

**Request for Proposals (RFP)
for**

**LEARNING MANAGEMENT SYSTEM
RFP HR 20-122**

Schedule of Events

ACTIVITY (All times are local Phoenix time)	DATE
Issue RFP	June 19, 2020
Pre-Proposal Meeting at 1:00 p.m. via Cisco Webex	June 25, 2020
Written Questions by 2:00 p.m.	June 26, 2020
City Responses to Written Questions	July 1, 2020
Submittal of Exceptions by 2:00 p.m.	July 2, 2020
Email Request to Submit Offer by 2:00 p.m.	July 7, 2020
Proposal Submittal by 2:00 p.m.	July 9, 2020
Short Listing and Consultant Interviews, if applicable	July 23, 2020
Award Recommendation to Phoenix City Council	August 26, 2020

Procurement Officer

Adriana Phillips

City of Phoenix Human Resources Department

251 W. Washington Street, 7th Floor

Phoenix, Arizona 85003

Telephone: (602) 534-1676 (7-1-1 Friendly)

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Date posted on website (issue Date): June 19, 2020

This RFP does not commit the City to award any agreement.
All dates subject to change.



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SECTION I - INSTRUCTIONS

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RFP PROCESS

1. INSTRUCTIONS: DESCRIPTION – STATEMENT OF NEED:

- 1.1. The City of Phoenix invites sealed offers for a Learning Management System for a five-year period commencing on or about August 26, 2020 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, in accordance with the Minimum Qualifications in paragraph 2, the Scope of Work in Exhibit A to the Professional Services Agreement attached in Section II and the additional specifications and provisions contained herein. This solicitation is available through Arizona Relay Service 7-1-1. Please call TTY 800-367-8939 for assistance.
- 1.2. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence: by reaching the end of the term including any extensions exercised, or termination pursuant to the provisions of this Agreement.

2. MINIMUM QUALIFICATIONS:

- 2.1. Offeror must demonstrate in its proposal that Offeror has the ability to perform the Scope of Work set forth in Exhibit A of Section II and the Requirements and Required Priorities set forth in Exhibit F.
- 2.2. The Offeror must demonstrate in its proposal the ability to have a team ready to engage and begin upon contract award.
- 2.3. The Offeror must be lawfully authorized to conduct business in Arizona or must have no impediments to conducting business in Arizona.
- 2.4. The terms outlined throughout this RFP process (within your response and any enhancements thereafter) must remain in place through negotiations and be part of the final contract unless specifically waived by the City in writing.
- 2.5. Proposals will be considered non-responsive, at the sole discretion of the City, if these requirements are not met.

3. AGREEMENT TERM AND CONTRACTUAL RELATIONSHIP:

- 3.1. Offerors are responsible for reading the agreement and submitting any questions about it in accordance with the process listed in this agreement. By submitting a proposal, each Offeror agrees it will be bound by the terms of the Agreement attached hereto. The City anticipates a five-year term. Notwithstanding the foregoing, this Agreement will terminate upon the earliest occurrence of any of the following:
 - reaching the end of the term and any extensions;
 - completing the services set forth in the Scope of Work (the “Services”);
 - payment of the maximum authorized compensation; or
 - termination pursuant to the provisions of the Agreement.



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4. PRE-PROPOSAL MEETING:

Offerors may attend the pre-proposal meeting via Cisco Webex at the date and time listed on page one. Please register for this meeting by emailing the procurement officer listed on the front page.

Meeting number/access code/meeting information: 133 287 1291

Meeting password: ASmNTjtW573

Attend the meeting using one of the formats below:

- Join online using your Cisco Webex account
- Join online without a Cisco Webex account: globalpage-prod.webex.com/join
- Join by phone 1-415-655-0001 US Toll. When asked for Attendee Number, press #.
- Join from a video system or application
Dial 1332871291@cityofphoenix.webex.com
You can also dial 173.243.2.68 and enter your meeting number.
- Join using Microsoft Lync or Microsoft Skype for Business
Dial 1332871291.cityofphoenix@lync.webex.com

5. SCOPE OF WORK AND SUPPLEMENTAL TERMS AND CONDITIONS:

Contractor will provide consulting services that will be in accordance with the Scope of Work as set forth in Section II, *Exhibit A*, and the Requirements and Priorities set forth in Exhibit F which may be supplemented with additional detail from time to time during the term of the Agreement, and that are satisfactory to the City. In performing these Services, Contractor will also specifically comply with the applicable Supplemental Terms and Conditions that are set forth in Section II, *Exhibit E*.

6. CITY'S VENDOR SELF-REGISTRATION AND NOTIFICATION:

Vendors must be registered in the City's eProcurement Self-Registration System at <https://www.phoenix.gov/financesite/Pages/EProc-help.aspx> in order to respond to solicitations and access procurement information. The City may, at its sole discretion, reject any offer from a Offeror who has not registered in the City's eProcurement system.

7. PREPARATION OF OFFER:

- 7.1. All forms provided must be completed and submitted with your offer. The signed and completed Solicitation Disclosure form must be included or your offer may be deemed non-responsive.
- 7.2. It is permissible to copy Submittal forms if necessary. Erasures, interlineations, or other modifications of your 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



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responsible for Offeror's errors or omissions.

- 7.3.** All time periods stated as a number of days will be calendar days.
- 7.4.** It is the responsibility of all Offerors to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an offer. Negligence in preparing an offer confers no right of withdrawal after due date and time. Offerors are strongly encouraged to:
- 7.4.1.** Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or Services.
 - 7.4.2.** Study and carefully correlate Offeror's knowledge and observations with the solicitation and other related data.
 - 7.4.3.** Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which Offeror has discovered in or between the solicitation and such other related documents.
- 7.5.** 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.

8. EXCEPTIONS:

If an Offeror has any exceptions to any terms, conditions or material requirements of this Solicitation including to the Scope of Work and attachment documents, the Offeror must submit a page labeled "Exceptions Statement" to Adriana.phillips@phoenix.gov by July 2, 2020 by 2:00 p.m. Arizona time. Offeror must identify the reason for the requested change, provide alternate language and provide an explanation. If Offeror does not submit Exceptions Statement by the due date identifying all specific exceptions, the exceptions will be deemed waived by the Offeror.

9. INQUIRIES:

- 9.1.** All questions that arise relating to this solicitation should be directed to the procurement officer on the solicitation cover page.
- 9.2.** To be considered, written inquiries must be received at the address on the cover page by the submittal time. Written inquiries may be emailed to the address on the cover page. Inquiries received will then be answered in an addendum.
- 9.3.** 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 the closing date and time for the submission of offers. All questions concerning or issues related to this solicitation must be presented in writing.



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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 in regard to the offering instructions, plans, drawings, specifications, or contract documents. Any changes to the plans, drawings and specifications will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addendum by signing and returning the addenda document with the offer submittal.

11. LICENSES:

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

12. CERTIFICATION:

By signature in the offer section of the Affidavit page, 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.

13. SUBMISSION OF OFFER:

13.1. The City of Phoenix will accept submittals electronically ONLY for this RFP process. No hardcopies will be accepted. To submit proposals electronically, offerors must send an email to the Procurement Officer by the date stated on the Schedule of Events indicating the offeror's intent to submit a proposal. The Procurement Officer will send an invitation to the offeror which will include submittal instructions. Offers must be able to be downloaded by the Department on or prior to the exact time and date indicated in the Schedule of Events on the cover page. Late offers will not be considered. The prevailing clock will be the Department clock.

13.2. Please submit only the responses to Sections III - Evaluation Requirements, Section IV - Submittals, the required supporting documentation, and Addenda. Do not submit a copy of the entire solicitation document. This Offer will remain in effect for a period of 180 calendar days from the bid opening date and is irrevocable unless it is in the City's best interest to do so.



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14. WITHDRAWAL OF OFFER:

At any time prior to the solicitation due date and time, a Offeror (or designated representative) may withdraw the offer by submitting a request in writing and signed by a duly authorized representative. Facsimiles, telegraphic or mailgram withdrawals will not be considered. Withdrawals may not be made after the proposal due date.

15. OFFER RESULTS:

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

16. PRE-AWARD QUALIFICATIONS:

- 16.1.** Offeror must possess the ability to perform the Scope of Work set forth in Exhibit A of Section II and the Requirements and Required Priorities set forth in Exhibit F.
- 16.2.** The Offeror must have a team ready to engage and begin upon contract award.
- 16.3.** Upon notification of an award the Offeror will have seven (7) business days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this Solicitation. Insurance requirements are non-negotiable.

17. AWARD OF CONTRACT:

Unless otherwise indicated, award(s) will be made to the most responsive, responsible Offeror(s) who are regularly established in the service contained in this solicitation and who have demonstrated the ability to perform the required service in an acceptable manner. Factors that will be considered by the City include:

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

- 17.1.** 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.



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18. CITY'S RIGHT TO DISQUALIFY FOR CONFLICT OF INTEREST:

The City 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 available to the City. This disqualification is at the sole discretion of the City. Any Offeror submitting an offer herein waives any right to object now or at any future time, before anybody or agency, including but not limited to, the City Council of the City of Phoenix or any court.

19. SOLICITATION TRANSPARENCY POLICY:

- 19.1.** Commencing on the date and time a solicitation is published, potential or actual offerors or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, any Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under Arizona Statutes, until Agreement(s) are awarded to all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation. As long as the solicitation is not discussed, Offerors may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff who is not involved in the selection process.
- 19.2.** 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.
- 19.3.** 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.
- 19.4.** 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.
- 19.5.** "To discuss" means any contact by the OFFEROR, regardless of whether the City responds to the contact. Offerors that violate this policy shall be



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disqualified until Agreement(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.

20. PROTEST PROCESS:

- 20.1.** Offeror may protest the contents of a solicitation no later than seven days before the solicitation deadline when the protest is based on an apparent alleged mistake, impropriety or defect in the solicitation. Protests filed regarding the solicitation may be addressed by an amendment to the solicitation or denied by the City. If denied, the opening and award will proceed unless the City determines that it is in the City's best interests to set new deadlines, amend the solicitation, cancel or re-bid.
- 20.2.** Therefore, unless otherwise notified by a formal amendment, the Protester must adhere to all solicitation dates and deadlines, including timely filing of an offer, regardless of filing a protest.
- 20.3.** Offeror may protest an adverse determination issued by the City regarding responsibility and responsiveness, within seven days of the date the Offeror was notified of the adverse determination.
- 20.4.** Offeror may protest an award recommendation if the Offeror can establish that it had a substantial chance of being awarded the contract and will be harmed by the recommended award. The City will post recommendations to award the contract(s) to an Offeror on the City's website. 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.
- 20.5.** All protests will be in writing, filed with the Procurement Officer identified in the solicitation, and include the following:
 - Identification of the solicitation number;
 - The name, address and telephone number of the protester
 - A detailed statement describing the legal and factual grounds for the protest, including copies of relevant documents;
 - The form of relief requested; and
 - The signature of the protester or its authorized representative.
- 20.6.** The Procurement Officer will render a written decision within a reasonable period after the protest is filed. The City will not request City Council authorization to award the contract until the protest process is complete. All protests and appeals must be submitted in accordance with the City's Procurement Code, (Phoenix City Code, Ch. 43), and administrative regulations and any protests or appeals not submitted within the time requirements will not be considered.



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21. PUBLIC RECORD:

All Offers submitted in response to this invitation will become the property of the City and become a matter of public record available for review pursuant to Arizona State law. If a 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. A 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 a 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.

22. STATEMENT OF BONDING ABILITY:

Offerors must submit a letter from a bonding or insurance company stating that the Offeror can qualify for and procure the performance and/or payment surety required in this solicitation. Submittals received without the required statement of ability to secure a performance or payment surety may be considered as non-responsive. Offerors anticipating the submittal of a cash surety in lieu of a bond should submit a statement notifying the City.

23. PERFORMANCE BOND OR IRREVOCABLE STANDBY LETTER OF CREDIT:

Prior to commencement of work to be performed, Consultant shall provide, (and shall maintain during the term of this Agreement), a performance bond or irrevocable standby letter of credit (a “Letter of Credit”) to guarantee the full and faithful performance by Consultant of all the terms and conditions of this Agreement and stand as security for payment by Consultant of all claims by the City. The required amount of the performance bond or letter of credit for this Agreement is \$180,000. Consultant’s failure to provide a performance bond or Letter of Credit under this Section shall be a material breach of this Agreement.

If the security is in the form of a performance bond, the performance bond shall be issued in a form that is satisfactory to the City and must be issued by a surety



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company authorized to write surety business in Arizona. The surety company providing the performance bond must have an A.M. Best Rating of B+ VI or better for the past four quarters.

