



City of Phoenix

REQUEST FOR PROPOSAL

PTD24-008

HYDROGEN FUELING STATION AND SUPPLY OF LIQUID HYDROGEN

City of Phoenix

Public Transit

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REQUEST FOR PROPOSAL
PTD24-008
Hydrogen Fueling Station and Supply of Liquid Hydrogen

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1. Introduction

1.1. Summary

The City of Phoenix Public Transit Department (PTD) is inviting proposals from qualified firms for the lease or purchase and commissioning of a turnkey, 350-bar, liquid, mobile hydrogen fueling station (“Mobile Fueling Station”) and regularly furnishing/delivering liquid hydrogen (and gaseous hydrogen as needed), to initially fuel twelve (12) 40-foot Fuel Cell Electric Buses (“**FCEB**”) at PTD’s West Operating Facility. See **Exhibit 1** (West Transit Operating Facility), which is attached and incorporated by reference. As more FCEBs are added to the fleet, more fueling will be required.

The project shall include the furnishing of all labor, equipment, materials, testing, tools, warranty, training, and other services required by the Scope of Work section.

1.2. Background

The City’s PTD is transitioning its group of 500 fixed-route vehicles to meet the goal of a 100% zero-emission fleet by 2040. In pursuit of this goal, PTD has developed a transition plan, which includes the deployment of FCEB’s.

PTD has procured twelve (12) FCEBs for this project, with expected delivery taking place from mid-to-late 2025. The City intends to purchase more buses beyond 2025. Station uptime and fuel supply reliability are critical to ensuring the success of PTD’s project as the 12 buses will enter revenue service and any downtime will affect PTD’s spare ratio. The selected contractor(s) will install a Mobile Fueling Station at the West Transit Facility to fuel the FCEBs and supply hydrogen fuel. The fueling station is expected to be fully brought into working condition and available to PTD for fueling its buses within nine months after the City provides the Contractor with a Notice to Proceed (“**NTP**”) for the Contract (which is expected to be issued in or about January 2025).

1.3. Contact Information

Procurement Contact:

David Koehler
Contract Specialist II *Lead
200 W. Washington St, 9th Floor
Phoenix, AZ 85003
Email: ptdprocurement@phoenix.gov
Phone: (602) 495-5407

Department:

Public Transit

1.4. Timeline

Schedule of Events

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

To request a reasonable accommodation or alternative format for any public meeting, please contact the Procurement Officer (David Koehler) at (602) 495-5407/Voice or 711/TTY, or ptdprocurement@phoenix.gov, no later than two (2) weeks prior to the meeting.

Solicitation Issue Date	October 11, 2024
Pre-Offer Conference	October 21, 2024, 2:00 PM MST (AZ Local Time) Conference to be conducted via WebEx RSVP via email to ptdprocurement@phoenix.gov required by October 18, 4:00 PM MST (AZ Local Time)
Written Inquiries Due Date	October 28, 2024
Offer Due Date	November 12, 2024, 2:00 PM MST (AZ Local Time)

2. Instructions

2.1. Description – Statement of Need

The PTD is inviting proposals from qualified firms for the lease or purchase and commissioning of a turnkey, 350-bar, liquid, mobile hydrogen fueling station (“Mobile Fueling Station”) and regularly furnishing/delivering liquid hydrogen (and gaseous hydrogen as needed), to initially fuel twelve (12) 40-foot Fuel Cell Electric Buses (FCEB) at PTD’s West Operating Facility. As more FCEBs are added to the fleet, more fueling will be required.

The City intends to contract for the indicated groups of work: **Group 1** pertains to the provision of a Mobile Fueling Station and **Group 2** applies to the supply of hydrogen fuel. Offerors may submit offers for either or both groups.

This contract will commence in or about January 2025, in accordance with the specifications and provisions contained herein or the “Effective Date” which is upon award by City Council, conditioned upon signature and recording by the City Clerk’s department, as required by the Phoenix City Code, whichever is later.

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

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

2.2. City’s Vendor Self-Registration and Notification

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

2.3. Preparation of Offer

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

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

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

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

- A. Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.

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

2.4. Fixed Offer Price Period

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

2.5. Delivery

Delivery is an important consideration and will be a factor in determining the award. A delivery time after receipt of order (ARO) must be stated in definite terms. Should there be variations in delivery times by item, the submittal should be clear concerning these variations.

2.6. Obtaining a Copy of the Solicitation and Addenda

Interested Offerors may download the complete solicitation and addenda from <https://solicitations.phoenix.gov/>. Any interested Offerors without internet access may obtain this solicitation by calling the Procurement Officer or picking up a copy during regular business hours at the City of Phoenix, Public Transit Department, Contracts and Procurement Division, 302 N. 1st Avenue, 9th Floor, Phoenix, AZ 85003. It is the Offeror's responsibility to check the website, read the entire solicitation, and verify all required information is submitted with their Offer.

2.7. Exceptions

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

2.8. Inquiries

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

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

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

2.9. Addenda

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

2.10. Business in Arizona

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

2.11. 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.

2.12. Certifications

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

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

2.13. Submission of Offer

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

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

1. Offeror's Name
2. Offeror's Address (as shown on the Certification Page)
3. Solicitation Number
4. Solicitation Title
5. Offer Opening Date
6. Such offers must be completed in ink or typewritten. Include the number of copies that are required as indicated in the Submittal section.

2.14. Withdrawal of Offer

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

2.15. Offer Results

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

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

2.16. Offer Evaluation Criteria

In accordance with the Administrative Regulation 3.10, Competitive Sealed Proposal awards shall be made to the responsive and responsible Offeror(s) whose Offer is determined in writing to be the most advantageous to the City based upon the evaluation criteria listed below.

The evaluation factors are listed in the relative order of importance and more details are provided in Scope of Work. The following evaluation criteria will be used to evaluate all Offers:

Evaluation Criteria (maximum 1000 points)

Listed in relative order of importance

Evaluation Criteria #1 - Method of Approach (Technical Proposal Tab 1)	400 pts
Evaluation Criteria #2 - Qualifications and Experience (Technical Proposal Tab 2)	300 pts
Evaluation Criteria #3 - Price (Price Schedule - Attachment A)	300 pts

2.17. Pre-Award / Minimum Qualifications

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

Offeror must have been in operation for a minimum of five years

2.18. Certificates of Insurance

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

2.19. Award of Contract

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

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

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

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

2.20. Solicitation Transparency Policy

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

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

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

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

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

“To discuss” means any contact by the Offeror, regardless of whether the City responds to the contact. Offerors that violate this policy will be disqualified until the resulting contract(s) are awarded, or all offers or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

2.21. Protest Process

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

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

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

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

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

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

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

2.22. Public Record

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

2.23. Late Offers

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

2.24. Right to Disqualify

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

2.25. Contract Award

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

2.26. Determining Responsiveness and Responsibility

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.

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.

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.

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.

The Procurement Officer will review each Offer to determine if the Offeror is responsible. The City's determination as to whether an Offeror is responsible will be based on all information furnished by the Offeror, interviews (if any), and information received from Offeror's references, including information about Offeror's history, terminations for convenience or cause, contract breach lawsuits 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.

The Offeror's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Offeror.

2.27. Clarifications

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

2.28. Equal Low Offer

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

2.29. Evaluation of Competitive Sealed Offers

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

2.30. Detailed Evaluation of Offers and Determination of Competitive Range

The City will appoint an Evaluation Panel, which may consist of City staff, staff from other City departments or transit agencies, and other persons. The City may also appoint a Technical Advisory Team to provide technical assistance to the Evaluation Panel. The Technical Advisory Team may consist of City staff, staff from other City departments or transit agencies, and other persons. The Technical Advisory Team will review the technical portion of each offer for compliance with the RFP specifications. The Procurement Officer will chair the Evaluation Panel, serving in a non-voting capacity.

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

2.31. Offers Not Within the Competitive Range

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

2.32. Discussions with Offerors in the Competitive Range

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

Demonstrations - Offerors in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City 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).

