Innovation District Consulting Services
Request for Proposals (RFP)
RFP-CED16-ID

Schedule

<table>
<thead>
<tr>
<th>ACTIVITY (All times are local Phoenix time)</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue RFP</td>
<td>August 22, 2016</td>
</tr>
<tr>
<td>Pre-Proposal Meeting at 11:00 a.m.</td>
<td>August 26, 2016</td>
</tr>
<tr>
<td>Submittal of Written Questions by 11:00 a.m.</td>
<td>August 30, 2016</td>
</tr>
<tr>
<td>Responses to Written Questions</td>
<td>September 1, 2016</td>
</tr>
<tr>
<td>Proposal Submittal by 11:00 a.m.</td>
<td>September 8, 2016</td>
</tr>
<tr>
<td>Short Listing and Proposer Interviews, if applicable</td>
<td>September</td>
</tr>
<tr>
<td>Award Recommendation to Phoenix City Council</td>
<td>October 19, 2016</td>
</tr>
</tbody>
</table>

Submit proposals and requests for alternate formats to:

Gretchen Wolfe, Procurement Officer
City of Phoenix Community and Economic Development Department
200 West Washington Street, 20th Floor
Phoenix, Arizona 85003-1611
Telephone: 602-495-0856 (7-1-1 Friendly)
procurement.request.ced@phoenix.gov
phoenix.gov/solicitations/747

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

<table>
<thead>
<tr>
<th>SECTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. RFP PROCESS</td>
<td></td>
</tr>
<tr>
<td>A. Introduction</td>
<td>3</td>
</tr>
<tr>
<td>B. Minimum Qualifications</td>
<td>3</td>
</tr>
<tr>
<td>C. Agreement Term and Contractual Relationship</td>
<td>3</td>
</tr>
<tr>
<td>D. Pre-Proposal Meeting</td>
<td>3</td>
</tr>
<tr>
<td>E. Proposer Questions and Notification</td>
<td>3</td>
</tr>
<tr>
<td>F. Changes to the RFP</td>
<td>3</td>
</tr>
<tr>
<td>II. SCOPE OF WORK</td>
<td></td>
</tr>
<tr>
<td>A. Background</td>
<td>4</td>
</tr>
<tr>
<td>B. Consulting Services</td>
<td>4</td>
</tr>
<tr>
<td>III. PROPOSAL INSTRUCTIONS</td>
<td></td>
</tr>
<tr>
<td>A. Delivery of Proposals</td>
<td>5</td>
</tr>
<tr>
<td>B. Form of Proposals</td>
<td>5</td>
</tr>
<tr>
<td>IV. PROPOSAL EVALUATION</td>
<td></td>
</tr>
<tr>
<td>A. Evaluation Panel</td>
<td>6</td>
</tr>
<tr>
<td>B. Evaluation Criteria</td>
<td>6</td>
</tr>
<tr>
<td>V. GENERAL TERMS AND CONDITIONS OF THE PROPOSAL</td>
<td></td>
</tr>
<tr>
<td>A. Transparency Policy</td>
<td>7</td>
</tr>
<tr>
<td>B. Materials Submitted</td>
<td>8</td>
</tr>
<tr>
<td>C. Equal Employment Opportunity Requirements</td>
<td>8</td>
</tr>
<tr>
<td>D. Award Recommendations</td>
<td>8</td>
</tr>
<tr>
<td>E. City’s Reservation of Rights</td>
<td>8</td>
</tr>
<tr>
<td>F. City’s Right to Disqualify for Conflict of Interest</td>
<td>9</td>
</tr>
<tr>
<td>G. Preparation Costs</td>
<td>9</td>
</tr>
<tr>
<td>H. City’s Sole Determination of Responsiveness and Responsibleness and City’s Right to Investigate</td>
<td>9</td>
</tr>
<tr>
<td>I. Proposer Certification and Affidavit</td>
<td>10</td>
</tr>
<tr>
<td>J. Covenant Against Contingent Fees Paid to Proposer</td>
<td>10</td>
</tr>
<tr>
<td>K. No Gratuities</td>
<td>10</td>
</tr>
<tr>
<td>L. Protests</td>
<td>10</td>
</tr>
<tr>
<td>M. Execution of Agreement</td>
<td>11</td>
</tr>
<tr>
<td>VI. ATTACHMENTS</td>
<td></td>
</tr>
<tr>
<td>Attachment A Affidavit</td>
<td></td>
</tr>
<tr>
<td>Attachment B Proposed Hourly Rates</td>
<td></td>
</tr>
<tr>
<td>Attachment C Draft Agreement</td>
<td></td>
</tr>
</tbody>
</table>
I. RFP PROCESS

A. Introduction

The City of Phoenix (City) Community and Economic Development Department (CEDD) is seeking a consultant to assist the City with creating an Innovation District in which to foster entrepreneurship and support economic activity.

B. Minimum Qualifications

Each proposer’s primary consultant must have five years’ experience providing economic development consulting services to one or more Arizona municipality. Each proposer must demonstrate in its proposal that it meets the minimum qualifications or its proposal will be disqualified as non-responsive.

C. Agreement Term and Contractual Relationship

The initial agreement term will be 1 year with 4 additional one-year renewal options, to be exercised at the sole discretion of the City. Proposers are responsible for reading the draft agreement, included as Attachment C, and submitting any questions about it in accordance with the process listed in Section I (E). By submitting a proposal, each proposer agrees it will be bound by the agreement, which may be modified by the City before it is signed by the successful proposer.

D. Pre-Proposal Meeting

Proposers are strongly encouraged to attend the pre-proposal meeting at the date and time listed on page 1 in the 20th Floor East Conference Room at Phoenix City Hall, 200 W. Washington Street, Phoenix. Please register for this meeting by emailing procurement.request.ced@phoenix.gov.

E. Proposer Questions and Notification

Proposers are advised to read this RFP in its entirety. Failure to read and/or understand any portion of this RFP shall not be cause for waiver of any portion of the RFP or subsequent agreement.

All questions about this RFP must be submitted in writing no later than the deadline listed on page 1 to procurement.request.ced@phoenix.gov. All written questions will be responded to in writing and posted at phoenix.gov/solicitations/747.

F. Changes to the RFP

Changes to this RFP will be in writing as an addendum and posted at
phoenix.gov/solicitations/747. The City shall not be responsible for any oral instructions given by any City employee, consultant, or official regarding RFP instruction, specifications, or documents.

Although registered pre-proposal meeting attendees, and potential proposers who request such notification in writing, will be notified by email when documents related to this RFP are available at phoenix.gov/solicitations/747, proposers are responsible for obtaining any and all information posted on the website.

II. SCOPE OF WORK

A. Background

Phoenix is emerging as a renowned entrepreneur hub with the escalating growth of local incubators, accelerators, and coworking/maker spaces. National attention is focusing on the Phoenix region as a result of several successful startups causing various funding sources to explore the local entrepreneurial ecosystem. City leadership is committed to nurturing startup success and is looking to maximize these efforts through the creation of an Innovation District.

Innovation Districts, according to the Brookings Institute in its May 2014 study, The Rise of Innovation Districts: A New Geography of Innovation in America, are “...geographic areas where leading-edge anchor institutions and companies cluster and connect with start-ups, business incubators, and accelerators. They are also physically compact, transit accessible, and technically-wired and offer mixed-use housing, office and retail.”

B. Consulting Services

The successful proposer to this RFP will assist the City in developing a strategy for creating an Innovation District that will foster entrepreneurship and support economic activity. While each proposer must detail its proposed approach to this scope of work, the City anticipates that the successful proposer will perform the following or comparable tasks to assist in the creation of a premier Innovation District strategy that will attract creative entrepreneurs to Phoenix.

1) Facilitate monthly strategic planning sessions with a City-appointed steering committee, in compliance with Arizona Open Meeting Law;
2) Conduct research on a geographical area identified by the steering committee as the City’s Innovation District;
3) Research best practices for creating innovation districts; and
4) Develop a vision and written strategic plan for the City’s Innovation District.

Proposers should note that the City anticipates the steering committee will recommend the Innovation District’s geographical boundaries prior to the
commencement of the agreement resulting from this process, currently slated for October 2016. The City expects the Innovation District strategy consulting services will be complete within the first year of the agreement.

As mutually agreed upon by the City and the successful proposer, additional services related to the Innovation District, economic development analysis, and/or strategic planning services may be added to the successful proposer’s scope of work.

III. PROPOSAL INSTRUCTIONS

A. Delivery of Proposals

Each proposer must submit the following in a sealed package marked with the proposer’s name and the name of this RFP:

- 1 original proposal,
- 5 hard copies of the proposal, and
- 1 electronic copy of the proposal in Microsoft Word on a flash drive or CD.

Proposals must be submitted by the deadline listed on page 1 to the address listed on page 1. Proposals received after the deadline will be disqualified as non-responsive.

B. Form of Proposals

Proposals shall conform to the following format. Proposals that are incomplete; conditional; obscure; or that contain additions not requested, changes or exceptions to material provisions or requirements of this RFP; or irregularities of any kind, are subject to disqualification as non-responsive.

Proposals are limited to 10 double-sided or 20 single-sided, letter-size pages, excluding the sample report described in Item 3 below. The pages of each proposal must be numbered. Proposals should be clipped or stapled.

Each proposal must include all of the following:

1. Affidavit (Attachment A)
2. Proposed Hourly Rates (Attachment B)
3. Qualifications & Experience Statement
   a. Each proposer shall provide sufficient documentation, including resume, to demonstrate its primary consultant meets the minimum qualifications listed
in Section I (B) and is qualified to perform the scope of work described in this RFP. Each proposer shall also address each bulleted item listed under Item 1 of Section IV (B).

b. Each proposer shall provide a sample report prepared by its primary consultant while providing economic development consulting services to an Arizona municipality. Each proposer should select a sample report that best represents the primary consultant’s experience providing services similar to the scope of work described in this RFP. The sample report may be submitted in hard copy or via a webpage link included in the proposal.

4. Proposed Approach to Scope of Work

Each proposer shall provide a narrative description of how the proposer will approach the scope of work, including a timeline with milestones and proposed deliverables for each milestone. This section should specify which duties, if any, will be performed by someone other than the primary consultant.