If the security is in the form of a Letter of Credit, the Letter of Credit shall be issued by a local financial institution in the Phoenix metropolitan area in a form that is satisfactory to the City, and the City must be able to draw upon the Letter of Credit at any of the financial institution's counters in the Phoenix metropolitan area. If a Letter of Credit is obtained, then unless City receives a written extension of that Letter of Credit in a form acceptable to the City at least 60 days before the end of the term of such letter of credit, the City, without notice to Consultant, may draw upon the full amount of that Letter of Credit and retain all proceeds as a cash security pursuant to this paragraph. The City will not pay interest to Consultant on any bond or Letter of Credit. See Exhibit F attached hereto for the City's required Letter of Credit form.

24. 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.

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

26. CONTRACT AWARD:

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

27. EVALUATION OF COMPETITIVE SEALED OFFERS:

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



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28. DETERMINING RESPONSIVENESS AND RESPONSIBILITY:

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

29. DETAILED EVALUATION OF OFFERS AND DETERMINATION OF COMPETITIVE RANGE:

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



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30. OFFERS NOT WITHIN THE COMPETITIVE RANGE:

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

31. DISCUSSIONS WITH OFFERORS IN THE COMPETITIVE RANGE:

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

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

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

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

32. BEST AND FINAL OFFERS (BAFO):

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

32.2. If an Offeror's BAFO modifies its initial Offer, the modifications must be



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- identified in the BAFO. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Offers. The City will adjust appropriately the initial scores for criteria that have been affected by Offer modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.
- 32.3.** The Evaluation Panel will recommend the Offer that is the best value and most advantageous to the City based on the evaluation criteria.
- 32.4.** The City reserves the right to make an award to an Offeror whose Offer is the highest rated, best value, and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.



**SECTION II – TECHNOLOGY CONSULTING
PROFESSIONAL SERVICES AGREEMENT**

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**SECTION II – TECHNOLOGY CONSULTING PROFESSIONAL SERVICES
AGREEMENT**

LEARNING MANAGEMENT SYSTEM

AGREEMENT NO.

Adriana Phillips, Procurement Officer
City of Phoenix Human Resources Department
251 W Washington Street, 7th Floor
Phoenix, Arizona 85003
Telephone: (602) 534-1676
Adriana.phillips@phoenix.gov



**SECTION II – TECHNOLOGY CONSULTING
PROFESSIONAL SERVICES AGREEMENT**

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TECHNOLOGY CONSULTING PROFESSIONAL SERVICES AGREEMENT

BETWEEN

THE CITY OF PHOENIX AND

LEGAL NAME OF CONTRACTOR

This **AGREEMENT** is made and entered into this Day of Month, 2020, (“the Effective Date”), or as of the City Clerk date, whichever is later, by and between the City of Phoenix, Arizona, a municipal corporation of the State of Arizona (hereinafter referred to as “City”) and Legal name of contractor, (hereinafter referred to as “Contractor”).

RECITALS

WHEREAS, the City Manager of the City of Phoenix, Arizona, is authorized by the provisions of the City Charter to execute Agreements for technology products and professional services; and

WHEREAS, the City desires to obtain the technology products and professional services that are specifically set forth in this Agreement; and

WHEREAS, the City procured these technology products and professional services in accordance with Administrative Regulation 3.10; and

WHEREAS, Consultant possesses the skills and expertise necessary to provide such technology products and professional services as desired by the City; and

WHEREAS, this Agreement is authorized by action of the City Council (Ordinance Number and Agenda Number) Date;

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. TERM OF AGREEMENT:

This Agreement begins on the Effective Date in the above introductory paragraph, and upon approval by the City, for a period of five (5) years. This Agreement will terminate upon the earliest occurrence of any of the following:

- 1.1. reaching the end of the term exercised as set forth in 1.1;



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- 1.2. completing the services set forth in the Scope of Work attached as *EXHIBIT A – SCOPE OF WORK* (the “Services”); and Exhibit F – Requirements and Requirements Priorities (the “Services”);
 - 1.3. payment of the maximum compensation under Paragraph 2 of this Agreement;
or
 - 1.4. termination pursuant to the provisions of this Agreement.
- 2. CONTRACT ADMINISTRATION AND OPERATION:**
- 2.1. **Health, Environmental and Safety Requirements.** The Consultant’s products, Services and facilities shall 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. The City shall have the right to inspect operations conducted by the Consultant or subcontractor in the performance of this Agreement.
 - 2.2. **Compliance with Laws.** Consultant agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Agreement regardless of whether or not they are referred to by the City. Consultant agrees to permit City inspection of Consultant’s business records, including personnel records, to verify any such compliance. Because the Consultant will be acting as an independent contractor, the City assumes no responsibility for the Consultant’s acts.
 - 2.3. **Strict Performance.** Either party’s failure to insist on strict performance of any term or condition of the Contract will not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it; except where enforcement of this provision would be in conflict with the scope or proposal.
- 3. COSTS AND PAYMENTS**
- 3.1. The total amount to be remitted by the City to Contractor for all Services satisfactorily performed under this Agreement will not exceed \$_____ over the course of the contract at the rates provided in the Fee Schedule Exhibit B. Under this Agreement, the City will pay for Services at a fixed amount or hourly bill rate of \$dollars cents (\$hourly or fixed rate USD) per hour included in the Fee Schedule (Exhibit B), with no additional charges for overhead, benefits, local travel or administrative support. Payments shall be made in proportion to the Services performed and no more than ninety percent (90%) of the total contract price shall be paid before the work is totally completed and accepted by the City.



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3.2. City will pay any sales or use taxes resulting from this Agreement. Consultant shall be solely responsible for payment of taxes based on Consultant's income. Consultant agrees that on all billings, invoices, books and records relating to this Agreement, Consultant will state the charges imposed for the sale, transfer and licensing of tangible personal property separately from charges imposed for professional, personal and technological Services including, but not limited to, software installation, modification, training, consulting and technical telephone support.

3.3. Invoices. Consultant shall submit invoices in arrears, by the 15th of every month. Each invoice will clearly note any Purchase Order number and be accompanied with itemized receipts which include approved timesheets. The invoice will be submitted free of mathematical errors and/or missing supporting documentation. All appropriate documentation supporting the charges reflected in the invoice will be provided with the invoice. Upon finding of an error and/or missing documentation, the City may return the invoice to the Consultant. Consultant will promptly resubmit the revised invoice to the City. Each revised invoice will document the date that the revised invoice is submitted to the City. Requests for payment must be submitted with documentation of dates and hours worked, hourly rate charged, and a detailed description of the Services performed. Oversight by the City in identifying an error does not result in waiver of any of the City's rights. All properly submitted invoices will be paid promptly after the City's receipt of the invoice.

Invoice Instructions:

Email Invoices to: hr.mgmt.svcs@phoenix.gov

OR Mail Invoices to:

City of Phoenix-Human Resources Department

251 West Washington Street, 7th Floor

Phoenix, AZ 85003-2295

Telephone: (602) 534-1676

Consultant Remit to:

COMPANY NAME

ATTN: Accounts Receivable

ADDRESS

CITY STATE ZIP

TELEPHONE

EMAIL ADDRESS

3.4. Commencement of Work. The Consultant is cautioned not to commence any billable work or provide any material or service under this Agreement until



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Consultant receives a fully executed contract document or otherwise directed to do so, in writing by the City.

3.5. Late Submission of Claim by Contactor. The City will not honor any invoices or claims which are tendered one (1) year after the last item of the account accrued.

3.6. Fund appropriation Contingency. The Consultant recognizes that this Agreement shall commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Consultant and the City herein recognize that the continuation of any Agreement after the close of any given fiscal year of the City of Phoenix, which fiscal year ends on June 30 of each year, shall be subject to the approval of the budget of the City of Phoenix 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.

3.7. IRS W9 Form. In order to receive payment, the Consultant shall have a current IRS W-9 form on file with the City of Phoenix. The form can be downloaded at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

4. PERFORMANCE BOND OR IRREVOCABLE STANDBY LETTER OF CREDIT:

Prior to commencement of work to be performed, Consultant shall provide, (and shall maintain during the term of this Agreement), a performance bond or irrevocable standby letter of credit (a “Letter of Credit”) to guarantee the full and faithful performance by Consultant of all the terms and conditions of this Agreement and stand as security for payment by Consultant of all claims by the City. The required amount of the performance bond or letter of credit for this Agreement is \$180,000. Consultant’s failure to provide a performance bond or Letter of Credit under this Section shall be a material breach of this Agreement.

If the security is in the form of a performance bond, the performance bond shall be issued in a form that is satisfactory to the City and must be issued by a surety company authorized to write surety business in Arizona. The surety company providing the performance bond must have an A.M. Best Rating of B+ VI or better for the past four quarters.

If the security is in the form of a Letter of Credit, the Letter of Credit shall be issued by a local financial institution in the Phoenix metropolitan area in a form that is satisfactory to the City, and the City must be able to draw upon the Letter of Credit at any of the financial institution’s counters in the Phoenix metropolitan area. If a Letter of Credit is obtained, then unless City receives a written extension of that Letter of



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Credit in a form acceptable to the City at least 60 days before the end of the term of such letter of credit, the City, without notice to Consultant, may draw upon the full amount of that Letter of Credit and retain all proceeds as a cash security pursuant to this paragraph. The City will not pay interest to Consultant on any bond or Letter of Credit. See Exhibit G attached hereto for the City's required Letter of Credit form.

5. SCOPE OF WORK AND SUPPLEMENTAL TERMS AND CONDITIONS:

Contractor will provide consulting services that will be in accordance with the Scope of Work as set forth in *EXHIBIT A – SCOPE OF WORK*, and the Requirements and Requirements Priorities set forth in Exhibit F which may be supplemented with additional detail from time to time during the term of the Agreement, and that are satisfactory to the City. In performing these services, Contractor will also specifically comply with the applicable Supplemental Terms and Conditions that are set forth in **EXHIBIT E**. Contractor will provide monthly and quarterly reports to the respective Trustees according to a mutually agreed-upon schedule.

6. EXHIBIT C - INDEMNIFICATION & INSURANCE REQUIREMENTS

Consultant and subcontractors shall throughout the term of this Agreement comply with the insurance and indemnity requirements of Exhibit C, and other indemnity provisions in this Agreement. Consultant and subcontractors shall also deliver to the City, prior to commencement of the Services provided under this Agreement, a certificate of insurance acceptable to the City in the amounts and form specified in this Agreement. Failure of Consultant and subconsultants to maintain insurance during the term of the Agreement, including renewal options, is a material breach of this Agreement and may result in immediate termination of this Agreement without notice. Insurance requirements are subject to periodic review and adjustment by the City.

7. LAWFUL PRESENCE REQUIREMENT:

Pursuant to A.R.S. §§ 1-501 and 1-502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a 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. This requirement **does not** apply to business organizations such as corporations, partnerships or limited liability companies.

8. INDEPENDENT CONTRACTOR STATUS; EMPLOYMENT DISCLAIMER.

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



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

- 8.2** This Agreement is not intended to constitute, create, give rise to, or otherwise recognize a joint venture, partnership or formal business association or organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in this Agreement. The parties agree that no individual performing under this Agreement on behalf of Contractor will be considered a City employee, and that no rights of City Civil Service, City retirement or City personnel rules will accrue to such individual. Contractor will have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, other employee benefits, and all taxes and premiums appurtenant thereto concerning such individuals and will save and hold harmless the City with respect thereto.

9. LEGAL WORKER REQUIREMENTS:

The City is prohibited by Arizona Revised Statutes § 41-4401 from awarding an agreement to any Contractor who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes § 23-214(A). Therefore, Contractor agrees that:

- 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 Arizona Revised Statutes § 23-214, subsection A.
- A breach of warranty herein will be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.
- The City retains the legal right to inspect the papers of the Contractor or subcontractor employee(s) who work(s) on this Agreement to ensure that Contractor or subcontractor is complying with the warranty herein.

10. CONFIDENTIALITY AND DATA SECURITY (Involving PII or PCI or financial information)

- 10.1** All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Consultant in connection with this Agreement is confidential, proprietary information owned by the City. Except as specifically provided in this Agreement, the Consultant shall not disclose data generated in the performance of the service to any third person without the prior written consent of the City Manager or his/her designee.
- 10.2** Personal identifying information, financial account information, protected health information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Consultant must encrypt and/or password-protect electronic files. This includes data saved to laptop computers, computerized devices, handheld devices, networking devices,



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removable storage devices, or other electronic media, as well as data in transit, such as during email or file transfer.