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

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

2.33. Best and Final Offers (BAFO)

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

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

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

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

2.34. Offer Submittal Format

The written offer may not exceed **35 single-sided pages**, exclusive of the following items:

A. Cover Letter

B. Price Proposal

C. Required Submittals (Forms, Attachments, and Certifications/Licenses)

Additionally, the written offer should be:

- a. Typewritten for ease of evaluation
- b. Signed by an authorized representative of the Offeror;
- c. Submitted with contact information for the individual(s) authorized to negotiate with the CITY;
- d. Submitted in a binder (or viable substitute), preferably using double-sided copying and at least 30% post-consumer content paper;
- e. Each offer package submitted must contain the following **separately sealed portions**:
 - Technical Proposal package
 - Price Proposal package

2.35. Technical Proposal Package

The package must be organized in a tabular format and divided by sections, in accordance with the outline below. If the Offeror fails to provide all data requested, the CITY may deem the Offer non-responsive. All required submittals shall be included in this section.

In the proposal, the Offeror shall reasonably demonstrate evidence that its human and physical resources are sufficient to meet the requirements of the Contract, as specified, and to ensure the level of service required, including sufficient personnel in the requisite disciplines and all necessary licenses, skills, experience and equipment to complete the Contract as required.

Group 1 – Mobile Fueling Station AND/OR

Group 2 – Hydrogen Fuel

Tab 1 – Method of Approach

Tab 1 – Method of Approach

Tab 2 – Qualifications

Tab 2 - Qualifications

2.36. Price Proposal Package

Group 1 – Mobile Fueling Station AND/OR

Group 2 – Hydrogen Fuel

Tab 1 – Pricing Documents

Tab 1 – Pricing Documents

Attachment A – Price Schedule

Attachment A – Price Schedule

Tab 2 – All Other Required Submittals
(Forms, Attachments, and Certifications)

Tab 2 – All Other Required Submittals
(Forms, Attachments, and Certifications)

Attachments B through K

Attachments B though K

All required Certifications

All required Certifications

All other submittals required in Section 9

All other submittals required in Section 9

3. Scope of Work

3.1. PURPOSE

The intent for the project is for the City to contract for the indicated scope of work, split into two separate groups (potentially resulting in contracts with separate Offerors for the split groups, i.e. multiple contract award). Offerors do have the ability to propose for both groups.

The first group (**Group 1**) is for proposals to: lease or sell the liquid mobile fueler station (“**Mobile Fueling Station**”) to the City; design, build/refurbish, and install the Mobile Fueling Station at the City’s depot; and perform the operations & maintenance (O&M) of the Mobile Fueling Station for an initial three-year contract term (with installation to occur partway into the first year), plus two optional one-year extensions.

The second group (**Group 2**) is for proposals to regularly supply liquid hydrogen fuel (and gaseous hydrogen fuel as needed) for an initial three-year contract term (with deliveries to begin partway into the first year), plus two optional one-year extensions to be supplied by Contractor or its subcontractors).

3.1.1 – Group 1: Mobile Fueling Station

The City is transitioning its group of 500 fixed-route vehicles to meet the goal of a 100% zero-emission fleet by 2040. In pursuit of this goal, PTD has developed a transition plan, which includes the deployment of FCEB’s.

The City has procured twelve (12) FCEBs for this project, with expected delivery taking place from mid-to-late 2025 (see Attachment 3). The City intends to purchase more buses beyond 2025. Station uptime and fuel supply reliability are critical to ensuring the success of the City’s project as the 12 buses will enter revenue service and any downtime will affect the City’s spare ratio.

The Contractor shall provide for the lease or purchase and commissioning of a turnkey, 350-bar, liquid, mobile hydrogen fueling station (“Mobile Fueling Station”) to initially fuel twelve (12) 40-foot Fuel Cell Electric Buses (“**FCEB**”) at PTD’s West Operating Facility. As more FCEBs are added to the fleet, more fueling will be required. Performance under this Contract shall include the furnishing of all labor, equipment, materials, testing, tools, warranty, training, and other services required by the Scope of Work sections below.

The selected contractor will install a temporary hydrogen fueling station (“**Mobile Fueling Station**”) at the West base facility to fuel the FCEBs. The fueling station must be fully brought into working condition and available to PTD for fueling its buses within nine months (in or about October 2025) after the City provides the Group 1 Contractor with an NTP for the Contract’s Group 1 Services (in or about January 2025). However, if the Mobile Fueling Station is not fully brought into working condition and available to PTD for fueling its buses within four months (in or about May 2025) after the City provides the Group 1 Contractor with an NTP for the Contract’s Group 1 Services, then the Contractor must provide a leased gaseous or liquid mobile fueler (“**Interim Mobile Fueler**”) as an interim fueling solution until the Mobile Fueling Station is installed and ready to fuel. The cost for the Mobile Fueling Station, whether lease or purchase, is inclusive of all costs for lease of the Interim Mobile Fueler if necessary.

The City is expecting a solution that will meet the fueling performance requirements of 12 or more FCEB fleet while minimizing the amount of permanent infrastructure installed at the site for the

Mobile Fueling Station. The City will accept proposals for liquid delivery hydrogen station configurations that meet performance requirements. The City has identified the location for the Mobile Fueling Station that will work best for its operations and desires that proposers will be able to provide solutions that fit within those parameters.

The mobile fueling system is intended to be used as a temporary method of fueling FCEB until the design and construction of a larger and permanent hydrogen fueling system is put out to bid. The permanent facility project will be bid under a separate scope/contract. The mobile fueling system is expected to dispense hydrogen via delivery of low pressure liquid cryogenic hydrogen pumped and gasified on site with the Contractor equipment. The supplier for this scope of work shall provide all of the physical infrastructure required for the mobile fueling system to operate.

The initial configuration should achieve fast fill rates of at least 12 40-foot buses in 8 hours, filling each bus with at least 25 kg (of 37.5 kg tank), which will support the City's deployment plans. The contractor will be responsible for all aspects of the project, including the permitting; setting and installation of the physical infrastructure, which shall be performed by an appropriately licensed contractor retained by the supplier; commissioning of the mobile fueling system; and 36 months of maintenance of the mobile fueling system. Fueling of the FCEBs will be performed by the City and its operations contractor.

3.1.2 – Group 2: Supply Hydrogen Fuel

The selected Group 2 contractor must provide hydrogen fuel at the West Transit Facility for fueling the FCEBs. Gaseous or liquid hydrogen must be supplied and available to PTD for fueling its FCEBs promptly after the Group 1 Contractor fully brings into working condition an Interim Mobile Fueler in or about May 2025, if the Group 1 Contractor cannot fully bring into working condition a Mobile Fueling Station by that time. Liquid or gaseous hydrogen must be supplied and available to PTD for fueling its FCEBs promptly after the Group 1 Contractor fully brings into working condition the Mobile Fueling Station.

3.2. FUELING STATION REQUIREMENTS for GROUP 1:

3.2.1 Site Review – Within one week after the City provides the NTP (in or about January 2025) for the Group 1 services, the Contractor and its subcontractors shall perform a thorough site review of the existing conditions at the West Transit Facility, which is located at 405 N. 79th Ave, Phoenix AZ 85043, and become intimately familiar with the contract/bid documents.

3.2.2 Site Survey – The City will provide a paved area with a single, aerial, electrical service to support the Mobile Fueling Station. Within one week after the City provides the NTP (in or about January 2025) for the Group 1 services, the Contractor must conduct a site survey to confirm the City's preferred location for the Mobile Fueling Station and identify any additional site work that will need to be performed by Contractor. The preferred location of the Mobile Fueling Station is shown in **Exhibit 2** (Overhead Site Plan), **Exhibit 3** (Fueling Site Photos), and **Exhibit 4** (Fueling Site Detail), which are attached and incorporated by reference.

3.2.3 Self-Contained - The Mobile Fueling Station shall be self-contained and include all equipment and components required for receiving liquid hydrogen and dispensing 99.999% pure gaseous hydrogen. The Mobile Fueling Station is defined as either trailer-mounted, on wheels, or containerized. As coordinated with the Contractor, the City will provide an electrical service. The Contractor shall provide any additional required installation material.

