000 |
| Fixed Cameras |
| AXIS P1385-E |
| AXIS P3265-LV |
| AXIS P3265-LVE |
| AXIS M3077-PLVE |
| AXIS P3935-R Mk II |
| Other Cameras |
| AXIS Q6010-E |
| AXIS Q6100 |
| AXIS P3735-PLE |
| OnCam C-12 Outdoor or Indoor |
| Specialty Cameras |
| Various Axis, Vicon, FLIR, Cisco, Pelco, Avigilon, and Amano |

| Parts & Accessories |
|---|
| Mounts |
| Axis T91G61 |
| Axis T91A64 |
| Axis T91B50 |
| Axis T91A67 |
| Axis T91B63 |
| Axis T94A01D |
| Axis T91B62 |
| Accessories |
| Axis M12 6 mm Lens |
| Axis T81414 |
| Advantech ADAM-6050-CE |
| Axis M7001, M7014, M7016, 07406, 07436 |
| Axis 07920 |
| Axis T8310 |
| Axis T8120, T8133, T8134, |
| Various parts and accessories: Advantech, Axis, Vicon, Cohu, FLIR, Moog, Cisco, and Amano |

| AVN PEDS Equipment |
|------------------------------------|
| Callbox |
| Zenitel TCIS-C1 |
| Zenitel TCIV-2+ |
| Master Station |
| Zenitel ITSV-4 |
| Enclosure |
| Zenitel 1602 Deluxe Wall Unit Slim |
| Zenitel 1600 Deluxe Tower |
| Zenitel TA-1 |
| Solution Platform |
| Zenitel IP Station License |
| Zenitel ICX-Alphacom |

EXHIBIT B
EQUIPMENT LIST

2. ARTS & CULTURE DEPARTMENT

| ACD VSS Equipment |
|------------------------------------|
| (13) Inside, fixed lens QND8010R |
| (8) Outdoor multi-lens PNM9084RQZ1 |
| (1) Outdoor single lens |

3. HOUSING DEPARTMENT

| HOU VSS Equipment |
|---|
| (2) Hanwha 180° Dome Camera 8MP |
| (1) Hanwha 360° Dome Camera 20MP |
| (1) Hanwha 6MP Fisheye Dome |
| (2) Hikvision 5MP Vari-Focal Dome |
| (6) 2MP Domes |
| (1) Hikvision 180° Dome Camera 32MP |
| (1) Hikvision 180° Dome Camera 8MP |
| (1) Hikvision 5MP Fisheye dome for lobby area |
| (3) Hikvision 8MP Vari-Focal Dome |
| (1) 5MP Mini Dome |
| (1) Dual Directional Dome 2MP each lens |

EXHIBIT B
EQUIPMENT LIST

4. PHOENIX CONVENTION CENTER EQUIPMENT

| PCC VSS Equipment | Parts and Accessories |
|-----------------------------------|---------------------------------|
| PTZ | Mounts |
| AXIS Q6315-LE | AXIS T91B50 |
| AXIS Q6135-LE | AXIS T91B51 |
| AXIS M5000 | AXIS T91B63 |
| AXIS M5000-G | AXIS T91B67 |
| AXIS P5654-E MKII | AXIS T91D62 |
| AXIS P5655-E | AXIS T91D61 |
| AXIS P5676-LE | AXIS T94N01D |
| Bullet | AXIS T91A64 |
| AXIS Q1809-LE | AXIS T91B57 |
| AXIS Q1806-LE | AXIS TQ5001-E |
| AXIS Q1805-LE | AXIS T94A01D |
| Fixed | AXIS T91G61 |
| AXIS Q3538-LVE | AXIS T94A02L |
| AXIS Q3536-LVE | Audio |
| AXIS P3268-LVE | AXIS D4100-E |
| AXIS P3268-LE | AXIS I17020 |
| AXIS P9117-PV | AXIS I7010-VE |
| Panoramic | AXIS 2NIP |
| AXIS P3738-PL | System Accessories |
| AXIS P4708-PLVE | AXIS TP3832-E |
| AXIS P3837-PVE | AXIS TQ6811 |
| | AXIS 5801-971 |
| Licensing | AXIS 5801-121 |
| 3 yr Care Premium Device Licenses | AXIS 5504-731 |
| 25 Interconnect Licenses | AXIS 5502-731 |
| | AXIS TP5801-E |
| | AXIS T90D35 |
| | AXIS 01219-001 |
| | AXIS A9910 |
| | AXIS A9210 |
| | AXIS CAMERA STATION PRO LICENSE |