- 10.3** When personal identifying information, financial account information, protected health information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed. Consultant must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal. This includes implementing and monitoring compliance with policies and procedures that require the redaction, destruction, erasure, or other disposal of paper documents and electronic media containing personal identifying information, financial account information, protected health information, or restricted City information so that these types of information cannot practicably be read or reconstructed. Consultant will provide the City with its information security policies and procedures regarding the redaction, destruction, erasure, or other disposal of documents and information.
- 10.4** In the event that data collected or obtained by the Consultant in connection with this Agreement is suspected to have been compromised, Consultant shall notify the contracting City department immediately. Consultant agrees to reimburse the City for any costs incurred by the City to investigate and respond to potential breaches of this data, including, where applicable, the cost of notifying individuals who may be impacted by the breach, attorneys' fees, and for any monetary damages or penalties the City is assessed. In case of a breach or critical breach of the City's information, it will be the City, not the Consultant, that will inform any and all individuals affected by any such breach. Only upon prior written consent of the City, or at the specific direction of the City, will the Consultant notify individuals affected by a breach or critical breach of the City's information.
- 10.5** Consultant agrees that the City may assess or test the security of any applications, web services, or computerized systems created or provided by the Consultant that process, store, or transmit City information. If the City finds vulnerabilities that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS) in these applications, web services, or computerized systems, the Consultant agrees to remediate the vulnerability at no cost to the City and within an agreed-upon timeframe not to exceed 90 days. To clarify, the Consultant must remediate found vulnerabilities in computerized systems they provide; Consultant is not liable for remediating any vulnerability found in the City's network or computing infrastructure used to support the applications, web services, or systems created or provided by the Consultant.



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- 10.6** Consultant agrees to abide by all current applicable legal and industry data security and privacy requirements. These include, but are not limited to, Arizona Revised Statutes §44-7501 — Notification of breach of security system; Arizona Revised Statutes §44-7601 — Discarding and disposing of records containing personal identifying information; Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy and Security Rules; Health Information Technology for Economic and Clinical Health (HITECH) Act, and Payment Card Industry Data Security Standards.
- 10.7** Consultant agrees to demonstrate that they have adequate controls and safeguards when they host or process personal identifying information, financial account information, protected health information, or restricted City information. This may be accomplished through a third-party audit utilizing a widely recognized auditing standard, such as Statement on Standards for Attestation Engagements (SSAE) No. 16, or through earning industry certification, such as ISO/IEC 27001.
- 10.8** By signing and entering this Agreement the Consultant specifically acknowledges that it is responsible for the security of cardholder data that Consultant possesses or otherwise stores, processes or transmits on behalf of the City. Additionally, you must provide to the City a copy of your written Notice to customers that you are responsible for the security of cardholder data that you obtain and otherwise store, process or transmit.
- 10.9** Consultant agrees to comply with all City information security and technology policies, standards, and procedures when accessing City networks and computerized systems whether onsite or remotely.
- 10.10** Consultant agrees that the requirements of this Section shall be incorporated into all subconsultant agreements entered into by the Consultant. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Agreement without notice.
- 10.11** The obligations of Consultant under this Section shall survive the termination of this Agreement.
- 11. CONTACTS WITH THIRD PARTIES:**
- 11.1** Contractor or its subcontractors will not contact third parties to provide any information in connection to the Services provided under this Agreement without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Agreement or any other prior or existing Agreement with the City, Contractor or its subcontractors will promptly inform the City giving the particulars of the information sought and will not disclose such information or give such testimony without the written consent of the City or court order. The



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obligations of Contractor and its subcontractors under this Section will survive the termination of this Agreement.

- 11.2** Contractor agrees that the requirements of this Section will be incorporated into all subcontractor agreements entered into by the Contractor. It is further agreed that a violation of this Section will be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Agreement without notice.

12. SBE/ DBE UTILIZATION:

The City extends to each individual, firm, vendor, supplier, contractor and subcontractor an equal economic opportunity to compete for City business and strongly encourages voluntary utilization of small and/or disadvantaged businesses to reflect both the industry and community ethnic composition. The use of such businesses is encouraged whenever practical.

13. AUDIT/RECORDS:

The City reserves the right, at reasonable times, to audit Contractor's books and records relative to the performance of service under this Agreement. All records pertaining to this Agreement will be kept on a generally accepted accounting basis for a period of six years following termination of the Agreement.

14. COMPLIANCE WITH LAWS:

Consultant shall comply with all existing and subsequently enacted federal, state and local laws, ordinances, codes and regulations which are, or become applicable to this Agreement and the Services. If a subsequently enacted law imposes substantial additional costs on Consultant, Consultant may request an amendment to this Agreement in order to address such additional costs; however, no such amendment or change order may be approved by the City if it results in an increase of the Agreement amount over that approved by the City Council unless the Council approves an increased Agreement amount.

15. AMENDMENTS:

Whenever an addition, deletion or alteration to the Services described in *EXHIBIT A – SCOPE OF WORK* and *EXHIBIT F - THE REQUIREMENTS OR REQUIREMENTS PRIORITIES* substantially changes the Scope of Work thereby materially increasing or decreasing the cost of performance, a supplemental agreement must first be approved in writing by the City and Contractor before such addition, deletion or alteration will be performed. Changes to the Services may be made and the compensation to be paid to Contractor may be adjusted by mutual agreement, but in no event may the compensation exceed the amount authorized without further written authorization. It is specifically understood and agreed that no claim for extra work done or materials furnished by Contractor will be allowed except as provided herein,



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nor will Contractor do any work or furnish any materials not covered by this Agreement unless first authorized in writing. Any work or materials furnished by Contractor without prior written authorization will be at Contractor's risk, cost and expense, and Contractor agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.

16. NO ORAL ALTERATIONS:

No alteration or variation of the terms of this Agreement will be binding on the parties herein unless such alteration or variation is in writing and signed by each of the parties to this Agreement. No oral understanding or agreement not incorporated in this Agreement will be binding on any of the parties herein.

17. NOTICES:

17.1 Any notice, consent or other communication ("Notice") required or permitted under this Agreement will be in writing and either: (1) delivered in person; (2) sent via e-mail, return receipt requested; (3) sent via facsimile transmission; (4) deposited with any commercial air courier or express delivery service; or (5) deposited in the United States mail, postage prepaid. If to Contractor:

Legal name and address of contractor.

If to City:

Adriana Phillips, Procurement Officer
City of Phoenix Human Resources Department
251 West Washington Street, 7th Floor
Phoenix, AZ 85003
Telephone: (602) 534-1676

17.2 Notice will be deemed received: (1) at the time it is personally served; (2) on the day it is sent via e-mail; (3) on the day it is sent by facsimile transmission; (4) on the second day after its deposit with any commercial air courier or express delivery service; or (5) five business days after the Notice is deposited in the United States mail as above provided. Any time period stated in a Notice will be computed from the time the Notice is deemed received.

17.3 Notices sent by e-mail and facsimile transmission will also be sent by regular mail to the recipient at the above address. This requirement for duplicate Notice is not intended to change the effective date of the Notice sent by e-mail or facsimile transmission.



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18. INTEGRATION:

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

19. GOVERNING LAW; FORUM; VENUE:

This Agreement is executed and delivered in the State of Arizona, and the substantive laws of the State of Arizona (without reference to choice of law principles) will govern their interpretation and enforcement. Any action brought to interpret or enforce any provision of this Agreement that cannot be administratively resolved, or otherwise related to or arising from this Agreement, will be commenced and maintained in the state or federal courts of the State of Arizona, Maricopa County, and each of the parties, to the extent permitted by law, consents to jurisdiction and venue in such courts for such purposes.

20. FISCAL YEAR CLAUSE:

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

21. TERMINATION OR SUSPENSION OF SERVICES:

21.1 City's Right to Terminate:

The City reserves the right to terminate this Agreement without cause, or to abandon the Services, or any part of the Services not then completed, by notifying Contractor in writing. Immediately upon receiving a written notice to terminate or suspend Services, Contractor will:

- Discontinue advancing the work in progress, or such part that is described in the notice.
- Deliver to the City all collected raw data, draft reports, preliminary reports, working papers, estimates and forecasts entirely or partially completed, together with all unused materials supplied by the City.
- Appraise the work it has completed and submit its appraisal to the City for evaluation.
- Be paid in full the pro rata value for Services performed to the date of its receipt of the Notice of Termination, including reimbursement for all



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reasonable costs and expenses incurred by Contractor in terminating the work, including demobilization of field service. No payment will be made for loss of **anticipated profits or unperformed Services**.

22. FINAL PAYMENT:

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

23. PROFESSIONAL COMPETENCY:

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

33.

24. SPECIFIC PERFORMANCE:

Contractor agrees that in the event of a breach by Contractor of any material provision of this Agreement, the City will, upon proper action instituted by it, be entitled to a decree of specific performance thereof according to the terms of this Agreement. In the event the City will elect to treat any such breach on the part of Contractor as a



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discharge of the Agreement, the City may nevertheless maintain an action to recover damages arising out of such breach. This paragraph is not intended as a limitation of such other remedies as may be available to the City under law or equity.

25. FORCE MAJEURE:

Contractor will not be responsible or liable for, or deemed in breach hereof because of any delay in the performance of its obligations hereunder to the extent caused by circumstances beyond its control, without its fault or negligence, and that could not have been prevented by the exercise of due diligence, including but not limited to fires, natural disasters, riots, wars, unavoidable and unforeseeable site conditions, failure of the City to provide data within the City's possession or to make necessary decisions or provide necessary comments in connection with any required reports prepared by Contractor in connection with the Services and the unforeseeable inability to obtain necessary site access, authorization, permits, licenses, certifications and approvals (such causes hereafter referred to as "Force Majeure").

26. RELEASE OF INFORMATION - ADVERTISING AND PROMOTION:

Contractor will not publish, release, disclose or announce to any member of the public, press, official body, or any other third party: (1) any information concerning this Agreement, the Services, or any part thereof; or (2) any documentation or the contents thereof, without the prior written consent of the City, except as required by law. The name of any site on which Services are performed will not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

27. CONFLICTS OF INTEREST:

- 27.1** Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Agreement upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Phoenix City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Agreement without liability, including any such commission, percentage, brokerage or contingent fee.
- 27.2** The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.
- 27.3** Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Agreement, or securing favorable treatment with respect to the awarding, amending, or making of any determination with



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respect to the performance of this Agreement, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Agreement, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in an Arizona court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

- 27.4** This Agreement is subject to the requirements of Arizona Revised Statutes §38-511.

28. PUBLIC RECORDS:

- 28.1** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Contractor acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Contractor understand that disclosure of some or all of the items subject to this Agreement may be required by law.
- 28.2** In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Contractor, the City agrees to provide the Contractor with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Contractor specified in their proposal. Within ten days of City notice by the City, the Contractor will inform the City in writing of any objection by the Contractor to the disclosure of the requested information. Failure by the Contractor to object timely shall be deemed to waive any objection and any remedy against the City for disclosure.
- 28.3** In the event the Contractor objects to disclosure within the time specified, the Contractor agrees to handle all aspects related to request, including properly communicating with the requestor and timely responding with information the disclosure of which the Contractor does not object thereto. Furthermore, the Contractor agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.

29. CLAIMS OR DEMANDS AGAINST THE CITY:

- 29.1** Contractor acknowledges and accepts the provisions of Chapter 18, Section 14 of the Charter of the City of Phoenix, pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in



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Chapter 18, Section 14 of the Charter of the City of Phoenix alters, amends or modifies the supplemental and complementary requirements of the State of Arizona Notice of Claim statutes, Arizona Revised Statutes §§ 12-821 and 12-821.01, pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

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

30. WAIVER OF CLAIMS FOR ANTICIPATED PROFITS:

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

31. CONTINUATION DURING DISPUTES:

- 31.1** Contractor agrees as a condition of this Agreement that in the event of any dispute between the parties, provided no Notice of Termination has been given by the City, and if it is feasible under the terms of this Agreement each party will continue to perform the obligations not related to the dispute required of it during the resolution of such dispute, unless enjoined or prohibited by a court of competent jurisdiction.
- 31.2** Failure or delay by either party to exercise any right, power or privilege specified in or appurtenant to this Agreement will not be deemed a waiver.

32. THIRD PARTY BENEFICIARY CLAUSE:

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

33. EQUAL EMPLOYMENT OPPORTUNITY AND PAY:

- 33.1** 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.
- 33.2** 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,



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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.

- 33.3 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 Agreement. 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.
- 33.4 DOCUMENTATION:** Suppliers and lessees may be required to provide additional documentation to the equal opportunity department affirming that a nondiscriminatory policy is being utilized.
- 33.5 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



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authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

34. CONTRACT INTERPRETATION:

- 34.1 Implied Agreement Terms.** Each and every provision of law and any clause required by law to be in the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.
- 34.2 Severability.** The provisions of this Agreement are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.
- 34.3 Non-Waiver of Liability.** The City, as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, Consultant agrees that it will not insist upon, demand, or be entitled to any statement whereby the City agrees to limit in advance or waive any right the City might have to recover lawful damages.
- 34.4 Parole 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 shall be relevant to supplement or explain any term used in this Agreement. Acceptance or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.



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34. APPROVALS

IN WITNESS WHEREOF, the parties herein have caused this Agreement to be executed, effective as of the date in the first paragraph (the “Effective Date”);

CITY OF PHOENIX, a municipal corporation

ED ZUERCHER, City Manager

By: _____
Name: Lori Bays
Title: Human Resources Director

ATTEST:

City Clerk

APPROVED AS TO FORM,
CRIS MEYER, City Attorney

By: _____
Heidi Gilbert
Assistant Chief Counsel

If your company is a corporation:

Name of company Corporation



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a State corporation

By: _____

Name

Title, (President and CEO, etc.)