3.2.4 Manufacturing Process - The Contractor shall provide documentation establishing administrative procedures, quality control measures, and fabrication milestones as it pertains to the Mobile Fueling Station. The Contractor must receive written approval for all designs to be submitted to the City's Fire Department, Street Transportation Department, and Planning and Development Department as required by the City prior to permit submittal. The Contractor shall provide the City with Factory Acceptance Test documentation and fabrication milestones.

3.2.5 Fueling Window – The City's critical daily fueling window is from 8:30 PM to 4:30 AM.

3.2.6 Fuel Tank Capacity - The station tank shall have a liquid hydrogen storage capacity of no less than 1,000 kg with 800 kg useable.

3.2.7 Fueling Accuracy – Fueling accuracy must be within $\pm 3\%$ to effectively measure fuel dispensed, in order for the City to calculate vehicle fuel economy.

3.2.8 Minimization of Boil Off - The tanks inner vessel shall be insulated with super insulation compatible with a high vacuum to minimize heat flux and consequential product boil-off. A vacuum thermocouple gauge tube (suitably protected) will permit periodic monitoring of the vacuum level and sealed evacuation connection. Contractor shall demonstrate measures taken prior to commissioning highlighting operational mechanisms to reduce boil off.

3.2.9 Delivery Schedule – The Mobile Fueling Station must be fully brought into working condition) and available to PTD for fueling its buses within nine months (in or about October 2025) after the City provides the Group 1 Contractor with an NTP (in or about January 2025) for the Contract's Group 1 Services . However, if the Mobile Fueling Station is not fully commissioned (brought into working condition) and available to PTD for fueling its buses within four months (in or about May 2025) after the City provides the Group 1 Contractor with an NTP for the Contract's Group 1 Services, then the Contractor must provide a leased gaseous or liquid mobile fueler ("**Interim Mobile Fueler**") as an interim fueling solution until the Mobile Fueling Station is installed and ready to fuel within nine months after the City provides the Group 1 Contractor with an NTP for the Contract's Group 1 Services. Before an Interim Mobile Fueler is fully brought into working condition and available to PTD for fueling its buses, the Contractor must provide its design/specifications that detail the capabilities and evidence the functionality of the Interim Mobile Fueler as a workable interim solution, subject to review and written approval by the City.

3.2.10 Individual FCEB Fills - Each FCEB fill shall dispense gaseous hydrogen at 350 Bar at a minimum flow rate of 135 kg/hour with back-to-back fueling of the 12 FCEBs.

3.2.11 Display - The Contractor shall provide the station with: visual display, which includes operation and diagnostic screens; programmable logic controller (PLC) programs; and a complete operating manual showing all operation, diagnostic, and other screens.

3.2.12 Telematics Requirements - The Mobile Fueling Station shall be a continuously monitored system connected to the PLC screen. Contractor will tie in the fuel management system to the dispenser. The data collected by the Mobile Fueling Station's monitoring system shall be accessible to PTD with liquid level pressure. The City has geo-fenced Wi-Fi available on-site, which will be available to utilize at the location of the Mobile Fueling Station for data transmission equipment to fulfill this scope's requirements for real-time status monitoring, fault warning, and performance reporting. The Contractor must provide the City with a monthly fuel management report.

3.2.13 Lighting - Contractor shall evaluate and recommend to PTD whether any additional overhead lighting is required for the proposed Mobile Fueling Station and make recommendations as to National Fire Protection Association (NFPA)-2 lighting requirements for Group 1. If additional lighting is required, this will be outside of the Contractor's scope of work.

3.2.14 Power - Contractor shall evaluate and recommend to PTD whether any additional power is required for the proposed Mobile Fueling Station and make recommendations. Currently, the City has 300A of 400V, 3-phase power available for the mobile fueler. If additional power is required, the City will develop a plan to bring more power over to the site and execution of this plan will be outside the of the Contractor's scope of work.

3.2.15 Compliance - The Mobile Fueling Station shall be capable of supporting both TN1 and TN5 high-flow connectors, and shall be Society of Automotive Engineer (SAE) J2601-1, J2601-2, and J2799 compliant. These protocol guidelines establish key safety and performance standards. In addition, the station shall comply with the American Society of Mechanical Engineers (ASME), American National Standards Institute (ANSI), International Building Code (IBC), International Fire Code (IFC), International Electrotechnical Commission (IEC), and Compressed Gas Association (CGA). The fueling receptacle attachments must also satisfy SAE J2719 fueling standards, with connections being made to meet Original Equipment Manufacturer (OEM) manufacturing standards.

The Contractor must use all safety-related measures and equipment, including, but not limited to: protection barricades, hydrogen detection, fire detection, and emergency stop devices. The Contractor will provide pressure and leak detection with auto-shutdown and electrostatic discharge protection/grounding. The electrical component of the station shall comply with NFPA 70 and National Electrical Code (NEC) standards and 2018 Phoenix Building Construction Code (PBCC), which includes the International Building Code (IBC), International Mechanical Code (IMC), International Plumbing Code (IPC), and International Fuel Gas Code (IFGC).

The Contractor shall also be responsible for providing all safety equipment as it relates to portable hydrogen fueling that will meet or exceed National Fire Prevention Association (NFPA) codes, including NFPA 2, NFPA-30A, and NFPA 55, and the City of Phoenix Fire Code requirements, as amended.

3.2.16 Bus Specifications – The Contractor shall design the system to support a bus with the following specifications.

Characteristic	OEM Value
Total Volume of Hydrogen Storage per Bus	312L/tank; 5 tanks Total volume: 1,560L
Mass Stored per Bus	7.5 kg/tank; 5 tanks Total mass: 37.5 kg
Fill Pressure per Bus	35 MPa
Usable Mass per Bus	95% to 96%
Number of Cylinders per Bus	5

Cylinder Type Category	Type 4
Fuel Economy (Varies: Route, Speed, HVAC)	8.1 mi/kg
Minimum Daily Fuel Consumption per Bus (12 FCEB fleet)	14 kg
Maximum Daily Fuel Consumption per Bus (12 FCEB fleet)	36 kg
Average Fuel Consumption Case	25 kg
Fleet Average Daily Fuel Consumption (12 FCEB fleet)	300 kg
Fleet Annual Fuel Consumption (12 FCEB fleet)	109,200 kg
Fueling Receptacle	TK 16 nozzle

3.2.17 Operational Environment - The Mobile Fueling Station will be located outdoors, exposed to the environmental elements and temperatures typical to Phoenix, Arizona. The Mobile Fueling Station shall be able to operate in these conditions at any time with no reliability issues.

3.2.18 Safety - The Contractor shall design the station to include all required safety-related equipment required by the AHJ such as, but not limited to, hydrogen detection, fire detection, and emergency stop devices. This is to include all compliance which the local Authorities Having Jurisdictions (AHJ) mandates which should be inclusive of their price. Emergency stop devices shall be located at an on-site control panel. Contractor shall provide pressure and leak detection with auto-shutdown Electrostatic Discharge Protection at all four corners of station footprint. High and low pressure and high and low temperature shutdowns shall be included.

3.2.19 Ownership – PTD requests that the Contractor will have purchasing, or leasing options, for the mobile hydrogen fueling equipment.

3.2.20 Digital Deliverable - The Contractor shall supply all design files, both in native formats and as Adobe PDFs.

3.2.21 Full Turnkey Solution - The Contractor is responsible for procuring, delivering, setting up, permitting, testing, and bringing into working condition the Mobile Fueling Station. The Contractor is responsible for preparing the design plans, specifications, and completing the forms for obtaining any necessary permits and written approvals. Permits will be paid for by Contractor on a direct cost reimbursable basis without markup. In addition, the Contractor shall obtain the code compliance certificate specific to hydrogen equipment prior to bringing into working condition the Mobile Fueling Station.