IV. PROPOSAL EVALUATION

Proposals will be reviewed by City staff for responsiveness and documentation of minimum qualifications, completeness, and adherence to the RFP requirements. The City reserves the sole right to determine the sufficiency of qualifications and experience of all proposers.

A. Evaluation Panel

If applicable, the CEDD Director will appoint an evaluation panel to review the proposals and recommend a proposer to be awarded the contract resulting from this RFP. The evaluation panel may interview all of the proposers, a short list of proposers, or may evaluate the proposals solely on the materials submitted by the proposal deadline. In the event a short list process is used, the evaluation panel will use the evaluation criteria established in this RFP to identify the proposers most likely to be successful in the evaluation process. The short-listed proposers may then be scheduled for interviews with the evaluation panel. The evaluation panel will determine a consensus score for each evaluation criterion, which will then be added together to determine a total consensus score for each proposal.

B. Evaluation Criteria

1. Qualifications and Experience of Primary Consultant (0-450)
   • Number of years and type of experience providing economic development consulting services
   • Number of years and type of experience providing economic development consulting services to Arizona municipalities
• Number of years and type of experience providing consulting services related to creative pursuits of economic development, such as innovation districts

2. Approach to Scope of Work (0-350 points)
   • Proposed approach to scope of work

3. Primary Consultant’s Proposed Hourly Rate (0-200 points)
   • Proposed hourly rate for the primary consultant

V. GENERAL TERMS AND CONDITIONS OF PROPOSAL

A. Transparency Policy

Beginning on the date this RFP is issued and until the date the agreements are awarded or this RFP is withdrawn, all persons or entities that respond to this RFP, including their employees, agents, representatives, proposed partners, subcontractors, joint venturers, members, or any of their lobbyists and attorneys (collectively for this Section V (A) only, the proposer), will refrain from any direct or indirect contact with any person (other than the designated procurement officer) who may play a part in the selection process, including members of the evaluation panel, the City Manager, Assistant City Manager, Deputy City Managers, Department Heads, the Mayor and other members of the Phoenix City Council. As long as this RFP is not discussed, proposers may continue to conduct business with the City and discuss business that is unrelated to this RFP.

A proposer may discuss its proposal or this RFP with the Mayor and/or one or more members of the Phoenix City Council, provided such meetings are scheduled through the Procurement Officer identified on page 1, conducted in person at 200 West Washington, Phoenix, Arizona 85003, 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 proposer, 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 Heads (or representatives) to the proposal evaluation panel or procurement authority must be provided in writing to all prospective proposers.

This policy is intended to create a level playing field for all proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. Proposers that violate this policy shall be disqualified.
B. Materials Submitted

All materials submitted by proposers shall become the property of the City and become a matter of public record available for review pursuant to Arizona law. Each proposer shall mark any information submitted as part of its proposal that the proposer deems confidential or proprietary (collectively Confidential Information). If the City receives a request to review or disclose such Confidential Information, the City will provide the proposer written notice of the request to allow the proposer the opportunity to obtain a court order to prevent the disclosure or review of such Confidential Information. The proposer must obtain and deliver to the Procurement Officer a court order within 7 calendar days of the date of the City’s written notice. If no court order is issued and received by the Procurement Officer within the 7-day period, the City may disclose or allow the review of such Confidential Information. If a proposer intends to seek a Court Order to shield its Confidential Information, the protest period will be extended 7 calendar days to allow for this process.

C. Equal Employment Opportunity Requirements

The successful proposer must comply with Phoenix City Code, Chapter 18, Article V, as amended. Proposers should direct any questions about these requirements to the Equal Opportunity Department at 602-262-6790.

D. Award Recommendations

Award recommendations will be posted at phoenix.gov/finance/businessopportunities/bid-awards-and-recommendations. On the day the City posts the award recommendation, the procurement file for this RFP will be available for proposers and the public to review. The procurement file constitutes all proposals, the RFP and all addenda, advertising documents, agendas, meeting minutes, presentations (if any), signed conflict of interest statements by evaluation panel members, and evaluation panel consensus scoring.

E. City’s Reservation of Rights

The City reserves the right to take any course of action the City deems appropriate at the City’s sole and absolute discretion, which may include:

1. Waiving any defects or informalities in any proposal or proposing procedure;
2. Accepting or rejecting any or all proposals or any part of any or all proposals;
3. Canceling the RFP in part or in its entirety;
4. Reissuing the RFP with or without modification;
5. Negotiating with any qualified proposer;
6. Extending the deadline for proposals; and/or
7. Requesting additional information from any or all proposers.

**F. City’s Right to Disqualify for Conflict of Interest**

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

 Additionally, any respondent or any member or affiliate of a responding team that currently contracts with the City must be in good standing for its submittal to be considered responsive. For the purpose of this RFQ, good standing refers to compliance with all contractual provisions, including payment of financial obligations.

**G. Preparation Costs**

Under no circumstance will the City be responsible for any costs incurred by anyone in: 1) responding to this RFP; 2) in any subsequent follow up to the proposal; or 3) in any subsequent negotiations of a contract.

**H. City’s Sole Determination of Responsiveness and Responsibleness and Right to Investigate**

Proposals will be reviewed for documentation of minimum qualifications, completeness, and compliance with the RFP requirements. The City reserves the sole right to determine responsiveness and responsibleness, which includes the City’s determination of the proposer’s integrity, skill, capacity, experience, and facilities for conducting the work to be performed.

The City’s determination as to whether a proposer is responsible will be based on the information furnished by the proposer, interviews (if any), and any other sources the City deems appropriate. Award of the agreement(s) resulting from this RFP will not be made until such investigations, which each proposer agrees to permit by submitting its proposal, are made by the City as it deems necessary.
I. Proposer Certification and Affidavit

By submitting a proposal, each proposer certifies it has not paid or agreed to pay any fee or commission, or any other item of value contingent on the award of a contract to any employee, official or current contracting consultant of the City. Any proposer unable to comply with any required certifications may be disqualified.

In compliance with A.R.S. §§ 1-501 and -502, the City shall require any successful proposer that submits its proposal as a sole proprietorship or as an individual to complete the Affidavit of Lawful Presence prior to the award of any contract resulting from this process.

J. Covenant Against Contingent Fees Paid to Proposer

By submitting a proposal, the proposer certifies it has not employed or retained any person or company, other than a member of its proposed team or a bona fide employee working solely for the proposer, to solicit or secure the contract described in this RFP, and that no agreement has been made to pay the proposer or any member of its team any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or execution of such contract. For breach or violation of this certification, the City shall have the right to annul any contract entered into with a proposer as result of this RFP without liability, or in its discretion to deduct the contract price or consideration, or otherwise, recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

K. No Gratuities

Proposers shall not offer any gratuities, favors, or anything of monetary value to any official or employee of the City nor its advisors for the purposes of influencing this selection. Any attempt to influence the selection process by any means, other than disclosure of qualifications and credentials through the proper channels, shall be grounds for exclusion from the selection process.

L. Protests

A proposer that submits a proposal that is disqualified may challenge the disqualification by filing a protest within 7 calendar days of the date of the City’s notice of disqualification.

An unsuccessful proposer may challenge an award recommendation by filing a protest within 7 calendar days after the award recommendation has been posted at phoenix.gov/finance/business-opportunities/bid-awards-and-recommendations. Proposers that have had their proposals disqualified may not protest an award recommendation.
All protests must be in writing, filed with the Procurement Officer listed on page 1, and include all of the following:

1. Name of the RFP challenged;
2. Name, address and telephone number of the protester;
3. Detailed statement of the legal and factual grounds of the protest including copies of relevant documents;
4. Form of relief requested; and
5. The signature of the protester or its legal representative.

The CEDD Director, or the Director’s designee, will not review any supplements or amendments to a proposer’s original protest or any additional protests submitted by the same proposer. The CEDD Director, or the Director’s designee, will issue a written decision within a reasonable period of the protest filing. The Procurement Officer may provide copies of the protest and the written decision to the proposer recommended for contract award.

M. Execution of Agreement

The City will send the final agreement to the recommended proposer. Within 30 calendar days from the date the agreement was sent, the recommended proposer must sign and submit the final agreement to the City. If the City does not receive the signed agreement and all other required documentation from the recommended proposer within calendar 30 days, the City may consider not awarding the agreement to the proposer.

Until such time as the City executes an agreement with a recommended proposer, no contractual relationship exists. The recommended proposer must be authorized to transact business in Arizona, and if subject to regulation by the Arizona Corporation Commission be in good standing, at the time it signs the agreement.
Assurances

The undersigned proposer hereby submits to the City of Phoenix (City) the enclosed proposal based upon all terms and conditions set forth in the City’s Request for Proposals (RFP) and referenced materials. Proposer further specifically agrees hereby to provide services in the manner set forth in the proposal submitted by the proposer.

The undersigned proposer acknowledges and states, under penalty of perjury, as follows:

1. The City is relying on proposer’s submitted information and the representation that proposer has the capability to successfully undertake and complete the responsibilities and obligations submitted in its proposal and in the resulting contract.

2. The City has the right to make any further inquiry it deems appropriate to substantiate or supplement information supplied by proposer.

3. Proposer has read and fully understands all the provisions and conditions set forth in the RFP documents, upon which its proposal is based.

4. The forms and information requested in the RFP are complete and made part of the proposal. The City is not responsible for any proposer errors or omissions.

5. This proposal may be withdrawn by requesting such withdrawal in writing at any time prior to the proposal deadline but may not be withdrawn after such date and time.

6. The City reserves the right to reject any and all proposals and to accept the proposal that, in its judgment, will provide the best quality development to the City.

7. This proposal is valid for a minimum of 120 days after the RFP proposal deadline.

8. All costs incurred by proposer in connection with this proposal shall be borne solely by proposer. Under no circumstances shall the City be responsible for any costs associated with proposer’s proposal or the RFP process.

9. Proposer has not in any manner, directly or indirectly, conspired with any person or party to unfairly compete or compromise the competitive nature of the RFP process.