EXHIBIT B
EQUIPMENT LIST

5. WATER SERVICES DEPARTMENT

| WSD PCTS CCTV | WSD PCTS Accessories |
|---|---|
| Axis Q6135-LE | Axis T91D62 |
| Axis Q6318-LE | Axis T94A01D |
| Axis Q6225-LE | Axis T91G61 |
| Axis Q3536-LVE | Axis T94N01G |
| Axis M3085-V | Axis T91B57 |
| Axis P3268-LV | Axis T95A64 |
| Axis M4318-PLVE | Axis TU8004 |
| | Axis T8134 |
| | Axis T8154 |
| | Axis TQ3807-E |
| | Axis T94M01D |
| | Axis T91A23 |
| | Axis T94K01D |
| | Axis TQ6811 |
| | Axis TQ6803 |
| Specialty Cameras | Specialty Parts & Accessories |
| To include but not limited to the following manufacturers in various models: Axis, Vicon, FLIR, Cisco, Pelco, Avigilon, and Amano | To include but not limited to the following manufacturers for various parts and accessories: Advantech, Axis, Vicon, Cohu, FLIR, Moog, Cisco, and Amano |

**EXHIBIT C
SUPPLEMENTAL TERMS AND CONDITIONS
TO ALL AIRPORT AGREEMENTS**

1. Definitions

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

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

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

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

2. Federal Aviation Administration (FAA) Grant Assurances

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2.3 Clauses for Construction/Use/Access Under the Activity, Facility or Program

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

A. The grantee, licensee, permittee or as appropriate, for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the grantee, licensee, lessee, permittee, or similarly situated person will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (i) Withholding monthly progress payments;
- (ii) Assessing sanctions;
- (iii) Liquidated damages; and/or

- (iv) Disqualifying the Contractor from future bidding as non-responsible.

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

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

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

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

2.8 Miscellaneous

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Conflict of Interest

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

5. Legal Worker Requirements

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

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

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

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

6. City of Phoenix Equal Employment Opportunity Requirements

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

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

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

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

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

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

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

7. Title VI List of Pertinent Nondiscrimination Acts and Authorities

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

A. Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

B. 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

C. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

D. Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

E. The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);

F. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

G. The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

H. Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

I. The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

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

K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

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

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

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The city may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

A. Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.

B. Ability to take regular and necessary breaks as needed and additional breaks for hydration.

C. Access to shaded areas and/or air conditioning.

D. Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.

E. Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.

F. Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures and how to report heat illness and injury to emergency medical personnel.

G. The contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the contractor to ensure compliance by its subcontractors.

2438541

Revised 5/22/2024

Formatting revisions 7/11/2024

EXHIBIT D
City of Phoenix Aviation Department
Sensitive Security Information Acknowledgement Form

The documents entitled [fill in document title(s)] (“Documents”) to be used as part of the [fill in project name] contain Sensitive Security Information that is controlled under 49 C.F.R. Parts 15 and 1520. These documents may only be disclosed to persons who have the requisite “need to know”, as defined in 49 C.F.R. Parts 15 and 1520. Unauthorized release of this information may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 C.F.R. Parts 15 and 1520.

I acknowledge, on my behalf and that of my company, the above statement and agree to destroy the [fill in document title(s)], in compliance with 49 C.F.R. Parts 15 and 1520, upon the earlier of our company’s completion of our need to review and/or use the Documents or no later than [fill in current contract end date].

NAME OF COMPANY

AUTHORIZED REPRESENTATIVE PRINTED NAME

AUTHORIZED REPRESENTATIVE’S SIGNATURE

TITLE

PHONE NUMBER

ADDRESS

CITY, STATE AND ZIP CODE