3.2.22 Operations Manual and Documentation – The Contractor shall provide a complete step-by-step operation manual with annotated photos and videos for fueling operations. In addition to the operation manual, the Contractor shall provide the Mobile Fueling Station’s regular maintenance schedule, including expected downtimes.

3.2.23 Training – The Contractor must provide operations training to PTD staff and its contractor. Contractor must provide a Safety Action Plan and safety training specific to the Mobile Fueling Station to PTD staff, designated transit contractors and first responders so that PTD knows how to operate the trailer. Contractor will establish training criteria, subject to review and written approval by PTD. Contractor will also be responsible for coordinating training sessions with PTD staff and first responders. The Contractor shall prepare a quick reference Emergency Response Guide that can be distributed to first responders to place in their trucks and engines. The guide will provide a map showing the location of all station equipment, dispensers, and electrostatic-sensitive devices (ESD), as well as the distances to this equipment from the entry driveway and nearby structures. This will be provided in electronic format (PDF), along with ten (10) hard copies.

3.2.24 Commissioning – The City will prepare a “punch list” as a result of physical inspections, start-up tests, and functional demonstrations. The completion schedule for the punch list will be agreed upon by PTD and the Contractor. Contractor will be responsible for providing the City a detailed station commissioning plan which will be included in the contract as an exhibit, identifying the steps, tasks, responsibilities, and schedule to start and complete commissioning of the station. The plan shall be provided in advance of the start of the commissioning process. The Contractor shall coordinate the scheduling of performance testing activities with PTD to minimize disruptions to normal transit service. At the time of performance testing and commissioning, Contractor shall submit a written report to the City listing any incidents and unusual system performance issues, as well as documenting correct function per the approved commissioning plan. Performance testing and commissioning involves ensuring that the Mobile Fueling Station integrates with and fuels the 12 or more FCEBs, that data is reported accurately, and that there are no physical obstructions blocking the use of the hydrogen fueling equipment.

3.2.25 Back-to-Back Performance Testing – The contractor will include confirmation that 12 buses can be fueled back-to-back in the 8-hour period with the liquid mobile fueler. In addition, the Contractor must demonstrate the successful operation of any data monitoring, reporting services, and emergency shutdown systems. PTD personnel may observe any testing in progress. No later than 30 days following completion of bringing the station into working condition, Contractor will coordinate with the City to complete a Back-to-Back Performance Test. The test shall include filling 12 buses with an average fill of 25 kg/bus with a total fill time of no more than 8 hours. The state of charge (SOC) for each bus at settled pressure shall be no less than 95%.

3.2.26 Secondary Source Equipment/Provision & Deliveries and Uptime - In order to ensure the City has 100% availability, Contractor must have secondary equipment available to provide a backup supply to support PTD’s FCEB fleet. Gaseous equipment for backup is acceptable.

3.2.27 Uptime Requirements

3.2.27.1 The station shall have a 100% uptime during the PTD’s fueling window.

3.2.27.2 The Contractor shall develop a plan to provide a backup supply of a hydrogen fueler to reduce the risk of not being able to fuel PTD’s buses during the critical daily fueling window, from 8:30 PM to 4:30 AM.

3.2.28 Backup Components – The Contractor will include a list of any potential high fail rate components in their proposal. PTD requests at a minimum that a back-up nozzle and cold end of dispenser to be included in the proposal.

3.2.29 Schedule - The Contractor will provide a Gantt style chart which indicates the beginning and ending dates, durations, and dependencies of each project task.

3.2.30 Fueling Performance - The Contractor shall design the system to support fueling operations with the following requirements:

Characteristic	Requirement	Notes
Fueling Time per Bus	25 kg fill	100% uptime
Fills per Hour	4 buses/hour, back-to-back	Average fill quantity: 25 kg Max fill quantity: 36 kg
SOC	>95% SOC @ settled pressure	Target is 350 Bar at 60 degrees Fahrenheit
Filling Period	7 days a week, 8:30pm PST to 4:30am PST	PTD will fill the buses

3.2.31 Maintenance Service Agreement (MSA) - The Contractor shall be responsible for performing all required preventative maintenance, routine maintenance and repair activities on the Mobile Fueling Station through expiration of the Contract’s term, including the optional extensions if exercised by the City. The Contractor will provide written manufacturer specification and guidance to PTD on minimum tank levels that must be maintained. The O&M services shall commence upon installation of the Mobile Fueling Station and continue to the end of the contract term. Contractor shall describe in detail their service plan, including response times, to minimize the downtime of the station related to both scheduled and unscheduled maintenance and repairs.

3.2.31.1 Maintenance shall adhere to the following maximum performance and response times:

- Not to exceed a 2-hour performance time for preventative or routine maintenance.
- Not to exceed a 2-hour response time to initial service call for repair maintenance.
- Not to exceed a 24-hour response time for completion of repairs.

3.2.31.2 If the Contractor is unable to return the Mobile Fueling Station back to its operational state within 24 hours, the Contractor shall provide a temporary, on-site fueling solution at no additional cost to PTD. Before a temporary, on-site fueling solution is fully brought into working condition and available to PTD for fueling its buses, the Contractor must provide its design/specifications that detail the capabilities and evidence the functionality of the temporary, on-site fueling solution as a workable interim solution, subject to review and written approval by the City.

- Temporary solution to be provided in no more than two days after the Contractor notifies the City that the Mobile Fueling Station cannot be returned to operation.
- Liquid or Gaseous storage tank is allowable.

3.2.32 Contractor must perform the below listed tasks:

3.2.32.1 Notice to Proceed – Upon execution of the Agreement, PTD will issue a Notice to Proceed (NTP) to the Contractor.

3.2.32.2 Kick-off Meeting – The Contractor, with the City, will coordinate and attend a kick-off meeting regarding the Mobile Fueling Station. This meeting will be held to review the project scope, schedule, price, roles, and responsibilities. The Contractor will propose an approach to the fueling solution, and the City will approve it prior to the Contractor commencing with the preliminary design.

3.2.32.3 Complete Site/Station Design – The Contractor must complete a site survey to confirm PTD's preferred location for the Mobile Fueling Station and identify additional site work necessary one week after PTD issues the Notice to Proceed (NTP). The contractor will finalize and prepare equipment schematics and a site layout. This process will go through two phases of review: preliminary and final design. For the preliminary review, the Contractor will deliver a site concept to PTD for review and written approval, which includes initial layouts, drawings, spacing estimates, equipment requirements, proposed fencing if required by code, a cover page with a compliance table including consideration for regulatory setbacks, a vehicle and trailer circulation drawing if required by code and other necessary documentation. Following receipt of PTD approval of the site concept, the Contractor will prepare and submit for the City final approval detailed site designs, layouts, and equipment requirements and any applicable and required reports, studies and installation schedules. Design documents should be at 100% and ready for PTD approval and to submit to fire, building or planning department no later after seven weeks after site survey is completed.

3.2.32.4 Procure Equipment – The Contractor will execute orders for subcomponents and materials, build equipment, and make delivery to PTD for installation.

3.2.32.5 Secure Permits - The Contractor will apply for and maintain any and all required permits to begin station installation, maintenance, and operations. At a minimum this must include the local Authorities having Jurisdiction (AHJ), but must also include any and all applicable jurisdictions such as the local Air Quality Management District if required by code. The cost for the Mobile Fueling Station, whether lease or purchase, is inclusive of all permit costs.

3.2.32.6 Install & Commission Equipment – The Contractor will complete site preparation and equipment installation. All fueling equipment will be installed and brought into working condition. Equipment operation and station calibration will be tested and adjusted using the first of the buses to arrive. Prior to commencement of any bus fueling, Contractor must have conducted purity tests to ensure the fuel dispensed meets SAE J2719 purity standards. Contractor will secure permission to operate from local authorities, and shall contact the local life-safety authority prior to the introduction of any hazardous materials (including H2).

3.2.32.7 Staff Training – The Contractor will be responsible for organizing and coordinating training sessions with PTD, designated contract staff and local first responders to ensure that all stakeholders are fully trained on all safety systems and the safe and successful operation of the station. Staff and first responders should be trained prior to the Contractor giving PTD permission to fuel from the station.