10. The contents of this proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this proposal.

11. To the best of the proposer’s knowledge, the information provided in its proposal is true and correct and neither the undersigned proposer nor any partner, corporate officer or managing employee have ever been convicted of a felony or a crime involving moral turpitude.
Legal Status

1. Proposer intends to operate the business as (check one):

- Corporation* (   )
- Government Entity (   )
- Limited Liability Corporation* (   )
- Other (Please describe: __________________________) (   )

Non-Profit 501(c)(3) (   )
Partnership* (   )
Sole Proprietorship (   )

Identify the members, if LLC, partners, if a partnership, or officers, if a corporation, of the proposer (add lines as needed).

For the purpose of this RFP, addenda and exhibits, any questions regarding the principals are referring to the officers, partners and members as disclosed.

2. In the past 10 years, have you personally, or any business with which you have been involved, been declared bankrupt, filed a petition in any bankruptcy court, filed for protection from creditors in bankruptcy court, or had involuntary proceedings filed in bankruptcy court? If “Yes,” provide date, court jurisdiction, case name, case number, amount of liabilities, amount of assets and the status of each occurrence.

Yes (   ) No (   )

3. Has the proposer or any of its principals or its principal’s affiliates been declared to be in default under any obligation to or contract with the City? If “Yes,” please provide details concerning the nature of the default, including the City contract number.

Yes (   ) No (   )

4. Are there any pending liens, claims or litigation in excess of $500,000 involving proposer, or any corporation or other entity that has, directly or indirectly, a controlling interest in the proposer, or any subsidiary of the proposer or other entity in which the proposer has a controlling interest or any of the proposer’s principals, officers, or directors? If “Yes,” provide detailed information regarding complaints.

Yes (   ) No (   )

5. Has the proposer, or any corporation or other entity that has, directly or indirectly, a controlling interest in the proposer, or any subsidiary of the proposer or other entity in which the proposer has a controlling interest or any of the proposer’s principals, officers, or directors, been involved in any lawsuits in the past 10 years? If “Yes,” provide list.

Yes (   ) No (   )

6. Has the proposer’s or any of its principals or its principals’ affiliate’s contracts been terminated prior to their expiration terms, voluntarily or involuntarily, within the last 10 years? If “Yes,” provide name, location, and date of the contract(s).

Yes (   ) No (   )

7. Has the proposer, or any corporation or other entity that has, directly or indirectly, a controlling interest in the proposer, or any subsidiary of the proposer or other entity in which the proposer has a controlling interest or any of the proposer’s principals, officers, or directors ever been barred from bidding on federal, state, or local government contracts? If “Yes,” provide the current status of such suspension or debarment proceedings.

Yes (   ) No (   )
References

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

1. Company and Reference Name: ______________________________________________________
   Telephone and E-Mail: ______________________________________________________________

2. Company and Reference Name: ______________________________________________________
   Telephone and E-Mail: ______________________________________________________________

3. Company and Reference Name: ______________________________________________________
   Telephone and E-Mail: ______________________________________________________________

Signature(s)

Proposer’s Contracting Entity (Legal Name*):

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

Printed Name of Authorized Representative*:

Title:

Business Mailing Address:

Telephone and Email Address:

Signature:

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

Name of Joint Venture Partner (if applicable):

Printed Name of Authorized Representative*:

Title:

Business Mailing Address:

Telephone and Email Address:

Signature:

*Proposal must be signed by an individual authorized to contractually bind the joint venture partner.

NOTARIZED

Signed and sworn before me this _____, day of ______________________, __________

Notary Signature: ____________________________ Affix Seal:

My Commission Expires: _______________________.

Attachment A-3
Attachment B
PROPOSED HOURLY RATES

Name of proposer: _______________________________________

Each proposer must submit an all-inclusive hourly rate for the primary consultant (and all other staff positions) performing work under this agreement.

The City shall not be responsible for any proposer errors or omissions. The successful proposer shall be contractually bound to the hourly rate(s) listed below. No other expenses or fees will be reimbursed unless expressly provided in Attachment C.

Hourly rate for Primary Consultant $____________

Hourly rate for: ___________________________ $____________

Add lines and staff positions as necessary.

ONLY THE PRIMARY CONSULTANT’S HOURLY RATE WILL BE EVALUATED
CITY OF PHOENIX

Professional Services Consulting Agreement

Agreement No. ____________

Philip Bradstock
Community and Economic Development Department
200 W. Washington Street, 20th Floor
602-262-4850
# TABLE OF CONTENTS

1. TERM OF AGREEMENT .................................................................................................................. 1  
2. PAYMENT .................................................................................................................................... 2  
3. SCOPE OF WORK AND SPECIAL TERMS AND CONDITIONS .............................................. 3  
4. INDEMNIFICATION OF CITY AGAINST LIABILITY ................................................................. 3  
5. INSURANCE ................................................................................................................................. 4  
6. INDEPENDENT CONTRACTOR STATUS; EMPLOYMENT DISCLAIMER .................................. 4  
7. LEGAL WORKER REQUIREMENTS ............................................................................................. 4  
8. CONFIDENTIALITY AND DATA SECURITY ................................................................................ 5  
9. CONTACTS WITH THIRD PARTIES ............................................................................................ 6  
10. EQUAL EMPLOYMENT OPPORTUNITY ..................................................................................... 6  
11. SBE/ DBE UTILIZATION ............................................................................................................ 7  
12. AUDIT/RECORDS ....................................................................................................................... 7  
13. COMPLIANCE WITH LAWS ...................................................................................................... 8  
14. CONTRACTOR AND SUBCONTRACTOR WORKER BACKGROUND SCREENING ...................... 8  
15. CONTRACT WORKER ACCESS CONTROLS, BADGE AND KEY ACCESS REQUIREMENTS ...... 9  
16. AMENDMENTS .......................................................................................................................... 11  
17. NON-ASSIGNABILITY .............................................................................................................. 12  
18. NO ORAL ALTERATIONS .......................................................................................................... 12  
19. NOTICES .................................................................................................................................. 12  
20. INTEGRATION ............................................................................................................................ 13
21. GOVERNING LAW; FORUM; VENUE ................................................................. 13
22. FISCAL YEAR CLAUSE ..................................................................................... 14
23. TERMINATION OR SUSPENSION OF SERVICES ........................................... 14
24. PROFESSIONAL COMPETENCY ..................................................................... 15
25. SPECIFIC PERFORMANCE .............................................................................. 15
26. FORCE MAJEURE ............................................................................................ 15
27. DOCUMENTATION .......................................................................................... 16
28. RELEASE OF INFORMATION - ADVERTISING AND PROMOTION ............. 17
29. CONFLICTS OF INTEREST ............................................................................. 17
30. CLAIMS OR DEMANDS AGAINST THE CITY ................................................. 17
31. WAIVER OF CLAIMS FOR ANTICIPATED PROFITS ....................................... 18
32. CONTINUATION DURING DISPUTES ........................................................... 18
33. THIRD PARTY BENEFICIARY CLAUSE ......................................................... 18

EXHIBITS

EXHIBIT A  SCOPE OF WORK
EXHIBIT B  FEE SCHEDULE
EXHIBIT C  ADMINISTRATIVE REGULATION 3.41, REVISED SEPTEMBER 1, 2006
EXHIBIT D  INSURANCE REQUIREMENTS
EXHIBIT E  SUPPLEMENTAL TERMS AND CONDITIONS
EXHIBIT F  CONSULTANT’S INSURANCE CERTIFICATE
PROFESSIONAL SERVICES CONSULTING AGREEMENT
BETWEEN
THE CITY OF PHOENIX
AND
[Insert Legal Name of Consultant Here]

This AGREEMENT is made and entered into this _____ day of ________, 20___ by and between the City of Phoenix, Arizona, a municipal corporation of the State of Arizona (hereinafter referred to as “City”) and [insert legal name of Consultant here], (hereinafter referred to as “Consultant”).

RECITALS

1. The City Manager of the City of Phoenix, Arizona, is authorized by the provisions of the City Charter to execute agreements for professional services.

2. The City desires to obtain the services that are specifically set forth in this Agreement.

3. The City procured these professional services in accordance with Administrative Regulation 3.10.

4. Consultant possesses the skills and expertise necessary to provide such services as desired by the City.

5. This Agreement is authorized by Formal Action of the City Council dated ____________________.

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

1. TERM OF AGREEMENT

A. This Agreement shall commence on _______________, 20__ and the term shall be for _____ years, with ____ option[s] to extend the term for one year [each], which option[s] may be exercised at the sole discretion of the City.

B. This Agreement shall terminate upon the earliest occurrence of any of the following:

1) reaching the end of the term and any extensions exercised as set forth in 1(A);

2) completing the services set forth in the Scope of Work attached as Exhibit A (the “Services”);
3) payment of the maximum compensation under Paragraph 2 of this Agreement, unless it is amended to allow additional compensation; or

4) termination pursuant to the provisions of this Agreement.

2. PAYMENT

A. The total amount to be remitted by the City to Consultant for all Services satisfactorily performed under this Agreement shall not exceed ________________ Dollars ($_______) per year including reasonable and necessary travel expenses, if approved in advance by the City and included in the Fee Schedule Exhibit B. Under this Agreement, the City will pay for Services at the rate(s) specified in the Fee Schedule and that comply with the requirements for Reimbursable Expenses as outlined below, with no additional charges for overhead, benefits, local travel or administrative support. Payments shall be made in proportion to the Services performed and no more than ninety percent (90%) of the total contract price shall be paid before the work is totally completed and accepted by the City.

B. Consultant shall submit monthly invoices on or before the ___th of every month. Each monthly invoice shall be accompanied with itemized receipts. The monthly invoice shall be submitted free of mathematical errors and/or missing supporting documentation. All appropriate documentation shall be provided that supports the charges reflected in the monthly invoice. Upon finding of an error and/or missing documentation, the City shall return the monthly invoice to the Consultant. Consultant shall promptly resubmit the revised monthly invoice to the City. Each revised invoice shall document the date that the revised invoice is submitted to the City. Requests for payment must be submitted with documentation of dates and hours worked, hourly rate charged, and a detailed description of the Services performed. Failure of City to identify an error does not waive any of the City’s rights.