If your company is a Limited Liability with Individual Members:

Name of company, LLC,

a State limited liability company

By: _____

Name

Member

By: _____

Name

Member

If your company is a Limited Liability with Individual Manager:

Name of company, LLC,

a State limited liability company

By: _____



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Name

Manager

If your company is a Limited Liability with the Member or Manager is a Corporation:

Name of company, LLC,

a State limited liability company

Its Manager (Member)

By: _____

Name

President

If your company is a Limited Liability with the Member or Manager is a General Partnership:

Name of company, LLC,

a State limited liability company

Its Manager (Member)

By: _____

Name

an Arizona general partnership,

Its Manager or Managing General Partner



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EXHIBIT A – SCOPE OF WORK

1. Introduction

The City of Phoenix, as the fifth most populous city in the United States, continues to endeavor to be a technology leader. With a corporate-wide vision to “work smarter, spend smarter, and improve customer service”, the City welcomes and encourages innovative solutions that would satisfy all three tenets. Considering, the coronavirus pandemic, the City desires to provide eLearning and other critical employee services virtually to avoid the health and liability risk associated with in-person learning and assessment and doing so is consistent with these tenets.

This project includes but is not limited to integration with internal and external COP information systems, assessment of requirements against regulatory, legal and best practices. The implementation of new LMS also promotes process improvement, automated workflows, and customized configuration to ensure all learning management practices are retained and provisioned through this solution.

2. Project Objectives

Contractor must be able to expeditiously implement and manage a tightly integrated, state-of-the-art City-wide (i.e. enterprise) Learning Management System (LMS) with Learning Experience Platform (LEP) elements and strong eLearning functionality. The ideal solution would provide high availability (99%+ uptime) to City employees (“internal users”) and non-City employees (“external users”) hosted by the Contractor off-site as Software as a Service (SaaS). The system must be robust with a user-friendly, web-based interface that allows end-users (internal and external) and administrators to create, track, manage, and search all instructor-led, virtual, eLearning, and blended learning by departments throughout the City. The LMS will host, deliver, and facilitate these learning resources to all users.

The City of Phoenix has established the following high-level goals for this project:

- a. Procure and implement an Enterprise-wide Learning Management System (LMS) with Performance Management capabilities for eLearning, virtual learning, and Instructor Led Training (ILT).
- b. Enable delivery of Online learning (eLearning and virtual learning) and blended learning citywide to reduce facilitation costs and to permit training in circumstances where in-person learning is not possible (such as during COVID-19) or is not practical.
- c. Transform the employee learning experience by providing additional and more flexible training options and increasing the ability of users to find and receive training that is beneficial and of interest to everyone.



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- d. Transform training management by providing centralized management, including holistic tracking and reporting of the full learning lifecycle.
- e. Reduce administrative overhead by providing powerful tools for self-service, automation, and communication. For instance, the solution will be able to assign courses by role or other attributes, based on competencies and division needs determined by Managers and Supervisors.
- f. Standardize training processes and requirements.
- g. Reduce the exposure to compliance risk from regulatory agencies. Assess after consuming the courseware and track outcomes to result in development, compliance or certification, also managed by the LMS.
- h. Measure a user's performance before and after training. The solution will report on competency and skill gaps to promote succession planning. It will also track follow-up and instructor-led training and evaluate the learning experience.
- i. Reduce redundant learning systems throughout the City by consolidating as many as possible to one centralized enterprise system overseen by HR but with individual departments empowered to meet their specific needs, potentially within their own domains.
- j. Integrate the LMS with the City's Human Resource Information System (PeopleSoft/eCHRIS) and Active Directory (AD)/Multifactor Authentication (RSA).
- k. Provide necessary user, administrator, and management training along with job aids for the learning system during implementation and on an ongoing basis as the solution is updated.
- l. Provide eLearning platform capabilities to departments citywide. Users will be able to access online/e-learning 24 hours a day, 7 days a week on all common web platforms and mobile devices.

3. Duration and Phasing

For this project, the City faces an external constraint that requires Services to be completed, accepted (per the Acceptance Criteria identified below), and invoiced by December 21, 2020. Contractor must begin work quickly, complete implementation, and invoice as much scope as possible by December 21, 2020.

4. Current State

The current City systems and practices for tracking instructor-led training courses are outlined below, by department. In addition to the departments highlighted below, the remaining 21 departments may also have training history in SharePoint sites and excel spreadsheets and may also provide departmental training to roughly 2,000 external users.

4.1. Human Resources

The HR technology team maintains the City's PeopleSoft based enterprise human



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resources information system, known internally as eCHRIS. All departments are encouraged to use eCHRIS for employees' training registration, which is managed by City employees. eCHRIS is used for instructor-led training session management, managing enrollment, drops, and no-shows, and maintaining user transcripts. However, eCHRIS does not currently support department-specific compliance training tracking as many departments have separate systems for tracking department-specific workshops, certifications and training. eCHRIS does serve as the registration tool for internal departmental training across the City with SharePoint sites or Office-365 channels currently hosting e-Learning courses. Thus, tracking is not possible for completion of e-Learning courses. Employees have to print a course completion certificate and send to their training liaison. The LMS will become the record store for e-Learning courses. The LMS will also manage instructor-led courses due to limitations with eCHRIS such as lack of automatic wait-list management.

HR manages learning for 14,700 employees across 34 departments. HR-provided training covers 94 courses which range from one hour to two weeks of content. Of the 7,500 active courses in eCHRIS, 77,000 students completed training offerings for a total of over 400,000 hours in 2019 across nearly 1,700 unique courses. HR currently has no virtual learning platform; given recent events the need for remote training has become more evident.

4.2. Aviation Department

The Aviation Department is currently using Mindflash for eLearning courses. There are different training areas or groups such as Airside Operations (FAA compliance), Badging (TSA compliance), Health & Safety (OSHA compliance), Environmental (EPA compliance), Facilities & Services and Professional Development. The Aviation Department has about 24,500 badged employees and contractors including external vendors who take Badging training. Only 800 are city employees. As such, Mindflash has up to 30,000 user seats with a "revolving-door" policy. Mindflash through its API integrates with Quantum Secure's - Safe badging system to automatically add users, enroll them in a course and notify them once they have passed on-boarding screening. There are 70 e-Learning courses in total in Mindflash, five of which are Professional Development. Adobe Captivate and Articulate 360 are used to author the courses (published in SCORM 2004 and 1.2 and AICC) and some FAA compliance courses are developed with Mindflash built-in authoring capabilities such as voice-over PowerPoint. Mindflash is used to meet their certification tracking requirements.

4.3. Water Services Department

The Water Services Department currently uses Excel spreadsheets to manage Health & Safety (OSHA compliance) training required for each employee by position and division. Compliance reports are generated twice a year using



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eCHRIS exports/reports and Excel filter manipulations to produce the coming-due and out-of-compliance employees by division. It is up to the Supervisors to maintain this data throughout the rest of the year using offline copies of the Excel reports. Due to the lack of an enterprise Learning Management System, a lot of courses and refreshers are instructor-led. eCHRIS is used for instructor-led session management and enrollment/drops. Water also utilizes SharePoint for training tracking.

4.4. Fire Department

The Fire Department is currently using Moodle, an open-source learning platform. They also use homegrown Training record system and access databases. There are about 1663 internal and 1320 external users in Phoenix TR. The regulatory training requirements encompass Paramedics, Arizona Department of Health Services compliance, and continuing education. Compliance training includes HAZMAT, Drivers training, and Emergency Medical Services (EMS) for Paramedics and Emergency Medical Technicians (EMT). Some workflows have been setup for Training Academy, Assessments and EMS. Current Reporting needs included Weekly Progress Report by Engine Company, and Recruits (cohorts), Advanced Life Support (ALS) Assignments by position of paramedic and per battalion, and reports by Question & Grade Ranges for time spent on training. Active Directory is synced with Moodle for user authentication. There are about 1900 internal and 326 external users in Moodle. Remote Learning – Virtual presentations, Gamification with Badges and Awards and Field Evaluation (on mobile tablets) are important factors for Fire Department.

4.5. Police Department

The Police Department has a homegrown solution, Advanced Training Tracking System which is a visual basic application. They also have two Moodle systems which include an internal site for PD staff of 4,300 users and an external site for new recruits and other agencies consisting of approximately 300 users both hosted on ITS Linux environment. Administrators access both Moodle sites using an administrative account. They also have a weapon entry system with 3,000 users which is also a visual basic application. The current system was built around Arizona Peace Officer Standards and Training Board, AZPOST compliance needs including managing of Lessons Plans, and approvals. There are over 467 active and non-active courses. Courses include instructor-led sessions and eLearning sessions. Lesson plans are an important element of their learning program.

The current system generates memos from template as letter to request approvals. All sworn officers are required to complete Annual Qualifications (AQ). AQ is currently managed in Excel. Whereas the system of record for which type of firearm an officer has is called Weapons View, and thus which type of re-certification/AQ. Currently, existing systems do not notify when an office is coming



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due for AQ. The Police Department needs a Learning Management System (LMS) that can send reminders and track who has not taken the Annual Qualifications and is coming-due. The Police Department also has a SharePoint site that contains online videos on how to use the Record Management System (RMS) such as booking process, filling out citation etc. They can be migrated to an LMS and will have forums – discussion boards and testing/assessments on these. New Employee orientation can also have online component. Certifications, and Lab training such as Crime scene, forensics can be managed in LMS. There is “on the job” operational training on how to use systems and software including RMS (Record Management System) which can be presented as e-Learning in LMS, especially where there is turn-over like in Communications.

4.6. Street Transportation Department

The Street Transportation Department currently uses Training Management Software / TMS Training, a desktop application that is part of PC Compliance suite to manage compliance training. Department administrators can access the application by clicking a link through the city intranet from the department site. The current system is very flexible in its administrative capabilities. For example, administrators can identify employees who need to be scheduled for over the next few years. Administrators can search for employees due for a training in the specified time period. Administrators can select a section/cohort or division and then schedule a training and add all the users to that session. There are over 200 courses, and they are all instructor-led. These courses are offered only within the department. There are less than 700 active employees in the system with 500 attending training annually. However, it also retains information for inactive employees, users that have left the organization dating back to year 2000. Regulatory training records are kept for up to 20 years. The current system was purchased one-time and does not have any on-going fees for recurring or maintenance. There have been no upgrades.

4.7. Planning and Development Department

The Planning and Development Department has Oracle APEX (application express) standalone web app developed in-house by their internal IT team for ISO-audit compliance training. The department can be audited by the ISO, which regulates if city inspectors are not up to code. Training meetings are for ISO audit. If the department does not track and pass the audit - everybody in City of Phoenix insurance rates can go up; building etc. insurance could go up - if we do not have staff that is compliant and properly trained. Inspectors are required to have certifications. The meetings that satisfy regular training hours are scheduled in advance every year, and can be in one of four areas, on any topic: Administration, Legal, Mentored or Technical. Employees are required to have a certain number of training hours in meetings every year and can attend outside classes such as seminars for Continuing Education Units (CEUs). Employees are required to have



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a number of CEUs to renew certifications. Different positions have different certifications that are required. Certificate expiration timelines vary from 1 to 3 years.

4.8. Municipal Court Department

The Municipal Court Department currently uses SharePoint and eCHRIS for COJET hours (Committee on Judicial Education and Training - continuing education units). Every court employee is required to have a certain number of COJET hours of training every year (16 hours for the full year or partial, depending on hire date for new hires for part-year). Municipal Court uses eCHRIS for instructor-led training (ILT) enrollment/session management and SharePoint for training support.

4.9. Human Services

Human Services Department only has an LMS in the Education Division. No other divisions are currently using an LMS. However, the Business and Workforce Development Division has a contractor currently using Adobe Creative to create and deliver virtual content to clients and staff is using a google site to host content that has been created.

4.10. Parks & Recreation

Parks and Recreation does not currently have an independent LMS program. In addition to the City offered training, the Parks department creates power point presentations to provide instructor lead training for various specialized roles (safety, parks maintenance, recreation management, golf management, lifeguard, etc.) throughout the department in addition to contracted summer program staff. Parks has approximately 1,600 employees in full and part time positions and often hosts meetings and/or training ranging in audience size of 200-1,000 employees. Our employee base varies in level of education and technical skill sets which needs to be taken into consideration for any new LMS programs. Parks is unique in its ability to provide various types of programs for the public through community centers, parks and trail heads and would like the ability to provide virtual sessions to the public which is becoming more critical in light of ongoing restrictions related to COVID-19.