3.2.32.8 Back-to-Back Performance Test - The Contractor will conduct a performance test with the assistance of PTD following the delivery of 12 buses. The test will fill 12 buses back-to-back with an average fill of 25 kg/bus in an 8 hour period. The targeted state of fill (SOF) will be greater than 95%, with 100% being considered 350 bar of pressure at 60 degrees Fahrenheit within the bus's H2 pressure vessels.

3.2.32.9 Preventative and Corrective Maintenance – The Contractor will perform all O&M services required to maintain maximum station and fleet uptime.

3.3 HYDROGEN MOLECULE DELIVERY REQUIREMENT for GROUP 2

3.3.1 Hydrogen Delivery – By April 2025, PTD anticipates receiving their pilot FCEB, with the remaining 11 buses scheduled for delivery throughout the summer of 2025. The Contractor shall quote a delivered price for liquid hydrogen (in units of \$/kg) for a three-year delivery period, plus two optional one-year extensions, with deliveries to begin partway into the first year promptly after the Group 1 Contractor fully brings into working condition a Mobile Fueling Station—or an Interim Mobile Fueler requiring liquid hydrogen, if provisionally provided until the Mobile Fueling Station is brought into working condition—for which the commencement of such deliveries must receive an NTP from the City. The Contractor shall be responsible for establishing hydrogen delivery provisions to meet the usage demands for the duration of the hydrogen delivery contract. When the liquid hydrogen falls below 20% of the total hydrogen tank storage capacity, a delivery must be scheduled. PTD shall have the option to alter the delivery schedule in the event the hydrogen usage demand intermittently changes. The Contractor and PTD may mutually agree to additional scheduling and delivery requirements by contract amendment.

3.3.2 Gaseous Delivery – The Contractor shall provide a quotation for gaseous hydrogen, with deliveries to begin promptly after: the Group 1 Contractor fully brings into working condition an Interim Mobile Fueler requiring gaseous hydrogen, if provisionally provided until the Mobile Fueling Station is brought into working condition, for which the commencement of such deliveries must receive an NTP from the City; and/or the Group 1 Contractor fully brings into working condition a temporary, on-site fueling solution requiring gaseous hydrogen, if provisionally provided in the event that the Mobile Fueling Station is not operational for a period of more than 24 hours, for which the commencement of such deliveries must receive an NTP from the City.

3.3.3 Uninterruptable Supply - The Contractor shall provide an uninterruptable delivery supply of fuel. In the event the hydrogen fuel supply chain is interrupted, the Contractor shall provide a supplemental supply of fuel from a different facility at no additional cost to PTD.

3.3.4 Hydrogen Purity - The Contractor shall provide, to PTD, a third-party certificate of authenticity for liquid hydrogen deliveries upon request by the City. The purity test will check for particulates, carbon monoxide (CO), and hydration levels, as well as other contaminants. Purity levels must comply with SAE J2719 requirements.

3.3.5 Fuel Supply/Fuel Quality - Contractor shall comply with SAE J2719 fuel quality standards. In order to ensure that the fuel meets quality standards, the Contractor will be required to conduct fuel purity tests during the commissioning phase of the project and prior to the first fill of the first PTD bus. The purity test will check for particulates, CO, and hydration levels, as well as other contaminants. Additional tests are required following any

repairs that have the potential of introducing contaminants to the closed system. The Contractor shall describe their approach to ensuring continued fuel quality to meet the SAE J2719 standard during the operation of the station in their Proposal. Contractor will provide all test results to the City to confirm purity and/or communicate any abnormalities or discrepancies.

4. Evaluation Process

Group 1 (Mobile Fueling Station) - Evaluation Criteria

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	<p>Method of Approach</p> <p>Sub-Criteria #1 - Describe Offeror's understanding of the Scope of Work by summarizing the overall approach to delivering the products and services required for the mobile fueling station.</p> <p>Sub-Criteria #2 – Expand on your method of approach to carrying out the Scope of Work, providing specific, clear details for the products/services and any innovative strategies or elements that could significantly enhance the approach. Include contingency plans for temporary, on-site fueling solutions in the event that Offeror is unable to complete operational repairs for the fueling station within 24 hours.</p> <p>Sub-Criteria #3 - Provide a Gantt-style chart that indicates beginning and ending dates, durations, and dependencies for each product/service described in the Scope of Work.</p>	Points Based	400 <i>(40% of Total)</i>
2.	<p>Qualifications and Experience</p> <p>Sub-Criteria #1 – Detail Offeror's qualifications and experience in providing fueling stations and mobile fueling stations.</p> <p>Sub Criteria #2 – Describe Offeror's technical strength and stability as a company.</p> <p>Sub-Criteria #3 - Describe the availability and proximity of resources to be allocated to this contract to meet the Scope of Work requirements. Address resources currently committed to other projects that the Offeror may be conducting in conjunction with this Scope of Work and whether this would impact the Offeror's ability to provide the products/services for the mobile fueling station.</p>	Points Based	300 <i>(30% of Total)</i>
3.	Price	Points Based	300 <i>(30% of Total)</i>

Group 2 (Hydrogen Fuel) - Evaluation Criteria

No.	Evaluation Criteria	Scoring Method	Weight (Points)
1.	<p>Method of Approach</p> <p>Sub-Criteria #1 – Describe Offeror’s understanding of the Scope of Work by summarizing the overall approach to providing and delivering hydrogen fuel.</p> <p>Sub-Criteria #2 – Expand on your method of approach to carrying out the Scope of Work, providing specific, clear details for the products/services and any innovative strategies or elements that could significantly enhance the approach. Include Offeror’s detailed emergency contingency plan for potential fuel shortages and other possible supply chain disruptions that may impact the supply of hydrogen fuel and deliveries to the City.</p> <p>Sub-Criteria #3 – Detail Offeror’s capabilities for maintaining inventory controls to meet delivery requirements. Describe Offeror’s logistic transportation abilities to provide the products/services.</p>	Points Based	400 <i>(40% of Total)</i>
2.	<p>Qualifications and Experience</p> <p>Sub-Criteria #1 – Detail Offeror’s qualifications and experience in providing hydrogen fuel products and services.</p> <p>Sub Criteria #2 – Describe Offeror’s technical strength and stability as a company.</p> <p>Sub-Criteria #3 - Describe the availability and proximity of resources to be allocated to this contract to meet the Scope of Work requirements. Address resources currently committed to other projects that the Offeror may be conducting in conjunction with this Scope of Work and whether this would impact the Offeror’s ability to provide the hydrogen fuel products/services.</p>	Points Based	300 <i>(30% of Total)</i>
3.	Price	Points Based	300 <i>(30% of Total)</i>

5. Standard Terms and Conditions

5.1. Definition of Key Words Used in the Solicitation

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

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

"A.R.S."	Means the Arizona Revised Statute
"Buyer" or "Procurement Officer"	Means the City of Phoenix staff person responsible for the solicitation. The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and responsible for monitoring and overseeing the Contractor's performance under this contract.
"City"	Means the City of Phoenix
"Contractor"	Means the individual, partnership, or corporation who, as a result of the competitive process, is awarded a contract by the City of Phoenix.
"Contract" or "Agreement"	Means the legal agreement executed between the City of Phoenix, AZ and the Contractor.
"Days"	Means calendar days unless otherwise specified.
"Department Director"	Means the contracting authority for the City of Phoenix, AZ, authorized to sign contracts and amendments thereto on behalf of the City of Phoenix, AZ.
"Employer"	Means any individual or type of organization that transacts business in this state, that has a license issued by an agency in this state and employs one or more employees in this state. Employer includes this state, any political subdivision of this state and self-employed persons. In the case of an independent contractor, employer means the independent contractor and does not mean the person or organization that uses contract labor. (A.R.S. 23-211).
"Offer"	Means a response from a Supplier, Contractor, or Service Provider to a solicitation request that, if awarded, binds the

	Supplier, Contractor, or Service Provider to perform in accordance with the contract. Same as bid, proposal, quotation or tender.
“Offeror”	Means any Vendor, Seller or Supplier submitting a competitive offer in response to a solicitation from the City. Same as Bidder or Proposer.
“Solicitation”	Means an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Quotations (RFQ), Request for Qualifications (RFQu) and request for sealed Offers, or any other type of formal procurement which the City makes public through advertising, mailings, or some other method of communication. It is the process by which the City seeks information, proposals, Offers, or quotes from suppliers.
“Suppliers”	Means firms, entities or individuals furnishing goods or services to the City.
“Vendor or Seller”	Means a seller of goods or services.