Invoices shall be submitted to:

Philip Bradstock  
Community and Economic Development Department  
200 W. Washington Street, 20th Floor  
602-262-4850  
philip.bradstock@phoenix.gov

C. Consultant shall demonstrate good judgment when incurring costs that are considered a Reimbursable Expense while conducting business for the City. All Reimbursable Expenses shall be reasonable and prudent. Generally, Reimbursable Expenses include:
1. Business Expenses: Receipts for business expenses must be submitted with all requests for payment. Business expenses that require receipts include, but are not limited to express mail; delivery services; messenger services; and outside printing.

2. Office Expenses: Requests for reimbursement of office expenses must be submitted with a description of the task, which includes how the expense was incurred. Examples of office expenses needing documentation include, but are not limited to telephone; internal printing/copies (not to exceed 0.15 cents per page for black & white copies); postage; facsimiles (long distance charges only); and supplies.

3. Travel Expenses: Travel expenses must be approved in advance by the City and must be included in the Fee Schedule. Consultant shall be held to comply with City of Phoenix Administrative Regulation 3.41 – Business, Conference and Training Travel and Related Expenses, revised September 1, 2006, as it may be amended, as to the eligible and ineligible expenses for reimbursement and required documentation as set forth in Exhibit C attached hereto and incorporated herein.

3. SCOPE OF WORK AND SPECIAL TERMS AND CONDITIONS

Consultant will provide consulting services that will be in accordance with the Scope of Work as set forth in Exhibit A, which may be supplemented with additional detail from time to time during the term of the Agreement, and that are satisfactory to the City. In performing these services, Consultant shall also specifically comply with the applicable Supplemental Terms and Conditions that are set forth in Exhibit E. Consultant will provide progress reports to the Philip Bradstock according to a mutually agreed-upon schedule.

4. INDEMNIFICATION OF CITY AGAINST LIABILITY

Consultant shall indemnify, defend, save and hold harmless the City of Phoenix and its officers, officials, agents, and employees (hereinafter referred to as “Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as “Claims”) for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Consultant or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of such Consultant to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Consultant from and against any and all claims. It is agreed that Consultant will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this Agreement, Consultant agrees to waive all rights of subrogation against the City,
its officers, officials, agents and employees for losses arising from the work performed by Consultant for the City.

5. INSURANCE

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

6. INDEPENDENT CONTRACTOR STATUS; EMPLOYMENT DISCLAIMER

A. The parties agree that Consultant is providing the Services under this Agreement on a part-time and/or temporary basis and that the relationship created by this Agreement is that of independent contractors. Neither Consultant nor any of Consultant’s agents, employees or helpers shall be deemed to be the employee, agent, or servant of the City. The City is only interested in the results obtained under this Agreement; the manner, means and mode of completing the same are under the sole control of Consultant.

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

7. LEGAL WORKER REQUIREMENTS

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

A. Consultant and each subcontractor it uses warrants their compliance with all federal immigration laws and regulations that relate to their employees and their compliance with Arizona Revised Statutes § 23-214, subsection A.
B. A breach of warranty under paragraph A shall be deemed a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.

C. The City retains the legal right to inspect the papers of the Consultant or subcontractor employee(s) who work(s) on this Agreement to ensure that Consultant or subcontractor is complying with the warranty under paragraph A.

8. CONFIDENTIALITY AND DATA SECURITY

A. All data, regardless of form, including originals, images and reproductions, prepared by, obtained by, or transmitted to Consultant in connection with this Agreement is confidential, proprietary information owned by the City. Except as specifically provided in this Agreement, the Consultant shall not disclose data generated in the performance of the Services to any third person without the prior written consent of the City Manager, or his/her designee.

B. Personal identifying information, financial account information, or restricted City information, whether electronic format or hard copy, must be secured and protected at all times to avoid unauthorized access. At a minimum, Consultant must encrypt and/or password protect electronic files. This includes data saved to laptop computers, computerized devices or removable storage devices. When personal identifying information, financial account information, or restricted City information, regardless of its format, is no longer necessary, the information must be redacted or destroyed through appropriate and secure methods that ensure the information cannot be viewed, accessed, or reconstructed.

C. In the event that data collected or obtained by the Consultant in connection with this Agreement is believed to have been compromised, Consultant shall notify the City Privacy Officer immediately. Consultant agrees to reimburse the City for any costs incurred by the City to investigate potential breaches of this data and, where applicable, the cost of notifying individuals who may be impacted by the breach.

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

E. The obligations of Consultant under this Section shall survive the termination of this Agreement.
9. CONTACTS WITH THIRD PARTIES

Consultant or its subcontractors shall not contact third parties to provide any information in connection to the Services provided under this Agreement without the prior written consent of the City. Should Consultant or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Agreement or any other prior or existing Agreement with the City, Consultant or its subcontractors shall promptly inform the City giving the particulars of the information sought and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Consultant and its subcontractors under this Section shall survive the termination of this Agreement.

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

10. EQUAL EMPLOYMENT OPPORTUNITY

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

For a Consultant with 35 employees or less:

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

-------------OR-----------------

For a Consultant with more than 35 employees:
B. Any Consultant 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 Consultant 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 Consultant 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. Consultant further agrees that this clause will be incorporated in all subcontracts, job-consultant agreements or subleases of this Agreement entered into by supplier/lessee. The Consultant 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.

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

D. 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.

11. SBE/DBE UTILIZATION

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

12. AUDIT/RECORDS

The City reserves the right, at reasonable times, to audit Consultant’s books and records relative to the performance of service under this Agreement. All records pertaining to this Agreement shall be kept on a generally accepted accounting basis for a period of three (3) years following termination of the Agreement.
13. COMPLIANCE WITH LAWS

Consultant shall comply with all existing and subsequently enacted federal, state and local laws, ordinances, codes, and regulations that are, or become applicable to this Agreement. If a subsequently enacted law imposes substantial additional costs on Consultant, a request for an amendment may be submitted pursuant to Paragraph 16.

14. CONTRACTOR AND SUBCONTRACTOR WORKER BACKGROUND SCREENING

A. Contract Worker Background Screening. Contractor agrees that all contract workers and subcontractors (collectively “Contract Worker(s)”) that Contractor furnishes to the City pursuant to this Agreement shall be subject to background and security checks and screening (collectively “Background Screening”) at Contractor’s sole cost and expense as set forth in this Section. The Background Screening provided by Contractor shall comply with all applicable laws, rules and regulations. Contractor further agrees that the Background Screening required in this Section is necessary to preserve and protect public health, safety and welfare. The Background Screening requirements set forth in this Section are the minimum requirements for this Agreement. The City in no way warrants that these minimum requirements are sufficient to protect Contractor from any liabilities that may arise out of Contractor’s services under this Agreement or Contractor’s failure to comply with this Section. Therefore, in addition to the specific measures set forth below, Contractor and its Contract Workers shall take such other reasonable, prudent and necessary measures to further preserve and protect public health, safety and welfare when providing services under this Agreement. The City may, in its sole discretion, accept or reject any or all of the Contract Workers proposed by Contractor to perform work under this Agreement as well those Contract Workers actually providing services during the term of this Agreement.

B. Background Screening Requirements and Criteria. Because of the varied types of services performed, the City has established three levels of risk and associated Background Screening. The risk level and Background Screening required for this Agreement is Minimum.

1. Minimum Risk and Background Screening (“Minimum Risk”).

A minimum risk Background Screening shall be performed when the Contract Worker: (i) will not have direct access to City facilities or information systems; or (ii) will not work with vulnerable adults or children; or (iii) when access to City facilities is escorted by City workers. The Background Screening for minimum risk shall consist of the screening required by Arizona Revised Statutes §§ 41-4401 and following to verify legal Arizona worker status.

C. Contractor Certification; City Approval of Maximum Risk Background Screening. By executing this Agreement, Contractor certifies and warrants that Contractor has read
the Background Screening requirements and criteria in this Section, understands them and that all Background Screening information furnished to the City is accurate and current. Also, by executing this Agreement, Contractor further certifies and warrants that Contractor has satisfied all such Background Screening requirements for the Minimum Risk Background Screenings as required.

D. Terms of This Section Applicable to all of Contractor’s Contracts and Subcontracts. Contractor shall include the terms of this Section for Contract Worker Background Screening in all contracts and subcontracts for services furnished under this Agreement including, but not limited to, supervision and oversight services.

E. Materiality of Background Screening Requirements; Indemnity. The Background Screening requirements of this Section are material to City’s entry into this Agreement and any breach of this Section by Contractor shall be deemed a material breach of this Agreement. In addition to the indemnity provisions set forth in Section 4 of this Agreement, Contractor shall defend, indemnify and hold harmless the City for any and all Claims (as defined in Section 4) arising out of this Background Screening Section including, but not limited to, the disqualification of a Contract Worker by Contractor or the City for failure to satisfy this Section.

F. Continuing Duty; Audit. Contractor’s obligations and requirements that Contract Workers satisfy this Background Screening Section shall continue throughout the entire term of this Agreement. Contractor shall notify the City immediately of any change to a Maximum Risk Background Screening of a Contract Worker previously approved by the City. Contractor shall maintain all records and documents related to all Background Screenings and the City reserves the right to audit Contractor’s compliance with this Section pursuant to Section 13.

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

A. A CONTRACT WORKER SHALL NOT BE ALLOWED TO BEGIN WORK IN ANY CITY FACILITY WITHOUT: (1) THE PRIOR COMPLETION AND CITY’S ACCEPTANCE OF THE REQUIRED BACKGROUND SCREENING; AND (2) WHEN REQUIRED, THE CONTRACT WORKER’S RECEIPT OF A CITY ISSUED BADGE. A BADGE WILL BE ISSUED TO A CONTRACT WORKER SOLELY FOR ACCESS TO THE CITY FACILITY(S) TO WHICH THE CONTRACT WORKER IS ASSIGNED. EACH CONTRACT WORKER WHO ENTERS A CITY FACILITY MUST USE THE BADGE ISSUED TO THE CONTRACT WORKER.