4.11. Library

- eLearning
 - Majority of eLearning is done through an external vendor (Niche Academy)
 - The eLearning that is completed via Niche is not integrated with HRIS system and is independently tracked



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- Library required eLearning through Storyline360 does not work with SharePoint. Standard features in Flash don't run for final test results and certificates. It also requires a lot of additional resources and time to post, tracking is all manually - print-screen certificates, email them to liaison, enter in eCHRIS
- Registration/Enrollment
 - Enrollment for courses through eCHRIS is not intuitive, does not integrate any eLearning nor does it allow learner independence of enrollment and un-enrollment
 - Automatic notifications to staff via eCHRIS for learning is confusing and requires additional communications
- Reporting/Tracking
 - Reporting is not synchronized and requires hundreds of exports and sorting in Excel to determine what is taken or progress
 - Reporting is not integrated into PMG tool
 - Learners need to use checklists and PMG tool to track what training to take and then search multiple places to find it (COP University Catalog, eCHRIS, Library Learning Page, Staff Development Day Course Info Packets and Schedules)
- Big Picture
 - Currently not one schedule that is easy to see all courses throughout the City including all Departments (including what is available to one Department or if it's available to all employees)
 - Unable to assign courses by position
 - No organizational chart learning requirements for career progression throughout City
 - No one way to 'advertise' new learning opportunities as they are posted
- Instructor-led Courses
 - Scheduling rooms is complicated as there are currently two tools used (Outlook and Demco/Spaces)
 - Rosters are printed for checking in and tracking manually
 - Materials and resources for the courses are posted to SharePoint and in a variety of places by those who teach the courses (Staff Day)
 - email communications for all logistics and course updates rather than one portal



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4.12. Housing

Housing currently utilizes the HR Shared Services. For Housing training, we are using spreadsheets and sign in sheets for tracking. We also deliver training through presentations, including PowerPoint, both in person and through digital meetings. Training is delivered to staff and to public housing residents. Resident training is provided on a regular basis by staff.

4.13. Public Works

Public Works uses spreadsheets, reports from eCHRIS and reports from M5 to track soft skills, safety and environmental trainings because we don't have an LMS to track this information. Training is administered in a classroom format or on the job training. The training roster is either entered in eCHRIS, scanned into SharePoint or filed in a folder which the supervisor/safety section/training section keeps.

There are three sections that have Captivate: SWFS, Recycling and Curriculum Training Coordinator use this software to create safety modules/tailgates and other soft skills trainings in an eLearning format. Once employees have completed the training it is either entered into eCHRIS or scanned into SharePoint or filed in a folder at the supervisor's desk.

The Curriculum Training Coordinator is using Microsoft Teams for soft skills training currently, the training is scheduled in eCHRIS, completed using eCHRIS and the paper roster is filed in a folder that is kept for three years

5. Project Score

The Scope of Work shall include all Requirements and Required Priorities listed Attached Exhibit F.

6. Implementation Approach: Activities, Deliverables and Milestones



The Project Planning, Execution, Monitoring, and Closing process groups along with the ongoing Sustainment efforts will include the following processes, activities, deliverables, and milestones:

Note: The City of Phoenix will approve the final list of deliverable and



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milestones with schedule prior to the Kick-off meeting. The deliverables listed can change and adapt with the Contractor’s recommended project management methodology as needed.

6.1 Planning Process

#	Type	Item	Payment Milestone
6.1.1	Deliverable	Weekly Project Status Reports	Ongoing Throughout Entire Project
6.1.2	Activity	Create Planning Documentation	M1: Complete Kick-Off Meeting
6.1.3	Activity	Complete Collaborative Planning Effort	
6.1.4	Deliverable	Project Charter	
6.1.5	Deliverable	Project Plan / WBS / Schedule	
6.1.6	Deliverable	Implementation Plan	
6.1.7	Deliverable	Project Management Plan Which Includes: <ul style="list-style-type: none"> • Schedule Management Plan • Cost Management Plan • Resource Management Plan • Scope Management Plan • Configuration Management Plan • Communications Management Plan • Quality Management Plan • Risk Management Plan • Issue Management Plan • Documentation Management Plan 	

6.2 Design Process

#	Type	Item	Payment Milestone
6.2.1	Activity	Create Design Documentation	M2: Complete Critical Design Review (CDR)
6.2.2	Activity	Design User Interfaces	
6.2.3	Activity	Design Workflows	
6.2.4	Activity	Design Configurations (Global and Departmental)	
6.2.5	Activity	Design Analytics, Dashboards, and Reports	
6.2.6	Activity	Design Data Exchange Interfaces	



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#	Type	Item	Payment Milestone
6.2.7	Deliverable	Preliminary System Documentation Which Includes: <ul style="list-style-type: none"> • Application and Web Services Architecture Diagram • Data Model Diagram • Integration Specifications / APIs • Logical Architecture Diagram (Including the Network Infrastructure Architecture, End- User Devices (PCs), Scanners, Printers, Server(s), Load Balancers, Storage and Operating Systems • Security System Administration Manual(s) • Software Configuration Manual(s) • Software Specification • System Architecture Plan (Including Hardware, Security, Backup / Restoration, etc.) • Technical Overview • Technical Specification • User Manual(s) 	
6.2.8	Deliverable	User Interface Design Document	
6.2.9	Deliverable	Workflow Design Document	
6.2.10	Deliverable	Configuration Design Document	
6.2.11	Deliverable	Report Design Document	
6.2.12	Deliverable	Data Exchange Interface Design Document	
6.2.13	Deliverable	Critical Design Review Document	

6.3 Development & Integration Process

#	Type	Item	Payment Milestone
6.3.1	Activity	Develop User Interfaces	M3: Complete Development & Integration
6.3.2	Activity	Develop Configurations	
6.3.3	Activity	Develop Analytics, Dashboards & Reports	
6.3.4	Activity	Develop Data Exchange Interfaces	
6.3.5	Activity	Integrate Systems <ul style="list-style-type: none"> • Active Directory Integration (ADFS) • Single Sign-On (SSO) • Multi-Factor Authentication (MFA) 	



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#	Type	Item	Payment Milestone
		<ul style="list-style-type: none"> Peoplesoft HRIS/eCHRIS 	
6.3.6	Deliverable	<p>A configurable "off-the-shelf" LMS system which:</p> <ul style="list-style-type: none"> includes associated managed services includes an intuitive and easy-to-use GUI, supports web-based record retrieval, review, and update functionality, supports web-based report creation and configuration functionality, meets current security and audit control standards (i.e. Encryption, etc.) and, meets the requirements specified by the City of Phoenix. configuration of multiple domains, instance/s for all departments to support internal and external learners compliant with ADA 508 	
6.3.7	Deliverable	Separate Testing and Production environments for the LMS system ready for configuration with fully functioning integrations.	
6.3.8	Deliverable	Regular and accurate data feeds from Peoplesoft HRIS/eCHRIS to LMS for employees, positions, organizations, relationships, etc. needed to support LMS functionality.	
6.3.9	Deliverable	Integration based on the requirements worksheet tab 6	
6.3.10	Deliverable	Data migration based on the requirements worksheet tab 6. See Data Migration below for more detail.	
6.3.11	Deliverable	Analytics, dashboard and reports defined in design.	



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6.4 Testing and Certification Process

#	Type	Item	Payment Milestone
6.4.1	Activity	Create Testing & Certification Documentation	M4: Complete Pilot Program Readiness Review
6.4.2	Activity	Complete System Test	
6.4.3	Activity	Complete Integration Test	
6.4.4	Activity	Complete QA Test	
6.4.5	Activity	Complete User Acceptance Test	
6.4.6	Activity	Complete System Certifications	
6.4.7	Deliverable	Test Plan – Compliance testing for compliant content migration, training history, training objects, learning resources (files, documents, multi-media, etc.), extra large file uploads, multi-media intense content, security	
6.4.8	Deliverable	System Test Reports	
6.4.9	Deliverable	Integration Test Reports	
6.4.10	Deliverable	QA Test Reports (include all issue tracking mechanism and reports)	
6.4.11	Deliverable	User Acceptance Test Reports	
6.4.12	Deliverable	Certification & Compliance Reports	
6.4.13	Activity	Complete Pilot Program Training	M5: Complete Deployment Readiness Review
6.4.14	Activity	Complete Pilot Program	
6.4.15	Deliverable	Preliminary Training Documentation Including: <ul style="list-style-type: none"> • Training Plan which includes hardware, infrastructure, and facility dependencies and the identification of parties responsible for each dependency. • Training Materials (Including Syllabus, Visual Aids, and Training Assessments) • Training Videos 	
6.4.16		<ul style="list-style-type: none"> • Training Modules / Tutorials (Online) • Knowledge Base 	
6.4.17	Deliverable	A preliminary training program (including “Train the Trainer”) for the all city departments regarding the operation, maintenance, configuration, and administration of the LMS system.	



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6.4.18 Deliverable Prototype Program Reports

6.5 Deployment Process

#	Type	Item	Payment Milestone
6.5.1	Activity	Create Training Program	M6: Complete Training
6.5.2	Activity	Deploy Training Program	
6.5.3	Deliverable	Final Training Documentation Including: <ul style="list-style-type: none"> • Training Plan which includes hardware, infrastructure, and facility dependencies and the identification of parties responsible for each dependency. • Training Material (Including Syllabus, Visual Aids, and Training Assessments) • Training Videos • Training Modules / Tutorials (Online) • Knowledge Base / Job aids 	
6.5.4	Deliverable	A final training program (including “Train the Trainer”) for the city departments regarding the operation, maintenance, configuration, and administration of the LMS system. <ul style="list-style-type: none"> • Appropriate staff received training in their respective areas • Staff have appropriate knowledge and tools to perform necessary functions and roles using the solution 	
6.5.5	Activity	Create Deployment Documentation	M7: Go-Live
6.5.6	Activity	Deploy System	
6.5.7	Dependency	COP to Deploy, Provision, and Register Mobile Devices, tablets and computers	
6.5.8	Deliverable	Deployment Plan (Ensure System Setup (Configuration, Data Loading, Data Migration, and Training), and multi-environment refresh test included)	
6.5.9	Deliverable	Business Continuity, Disaster Recovery, and Emergency Mode Operation Plan	



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#	Type	Item	Payment Milestone
6.5.10	Deliverable	Business Continuity, Disaster Recovery, and Emergency Mode Operation Procedures	
6.5.11	Deliverable	Change Management Process Which Includes: <ul style="list-style-type: none"> • Software Changes • Specification Changes • Documentation Changes • Configuration Changes 	
6.5.12	Deliverable	Access Authorization and Supervision Policies (for Contractor’s Employees and Business Associates/Partners)	
6.5.13	Deliverable	Modifiable User Documentation, Help Articles, Knowledge Base Articles, and Job aids	
6.5.14	Deliverable	Editable Documents in their Original Electronic Format	
6.5.15	Deliverable	Identity Management Policies	
6.5.16	Deliverable	Operational Plan (Including Maintenance and Support Plans)	
6.5.17	Deliverable	Final System Documentation Which Includes: <ul style="list-style-type: none"> • Application and Web Services Architecture Diagram • Data Model Diagram • Integration Specifications / APIs • Logical Architecture Diagram (Including the Network Infrastructure Architecture, End-User Devices (PCs), Scanners, Printers, Server(s), Load Balancers, Storage and Operating Systems • Security System Administration Manual(s) • Software Configuration Manual(s) • Software Specification • System Architecture Plan (Including Hardware, Security, Backup / Restoration, etc.) • Technical Overview 	



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#	Type	Item	Payment Milestone
		<ul style="list-style-type: none"> • Technical Specification • User Manual(s) 	

6.6 Monitoring Process

#	Type	Item	Payment Milestone
6.6.1	Activity	Create Monitoring Documentation	M8: Complete Monitoring Process
6.6.2	Activity	Monitor System Performance	
6.6.3	Activity	Monitor Training Effectiveness	
6.6.4	Activity	Monitor Data Quality	
6.6.5	Activity	Monitor Process Conformance	
6.6.6	Activity	Monitor Data Exchange Interfaces	
6.6.7	Activity	Collect, Prioritize, and Resolve Bugs / Features	
6.6.8	Deliverable	Real-Time System Performance Analytics	
6.6.9	Deliverable	QA Monitoring Reports	
6.6.10	Deliverable	Bug / Feature List (In a System)	
6.6.11	Deliverable	Bug / Feature Prioritization and Resolution	
6.6.12	Deliverable	Post-Implementation Support (warranty)	

6.7 Closing Process

#	Type	Item	Payment Milestone
6.7.1	Activity	Create Closing Documentation	M9: Close Project and Complete Hand-Off
6.7.2	Activity	Complete Operational Hand-Off Effort	
6.7.3	Activity	Complete Lessons-Learned Effort	
6.7.4	Deliverable	Requirements Traceability Matrix	
6.7.5	Deliverable	Final Acceptance Criteria Matrix	
6.7.6	Deliverable	Lessons Learned Document	
6.7.7	Deliverable	Closing Document	

