



**PURCHASING ITEM  
FOR  
COUNCIL AGENDA**

**1. Agenda Item Number:**

**22**

**2. Council Meeting Date:**

May 14, 2015

**TO: MAYOR & COUNCIL**

**3. Date Prepared:** April 24, 2015

**THROUGH: CITY MANAGER**

**4. Requesting Department:** City Manager

**5. SUBJECT:** Telephone system maintenance services and telephone equipment

**6. RECOMMENDATION:** Staff recommends City Council approve Contract No. IT5-915-3515, with Design Business Communications, Inc., dba American Telephone, for telephone maintenance services and telephone equipment in the amount of \$102,467 for one-year, with the option of four one-year extensions.

**7. BACKGROUND/DISCUSSION:** The City competitively procured third party resources in January 2008 to provide expert level service and support for the City's telephone system, but this agreement has ended with no further extensions available.

This agreement is for maintenance, support, and related components including all parts and labor for the City's telephone system. Service will be provided seven days a week, twenty-four hours a day, with a maximum two hour response time for emergency and twenty-four hour response time for non-emergency outages. The agreement also includes a purchasing provision that enables the City to acquire equipment for upgrades and additions.

Software and hardware maintenance/support for NEC phone switches	\$63,014
911 software maintenance/support	\$15,653
Repertee voice mail software maintenance/support	<u>\$3,800</u>
Sub Total:	\$82,467
Onsite repair support as needed (billed @ \$75.00 per hour)	<u>\$20,000</u>
Total:	\$102,467

**8. EVALUATION:** On February 26, 2015, City Staff issued Request for Proposal No. IT5-915-3515 for telephone system maintenance and the purchase of necessary telephone equipment. Notification was sent to all registered vendors. Two proposals were received from the following offerors: Scottel Voice & Data, Inc., dba Black Box Network Services and Design Business Communications, Inc., dba American Telephone.

An Evaluation Committee made up of Information Technology staff evaluated the proposals and recommends award to Design Business Communications, Inc., dba American Telephone, who submitted the offer that best meets the evaluation criteria. The contracted rates have not increased from the previous seven year old agreement.

The term of this contract is June 1, 2015 through May 31, 2016, with the option of four one-year extensions.

**9. FINANCIAL IMPLICATIONS:**

Cost: \$102,467  
Savings: N/A  
Long Term Costs: N/A

**Fund Source:**

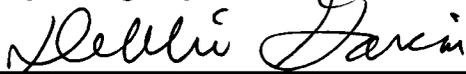
<u>Acct. No.:</u>	<u>Fund Name:</u>	<u>Program Name:</u>	<u>CIP Funded:</u>	<u>Amount:</u>
XXX-XXXX-5511-000000 (Telephone Non-Toll Accounts)	Various	No Program	No	\$82,467
101-1280-5219-000000	General Fund	No Program	No	\$20,000

**10. PROPOSED MOTION:** Move City Council approve Contract No. IT5-915-3515, with Design Business Communications, Inc., dba American Telephone for telephone maintenance services and telephone equipment in the amount of \$102,467 for one year, with the option of four one year extensions.

**ATTACHMENTS:** Agreement

**APPROVALS**

**11. Requesting Department**



Debbie Dulanski-Garcia, IT Special Projects Analyst

**13. Department Head**



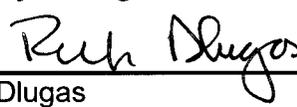
Steven Philbrick, Chief Information Officer

**12. Procurement Officer**



Carolee Stees, CPPB

**14. City Manager**



Rich Dlugas

**CITY OF CHANDLER SERVICES AGREEMENT  
TELEPHONE SYSTEM MAINTENANCE SERVICES  
AGREEMENT NO.: IT5-915-3515**

THIS AGREEMENT is made and entered into this 30<sup>th</sup> day of April, 2015, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "CITY", and Design Business Communications dba American Telephone, hereinafter referred to as "CONTRACTOR".

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

**1. CONTRACT ADMINISTRATOR:**

- 1.1. Contract Administrator.** Contractor shall act under the authority and approval of the IT Network Analyst or designee (Contract Administrator), to provide the services required by this Agreement.
  - 1.2. Key Staff.** This Contract has been awarded to Contractor based partially on the key personnel proposed to perform the services required herein. Contractor shall not change nor substitute any of these key staff for work on this Contract without prior written approval by City.
  - 1.3. Subcontractors.** During the performance of the Agreement, Contractor may engage such additional Subcontractor as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with Contractor.
  - 1.4. Subcontracts.** Contractor shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of City. The subcontract shall incorporate by reference the terms and conditions of this Contract.
- 2. SCOPE OF WORK:** Contractor shall provide telephone maintenance services all as more specifically set forth in Exhibit A, attached hereto and made a part hereof by reference.