B. Badge Access Procedures. An authorized City of Phoenix badge application form is available at the City of Phoenix Badging Office, 251 W. Washington St., 2nd Floor, Phoenix, AZ 85003-1611. Each Contract Worker (as defined herein) who is furnishing Standard Risk (as defined herein) or Maximum Risk (as defined herein) services under this Agreement shall submit to the City of Phoenix,
Banking & Cashiering Division, 251 W. Washington, 3rd Floor, Phoenix, AZ 85003-1611: (i) a fully completed and authorized City of Phoenix badge application form; (ii) a check in the initial badge fee amount listed below made payable to the “City of Phoenix”; and (iii) two forms of identification. One form of identification must be a government issued credential with an accompanying photograph. The second form of identification must be a valid passport; military issued identification card; immigration and naturalized services identification card; social security card; or an original birth certificate. After receipt of the badge application and payment, the Contract Worker will proceed to the badging office for processing of the badge application and issuance of the badge. The City will not process the badge application until the Contract Worker satisfies the required Background Screening (as defined herein). The Contract Worker shall comply with all requirements and furnish all requested information within five (5) business days from initial submission of the badge application or the subject Contract Worker’s badge application shall be rejected.

C. Key Access Procedures. If the Contract Worker’s services require keyed access to enter a City facility(s), a separate key issue/return form must be completed and submitted by the Contractor for each key issued. The key issue/return form is available at and the completed form shall be submitted to the badging office at the address above.

D. Stolen or Lost Badges or Keys. Contractor shall report lost or stolen badges or keys to their local police department and must obtain a police department report (PDR) prior to re-issuance of any lost or stolen badge or key. A new badge application or key issue form shall be completed and submitted along with payment of the applicable fees listed below prior to issuance of a new badge or key.

E. Return of Badges or Keys. All badges and keys are the property of the City and must be returned to the City at the badging office within one (1) business day of when the Contract Worker’s access to a City facility is no longer required to furnish the services under this Agreement. Contractor shall collect a Contract Worker’s badge and key(s) upon the termination of the Contract Worker’s employment; when the Contract Worker’s services are no longer required at the particular City facility(s); or upon termination, cancellation or expiration of this Agreement.

F. Contractor’s Default; Liquidated Damages; Reservation of Remedies for Material Breach. Contractor’s default under this Section shall include, but is not limited to the following: (i) Contract Worker gains access to a City facility(s) without the proper badge or key; (ii) Contract Worker uses a badge or key of another to gain access to a City facility; (iii) Contract Worker commences services under this Agreement without the proper badge, key or Background Screening; (iv) 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 (v) 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 public health, safety and welfare. Accordingly, Contractor agrees to properly cure any default under this Section within three (3) business days from the date notice of default is sent by the City. The parties agree that Contractor’s failure to properly cure any default under this Section shall constitute a breach of this Section. In addition to any other remedy available to the City at law or in equity, the Contractor shall be liable for and shall pay to the City the sum of one thousand dollars ($1,000.00) for each breach by Contractor of 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 in the event that 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 in the event that Contractor breaches this Section. The parties further agree that three (3) breaches by Contractor of this Section arising out of any default within a consecutive period of three (3) months or three (3) breaches by Contractor of this Section arising out of the same default within a period of twelve (12) consecutive months shall constitute a material breach of this 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.

G. Badge and Key Fees. The following constitute the badge and key fees under this Agreement. The City reserves the right to amend these fees upon thirty (30) days prior written notice to Contractor.

- Initial Badge Fee: $55.00 per applicant
- Replacement Badge Fee: $55.00 per badge
- Lost / Stolen Badge Fee: $55.00 per badge
- Replacement Key Fee: $55.00 per key
- Lost / Stolen Key Fee: $55.00 per key
- Replacement Locks: $55.00 per lock

16. AMENDMENTS

Whenever an addition, deletion or alteration to the Services described in Exhibit A substantially changes the Scope of Work thereby materially increasing or decreasing the cost of performance, a supplemental agreement must first be approved in writing by the City and Consultant before such addition, deletion or alteration shall be performed. Changes to the Services may be made and the compensation to be paid to Consultant may be adjusted by mutual agreement, but in no event may the compensation exceed the amount authorized without further written authorization. It is specifically understood
and agreed that no claim for extra work done or materials furnished by Consultant will be allowed except as provided herein, nor shall Consultant do any work or furnish any materials not covered by this Agreement unless first authorized in writing. Any work or materials furnished by Consultant without prior written authorization shall be at Consultant’s risk, cost and expense, and Consultant agrees to submit no claim for compensation or reimbursement for additional work done or materials furnished without prior written authorization.

17. NON-ASSIGNABILITY

A. This Agreement is in the nature of a personal services agreement and Consultant shall have no power to assign its rights and obligations under this Agreement without the prior written consent of the City. Any attempt to assign without such prior written consent shall be void.

B. An essential consideration provided to the City by Consultant to induce the City to enter into the Agreement is Consultant’s representation that the individual(s) performing services shall include Consultant’s principals, ________________ and ________________. Therefore, should any of the above named individuals sever their relationship with the Consultant, or otherwise be unavailable to carry out Consultant’s duties under this Agreement for an extended period of time, which period shall be determined at the sole discretion of the City, then the City, without notice, may immediately terminate this Agreement for cause.

18. NO ORAL ALTERATIONS

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

19. NOTICES

Any notice, consent or other communication (“Notice”) required or permitted under this Agreement shall 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 Consultant:

____________________________________
____________________________________
____________________________________

Telephone:
Facsimile:  
E-Mail:  

If to City:  

Philip Bradstock  
Community and Economic Development Department  
200 W. Washington Street, 20th Floor  
Phoenix, AZ 85003  
Telephone: 602-262-4850  
E-Mail: philip.bradstock@phoenix.gov  

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

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

20. 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 hereto shall be bound by or liable for any statement of intention not so set forth.  

21. GOVERNING LAW; FORUM; VENUE  

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

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

23. **TERMINATION OR SUSPENSION OF SERVICES**

A. **City’s Right to Terminate**
   
The City reserves the right to terminate this Agreement without cause, or to abandon the Services, or any part of the Services not then completed, by notifying Consultant in writing. Immediately upon receiving a written notice to terminate or suspend Services, Consultant shall:

   1. Discontinue advancing the work in progress, or such part that is described in the notice.
   
   2. Deliver to the City all collected raw data, draft reports, preliminary reports, working papers, estimates and forecasts entirely or partially completed, together with all unused materials supplied by the City.
   
   3. Appraise the work it has completed and submit its appraisal to the City for evaluation.
   
   4. Be paid in full the pro rata value for services performed to the date of its receipt of the Notice of Termination, including reimbursement for all reasonable costs and expenses incurred by Consultant in terminating the work, including demobilization of field service. No payment shall be made for loss of anticipated profits or unperformed services.

B. **Final Payment**
   
The City shall make final payment for all Services performed and accepted within sixty (60) days after Consultant has delivered to the City any final progress reports, documentation, materials and evidence of costs and disbursement as required under this Agreement. Any use by the City of preliminary reports, raw data or other incomplete material returned by Consultant shall be at the City’s sole risk for such use.

C. **Temporary Suspension**
   
The City may, by written notice, direct Consultant to suspend performance on all or any part of the Services for such period of time as may be determined by the City to be necessary or desirable for its convenience. If such suspension causes additional expense to Consultant in performance, and not due to fault or
negligence of Consultant, the payment will be adjusted on the basis of actual costs resulting directly from the suspension, and the period for performance of the Services will be extended by mutual agreement. Any claim by Consultant for a price adjustment must be supported by appropriate documentation asserted promptly after Consultant has been notified to suspend performance.

24. PROFESSIONAL COMPETENCY

A. **Qualifications**
   Consultant represents that it is familiar with the nature and extent of this Agreement, the Services, and any conditions that may affect its performance under this Agreement. Consultant further represents that it is fully experienced and properly qualified, is in compliance with all applicable license requirements, and is equipped, organized, and financed to perform such Services.

B. **Level of Care and Skill**
   Services provided by Consultant will be performed in a manner consistent with that level of care and skill ordinarily exercised by members of Consultant’s profession currently practicing in the same industry under similar conditions. Acceptance or approval by the City of Consultant’s work shall in no way relieve Consultant of liability to the City for damages suffered or incurred arising from the failure of Consultant to adhere to the aforesaid standard of professional competence.

25. SPECIFIC PERFORMANCE

Consultant agrees that in the event of a breach by Consultant of any material provision of this Agreement, the City shall, upon proper action instituted by it, be entitled to a decree of specific performance thereof according to the terms of this Agreement. In the event the City shall elect to treat any such breach on the part of Consultant as a discharge of the Agreement, the City may nevertheless maintain an action to recover damages arising out of such breach. This paragraph is not intended as a limitation of such other remedies as may be available to the City under law or equity.

26. FORCE MAJEURE

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

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

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

B. **Dissemination and Retention**
There shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City. Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Agreement, then, and in that event, upon written demand, Consultant shall relinquish to the possession and control of the City its entire file related to this Agreement and only those portions of said file deemed by the City to be not privileged shall be returned to Consultant pending the resolution of the existing or anticipated litigation.

C. **Format and Quality**
All documents prepared by Consultant shall be prepared in a format and at a quality approved by the City.

D. **Document Review**
Consultant shall review all documents provided by the City related to the performance of the Services and shall promptly notify the City of any defects or deficiencies discovered in such review.

E. **Submittals**
Consultant shall provide timely and periodic submittals of all documents required of Consultant, including subcontracts, if any, as such become available to the City for review.
28. **RELEASE OF INFORMATION - ADVERTISING AND PROMOTION**

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

29. **CONFLICTS OF INTEREST**

A. Consultant acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Agreement upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Phoenix City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City shall have the right to annul this Agreement without liability, including any such commission, percentage, brokerage or contingent fee.

B. The City reserves the right to disqualify Consultant in the event that the City determines that Consultant has an actual or apparent conflict of interest with the purposes of this Agreement and the provisions and procedures set forth in Paragraph 23 shall apply.

C. Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Consultant, or any agent or representative of Consultant, to any officer or employee of the City for the purpose of securing this Agreement, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Agreement, the City may, by one (1) calendar day written notice to Consultant, terminate the right of Consultant to proceed under this Agreement, provided that the existence of the facts upon which the City made such finding shall be an issue and may be litigated in an Arizona court of competent jurisdiction. In the event of such termination, the City shall be entitled to the same remedies against Consultant as could be pursued in the event of default by Consultant.