5.2. Contract Interpretation

- A. **Applicable Law:** This Contract will be governed by the law of the State of Arizona, and suits pertaining to this Contract will be brought only in Federal or State courts in Maricopa County, State of Arizona.
- B. **Contract Order of Precedence:** In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:
 - 1. Federal terms and conditions, if any
 - 2. Special terms and conditions
 - 3. Standard terms and conditions
 - 4. Amendments
 - 5. Statement or scope of work
 - 6. Specifications
 - 7. Attachments
 - 8. Exhibits
 - 9. Instructions to Contractors
 - 10. Other documents referenced or included in the Solicitation
- C. **Organization – Employment Disclaimer:** The Agreement resulting hereunder is not intended to constitute, create, give rise to or otherwise recognize a joint venture

agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and will save and hold the City harmless with respect thereto.

- D. **Severability:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.
- E. **Non-Waiver of Liability:** The City of Phoenix as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable Arizona law.
- F. **Parol Evidence:** This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

5.3. Contract Administration and Operation

- A. **Records:** All books, accounts, reports, files and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Phoenix office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements Contractor has in place.
- B. **Discrimination Prohibited:** Contractor agrees to abide by the provisions of the Phoenix City Code Chapter 18, Article V as amended. Any Contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The supplier and/or lessee will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who

perform jobs that require substantially equal skill, effort and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-contractor agreements or subleases of this agreement entered into by supplier/lessee.

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

1. **For a Contractor with 35 employees or fewer:** Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts, Contractor agreements or subleases of this agreement entered into by supplier/lessee.

2. **For a Contractor with more than 35 employees:** Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including

- apprenticeship. The Contractor further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements or subleases of this Agreement entered into by supplier/lessee. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.
3. **Documentation:** Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.
 4. **Monitoring:** The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.
- D. **Legal Worker Requirements:** The City of Phoenix is prohibited by A.R.S. § 41-4401 from awarding a contract to any Contractor who fails, or whose subcontractors fail, to comply with A.R.S. § 23-214(A). Therefore, Contractor agrees that:
1. Contractor and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with A.R.S. § 23-214, subsection A.
 2. A breach of a warranty under paragraph 1 will be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
 3. The City of Phoenix retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on the contract to ensure that the Contractor or subcontractor is complying with the warranty under paragraph 1.
- E. **Health, Environmental, and Safety Requirements:** The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City. At the request of City representatives, the Contractor will provide the City:
1. Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.

2. A list of all federal, state, or local (EPA, OSHA, Maricopa County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.
 3. The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).
- F. **Compliance with Laws:** Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance. Because the contractor will be acting as an independent contractor, the City assumes no responsibility for the Contractor's acts.
- G. **Lawful Presence Requirement:** Pursuant to A.R.S. §§ 1-501 and -502, the City of Phoenix is prohibited from awarding a contract to any natural person who cannot establish that he or she is lawfully present in the United States. In order to establish lawful presence, this person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of contract award. In the event the prevailing responder is unable to satisfy this requirement, the City will offer the award to the next-highest scoring responder. The law does not apply to fictitious entities such as corporations, partnerships and limited liability companies.
- H. **Continuation During Disputes:** Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an Arizona Court of competent jurisdiction.
- I. **Emergency Purchases:** The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.
- #### 5.4. Costs and Payments
- A. **General:** Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith

dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Offer.

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

5.5. Contract Changes

- A. **Contract Amendments:** Contracts will be modified only by a written contract amendment signed by persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation

shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

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

5.6. Risk of Loss and Liability

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

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

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

5.7. City's Contractual Rights

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

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

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

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

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

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

5.8. Contract Termination

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

issue a written notice of default to Contractor for acting or failing to act as in any of the following:

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

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

5.9. Notice

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 City: ptdprocurement@phoenix.gov

5.10. 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.

5.11. State and Local Transaction Privilege Taxes

In accordance with applicable state and local law, transaction privilege taxes may be applicable to this transaction. The state and local transaction privilege (sales) tax burden and legal liability to remit taxes are on the Contractor that is conducting business in Arizona and the City of Phoenix. Any failure by the Contractor to collect applicable taxes from the City will not relieve the Contractor from its obligation to remit taxes. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax

professional prior to submitting your Offer. You may also find information at <https://www.phoenix.gov/finance/plt> or <https://www.azdor.gov/Business>. Once your Offer is submitted, the Offer is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

5.12. Tax Indemnification

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

5.13. Tax Responsibility Qualification

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

5.14. No Israel Boycott

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

5.15. No Forced Labor of Ethnic Uyghurs

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

labor of ethnic Uyghurs in the People's Republic of China; (b) the use of any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or (c) the use of any contractors, subcontractors, or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

5.16. Advertising

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

5.17. Strict Performance

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

5.18. Authorized Changes

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

5.19. Claims or Demands Against the City

- A. Contractor acknowledges and accepts the provisions of Chapter 18, Section 14 of the Charter of the City of Phoenix, pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in Chapter 18, Section 14 of the Charter of the City of Phoenix alters, amends or modifies the supplemental and complementary requirements of the State of Arizona Notice of Claim statutes, Arizona Revised Statutes §§ 12-821 and 12-821.01, pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.
- B. Moreover, nothing in this Agreement will constitute a dispute resolution process, an administrative claims process, or contractual term as used in Arizona Revised Statutes § 12-821.01I, sufficient to affect the date on which the cause of action accrues within Arizona Revised Statutes § 12-821.01(A) and (B).

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

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

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

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

6. Special Terms and Conditions

6.1. Term of Contract

The term of this Contract will commence in or about January 2025, and will continue for a period of **three (3) years, with two one-year options** to extend the term, which may be exercised by the sole discretion of the City.

6.2. Free on Board (FOB)

Prices quoted shall be FOB destination and delivered, as required, to the following site: West Operating Facility, 405 N. 79th Ave, Phoenix, AZ 85043

6.3. Price

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

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

If rebates/credits become available for hydrogen fuel during the term of this contract, then Contractor shall work in good faith with the City to apply for and receive such rebates/credits and timely negotiate with the City how applicable rebates/credits will be applied toward the fuel pricing, which will be reflected by amendment to the Contract.

6.4. Method of Ordering

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

6.5. Method of Invoicing

Invoice must be emailed in .pdf format to invoices@phoenix.gov and must include the following:

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

- Invoice number and date
- Delivery address
- Payment terms
- FOB terms
- Remit to address

6.6. Method of Payment

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

6.7. Partial Payments

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

6.8. Supplier Profile Changes

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

6.9. Estimated Quantities or Dollar Amounts

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

6.10. Authorized Changes

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

6.11. Suspensions of Work

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

6.12. Hours of Work

All work under this contract shall be coordinated with the City's authorized Department representative. Any changes to the established schedule must have prior written approval by the City's authorized Department representative.

6.13. Post Award Conference

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

6.14. Performance Interference

Contractor shall notify the City's authorized Department representative immediately of any occurrence and/or condition that interferes with the full performance of the contract and confirm it in writing within 24 hours.

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(602) 262-7144

6.15. Advertising

Contractor will not advertise or publish news releases concerning this contract without the prior written consent of the Public Transit Director, and the City will not unreasonably withhold permission.