6.8 Operation, Maintenance, & Support

#	Type	Item	Payment Milestone
6.8.1	Operations	Contractor-Hosted Data Center Operations	M10: Initiate Operation, Maintenance, &
6.8.2	Operations	Contractor-Hosted SaaS Solution Operations	
6.8.3	Operations	Real-Time System Performance Analytics	



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#	Type	Item	Payment Milestone
6.8.4	Operations	Service Availability and Performance Reports	Support Agreement
6.8.5	Operations	Data Exchange Interface Maintenance & Support	
6.8.6	Maintenance	Configuration Maintenance & Support	
6.8.7	Maintenance	Software Maintenance & Support (Including Upgrades, Enhancements, & Patches)	
6.8.8	Maintenance	Updated Documentation & Training (After Upgrades, Enhancements, and/or Patches have been deployed).	
6.8.9	Maintenance	Product Fixes, Enhancements, & Releases	
6.8.10	Support	24/7/365 Help Desk Operations	

7. CONTRACTOR REQUIREMENTS

7.1 Project / Implementation Management

#	Requirement
7.1.1	The COP will assign a Project Manager who will be responsible for managing and organizing the overall project. The COP’s Project Manager will be responsible for the overall project plan including project communications, budget management, project planning, issue escalation, and Contractor management.
7.1.2	The Contractor must assign a Project / Implementation Manager who will be the primary point of contact for the COP’s Project Manager. The Contractor’s Project / Implementation Manager in conjunction with the Contractor’s Project / Implementation Team, will be responsible to meet and/or fulfill the milestones, activities, deliverables, and requirements described in this SOW.
7.1.3	The Contractor must demonstrate knowledge and application of industry standard project management practices specified by the Project Management Institute (PMI).
7.1.4	The Contractor’s Project / Implementation Manager must be PMP certified.
7.1.5	The Contractor must assign a Technical Team Lead who will be the primary point of contact for the COP’s Technical Team Lead.
7.1.6	The COP wants to take advantage of the Contractor’s proven implementation approach to ensure a successful solution implementation. However, the Contractors standard approach MAY need to be adapted based on the COP’s needs to ensure that the implementation process is successful, the training effort is effective, and the deployment process is completed in an acceptable manner.



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#	Requirement
7.1.7	Unless otherwise specified, the Contractor will be responsible for the Activities, Deliverables and Milestones specified in this SOW and in the COP LMS Requirements Worksheet. Applicable items must be completed in collaboration with the COP.
7.1.8	All Milestones must be reviewed and approved by the COP before they are deemed as completed.
7.1.9	All Deliverables must be reviewed and approved by the COP before they are deemed acceptable.

7.2 Key Staff

#	Requirement
7.2.1	Key staff members identified by the Contractor and accepted by the COP must be dedicated to the LMS project during the entire Implementation process through final-acceptance. The LMS project must be the primary assignment for assigned team members.
7.2.2	All Contractor support must include a Project / Implementation Manager and application Subject Matter Expert(s) along with applicable training Subject Matter Expert(s) and support Subject Matter Expert(s).
7.2.3	Any change in assigned the Contractor's key staff members is subject to the COP's express written approval. Changes in key staff members will not be permitted without the 30 days written notification to the COP and written consent of the COP to reassignment. Additionally, the COP reserves the right to approve all personnel changes or to request personnel changes as deemed appropriate throughout the course of the project.
7.2.4	The Contractor must assign and designate an Executive Sponsor for the implementation and sustainment efforts. The Executive Sponsor must have sufficient company authority to commit the necessary resources to complete the project on-time, within budget, and in conformance with this SOW and the COP LMS Requirements Worksheet.

7.3 Reporting and Communications

#	Requirement
7.3.1	Status Reports
7.3.2	The Contractor must provide weekly Project Status Reports in compliance with the specifications provided in the COP LMS Requirements Worksheet.
7.3.3	Collaboration
7.3.4	The Contractor must support collaboration in compliance with the specifications provided in the COP LMS Requirements Worksheet.
7.3.5	Meetings



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#	Requirement
7.3.6	The Contractor must participate in project meetings in compliance with the specifications provided in the COP LMS Requirements Worksheet.
7.3.7	Risk / Issue Management
7.3.8	The Contractor must report, track, and manage risks and issues in compliance with the specifications provided in the COP LMS Requirements Worksheet

35.8. Data Migration

The Contractor shall migrate training data including curricula and user data from the following systems.

#	System Description	Approx. Data size/Volume	Department Involved	Number of users	Priority
8.1	eCHRIS (PeopleSoft)	People/Position: 16.7K active People/Position: TBD inactive Reporting Structure: TBD Assets/Resources: TBD Offerings/Courses: 7,500 active 7,500 inactive Instructors: TBD Sessions: 107K Enrollment/Rosters: TBD Training Records: 2 mil Addl. Training Records: 2 mil Addl. Cert/Audit: TBD	All departments (Human Resource is the owner)	16,700	Required



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#	System Description	Approx. Data size/Volume	Department Involved	Number of users	Priority
8.2	SharePoint Records	Municipal Court: TBD Planning & Devl: TBD (Multi) Water: TBD	Select Depts	TBD	Optional (subjected to pricing and schedule)
8.3	Excel Records	Aviation: 1,700 recs Human Services: 5 sources Municipal Court: TBD Parks & Rec: 8 sources Planning & Devl: TBD (Multi) Public Works: 2,400 recs Water Attend. Rpt: 220K recs Water Matrices: 1,300 recs	All departments	Varies	Optional (subjected to pricing and schedule)
8.4	APEX Certification Audit (Oracle)	Planning & Devl ISO Audit for compliance meetings, calendar of training events, and CEUs: TBD	Municipal Court	275	Optional (subjected to pricing and schedule)
8.5	Moodle (cloud)	MySQL 448 tables for Fire Training and Certification: 4.8 mil recs and 2GB	Fire	1,900 Internal 300 External	Optional (subjected to pricing and schedule)
8.5	Moodle on Azure (on-prem)	Police: TBD	Police	5K Internal/ External	Optional (subjected to pricing and schedule)
8.6	MindFlash	Records supporting badging for 800 employees and 24K-	Aviation	25K – 30K	Optional (subjected to pricing)



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#	System Description	Approx. Data size/Volume	Department Involved	Number of users	Priority and schedule)
		30K contractors annually and series for recurring training.			and schedule)
8.7	Training Management Software (TMS) Training (PC Compliant Suite)	Access DB 200MB with 200 courses	Streets Department	700	Optional (subjected to pricing and schedule)
8.8	Advance Training Tracking System and Firearms Training system (VB.net Applications)	SQL Server 57 tables 2GB for 450+ courses	Police	3K Internal	Optional (subjected to pricing and schedule)
8.9	Training Record (TR)	SQL Server 326K recs	Fire	1,700 Internal 1,300 External	Optional (subjected to pricing and schedule)
8.10	Import Training Records from external learning subscription services	Varied volumes	Parks & Rec Streets	TBD	Optional (subjected to pricing and schedule)



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9. Final System Acceptance

Final System acceptance may be complete within a warranty period of 12 months at no additional cost after the customer acceptance approvals are made, following the production cut over. Within that period COP will measure performance of the system. The project will not be considered complete and the Contractor will not be released from their obligations until this final acceptance test is conducted and the system is formally accepted by COP. The Contractor shall provide SLAs and uptime/availability that is acceptable to the City.



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EXHIBIT B – FEE SCHEDULE

Consultant's Fee Schedule to be inserted upon award.

Most Favored Nations: If the Contractor enters (or has previously entered) any written agreement that has the effect of establishing Fee Schedule benefitting another Client with a similarly sized and risked employee pool in a manner more favorable in any material respect to Fee Schedule set forth herein, the Contractor shall furnish to the City as soon as reasonably practicable, a compendium containing the more favorable Fee Schedule (an "Election Notice"). The City may elect to receive the more favorable Fee Schedule set forth in such Election Notice that are reasonably applicable to the City upon written notice to the Contractor within thirty (30) days of receipt of a copy of such Election Notice.



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EXHIBIT C - INDEMNIFICATION & INSURANCE REQUIREMENTS

1. INDEMNIFICATION CLAUSE:

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

2. INSURANCE REQUIREMENTS:

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

These insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City in no way warrants that the minimum limits stated in this section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

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



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2.1.1. Commercial General Liability – Occurrence Form

Policy must include bodily injury, property damage and broad form contractual liability coverage.

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

The policy must be endorsed to include the following additional insured language: “The City of Phoenix is named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor.”

2.1.2. 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.

2.1.3. Technology Errors and Omissions Liability (if the Contractor provides technology services or products)

- 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.

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

- In the event that the professional liability insurance required by this Contract is written on a claims-made basis, 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 discovery



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period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

2.1.4. Network Security and Privacy Liability

- The policy must cover but not be limited to (1) coverage for third party claims and losses with respect to network risks and invasion of privacy, (2) crisis management and third party identity theft response costs, and (3) cyber extortion.

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

- In the event that the network security and privacy liability insurance required by this Contract is written on a claims-made basis, 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 discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

Fidelity Bond or Crime Insurance

Bond or Policy Limit \$1,000,000

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



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2.1.5. Media Liability

- The policy must cover any and all errors and omissions or negligent acts in the production or publication of content, including but not limited to plagiarism, defamation, libel, slander, false advertising, invasion of privacy and infringement of copyright, title, slogan, trademark, service mark and trade dress.

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

- In the event that the media liability insurance required by this Contract is written on a claims-made basis, 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 discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

2.2. ADDITIONAL INSURANCE REQUIREMENTS: The policies must include, or be endorsed to include, the following provisions:

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

2.3. NOTICE OF CANCELLATION: For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 2 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, hand delivered or sent by facsimile transmission to (Adriana Phillips, adriana.phillips@phoenix.gov, Human Resources Department, 251 West Washington Street, Phoenix, AZ 85003).

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



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2.5. 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 (Adriana Phillips, adriana.phillips@phoenix.gov, Human Resources Department, 251 West Washington Street, Phoenix, AZ 85003). The City project/contract number and project description must be noted on the certificate of insurance. The City reserves the right to require complete, certified 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.**

2.6. SUBCONTRACTORS: Contractors' certificate(s) must include all subcontractors as additional insureds under its policies or Contractor must furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors must be subject to the minimum requirements identified above.

2.7. APPROVAL: Any modification or variation from the insurance requirements in this Contract must be made by the Law Department, whose decision is final. Such action will not require a formal Contract amendment, but may be made by administrative action.



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EXHIBIT D - CONSULTANT'S INSURANCE CERTIFICATE

Consultant's Insurance Certificate



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EXHIBIT E - SUPPLEMENTAL TERMS AND CONDITIONS

1. INTELLECTUAL PROPERTY AND SPECIAL TERMS AND CONDITIONS:

1.1 Definitions. “Deliverables” means any and all software, equipment, systems, work to be delivered, Services to be performed, or other work products provided by the Consultant within the scope of this Agreement.

“Intellectual Property” means all intellectual property rights, including with limitation, any rights in any invention, patent, discovery, improvement, know-how, utility model, trade-mark, copyright, industrial design or mask work, integrated circuit topography, trade secret and all rights of whatsoever nature in computer software and data, Confidential Information, and all intangible rights or privileges of a nature similar to any of the foregoing, including in every case in any part of the world and whether or not registered, and shall include all rights in any applications and granted registrations for any of the foregoing.

“Licensed Patents” shall mean all patents throughout the world (including patents of importation, improvement patents, patents and certificates of addition and utility models, as well as divisions, reissues, continuations, renewals, and extensions of the foregoing), applications therefore, and patents which may issue upon such applications, as to which patents or applications Consultant has at any time during the Term of this Agreement the right to grant licenses of.

“Licensed Products” shall mean any and all Deliverables which employ or are produced by the practice of inventions claimed in the Licensed Patents.

1.2 INTELLECTUAL PROPERTY RIGHTS. Consultant 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 Consultant’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.



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2. **HIRING OF EACH OTHER’S PERSONNEL:**

Without the prior written consent of the other party, each party shall not actively target for hire personnel of the other party through the term of this Agreement and for six months after the expiration or termination of the last Statement of Work executed by the parties. This prohibition does not apply to or affect in any way the City’s standard recruitment processes. The City will not owe any compensation whatsoever to the Consultant if Consultant’s employee files an employment application, competes successfully and is hired into a City position. Individuals who are employed by Consultant and who are on assignment at the City may file an application for regular City employment and be considered on the same merits and qualifications as would all other applicants. For this reason, compensation to Consultant would not be appropriate and not incurred if such worker succeeds in the selection process and is appointed to a regular City position.

3. **NON-ASSIGNABILITY:**

3.1 This Agreement is in the nature of a personal services contract and Consultant shall have no power to assign this Agreement, including any right, duty, or obligation of Consultant under this Agreement, without the prior written consent of the City. Consultant shall not subcontract with any third party for any component of the Services without the prior written consent of the City. Any attempt to assign or subcontract without the City’s prior written consent shall be void.