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

30. **CLAIMS OR DEMANDS AGAINST THE CITY**

Consultant 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 Consultant 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 shall control.

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

31. WAIVER OF CLAIMS FOR ANTICIPATED PROFITS

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

32. CONTINUATION DURING DISPUTES

A. Consultant agrees as a condition of this Agreement that in the event of any dispute between the parties, provided no Notice of Termination has been given by the City, and if it is feasible under the terms of this Agreement each party shall continue to perform the obligations not related to the dispute required of it during the resolution of such dispute, unless enjoined or prohibited by a court of competent jurisdiction.

B. Failure or delay by either party to exercise any right, power or privilege specified in or appurtenant to this Agreement shall not be deemed a waiver thereof.

33. THIRD PARTY BENEFICIARY CLAUSE

The parties expressly agree that this Agreement is not intended by any of its provisions to create any right of the public or any member thereof as a third party beneficiary nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.
IN WITNESS WHEREOF, the parties herein have caused this Agreement to be executed in triplicate originals.

CITY OF PHOENIX, a municipal corporation
ED ZUERCHER, City Manager

By: ________________________________
Christine Mackay
Community and Economic Development Director

ATTEST:

__________________________________
City Clerk

APPROVED AS TO FORM:

__________________________________
Acting City Attorney

[FULL LEGAL NAME OF CONSULTANT]  
“CONSULTANT”

By: ________________________________
[Type Name of Signatory]

Title: ________________________________
Exhibit A
SCOPE OF WORK

To be added from RFP and successful proposer’s proposal before execution of this Agreement.
Exhibit B
FEE SCHEDULE

To be added from successful proposer’s proposal before execution of this Agreement.
Purpose

The City must engage in travel for a variety of reasons. In our complex and highly technical world, sometimes important training is only available outside the state. The training can be technical (computer language and systems, DNA testing, water chemistry, environmental issues, etc.), administrative (Federal program or grant regulations) or regulatory (firefighting or helicopter certification requirements). Travel is necessary for conferences in which state-of-the-art innovations and practices are shared for improving public service. Sometimes travel is necessary to conduct business (Police Officers who travel to return criminals for trial or to interview witnesses, attorneys who are deposing witnesses or seeking to settle lawsuits, staff inspecting buses or other equipment being manufactured). In addition, international travel may occasionally be warranted to further economic development goals for the community.

*This administrative regulation (AR) applies to all City employees, elected officials, board and commission members and volunteers. Throughout this AR City employees, elected officials, board and commission members and volunteers are collectively referred to as “travelers.”*

General Policies

Any approval of business travel, conference or training attendance should include the following considerations:

- All approval processes must be consistent, including travel funded by enterprise funds, special revenue funds, general funds, grant funds or non-City funds.
- Business travel, conference or training events must provide a clear and understandable benefit to the City, our employees and the community. If the training or travel did not take place, how would the City be disadvantaged?
- If several potential travelers need the same training, would it be more cost effective to bring in a trainer? Would other departments benefit from this type of training?
- Generally, attendance at professional organization conferences should occur when attendees are active within that organization. Attendance at executive board meetings of professional organizations should occur when the organization is clearly related to the attendee’s usual professional duties.
- Is equivalent training available through Employee Development or a local vendor?
- Is the specific training session or conference appropriate for the person attending? If unsure, departments should consult with the Personnel Department.
Required Approvals

At a minimum, all budgeted travel including requests to travel, estimated expenses, cash advances and final expense reports must be approved by the department/function head. His or her appointed “acting” department/function head may approve when the department head is unavailable. If the traveler is at a department/function head level or higher the travel must be approved by his/her immediate supervisor.

The City’s four largest departments – Police, Parks, Fire and Water will be allowed an exception to this rule. Because these departments each have large workforces assigned to multiple employee worksites, they are permitted, but not required, to name a specific employee to be the assigned alternate to the department head for purposes of this administrative regulation. The name of the employee filling this role must be provided to the City Manager’s Office, Finance and Personnel Departments.

Travelers must file all travel documents – requests, expenses, cash advances, final reports – with their assigned department (the department that directly pays the employee or elected official’s salary). Board and commission members and volunteers must file their travel documents with the sponsoring department. All travel expenses paid for with City funds will be charged to the traveler’s assigned department.

Additional approvals may be required depending on the total cost and location of the event as specified below.

- All travel outside the continental United States requires the City Manager’s approval. This includes travel to Alaska, Hawaii, Puerto Rico, Guam and any foreign country.
- All travel for which the total cost per person (estimated and/or actual) is above $4,000 requires the City Manager’s approval.
- All travel for which the total cost per person (estimated and/or actual) is above $2,000 requires the approval of the City Manager or designee.
- All unbudgeted travel requires the approval of the City Manager or designee. Departments that become aware of the need for multiple unbudgeted trips can submit a memo to the City Manager or designee asking for approval for all such trips. The reason for these trips must be clearly explained, cost estimates must be provided, and a travel authorization form must be completed for each trip at the time of travel.
- When the City Manager is out of town, or otherwise unavailable, the Assistant City Manager can provide necessary approvals in his place.
- All travel requiring the City Manager or his designee’s approval must be accompanied by a memo specifying the circumstances requiring such an approval.

Travel Authorization Form(s) – City Funded Travel

- Attendance at training or other professional development events which occur within Maricopa County, for which only registration costs are incurred, is not considered “travel.” The authorization and reimbursement form for these events is the “In-county Registration form.” The Business Travel, Conference and Out-of-county Training form should not be used.
- Events outside Maricopa County are considered “travel” and require the Business Travel, Conference and Out-of-county Training form.
• All employees traveling on “City Business” or “City Authorized Education” time, and all other travelers must complete a Business Travel, Conference and Out-of-county Training form regardless of funding source. This includes travel funded with Management Development and/or Employee Development funds.
• The proper form(s) must be completed with all appropriate expense estimates and all required signatures prior to the travel taking place. A complete conference agenda or full description of the training program must be attached.
• The same manager(s) that approved the travel prior to its taking place must also review and approve the completed Business Travel, Conference and Out-of-county Training form upon the traveler’s return.

Department Travel Budgets

Departments will be provided an annual budget for business travel, conferences and training based upon their unique requirements. Throughout the year departments should monitor their travel and training expenditures to ensure that approved allocations are not exceeded. If the budgeted allocation has been spent, and additional travel is necessary, authorization by the City Manager or his designee is required. The memo requesting authorization to exceed the travel budget must also specify where available funding exists. If additional travel is approved by the City Manager or designee a Budget Adjustment form must be submitted to Budget and Research. Carrying over or encumbering unused travel funds is not permitted.

Non-City Funded Travel

Business travel, conferences or training funded with non-City resources for any part of the total cost also require City Manager or designee approvals. Non-City resources include any funds that do not flow through the City’s SAP accounting system; this includes travel paid for by vendors or professional organizations such as IPMA or ICMA. For purposes of this AR, “vendor” is defined as any individual or organization whose primary business is to sell goods or services.

If non-City resources pay all costs the Business Travel, Conference and Out-of-county Training form is not required. However, a memo with the City Manager or designee approval must be attached to the employee’s leave slip. The employee’s department must also retain a copy of the memo in case questions arise about the trip. For those travelers not required to submit a leave slip, a memo with City Manager or designee approval must be retained by their assigned department.

Employees, elected officials, board and commission members and/or volunteers attending a local, in-county training session or event sponsored by another government agency (e.g. City of Glendale, FBI) or one of the City’s employee groups (e.g. ASPTEA, PLEA) do not need City Manager or designee approval. For these in-county, no-cost training sessions where City Business or Education time is used, only a leave slip with the proper signatures is required.

City Employee Participation in Third Party Conferences, Events or Activities

The City, at the sole discretion of the department head or above, may allow staff to attend a conference or other meeting, where a third party has offered to pay the employee’s travel costs, not to exceed federal GSA rates for meals. Any appearance of a conflict of interest must be avoided.
For the purposes of this section, a “third party” is defined as any person or entity, public or private, other than the City or the employee. Travel costs may include airfare, lodging, transportation, meals and incidentals, or appearances, public events or ceremonies related to official City business. An employee may participate in all events hosted by the conference organizers as part of the scheduled activities and paid admission. City employees may participate in a dinner hosted and paid for by a third party at a conference as long as all attendees have an equal opportunity to participate in the event and attendance at the dinner does not create, or appear to create, a conflict of interest. Optional activities not included with the conference registration, such as golf or tickets to an entertainment event, cannot be accepted.

Except for conference registration and travel-related costs described above, City employees also are not allowed to accept “honoraria,” defined as gifts or money for participating in speaking engagements, lectures, conferences, or a panel while representing the City. Employees may accept incidental items, such as coffee mugs, t-shirts, or pens, only if such items are offered to all attendees and as long as their individual value does not exceed $50. Employees also may accept prizes or raffle drawings, as long as the opportunity to win the prize or drawing was offered to all attendees.

Non-exempt Employees

If non-exempt employees are conducting business travel or attending a conference or training, departments may need to discuss the potential for overtime pay with the Personnel Department. Overtime costs must be considered when estimating the total travel costs.

Estimated Expenses

The Business Travel, Conference and Out-of-county Training form requires that the purpose of the event, destination, the beginning and ending dates of the official leave, and an estimate of costs be provided prior to travel commencing.

The final approving authority will review all estimated expenses for reasonableness. Approved limits for hotel costs are provided in the City’s Lodging Rate Schedule, http://inphx:8000/FINANCE/TRAVEL/index.html. Approved limits for meals are limited to the U.S. General Services Administration (GSA) daily amounts for the destination city (available at www.gsa.gov). Also, lodging and meal expenses may exceed the City’s Lodging Rate Schedule and/or the GSA daily maximum when packaged as part of an approved conference or training session. Refer to the “Expenses Eligible for Reimbursement” section. Estimates for tips are limited to 20% for taxis, and a combined $5 per day for baggage handling/maid service.