The City and the Contractor may, by mutual agreement, make minor modifications to the Scope of Work including additions and deletions.

- 2.1 Non-Discrimination.** The Contractor shall comply with all applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.
- 2.2 Licenses.** Contractor shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this contract.
- 2.3 Advertising, Publishing and Promotion of Contract.** The Contractor shall not use, advertise or promote information for commercial benefit concerning this Contract without the prior written approval of the City.
- 2.4 Compliance with Applicable Laws.** Contractor shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.
  - 2.4.1** The Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify, hereinafter "Contractor Immigration Warranty".

- 2.4.2 A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.
- 2.4.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
- 2.4.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.
- 2.4.5 The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 2.5 **Warranty (Equipment).** Any defects of design, workmanship, or materials that would result in non-compliance with the Contract specifications shall be fully corrected by Contractor (including parts and labor) without cost to City. The written warranty shall be included with the delivered products to the using Department.
3. **ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by the Contract Administrator to determine acceptable completion.
- 3.1. **Records.** The Contractor shall retain and shall contractually require each Subcontractor to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.
- 3.2. **Audit.** At any time during the term of this Contract and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Contract or Subcontract. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 3.3. **New/Current Products.** All equipment, materials, parts and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.
- 3.4. **Property of City.** Any materials, including reports, computer programs and other deliverables, created under this Contract are the sole property of City. Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. Contractor shall not use or release these materials without the prior written consent of City.
4. **PRICE:**
- 4.1. City shall pay Contractor as set forth in Exhibit B, attached hereto and made a part hereof by reference.
- 4.2. **Taxes.** Contractor shall be solely legally responsible for any and all tax obligations, which may result out of Contractor's performance of this Contract. City shall have no legal obligation to pay any amounts for taxes, of any type, incurred by Contractor. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.

- 4.3. Contractor shall be solely responsible for any and all tax obligations, which may result out of the Contractor's performance of this Agreement. The City shall have no obligation to pay any amounts for taxes, of any type, incurred by the Contractor.
- 4.4. **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.
- 4.5. **IRS W9 Form.** In order to receive payment Contractor shall have a current I.R.S. W9 Form on file with City, unless not required by law.
- 4.6. **Price Adjustment (Annual).** All prices offered herein shall be firm against any increase for one (1) year from the effective date of the Contract. Prior to commencement of subsequent renewal terms, City will entertain a fully documented request for price adjustment. The requested increase shall be based upon a cost increase to Contractor that was clearly unpredictable at the time the Contract was executed directly correlated to the price of the product concerned.
- 4.7. **Acceptance by City.** City reserves the right to accept or reject the request for a price increase. If City approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.
- 4.8. **Price Reduction.** Contractor shall offer City a price reduction for its services concurrent with a published price reduction made to other customers.
5. **TERM:** The term of the Contract is one year (s), commencing on June 1, 2015 and terminating on May 31, 2016 unless sooner terminated in accordance with the provisions herein. City may, with mutual agreement of Contractor, extend the Contract for up to four additional terms of one year each.
6. **USE OF THIS CONTRACT:** The Contract is for the sole convenience of the City of Chandler. City reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by Contractor.
- 6.1. **Cooperative Use of Contract.** In addition to the City of Chandler and with approval of the Contractor, this Contract may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at [www.maricopa.gov/materials](http://www.maricopa.gov/materials) and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.
- Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.
- 6.2. **Emergency Purchases:** City reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the Contractor.
- 6.3. **Exclusive Possession:** All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Chandler and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
7. **CITY'S CONTRACTUAL REMEDIES:**
- 7.1. **Right to Assurance.** If the City in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Contract, the Contract Administrator may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the

Contractor to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Contract in addition to any other rights and remedies provided by law or this Contract.

- 7.2. Stop Work Order.** The City may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Contract for period(s) of days indicated by the City after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.
- 7.3.** If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Contract Administrator shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.
- 7.4. Non-exclusive Remedies.** The rights and the remedies of the City under this Contract are not exclusive.
- 7.5. Nonconforming Tender.** Services and materials supplied under this Contract shall fully comply with Contract requirements and specifications. Services or materials that do not fully comply constitute a breach of contract.
- 7.6. Right of Offset.** The City shall be entitled to offset against any sums due Contractor, any expenses or costs incurred by the City, or damages assessed by the City concerning the Contractor's non-conforming performance or failure to perform the Contract, including expenses to complete the work and other costs and damages incurred by City.