6.16. Exclusive Possession

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

6.17. Strict Performance

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

6.18. Licenses and Permits

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

6.19. Delivery

All deliveries shall be made to the following site: West Operating Facility, 405 N. 79th Ave, Phoenix, AZ 85043, 8:30 PM to 4:30 AM local time, Monday through Sunday, excluding City holidays. City holiday calendar: <https://www.phoenix.gov/calendar/holidays>

6.20. Delivery / Service Ticket

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

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

6.21. Miscellaneous Fees

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

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

6.22. Cleaning

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

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

6.23. Equipment Installation

All equipment shall be completely assembled and installed by the Contractor and ready for use on the City’s property at 405 North 79th Ave, Phoenix, AZ 85043.

6.24. Evaluation Literature

Offers submitted for products considered by the Contractor to be equal or better than the products specified herein must be submitted with technical literature and/or product brochures for the City’s use to evaluate the offered products. Complete specifications, literature, illustrations, blueprints, photos etc. describing the offered product shall be included with the Offer. Contractor shall indicate any variation between the product offered and the literature submitted.

6.25. Industry Standards

It is intended that the manufacturer in the selection of components will use material and design practices that are the best available in the industry for the type of operating conditions to which the item will be subjected. Component parts shall be selected to give maximum performance, service life and safety and not merely meet the minimum requirements of this specification. All parts, equipment and accessories shall conform in strength, quality of material and workmanship to recognized industry standards.

The term “heavy duty” if used in these specifications shall mean that the item to which the term is applied shall exceed the usual quantity, quality, or capacity supplied with standard production items and it shall be able to withstand unusual straining, exposure, temperature, wear and use.

The City reserves the right to waive minor variations if, in the opinion of the City’s authorized Department representative, the basic unit meets the general intent of these specifications.

The product offered shall not include a major component that is of a prototype nature or has not been in production for a sufficient length of time to demonstrate reliability.

If the specifications stated herein for component items do not comply with legal requirements, the Contractor shall so notify the City prior to the offer opening due date.

6.26. Inspection and Acceptance

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

6.27. Pre-Delivery Inspection

Onsite inspection of the first unit may be required before delivery. The City reserves the right to inspect the first unit at the factory. This pre-delivery inspection does not constitute final acceptance of the product.

6.28. Repair and Replacement Parts Guarantee

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

6.29. Replacement Parts Availability

A response to this solicitation shall constitute a guarantee by the Contractor that a stock of replacement parts for the specified equipment is locally available. Captive parts must be available within 48 hours following the placement of an order. Contractor shall provide parts delivery, to

include deliveries on Saturday. If special handling and/or freight are required, the Contractor will assume all charges.

6.30. Substitution of Specified Items

Whenever in the specifications any item or process is requested or identified by manufacturer name, proprietary name, or patent such specifications shall be used to facilitate descriptions of the item or process and shall be followed by the words “or equal”. The Contractor may offer any item or process that is equal in every respect. However, if the item or process delivered is not, in the opinion of the City of Phoenix, equal in every respect to the specifications, then the Contractor must furnish the item or material that is equal, in the opinion of the City.

6.31. Communication in English

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

6.32. Contractor Assignments

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

6.33. Final Inspection and Approval

The Contractor will request the City’s authorized Department representative to conduct a site inspection after the project is complete. City’s authorized Department representative will prepare a “punch-list” during the inspection and will forward a copy to the Contractor.

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

6.34. Pre-Construction Conference

A pre-construction conference will be held by the City’s authorized Department representative prior to commencement of any work on the project. The purpose of this conference is to discuss critical elements of the work schedule and operational problems and procedures.

6.35. Specifications

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

6.36. Types of Work Supervision

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

6.37. Background Screening

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

6.38. Background Screening Risk Level

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

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

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

6.40. Materiality of Background Screening Requirements; Indemnity

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

6.41. Continuing Duty; Audit

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

6.42. Variances and Exemptions

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

- Federal Homeland Defense Bureau.
- Transportation Security Administration.
- Federal Aviation Administration.

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

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

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

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

6.44. Employee Identification and Access

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

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

Unless otherwise provided for in the scope of work:

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

6.45. Key Access Procedures

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

6.46. Stolen or Lost Badges or Keys

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

6.47. Return of Badge or Key

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

6.48. Badge and Key Fees

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

Initial Badge Fee: \$55.00 per application

Replacement Badge Fee: \$55.00 per badge

Lost/Stolen Badge Fee: \$55.00 per badge

Replacement Key Fee: \$55.00 per key

Replacement Locks: \$55.00 per lock

6.49. Background Screening – Maximum Risk

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

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

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

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

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

- O. The background checks will be conducted prior to any employee entering to work and will be based upon information provided to the Police Department including, but not limited to: name, address, date and place of birth, social security number, INS number if applicable, and a copy of a valid photo identification. The information will be provided to the City's authorized Department representative at least five business days (excluding weekends and holidays) in advance of the need for access. The form will be provided by the City's authorized Department representative. The City's authorized Department representative will conduct the security check.
- P. The City may, at any time, in its sole discretion, refuse to allow an employee access to an area for any of the following reasons, but not limited to:
1. Conviction of a felony.
 2. Conviction of a misdemeanor (not including traffic or parking violation).
 3. Any outstanding warrants (including traffic and parking violations).
 4. A person currently on parole or probation.
 5. A person currently involved in an investigation.

6.51. Hazardous Materials Requirement SDS

Contractor shall provide a copy of the current Safety Data Sheet (SDS) for the product(s) offered. The SDS must include all chemical compounds present in concentrations greater than 0.1% for each product offered by CAS number; no "trade secret" or otherwise defined ingredients shall be accepted by the City. The Contractor shall provide required safety and health training for City employees on each product offered and for proper use, storage, and disposal, when requested by the City. The Contractor further agrees to accept returned empty containers for disposal purposes, if and when requested by the City. The cost for any requested training and disposal of used containers shall be included in the offered price for the product. The Contractor shall also accept returned product that was purchased as a result of this solicitation and for which the City no longer needs the product. Returned product will be in its original container(s), unopened, and must be returned to the Contractor at least 45 calendar days after the end of the project. All products must be labeled per 29CFR 1910.1200.

6.52. OSHA Laws and Regulations

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

- Provide a description of equipment on site available to contain and/or respond to an emergency/spill of the material.
- Notification procedures.
- Response coordination procedures between Contractor and the City.

- Provide a Site Plan showing the location of stored hazardous materials and location of spill containment/response equipment.
- Provide a description of the training provided to the Contractor employees.

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

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

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

- Safety Data Sheets – Contractor shall furnish to the City's Department copies of Safety Data Sheets (SDS), or all products used, prior to beginning service in any facility. Contractor must update copies of the SDS on an annual basis. In addition, each time a new chemical or cleaning product is introduced into any facility, a copy of that product's SDS must be provided prior to the product being used in any facility. The Safety Data Sheets must be in compliance with OSHA Regulation 1910.1200, paragraph g.
- Labeling of Hazardous Materials – Contractor shall comply with the OSHA Regulation 1910.1200 paragraph f, concerning the labeling of all chemical containers
- Caution Signs – Contractor shall use caution signs as required by OSHA Regulation 1910.144 and 1910.145 at no cost to the City. Caution signs must be on-site during each scheduled cleaning.
- Blood Borne Pathogens – Contractor shall comply with OSHA Standard 29CFR 1910.1030 Blood Borne Pathogens as it pertains to the training, safety, and equipment needed for all employees engaged in contracted service. Contractor shall be responsible for compliance on date of contract acceptance and shall provide proof to the City's Department.

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

SDS Notebooks: Contractor shall maintain on the site a notebook containing current (dated

within the past three years or verified as most current by manufacturer) SDS for all materials being used on site, whether or not they are defined as a Hazardous Material. The notebook shall be kept in the Contractor's on-site storage area. The notebook must be kept up-to-date as materials are brought onto and removed from the site. A complete copy of the SDS notebook shall also be provided to the City. Contractor shall provide a copy of the SDS for new products, subject to review and written approval by the City.