Pre-payment of Airfare, Registration and Lodging

Generally, the Finance Department will pay airfare and/or registration fees, including conference-sponsored meals directly to the travel agency, conference or training vendor. However, in order to maximize savings to the City, travelers may elect to pay airfare, registration and/or lodging expenses directly and be reimbursed. Often less expensive airline and lodging rates are available online and require payment at time of reservation. Many conference registrations are also available online. However, keep in mind that travel expenses for many departments are the only opportunity to use M/W/SBE companies for purchasing. Check with your department before making any reservations online.
To receive reimbursement for these expenses prior to traveling, submit the receipt, Payment Control Document (PCD) and the approved Business Travel, Conference and Out-of-county Training form to the Finance Department.

**Post-travel Requirements**

Within five business days upon return from the event, the traveler must finalize the Business Travel, Conference and Out-of-county Training form and forward it to the traveler’s department fiscal staff. The department then has five business days to submit the form, verifying attendance and reporting any additional actual expenses, to the Finance Department.

**Event Cancellation**

In the event that the meeting, training or conference is cancelled and the traveler has been reimbursed, the traveler is responsible for returning the funds received to the City.

**Cash Advance Payments**

If, in the judgment of the approving authority, the estimated expense for an event is too high to expect the traveler to finance it and receive reimbursement upon return, a cash advance payment of the estimated amount may be made to the traveler. This advance may include meals, ground transportation and lodging expenditures. Whenever possible, the Finance Department will pay airfare and/or registration fees, including conference-sponsored meals, directly to the travel agency, conference or training vendor.

Cash advance payments are not permitted for executives and middle managers.

All other employees, elected officials, board and commission members or volunteers are eligible for cash advance payments. No cash advance payments will be made without a payment request and the Business Travel, Conference and Out-of-county Training form properly completed with all required approvals.

After receiving approval to attend a business meeting, conference or training event, the department should execute a PCD for the amount of the advance and submit it with the approved Business Travel, Conference and Out-of-county Training form to the Finance Department at least seven business days before the check is needed. The Finance Department will not release a cash advance more than five business days before the departure date, unless specifically authorized by the City Manager or designee.

Reimbursement procedures, described later in this AR, also apply to cash advance payments. Justification and approval of expenditures are necessary. A cash advance does not constitute final approval for expenses. Unused portions must be returned. Also, cash advances, under certain circumstances, are taxable under the IRS code.

**Expenses Ineligible for Reimbursement**

Items specifically prohibited from reimbursement include:
• Alcoholic Beverages.
• Personal Items – including, but not limited to, toiletries, laundry/dry cleaning not meeting the requirements listed below, mini-bar purchases, snacks and vending machine purchases.
• Entertainment – including, but not limited to, in-room movies and recreational activities arranged by a conference or training provider (e.g. golf or museum tours).
• Personal telephone and/or Internet use.
• Non-City Traveler Expenses – pre-payments and/or reimbursements for expenses associated with members of the traveler’s family who accompany the traveler.
• Travel Insurance.

Expenses Eligible for Reimbursement

The following list of expense classifications is for information to determine allowable reimbursements under this regulation. The list is a guide and is not all-inclusive. The City Manager or designee has discretion to approve other expenses in unusual circumstances.

Travelers should demonstrate good judgment in the matter of business expenses and have proper regard for economy when conducting business away from the City.

• Registration – fees charged for registration at appropriate training events, conferences, or meetings are allowable expenses. A receipt or some other proof of the fee and a copy of the conference or training program documenting the fees and included meals must be provided with the Business Travel, Conference and Out-of-county Training form.

• Transportation – receipts for transportation expenditures must be maintained and submitted for reimbursement. No allowances will be made in excess of the actual cost of transportation.
  
  o Air Transportation – economy or discount airline rates are standard transportation costs for out-of-state events. Premium economy airfare may be purchased for international flights over six hours, subject to City Manager approval.

  o Ground Transportation at Travel Destination – expenses for ground transportation at the travel destination (taxis, cars for hire, shuttles or subways/trains) are reimbursable when traveling by air, rail, or bus. However, mileage for personal vehicle use or taxi expenses between home and Phoenix Sky Harbor International Airport are not reimbursable expenses.

  o Use of Personal Vehicle – for the traveler’s safety, the use of personal vehicles for out-of-state business meetings, conferences, or training is discouraged. However, the approving authority may authorize the use of personal vehicles when use of commercial transportation or City vehicles is not available or is not practical.

Reimbursement for use of a personal vehicle is limited to the current per mile rate authorized by the Internal Revenue Service, and will not be more than the cost of an economy airfare to the same out-of-state destination. In estimating the cost of using a personal vehicle, parking at the destination city must be included. Travelers must receive prior approval from their department to use personal vehicles on City
business. Travelers receiving a monthly transportation allowance will not be reimbursed for in-county business use of their personal vehicle.

- Rental Vehicles – rental vehicles are to be authorized only when their use is less expensive than using taxis, cars for hire, shuttles or subways/trains. In estimating the cost of a rental vehicle, parking at the destination city must also be included. Exceptions to this policy can be approved by the traveler’s department head and must be requested prior to any travel.

When renting a car on City business, travelers should name the City of Phoenix as the lessee. Additional insurance coverage, in particular, “collision damage waivers,” should not be purchased since the City’s Self-Insurance Program provides liability coverage for accidents in the course and scope of employment. Additionally, it provides coverage for damage to the rental vehicle while in the care, custody or control of the City traveler. The City will not reimburse expenses for additional insurance coverage acquired from the car rental company.

- City Vehicle – a notation on the expense report should note that a “City vehicle” was used. Any expenses involved (i.e. gas or emergency repairs) are reimbursable only with receipts. AR 6.11 cites the regulations concerning the use of City-owned vehicles on City business.

- Airport Parking – the City will reimburse airport parking charges up to $10 per travel day regardless of parking facility used – OR – usage of Super Shuttle (or similar provider) will be reimbursed up to the equivalent of $10 per travel day. Mileage travel to and from Phoenix Sky Harbor International Airport is not reimbursable.

- Lodging – reimbursement for hotel accommodations is limited to the City’s Lodging Rate Schedule amounts, plus taxes and gratuities, for the destination city. City Lodging Rate schedules [http://inphx:8000/FINANCE/TRAVEL/index.html](http://inphx:8000/FINANCE/TRAVEL/index.html) have been prepared for locations within the U.S. and internationally. Departments that know they will be sending travelers several times to the same destination are encouraged to negotiate with a hotel in the destination city for better rates. The number of lodging nights eligible for reimbursement cannot exceed the number of days of scheduled training, business meetings or conference educational content plus one day.

When lodging is part of the conference or training package, room rates in excess of the City’s Lodging Rate Schedule are authorized. For safety reasons, travelers are encouraged to stay at the conference or training host hotel. When accompanied by a spouse or family member, the City will reimburse the single room rate for lodging. The traveler is responsible for the difference in the rates. Overnight lodging for in-state activities outside Maricopa County is authorized if there is a scheduled evening event.

- Meals – reimbursement for meals, including taxes and gratuities, is limited to the daily GSA amount for the destination city, and receipts are required. Meals prepaid by the City and included in the event registration fees can exceed GSA amounts. However, any time meals have been prepaid by the City (excluding continental breakfasts); alternative meals will not be reimbursed (with the exception of those needed due to dietary restrictions). Alcoholic beverage expenses are not reimbursable. The number of days meals are eligible for
reimbursement equals the number of days of scheduled training, business meetings or
conference educational content plus one day. For training and conference events within the
Phoenix Metro area, meal expenses not included as part of the conference or training
program are not reimbursable.

Itemized receipts are not required; however, travelers are strongly encouraged to obtain and
provide itemized receipts for reimbursement. Itemized receipts clearly show that
unauthorized expenses, such as alcohol, are not being requested for reimbursement.

• Dry cleaning and laundry – costs for dry cleaning or laundry expenses incurred on trips of at
least eight days are eligible for reimbursement on or after the fifth day of travel. Receipts
are required. No dry cleaning or laundry expenses incurred within the first four days of
travel will be reimbursed.

• Gratuities – up to 20% is authorized for meals and taxis. Baggage handling and/or maid
service are authorized up to a combined $5 per day. Receipts for taxi, baggage handling
and/or maid service gratuities are not required. However, tips not paid must not be
submitted for reimbursement. Daily GSA meal amount limits include taxes and gratuities.

• Telephone and Internet Use – travelers should use good judgment when making long
distance business calls or using the Internet while away on City business. For example, it
may be less expensive to use a personal cell phone rather than the hotel phone. Travelers
should also be aware of cheaper rate hours and call during those times if possible. As
noted earlier, only business-related use of the Internet is reimbursable.

• Upgrades – travelers may upgrade meals, lodging and/or airfare at their own expense. The
base amount eligible for reimbursement by the City and the separate upgraded amounts paid
by the traveler must be clearly shown. In addition, information explaining how the base
amount was determined must be included.

• International Exchange Rates – the traveler should attempt to document the exchange rate
paid through credit card receipts. If that isn’t possible then a default source for exchange
rates, such as www.x-rates.com or www.oanda.com should be used.

Reporting Business, Training or Conference Expenses

The expense portion of the Business Travel, Conference and Out-of-county Training form shall be
filed with the Finance Department no later than ten business days after returning to work for either
(a) reimbursement of expenditures or (b) settlement of a business meeting, training or conference
expense pre-payment or cash advance. This includes documentation of expenses day by day.
Attach expense receipts to the Business Travel, Conference and Out-of-county Training form as
documentation.

If a receipt for a minor expense, such as parking or a meal, is lost the traveler may submit an
affidavit along with their Business Travel, Conference and Out-of-county Training form to the
Finance Department. The affidavit must indicate which specific expense does not have a receipt,
and must be signed by the traveler’s department head. Duplicate receipts can be obtained for
hotel, air transportation and car rental expenses so, generally, affidavits will not be accepted for
these items. It is expected that the affidavit method will be the exception, and Finance will ensure it is not misused. Receipts are not required for baggage handling, maid service or taxi gratuities.