3.2 An essential consideration provided to the City by Consultant to induce the City to enter into the Agreement is Consultant’s representation that the individual(s) performing Services shall include Consultant’s principals as selected through the solicitation process. Therefore, should such named individual(s) sever their relationship with Consultant, or otherwise be unavailable to carry out Consultant’s duties under this Agreement for a period of time deemed to be excessive by the City in its sole and absolute discretion, then the City may, without notice, immediately terminate this Agreement for cause.

4. **TITLE:**

All documents including but not limited to artwork, copy, posters, billboards, photographs, video tapes, audio tapes, systems designs, drawings, estimates, field notes, investigations, software, reports, diagrams, surveys, analyses, studies or any other original works of authorship created by Contractor in the performance of this Agreement are to be and remain “works for hire” under Title 17, United States Code, and the property of the City and all copyright ownership and authorship rights in the work(s) shall belong to the City pursuant to 17 U.S.C. § 201(b). In the event that the work(s) that is/are the subject matter of this Agreement is deemed to not be work for hire, then Contractor hereby assigns to the City all of the right, title and interest for



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the entire world in and to the work(s) and the copyright therein. Contractor agrees to cooperate and execute additional documents reasonably necessary to conform to its obligations under this paragraph.

All documents, together with all unused materials supplied by the City, are to be delivered to the City upon termination of this Agreement before the final payment is made to Contractor.

5. CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENT:

5.1 Contractor and Subcontractor Workers Background Screening:

- 5.1.1 Contractor agrees that all Contractor and subcontractors' workers (collectively "Contractor's Worker(s)") that Contractor furnishes to the City 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 addressed in the Scope of Work.
- 5.1.2 The City requires a completed Contract Worker Badge/Key/Intrusion Detection Responsibilities Agreement for each Contract Worker who requires a badge or key.
- 5.1.3 The background screening provided by Contractor will comply with all applicable laws, rules and regulations. Contractor further agrees that the background screening required in this section is necessary to preserve and protect the public health, safety and welfare.
- 5.1.4 The background screening requirements set forth in this section 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, in addition to the specific measures set forth below, Contractor and its Contract Workers will take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing Services under this agreement.
- 5.1.5 Unless otherwise addressed in the scope of work, the contracting department will review and approve maximum risk background check results provided by the Contractor. Information to verify the results will be returned to the Contractor after the City's review. The City will not keep records related to background checks. The City will only respond with an approve or deny.

5.2 Background Screening Level: Because of the varied types of services performed, the City has established two levels of risk and associated



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background screening: Standard and Maximum risk. The current risk level and background screening required for this Agreement is **MAXIMUM RISK**.

5.3 Maximum Risk Level: A maximum risk background screening will be performed every five years when the Contract Worker's work assignment will:

5.3.1 work directly with vulnerable adults or children, (under age 18); or

5.3.2 any responsibility for the receipt of payment of City funds or control of inventories, assets, or records that are at risk of misappropriation; or

5.3.3 unescorted access to:

- City data centers, money rooms, high-value equipment rooms; or
- unescorted access to private residences; or
- access to critical infrastructure sites/facilities; or
- direct or remote access to Criminal Justice Information Systems (CJIS) infrastructure.

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

5.5 Contractor Certification; City Approval of Maximum Risk Background Screening:

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

5.5.1.1 determining whether Contract Worker(s) are disqualified from performing work for the City for maximum risk level background checks; and,

5.5.1.2 submitting pass/fail results to the City for approval; and,

5.5.1.3 for reviewing the results of the background check every three to five years, dependent on scope; and,

5.5.1.4 to engage in whatever due diligence is necessary to make the decision on whether to disqualify a Contract Worker; and,

5.5.1.5 Submitting the list of qualified Contract Workers to the contracting department; and,

5.5.1.6 If, upon review of the background information, the City will advise the Contractor if it believes a Contract Worker should



SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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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.

- 5.5.2** 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.
 - 5.5.3** 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.
 - 5.5.4** The City final documented decision will be an “approve” or “deny” for identified Contract Workers.
 - 5.5.5** 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.
 - 5.5.6** 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.
 - 5.5.7** Contract Workers will not apply for the appropriate City of Phoenix identification and access badge or keys until Contractor has received the City’s written acceptance of Contract Worker’s maximum risk background screening. The City may, in its sole discretion, accept or reject any or all the Contract Workers proposed by Contractor for performing work under this 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.
- 5.6 Terms of This Section Applicable to all of Contractor’s Contracts and Subcontracts:** Contractor will include the terms of this section for Contract Worker background screening in all contracts and subcontracts for Services furnished under this Agreement.
- 5.7 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



SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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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.

- 5.8 Continuing Duty; Audit:** Contractor's obligations and requirements that Contract Workers satisfy this background screening section will continue throughout the entire term of this agreement. Contractor will notify the City immediately of any change to a background screening of a Contract Worker previously approved by the City. Contractor will maintain all records and documents related to all background screenings and the City reserves the right to audit Contractor's compliance with this section.

6. HANDLING OF PHOTOGRAPHS

The US Department of Homeland Security has designated water and wastewater treatment facilities as 'critical infrastructure/key resources'. Because of federal directives, only persons authorized by the WSD Security Management Unit are permitted to photograph or film Water infrastructure, facilities, and assets which any include, but are not limited to: pay stations, warehouses, lift stations, treatment plants, service yards, booster stations, well sites, vehicles and related equipment and supplies.

7. AVIATION SECURITY PROCEDURES CONTRACTOR AND SUBCONTRACTOR WORKER BACKGROUND SCREENING:

7.1. Contract Worker Background Screening

Contractor agrees that all contract workers and subcontractors (Contract Workers) that Contractor furnishes to the City pursuant to this Contract shall be subject to background and security checks and screening (Background Screening). Contractor further agrees that the Background Screening required in 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 for Services performed at or for the Aviation Department. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of Contractor's services under this Contract



SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

CITY OF PHOENIX

or Contractor's failure to comply with this Section. Therefore, in addition to the specific 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 Services under this Agreement.

7.2. Background Screening Requirements and Criteria

Contractor agrees that it will verify legal Arizona worker status as required by Arizona Revised Statutes (A.R.S.) § 41-4401. Contractor further agrees that it will conduct a background check for real identity and legal name on all Contract Workers prior to proposing the Contract Worker to the City.

7.3. Additional City Rights Regarding Security Inquiries

7.3.1. In addition to the foregoing, the City reserves the right, but not the obligation, to:

- Have a Contract Worker be required 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) or Phoenix City Code § 4-22 or both;
- 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 Contract Workers; and
- Object, at any time and for any reason, to a Contract Worker performing work, including supervision and oversight, under this Contract.

7.4. Contractor Certification

By executing this Contract, Contractor certifies and warrants 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 and current. A Contract Worker rejected for work under this Contract shall not be proposed to perform work under any other City contract or engagement without the City's prior written approval.

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



SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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

7.6. Materiality of Background Screening Requirements; Indemnity

The Background Screening requirements of this Section are material to the City's entry into this Contract and any breach of this Section by Contractor shall be deemed a material breach of this Contract. In addition to the indemnity provisions set forth in this Contract, Contractor shall defend, indemnify, and hold harmless the City for any and all Claims (as defined in Section II, 6.3) arising out of this Background Screening section including the disqualification of a Contract Worker by Contractor or the City for failure to satisfy this Section.

7.7. Continuing Duty; Audit

7.7.1. Contractor's obligations and requirements that Contract Workers satisfy this Background Screening Section shall continue throughout the entire term of this Contract. Contractor shall notify the City immediately of any change to a Background Screening of a Contract Worker previously approved by the City. 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.

7.8. CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENTS

A CONTRACT WORKER SHALL NOT BE ALLOWED TO BEGIN WORK ON AIRPORT PROPERTY WITHOUT THE CONTRACT WORKER'S RECEIPT OF A CITY-ISSUED BADGE. A BADGE WILL BE ISSUED TO A CONTRACT WORKER SOLELY FOR ACCESS TO THE AREAS OF THE AIRPORT TO WHICH THE CONTRACT WORKER IS ASSIGNED. EACH CONTRACT WORKER WHO ENTERS AIRPORT PROPERTY MUST USE THE BADGE ISSUED TO THE CONTRACT WORKER.

7.9. Badges

Upon notification from Contractor's authorized agent, the Contract Worker will proceed to the Badging Office for processing and issuance of a badge. The City will not process the badge until the Contract Worker satisfies the Background Screening requirements. The Contract Worker shall comply with all requirements and furnish all information requested by the Badging Office. All fees associated with security badging will be assessed in compliance with Phoenix City Code § 4-22. Current badging procedures and



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fees are available for review at
<https://www.skyharbor.com/security/BadgingInformation>.

7.10.Key Access Procedures

If a Contract Worker's services require keyed access to enter a City facility, a separate key issue and return form must be completed and submitted to the City project manager by Contractor for each key issued.

7.11.Stolen or Lost Badges or Keys

7.11.1. Contractor shall immediately report lost or stolen badges or keys to the City. A new badge application or key issue form shall be completed and submitted along with payment of the applicable fees prior to issuance of a new badge or key.

7.12.Return of Badges or Keys

All badges and keys are the property of the City and must be returned to the City at the Badging Office within one (1) business day after the Contract Worker's access to a City facility is no longer required to furnish the Services under this Contract. Contractor shall collect a Contract Worker's badge and all keys (1) upon the termination of the Contract Worker's employment, (2) when the Contract Worker's services are no longer required at a City facility (3), and upon termination, cancellation, or expiration of this Contract.

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

7.13.1. Contractor's default under this Section shall include the following:

- 7.13.1.1. A Contract Worker gains access to a City facility without the proper badge or key;
- 7.13.1.2. A Contract Worker uses another person's badge or key to gain access to a City facility;
- 7.13.1.3. A Contract Worker commences services under this Contract without the proper badge, key, or Background Screening;
- 7.13.1.4. A Contract Worker or Contractor submits false, incomplete, or misleading information or negligently submits incorrect information to the City to obtain a badge, key, or applicable Background Screening; or



SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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7.13.1.5. Contractor fails to collect and timely return Contract Worker's badge or key upon termination of Contract Worker's employment, reassignment of Contract Worker to another City facility, or upon the expiration, cancellation, or termination of this Contract. Contractor acknowledges and agrees that the access control, badge, and key requirements in this Section are necessary to preserve and protect public health, safety, and welfare. Accordingly, Contractor agrees to properly cure any default under this Section within three (3) business days from the date notice of default is sent by the City. Contractor's failure to properly cure any default under this Section shall constitute a breach of this Section. In addition to any other remedy available to the City at law or in equity, Contractor shall be liable for and shall pay to the City the sum of \$1,000.00 for each breach by Contractor of this Section. The parties agree that the foregoing amount is reasonable and approximates the actual or anticipated loss to the City at the time and making of this Contract in the event that Contractor breaches this Section. Further, the parties agree to the foregoing amount because of the difficulty of proving the City's actual damages in the event Contractor breaches this Section. The parties further agree that three (3) breaches of this Section by Contractor within a three-month period of time or three (3) breaches by Contractor of this Section arising out of the same default within a period of twelve (12) consecutive months shall constitute a material breach of this Contract by Contractor and the City expressly reserves all of its rights, remedies, and interests under this Contract at law and in equity, including termination of this Contract.

8. NON-EXCLUSIVITY; AGREEMENT CHANGES:

- 8.1. Non-Exclusive Contract.** Any Agreement resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Phoenix. The City reserves the right to obtain like goods or Services from another source when necessary.
- 8.2. Authorized Changes.** The City reserves the right at any time to make changes in any one or more of the following, as long as there is not a conflict with the Scope or Proposal: (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 shall be deemed waived unless asserted in writing within 30 days from the receipt of the change. Price



SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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increases or extensions of delivery time shall not be binding on the City unless evidenced in writing and approved by the Department Director prior to the institution of the change.

9. CITY'S CONTRACTUAL RIGHTS:

- 9.1. Right to Assurance.** Whenever one party to this Agreement 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 Agreement.
- 9.2. Non-Exclusive Remedies.** The rights and remedies of the City under this Agreement are non-exclusive.
- 9.3. Default.** In case of default by the Contractor, the City may, by written notice, terminate this Agreement and repurchase from another source and may recover the excess or additional costs caused thereby by (1) deduction from an unpaid balance due; (2) collection against the proposal and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

10. WARRANTIES:

- 10.1. Quality.** Consultant expressly warrants that all goods or Services furnished under this Agreement shall conform to the specifications and appropriate standards.
- 10.2. Responsibility for Correction.** It is agreed that the Consultant shall be fully responsible for making any correction, replacement, or modification necessary for specification or legal compliance.
- 10.3. Liens.** Consultant shall indemnify, defend, and hold the City harmless from liens or other claims by claimants supplying labor or materials to the Consultant or its subcontractors in the performance of the work required under this Agreement. Consultant agrees to secure, at its own expense, the release of any liens relative to the Deliverables.
- 10.4. Professional Responsibility.** Consultant shall use those efforts which a skilled, competent, experienced, and prudent person or organization would use to perform and complete the requirements of this Agreement in a timely manner conforming to the standards and quality generally recognized and accepted within the profession throughout the United States.
- 10.5. 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



SECTION II – PROFESSIONAL SERVICES CONSULTING AGREEMENT

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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.