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

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

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

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

6.53. Additional Replacement and Repair Parts

All replacement/repair parts and labor shall be guaranteed for a minimum of one year. The Contractor shall maintain a sufficient supply of maintenance and repair parts to maintain only those vehicles listed in this contract. Any repetitive repair for the same problem within one year will be at no cost to the City. Following the expiration of any express or implied warranty applicable to those items, goods or equipment furnished to the City under this contract, Contractor agrees to supply the City (as well as its agents, representatives, contractors and hires) with in-stock repair and replacement parts carrying a full manufacturer's warranty at a cost that shall not exceed the cost it would charge if it were contracted to service or install those repair and replacement parts. The Contractor will guarantee that stock of replacement parts specified in this agreement is available locally. Captive parts must be available within 48 hours following the placement of order. If special handling and/or freight are required, the Contractor will assume all charges unless pre-approved by the City. Failure to supply parts within seven calendar days from order date may be cause for cancellation of agreement.

A list of recommended captive parts that the City should maintain in its inventory shall be provided by the Contractor. This list should include wearable items (example: wiper blades, brakes) and all

necessary parts used for preventive maintenance (example: oil, and filters). Parts should be listed by their part numbers and description.

Each repair will be invoiced separately, with all parts and labor on the same invoice within 24 hours of final quality assurance inspection. Invoice must include the authorization number (PO), location, and date of service, in addition to all parts and labor, and a summary of problems found and repairs performed.

6.54. Administration Policy for Warranty Policy

The City will provide the appropriate documentation to the Contractor for warranty processing including work orders and original invoice copies. If there are any additional requirements or documents the Contractor requires they will be supplied to the City after award of the Offer. The documentation will be delivered along with the warranty part(s) to the Contractor for processing. The Contractor has a period of 90 days from the date of submittal to determine the outcome of the claim and to reimburse the City.

6.55. Options, Upgrades, and Accessories

As part of any response hereto, Contractor is expected to supply an Electronic price list, provided via website or jump drive --complete listing of vehicle and/or related equipment, model upgrades, model downgrades, options, replacement parts, services, and accessories with offer. The listing may be provided or in such clearly indicated for ease of evaluation and clarity. Failure to submit those required items may result in offer being considered non-compliant. Additional non-manufacturer accessories, options or upgrades may be purchased anytime and must be priced at the documented dealer's cost with no additional profit.

Rebates, specials, core charges, returns or discounts are to be applied when they are directly attributable to the delivery and/or service of the vehicle. The City reserves the right to audit applicable records to ensure proper administration. Contractor must guarantee an established, reliable, responsive supply chain for the procurement of both major and minor items, components for all items installed, maintained and repaired. A repeated failure to obtain major and minor items and components in the timely manner required completing acquisition; maintenance and repairs to the City's satisfaction would be sufficient cause to terminate any contract. Any options, upgrades or accessories not listed must be approved in advance with actual documented costs to Finance. The Department Director or designee will be the sole judge in determining the allowable options, upgrades and accessories.

7. Defense and Indemnification

7.1. Standard General Defense and Indemnification

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

7.2. Environmental Services or Operations

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Phoenix and its officers, officials (elected or appointed), agents, and employees (“Indemnitee”) from and against any and all demands, claims, complaints, losses, damages, actions or causes of action, assessments, liabilities, costs or expenses including, without limitation, interest, penalties and reasonable attorney fees, expert fees, and reasonable expenses of investigation and remedial work (including but not limited to investigations and remediation by engineers, environmental consultants and similar technical personnel) asserted against or imposed upon or incurred by Indemnitee arising in connection with, or resulting from, any Environmental Law, including but not limited to, any use, generation, storage, spill, release, discharge or disposal of any Hazardous Substance that is now or comes to be located on, at, about or under the property or because of, or in connection with, the violation of any Environmental Law (hereinafter collectively referred to as “Losses”) to the extent that such Losses are caused by the fault of Indemnitor, its officers, officials, members, managers, agents, employees, contractors, volunteers, tenants, subtenants, invitees or licensees. Indemnitor’s duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. As used in this section: (a) “Hazardous Substances” are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, or other petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) “Environmental Law” means federal,

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

8. Insurance Requirements

8.1. Contractor's Insurance

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

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

8.2. Scope and Limits of Insurance

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

8.3. Commercial General Liability – Occurrence Form

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

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

8.4. Automobile Liability

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

Combined Single Limit (CSL)	\$1,000,000
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- The policy must be endorsed to include the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Phoenix is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor's insurance coverage must be primary and non-contributory with respect to any insurance or self-insurance carried by the City.

8.5. Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability:

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

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

8.6. Contractor's Pollution Liability

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

Per Occurrence	\$5,000,000
General Aggregate	\$5,000,000

- The policy should be written on an "occurrence" basis with no sunset clause.
- The policy must name the City of Phoenix as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor.
- The policy must provide coverage for pollution conditions that arise from the operations of the contractor described under the Scope of Services of the contract. The policy should include the following coverages:
 - Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death and medical monitoring costs.
 - Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, cleanup costs, and the loss if use of tangible property that has not been physically injured or destroyed including diminution in value.

- Environmental damage including physical damage to soil, surface water or groundwater, or plant or animal life, caused by pollution conditions and giving rise to clean-up costs.
- Defense including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensation damages
- Asbestos or lead – no exclusion
- Mold and legionella coverage
- Transportation of cargo
- Non-Owned Disposal Site coverage
- Definition of pollution conditions shall include sediments
- If the scope of work involves treatment, storage or disposal of hazardous wastes from the job site, Contractor must furnish an insurance certificate from the designated disposal facility establishing that the facility operator maintains current Pollution Legal Liability Insurance in the amount of not less than \$1,000,000 per occurrence/\$2,000,000 annual aggregate and will cover sudden and gradual pollution losses arising from the facility, associated with work performed under this agreement.

8.7. Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Phoenix Public Transit Department, Procurement Division, 302 N. 1st Ave, 8th Floor, Phoenix, AZ 85003.

8.8. Acceptability of Insurers

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

8.9. Verification of Coverage

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

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

All certificates required by this Contract must be sent directly to City of Phoenix - Public Transit Department, Procurement Div, 302 N. 1st Ave, 8th Floor, 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 review complete copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE CITY'S RISK MANAGEMENT DIVISION.**

8.10. Subcontractors

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

8.11. Approval

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

9. Submittals

9.1. Copies

Please submit one printed original of the Offer (whether for Group 1 – Mobile Fueling Station, Group 2 – Hydrogen Fuel, or both Groups), including Cover Sheet, Technical Proposal, Price Proposal, and Required Submittal Forms, for the Procurement Officer's review. Please also submit one electronic copy (on a portable drive or CD) of the same for the Procurement Officer. Please do not lock the electronic copy with password protection so that the CITY may digitally incorporate the successful offer into the awarded contract.

Further, please submit **four** hard copies of the Offer (whether for Group 1, Group 2, or both Groups), **but excluding the Price Proposal and Required Submittal Forms**, for the evaluation panel's review. Please also submit **one** electronic copies (on **one** portable drive) of the same for the evaluation panel.

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

9.2. Technical and Price Proposal

When submitting in a sealed envelope, the Offeror shall provide the following:

- One original Technical and Price Proposal, whether for Group 1, Group 2, or both Groups (NOTE): The Offeror's Price Proposal must be submitted in a separate sealed envelope within the offer package. This envelope must be clearly marked "Price Proposal");
- One separate flash drive containing an electronic copy (searchable in PDF format) of the Technical Proposal; and
- One separate flash drive containing an electronic copy (searchable in PDF format) of the Price Proposal.

9.3. Solicitation Response Check List

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

The written offer should be

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

- A. Offeror's Proposal - A detailed proposal describing the firm or individual's qualifications and experience responsive to the requirements of the solicitation and evaluation criteria.
- B. Pricing Proposal - A completed pricing proposal with all requested prices, quantities, and/or discounts completed.
- C. Submittal Forms - All submittal forms are completed and signed.
- D. Addenda - Signed copies of all published addenda.

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