The approving authority will be responsible for the timely completion and submission of authorization forms for subordinates. The approving authority will check the final expense report statement for reasonableness and compare actual lodging and meal expenses to the City’s Lodging Rate Schedule and the GSA daily meal amounts for the destination city. No reimbursement will be made or account settled until proper approvals have been received. Generally, expenses for lodging above the City’s Lodging Rate Schedule and meals above the daily GSA amount will not be reimbursed. Exceptions include lodging at the conference hotel, and meals sponsored by the conference. If expenses exceed the budgeted amount allowed for the event, approval must be obtained from the City Manager or designee. After all applicable approvals have been obtained; the report should be submitted to the Finance Department.

The Finance Department will review the expenses and receipts, check accuracy and general reasonableness, check for proper approvals, and process the final expense report for payment. The Finance Department will report submissions that do not conform to this AR to the appropriate department. The Finance Department is not responsible for making corrections.

**Settlement of Cash Advance Payments**

If a traveler accepted a cash advance, a settlement must be made based on actual expenses paid. If actual expenses are less than the estimated amount, the traveler will write a check payable to the City of Phoenix for the unused balance and submit it with the Business Travel, Conference and Out-of-county Training form. This repayment must be made within ten business days of returning to work. If actual expenses exceed the estimate, with appropriate approvals, the City will reimburse the traveler.

Again, cash advance payments do not constitute approval to spend the entire amount advanced. All actual expenditures must be justified, meet the requirements of this AR and be accompanied by receipts. Normally, reimbursements occur within five business days after the Finance Department receives and approves the expense report and hardcopy PCD.

**Reimbursement by an Outside Agency**

When authorization for an event is secured on the basis of reimbursement of expenses to the City by an outside agency, the department shall be responsible for indicating this fact on the Business Travel, Conference and Out-of-county Training form and also for obtaining reimbursement and applicable supporting documentation. The Finance Department shall be responsible for monitoring the receipt of such reimbursements to maintain an adequate audit trail of the transaction.

**Other Business Meals and Expenses**

Meetings should not include meals if at all possible to avoid expenses to the City. However, the City may reimburse its employees for meal expenses incurred for meetings arranged to conduct City business with non-City personnel. Reimbursement of expenditures is intended to be limited and should not be considered an “expense account.” Significant City business should be conducted to merit City payment for the City employee(s) and non-City personnel. These
expenditures are most appropriate where an individual or a group of people is giving their personal time or business time to accomplish a City project or objective.

Employees may also participate in periodic or rotating business functions hosted by other agencies at which a meal is served when the meeting is scheduled during a time of day when breakfast, lunch or dinner occurs. City employees also may accept food or refreshments, such as a sandwich or juice and bagels, on infrequent occasions in the ordinary course of a breakfast, lunch or dinner meeting or other meeting where an employee may properly be in attendance.

City employees may not accept a “one-on-one” meal from a third party, regardless of the cost of the meal. “One-on-one” meals may include any situation where one or more third parties host one or a very small number of employees with or without their spouses or partners at a restaurant or private club where the meal is purportedly the reason for the individuals to meet at that time. City employees are prohibited from submitting reimbursement forms for meals, entertainment or other incidentals incurred where only City employees are present. Additionally, expenses for alcoholic beverages will not be reimbursed.

**Violations of this Administrative Regulation**

- Travelers and/or the approving manager may be disciplined for violating this AR.
- Departments that have significant or repeated violations of travel regulations will be placed on travel probation and will have the travel budget for the department reduced or eliminated.

**Interpretations of this Administrative Regulation**

The Finance and Budget and Research Directors will confer and resolve any issues related to administering or interpreting this AR.

**Exceptions for Special Circumstances or Needs**

The City Manager may grant specific exceptions or make modifications to the provisions of this AR for a specific travel event, when, in his judgment, it is in the best interest of the City to do so. This includes employees who request reasonable accommodation due to a disability, exceptions due to unique safety concerns and other exceptional employee circumstances. Such exceptions or modifications will be in writing and attached to all other travel forms required in this AR. Exceptions and modifications will apply on a case-by-case basis only. Any other exceptions or modifications will require a revision to this AR.

Ed Zuercher, City Manager

By: Toni Maccarone
Special Assistant to the City Manager
A. **INSURANCE REQUIREMENTS:**

Consultant and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits contained herein are sufficient to protect the Consultant from liabilities that might arise out of the performance of the work under this Agreement by the Consultant, his agents, representatives, employees or subcontractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

**Commercial General Liability – Occurrence Form**

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

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

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

**Worker's Compensation and Employers' Liability**

Consultant shall provide Workers’ Compensation Statutory Employers' Liability

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

Policy shall contain a waiver of subrogation against the City of Phoenix.
This requirement shall not apply when a consultant or subcontractor is exempt under A.R.S. 23-901, AND when such consultant or subcontractor or executes the appropriate sole proprietor waiver form.

**Professional Liability (Errors and Omissions Liability)**

Consultant’s policy shall cover professional misconduct or lack of ordinary skill in performing the services defined in the Scope of Services of this Agreement.

- Each Claim: $2,000,000
- Annual Aggregate: $2,000,000

Consultant warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Agreement is completed.

1. **Additional Insurance Requirements:**

   The policies shall include, or be endorsed to include, the following provisions:

   On insurance policies where the City of Phoenix is named as an additional insured, the City of Phoenix shall be an additional insured to the full limits of liability purchased by the Consultant even if those limits of liability are in excess of those required by this Agreement.

   The Consultant’s insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

2. **Notice of Cancellation:**

   For each insurance policy required by the insurance provisions of this Agreement, the Consultant must provide to the City, within 2 business days of receipt, a notice if a policy is suspended, voided or cancelled for any reason. Such notice shall be mailed, emailed, hand-delivered or sent by facsimile transmission to Philip Bradstock, Community and Economic Development Department, 200 W. Washington Street, 20th Floor, Phoenix, AZ 85003.

3. **Acceptability of Insurers:**

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

Consultant shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. 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 Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

All certificates required by this Agreement shall be sent directly to the City’s insurance certificate tracking service, or to the City of Phoenix Risk Management Division, 251 West Washington, 8th Floor, Phoenix, Arizona 85003, Attn: Assistant Risk Management Administrator. The City project/agreement number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

5. **Subcontractors:**

Consultant’s certificate(s) shall include all subcontractors as additional insureds under its policies or Consultant shall furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
Exhibit E
SUPPLEMENTAL TERMS AND CONDITIONS

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 Consultant 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.

Health, Environmental and Safety Requirements:

The Consultant’s products, services and facilities shall be in full compliance with all applicable federal, state and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City. The City shall have the right to inspect operations conducted by the Consultant or subcontractor in the performance of this Agreement.

Lawful Presence Requirement:

Pursuant to A.R.S. §§ 1-501 and 1-502, the City is prohibited from awarding an agreement to any natural person who cannot establish that such person is lawfully present in the United States. To establish lawful presence, a person must produce qualifying identification and sign a City-provided affidavit affirming that the identification provided is genuine. This requirement will be imposed at the time of awarding this Agreement. This requirement does not apply to business organizations such as corporations, partnerships or limited liability companies.

Payment Deduction Offset Provision:

Consultant acknowledges that the City Charter requires that no payment be made to any Consultant as long as there is an outstanding obligation due to the City. Consultant agrees that any obligation it owes to the City will be offset against any payment due to the Consultant from the City.

Late Submission of Claim By Consultant:

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

Indemnification – Patent, Copyright and Trademark:

The Consultant shall indemnify and hold harmless the City against any liability, including costs and expenses, for infringement of any patent, trademark or copyright or other
proprietary rights of any third parties arising out of contract performance or use by the City of materials furnished or work performed under this Agreement.

The Consultant agrees upon receipt of notification to promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City of Phoenix and its agents for alleged infringement, as well as for the alleged unfair competition resulting from similarity in design, trademark or appearance of goods by reason of the use or sale of any goods furnished under this Agreement and the Consultant further agrees to indemnify the City against any and all expenses, losses, royalties, profits and damages including court costs and attorney’s fees resulting from the bringing of such suit or proceedings including any settlement or decree of judgment entered therein. The City may be represented by and actively participate through its own counsel in any such suit or proceedings if it so desires. It is expressly agreed by the Consultant that these covenants are irrevocable and perpetual.

**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 project manager.

**Liens:**

Consultant shall hold the City harmless from claimants supplying labor or materials to the Consultant or its subcontractors in the performance of the work required under this Agreement.

**Right to Assurances:**

Whenever one party to this Agreement in good faith has reason to question the other party’s intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of this Agreement.

**Non-Exclusive Remedies:**

The rights and remedies of the City under this Agreement are non-exclusive.

**Agreement Cancellation:**

All parties acknowledge that this Agreement is subject to cancellation by the City pursuant to the provision of Section 38-511, Arizona Revised Statutes.
**Stormwater Regulations**

Materials stored at the Consultant’s location must follow guidelines of stormwater pollution prevention. Consultant shall have either a Stormwater Management Plan or a Stormwater Pollution Prevention Plan (SWPPP). This includes that all stored materials must be weather protected. Consultant will need to pass inspection before the agreement is awarded. Site inspections may also occur any time of the agreement duration.

**Dust Control**

Consultant shall not cause or allow any dust generating operation, use of property, or any other operation which cause fugitive dust emissions that exceed the twenty percent (20%) visible emission opacity limit in Rule 300 of Maricopa County’s Air Pollution Control Regulations. The Consultant shall suppress emission of dust to comply with the twenty percent (20%) visible emission opacity limit.

The use of leaf blowers is strictly prohibited. The Consultant shall NOT use grading, blading, disking, a gannon or like equipment to control weeds without prior written authorization from the project manager. Earthmoving activities shall be conducted in accordance with the standards and work practices defined in Maricopa County Fugitive Dust Rule 310. Consultant shall obtain a Maricopa County Dust Control Permit for each site where there is earthmoving on areas greater than 0.1 acres. Consultant may submit invoices for reimbursement of dust control permit fees when necessary, provided documentation is included to verify the fee.

Acceptable alternatives to leaf blowers include: Brooms, Racks, Walk Behind Leaf Vacuums, and PM-10 Compliance Sweepers. Debris shall not be swept into the street.
Exhibit F
CONSULTANT’S INSURANCE CERTIFICATE

Successful proposer’s Insurance Certificate to be added before execution of this Agreement.