## **8. TERMINATION:**

**8.1.1 Termination for Convenience:** City reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Contractor shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. As compensation in full for services performed to the date of such termination, the Contractor shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the Contractor and City, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director shall determine the percentage of work performed under each task detailed in the Scope of Work and the Contractor's compensation shall be based upon such determination and Contractor's fee schedule included herein.

**8.1.2 Termination for Cause:** City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:

- 1) If Contractor fails to perform pursuant to the terms of this Agreement
- 2) If Contractor is adjudged a bankrupt or insolvent;
- 3) If Contractor makes a general assignment for the benefit of creditors;
- 4) If a trustee or receiver is appointed for Contractor or for any of Contractor's property;
- 5) If Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
- 6) If Contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;
- 7) Where Agreement has been so terminated by City, the termination shall not affect any rights of City against Contractor then existing or which may thereafter accrue.

- 8.3. Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, City may cancel this Contract after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the City is or becomes at any time while this Contract or an extension of this Contract is in effect, an employee of or a consultant to any other party to this Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time.
- 8.4. Gratuities.** City may, by written notice, terminate this Contract, in whole or in part, if City determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of City for the purpose of influencing the outcome of the procurement or securing this Contract, an amendment to this Contract, or favorable treatment concerning this Contract, including the making of any determination or decision about contract performance. The City, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by Contractor.
- 8.5. Suspension or Debarment.** City may, by written notice to the Contractor, immediately terminate this Contract if City determines that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of a contract shall attest that the Contractor is not currently suspended or debarred. If Contractor becomes suspended or debarred, Contractor shall immediately notify City.
- 8.6. Continuation of Performance Through Termination.** The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.
- 8.7. No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 8.8. Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this agreement beyond the current fiscal year. No legal liability on the part of the CITY for services may arise under this agreement beyond the current fiscal year until funds are made available for performance of this agreement. The City may reduce services or terminate this agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.
- 9. FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.
- 10. DISPUTE RESOLUTION:**
- 10.1. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 10.2. Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 10.3. Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's

fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.

11. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Contractor, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of Contractor's and subcontractor's employees.

The amount and type of insurance coverage requirements set forth in the Agreement will in no way be construed as limiting the scope of indemnity in this paragraph.

12. **INSURANCE:**

1. General.

- A. At the same time as execution of this Agreement, the Contractor shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The Contractor and any of its subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Contractor from liabilities that might arise out of the performance of the Agreement services under this Agreement by Contractor, its agents, representatives, employees, subcontractors, and the Contractor is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of Subcontractors: If any work is subcontracted in any way, the Contractor shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the Contractor in this Agreement. The

Contractor is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope And Limits Of Insurance. The Contractor shall provide coverage with limits of liability not less than those stated below.

A. *Commercial General Liability-Occurrence Form.* Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:* Contractor must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Contractor owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

C. *Workers Compensation and Employers Liability Insurance:* Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

D. *Installation Floater:* Installation Floater coverage equal to the initial Contract Amount including labor and expenses, policy shall include the following provisions:

- a. The CITY, CONTRACTOR, subcontractor and any others with an insurable interest in the work shall be Insureds on the policy.
- b. Coverage shall be written on a replacement cost basis and shall include coverage for losses that may occur during equipment testing.
- c. Policy shall be maintained until whichever of the following shall first occur:
  - i. final payment has been made; or,
  - ii. until no person or entity, other than the CITY has an insurable interest in the property required to be covered.
- d. Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy by the CITY.
- e. The Installation Floater must provide coverage from the time the equipment/material becomes the responsibility of the CONTRACTOR and shall continue without interruption during the installation, including any time during which the equipment/material is being transported to the installation site, or awaiting installation, whether on or off site.
- f. CONTRACTOR is responsible for the payment of all deductibles under the Installation Floater policy.

3. Additional Policy Provisions Required.

A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.

- B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:
1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Contractor including the City's general supervision of the Contractor; Products and Completed operations of the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor.
  2. The Contractor's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.
  3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement.
  4. The Contractor's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the Contractor and must not contribute to it.
  5. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  6. Coverage provided by the Contractor must not be limited to the liability assumed under the indemnification provisions of this Agreement.
  7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the Contractor for the City.
  8. The Contractor, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The Contractor must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
  9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the Contractor must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.