10.6.WARRANTIES. 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 twelve 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.

10.7.STANDARDS AND PRACTICES. Technology Assets shall conform to the generally accepted standards and practices of the trade or industry involved.



**SECTION II – PROFESSIONAL SERVICES
CONSULTING AGREEMENT**

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All work shall be executed by personnel skilled in their respective lines of work.

10.8.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.

10.9.INTELLECTUAL PROPERTY WARRANTIES. Contractor warrants that:

- 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;
- 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;
- Contractor owns or possesses all right(s), title(s) and license(s) necessary to perform its obligations hereunder; and
- 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).



**SECTION II – PROFESSIONAL SERVICES
CONSULTING AGREEMENT**

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EXHIBIT F – REQUIREMENTS AND REQUIRED PRIORITIES

The Requirements and Requirements Priorities listed in the Excel Spreadsheets in Section III Evaluation Criteria. Upon final agreement of the parties, the Requirements and Required Priorities will be inserted here as Exhibit F.



**SECTION II – PROFESSIONAL SERVICES
CONSULTING AGREEMENT**

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EXHIBIT G- FORM OF LETTER OF CREDIT

To be inserted upon award.

	SECTION III – EVALUATION REQUIREMENTS	CITY OF PHOENIX
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SECTION III – EVALUATION REQUIREMENTS

1. EVALUATION CRITERIA

In accordance with the Administrative Regulation, 3.10, Competitive Sealed Proposal awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below. The evaluation factors are listed in the relative order of importance.

Requirements	400 POINTS
Pricing	250 POINTS
Method of Approach	200 POINTS
Qualifications, Experience and References	150 POINTS

TOTAL AVAILABLE POINTS: 1000 Maximum

Offerors must submit the information in the same order as requested and must contain the following:

TAB 1 – TITLE PAGE

The title page should include the title and number of the RFP, name and address of the Offeror(s), and the date of the proposal.

TAB 2 – COVER LETTER

The cover letter will provide a brief history of the Offeror and its organization(s). The letter will indicate the principal or officer of the prime Offeror organization who will be the City’s primary point of contact during negotiation. This individual must have the authority to negotiate all aspects of the Scope of Work, Requirements and Requirements Priorities and Services and provision on behalf of the Offer. An officer authorized to bind the Offeror to the terms and condition of this RFP must sign the cover letter transmitting the proposal. This letter will also contain statements confirming inclusion of all proposal submittal requirements.

TAB 3 – TABLE OF CONTENTS

The Table of Contents shall include references for all sections and sub-sections within the Offer.



SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

TAB 4 – EXECUTIVE SUMMARY

The Offeror will provide an Executive Summary that presents in brief, concise terms a summary level description of the contents of the response. This section shall be limited to 1-2 pages.

TAB 5 – REQUIREMENTS

Offeror must complete the following:

1. Complete and submit Requirements and Required Priorities matrix according to the instructions provided in Exhibit F. The Excel spreadsheet must NOT be password protected.
2. Offeror must demonstrate in its proposal that it meets all items marked as 'Required' in Exhibit F – Requirements and Required Priorities in the Requirements Priority column or the Offeror's proposal will be deemed disqualified or non-responsive.
3. Phase 1 must include all items marked as 'Required' in Exhibit F – Requirements and Required Priorities in the Requirements Priority column, the migration of eCHRIS data, and the interfaces with eCHRIS, and Active Directory/Multifactor Authentication for single sign on or Offeror's proposal will be deemed disqualified or non-responsive.
4. All work that cannot be entirely completed, accepted, and invoiced by the December 21, 2020 deadline must be clearly identified and added as a second phase (Phase 2) of the project that may be performed at the option of the City.
5. Any requirements that will not be fully completed during Phase 1, must begin their narrative response with the text "Will Not Complete In Phase 1."

TAB 6 – PRICING

Offeror must complete and submit pricing worksheet (Exhibit B) according to the instructions provided in the worksheet. The Excel spreadsheet must be provided as a separate file and must NOT be password protected.

If a second phase will be necessary, the pricing worksheet will be filled out with clearly distinct pricing for Phase 1 and Phase 2, with Phase 2 being at the City's option. Total pricing will be used to score proposals.

TAB 7 – METHOD OF APPROACH



SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

Evaluation of Method of Approach will be based on the Offeror's demonstrated ability to meet the City's project and scheduling needs. The ability to begin work quickly and to complete and invoice by December 21, 2020.

The Offeror must address the following:

1. Address the implementation approach to ensure work will begin timely, the project will be implemented, and invoice will be provided to the City by December 21, 2020.
2. Provide a proposed project schedule indicating:
 - a. major milestones, clearly distinguishing between Phase 1 and Phase 2 if a second phase is needed.
 - b. Propose recommended staffing for the City (role, % dedication or number of FTEs, and start and end date) that you believe will be necessary to support your project team's work.

TAB 8 – QUALIFICATIONS, EXPERIENCE AND REFERENCES - NARRATIVE

Evaluation of Qualifications, Experience and References will be based on the Offeror's demonstrated qualifications and experience in successfully completing similar projects to the satisfaction of their customers. Offeror must provide a narrative for each requirement. Offeror is encouraged to provide attachments to their narrative responses, provided that the supplements clearly and concisely clarify response to the specific requirement.

Offeror must provide the following in the same order:

1. Official Corporate or Agency Name
2. Date Established
3. Business Address(es)
4. Offeror Contact Information
 - a. Name
 - b. Title
 - c. Telephone Number(s)
 - d. Email Address
 - e. Mailing Address
5. Authorized Contact Information Including:
 - a. Name
 - b. Title
 - c. Telephone Number(s)
 - d. Email Address
 - e. Mailing Address
6. A detailed organizational chart of the proposed Project Team



SECTION III – EVALUATION REQUIREMENTS

CITY OF PHOENIX

- a. Representative resumes for all proposed implementation team members (including the Project Manager and the Executive Project Sponsor).
- b. Include proposed start and end dates for each member and % dedication
7. Experience based on verifiable reference offered and documented similar in size and scale of City of Phoenix
8. Experience with implementation and coordination with public sector requirements
9. Demonstrate clear understanding of Learning Management System and correlating relationship with public sector industry practices
10. Resources availability for project
11. Experience in training public sector staff in the use of your product
12. Turnaround time for Services requested
13. Experience with other clients of similar scope and size
14. Overall client list
15. References:
 - a. Provide a minimum of three (3) government agency similar to scale, size and scope as of City of Phoenix that have implemented the proposed solution in the production environment within last 36 months
 - b. Offerors with fewer than three (3) government references may substitute two (2) large-scale corporate references for each missing government references
 - c. For each reference, Offeror must provide: the company or organization name, name and title of the contact person, address, telephone number, email address and web address for references PRR system. The City reserves the right to contact these references and discuss the client's level of satisfaction with the Offeror and its solution(s)



SECTION IV – SUBMITTALS

CITY OF PHOENIX

SECTION IV - SUBMITTALS

AFFIDAVIT

1. The undersigned Offeror hereby submits to the City of Phoenix (City) the enclosed proposal based upon all terms and conditions set forth in the City's Request for Proposals (RFP) and referenced materials. Offeror further specifically agrees hereby to provide services in the manner and on the terms and conditions set forth in the proposal submitted by the Offeror.
2. The undersigned Offeror acknowledges and states, under penalty of perjury, as follows:
 - a. The City is relying on Offeror's submitted information and the representation that Offeror has the capability to successfully undertake and complete the responsibilities and obligations submitted in its proposal and in Agreement.
 - b. The City has the right to make any further inquiry it deems appropriate to substantiate or supplement information supplied by Offeror.
 - c. Offeror has read and fully understands all the provisions and conditions set forth in the RFP documents, upon which its proposal is based.
 - d. The forms and information requested in the RFP are complete and made part of the proposal. The City is not responsible for any Offeror errors or omissions.
 - e. This proposal may be withdrawn by requesting such withdrawal in writing at any time prior to the proposal deadline but may not be withdrawn after such date and time.
 - f. The City reserves the right to reject any and all proposals and to accept the proposal that, in its judgment, will provide the best quality development to the City.
 - g. This proposal is valid for a minimum of 120 days after the RFP proposal deadline.
 - h. All costs incurred by Offeror in connection with this proposal shall be borne solely by Offeror. Under no circumstances shall the City be responsible for any costs associated with Offeror's proposal or the RFP process.
 - i. Offeror has not in any manner, directly or indirectly, conspired with any person or party to unfairly compete or compromise the competitive nature of the RFP process.



SECTION IV – SUBMITTALS

CITY OF PHOENIX

- j. The contents of this proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this proposal.
- k. To the best of the Offeror’s knowledge, the information provided in its proposal is true and correct and neither the undersigned Offeror nor any partner, corporate officer or managing employee have ever been convicted of a felony or a crime involving moral turpitude.

3. COPIES

3.1 The City of Phoenix will accept submittals electronically ONLY for this RFP process. No hardcopies will be accepted. To submit proposals electronically, offerors must send an email to the Procurement Officer by the date stated on the Schedule of Events indicating the offeror’s intent to submit a proposal. The Procurement Officer will send an invitation to the offeror which will include submittal instructions. Offers must be able to be downloaded by the Department on or prior to the exact time and date indicated in the Schedule of Events on the cover page. Late offers will not be considered. The prevailing clock will be the Department clock.

3.2 **Please submit only the responses to Sections III-Evaluation Requirements, Section IV-Submittals, the required supporting documentation and Excel spreadsheets, and signed Addenda. Do not submit a copy of the entire solicitation document.** This Offer will remain in effect for a period of 180 calendar days from the bid opening date and is irrevocable unless it is in the City’s best interest to do so.

4. REFERENCES

Offeror shall furnish the names and contact information for 3 clients for whom the Offeror is **furnishing** or has furnished services similar to those described in this RFP. Do not list City of Phoenix employees or officials as references.

A. Company and Reference Name:

Telephone and email:

B. Company and Reference Name:

Telephone and email:



SECTION IV – SUBMITTALS

CITY OF PHOENIX

C. Company and Reference Name:

Telephone and email:



SECTION IV – SUBMITTALS

CITY OF PHOENIX

5. Signature(s)

By executing below, the Offeror avows the statements and information provided herein are true, correct and complete and that the signatory executed below is authorized to execute this Affidavit on behalf of the Offeror.

Offeror's Contracting Entity (Legal Name¹): _____

¹The successful Offeror must be authorized to transact business in Arizona and be in good standing prior to contract award.

Printed Name of Authorized Representative*: _____

Title: _____

Business Mailing Address: _____

Telephone and Email Address: _____

Signature: _____

**Proposal must be signed by an individual authorized to contractually bind the Offeror.*

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
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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 subcontracts, 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.

7. Disclosure of conflict of interest:

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:

8. Notice Regarding Prohibited Interest in Contracts

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

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

Are you aware of any fact(s) with regard to this 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:

9. Acknowledgements

Solicitation Transparency Policy – No Contact with City Officials or Staff During Evaluation

- I understand that a person or entity who seeks or applies for a city contract, or any other person acting on behalf of that person or entity, is prohibited from contacting city officials and employees regarding the contract after a solicitation has been posted.
- This “no-contact” provision only concludes when the contract is awarded at a City Council meeting. If contact is required with City official or employees, the contact will take place in accordance with procedures by the City. Violation of this prohibited contacts provision, set out in City Code Sections 2-190.4 and 43-36, by respondents, or their agents, will lead to **disqualification**.

10. Fraud Prevention and Reporting Policy

- I acknowledge that the City has a fraud prevention and reporting policy and takes fraud seriously. I will report fraud, suspicion of fraud, or any other inappropriate action to: telephone no. 602-261-8999 or 602-534-5500 (TDD); or aud.integrity.line@phoenix.gov.

The purpose of the fraud policy is to maintain the City's high ethical standards. The policy includes a way for our business partners to report wrongdoing or bad behavior. Suspected fraud should be reported immediately to the Phoenix Integrity Line. The City has adopted a zero-tolerance policy regarding fraud.

OATH

I affirm that the statements contained in this form, including any attachments, to the best of my knowledge and belief are true, correct, and complete.

Should any of the answers to the above questions change during the course of the contract, particularly as it relates to any changes in ownership, applicant agrees to update this form with the new information within 30 days of such changes. Failure to do so may be deemed a breach of contract.

PRINT NAME

TITLE

SIGNATURE

DATE

COMPANY (CORPORATION, LLC, ETC.) NAME and DBA