13. **NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY

Contract City of Chandler  
 Administrator: \_\_\_\_\_  
 Contact: Purchasing \_\_\_\_\_  
 Mailing Address: PO Box 4008 MS 901 \_\_\_\_\_  
 Physical Address: 175 S Arizona Avenue \_\_\_\_\_  
 City, State, Zip Chandler, AZ 85225 \_\_\_\_\_  
 Phone: 480-782-2400 \_\_\_\_\_  
 Fax: 480-782-2410 \_\_\_\_\_

In the case of the CONTRACTOR

Firm Name: American Telephone  
 Contact: Tami Boling \_\_\_\_\_  
 Address: 7363 E Tierra Buena Lane #140 \_\_\_\_\_  
 City, State, Zip Scottsdale, AZ 85260 \_\_\_\_\_  
 Phone: 480-991-7780 \_\_\_\_\_  
 Email: tboling@americantelephone.com \_\_\_\_\_

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

- 14.1. **No Kickback.** Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the City has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in Contractor’s proposal to the City.
- 14.2. **Kickback Termination.** City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the City is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from City is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3. **No Conflict:** Contractor stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.

15. GENERAL TERMS:

- 15.1. **Ownership.** All deliverables and/or other products of the Contract (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by Contractor in performance of the Contract) shall be the sole, absolute and exclusive property of City, free from any claim or retention of right on the part of Contractor, its agents, sub-contractors, officers or employees.
- 15.2. **Entire Agreement.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.3. **Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the City.
- 15.4. **Amendments.** The Contract may be modified only through a written Contract Amendment executed by authorized persons for both parties. Changes to the Contract, including the addition of work or

materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the Contractor are violations of the Contract. Any such changes, including unauthorized written Contract Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on such changes.

- 15.5. **Independent Contractor.** The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 15.6. **No Parole Evidence.** This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.
- 15.7. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this 30<sup>th</sup> day of April, 2015.

FOR THE CITY OF CHANDLER

FOR THE CONTRACTOR

\_\_\_\_\_  
Mayor

By: *Daisy Ehlers*  
Signature

APPROVED AS TO FORM:

ATTEST: If Corporation

\_\_\_\_\_  
City Attorney (*kb*)

*Michael De...*  
Secretary

ATTEST:

\_\_\_\_\_  
City Clerk

SEAL

**EXHIBIT A  
SCOPE OF WORK**

The CONTRACTOR shall provide all necessary qualified personnel, equipment, parts, supplies and services to maintain existing telephone system equipment listed below:

QTY	DESCRIPTION
2	NEC SV8500 Servers PEER to PEER Fusion Version S07.02.32, one at 275 East Buffalo Street, with a total of 11 physical PIMs and 4 Virtual PIMs with ACD and CCIS. The other SV8500 resides at City Hall, 175 S. Arizona Avenue, and is PEER to PEER to Main Site. Currently, there are 57 IP DTerms, 637 VOIP 700 Series Phones, 880 digital ports, and 656 analog ports in use.
4	NEC NEAX 2000 IPS Phone Systems – PD West currently has 63 digital and 9 analog ports in use. PD South currently has 73 digital and 11 analog ports in use.
1	Amcom (Spok) 911 Server
6	24PRT's (T1) (PRI)
5	2MC's
2	MG (PRI) 1.5M SCA 24PRIA
11	IPG's
1	UG50
1	AVST Repartee Voice Mail with 48 ports and 8535 hours of storage.
2	Ratelco 100amp –48V constant volt rectifier with 16 batteries
1	Gnav 8.0.0
1	LMC
1	Telco Systems Hyperspan 828 Fiber Mux
1	Adtran MX2800 Fiber Mux
1	Adtran 28 port DSX unit
2	Smart 16 Shelves 2 <sup>nd</sup> Gen
4	DC Power Supplies (2 per shelf)
32	T1 ESF CSU 1202.06621
16	NEC Digital Remote Units (DRU)
1	DAC
14	Verilink/TXPort 2100 series CSU's
4	Verilink/TXPort 3100 series CSU/DSU's
4	Verilink 12 slot CSU/DSU Chassis
1	MG – SIP16 SCA – 16SIPMG (US)
1	Metropolis IP Call Accounting System
7	4DATBA Digital Announcement Cards

**Telephone System Service Requirements**

The CONTRACTOR shall keep all hardware, software, station equipment, existing voice-cabling and ancillary equipment in good working condition.

**1. Performance**

- a. All work shall be performed in accordance with original equipment manufacturer (OEM) standards, and in accordance with all applicable laws, codes and standards.
- b. Broken, damaged or deteriorated parts or equipment shall be repaired or replaced. Adjustable equipment shall be adjusted as necessary when found to be in unsatisfactory working condition.
- c. The CONTRACTOR shall make all reasonable efforts to prevent any interruptions of service. If interruptions occur, the CONTRACTOR shall re-establish service with the shortest possible delay.
- d. The CONTRACTOR shall inform the CITY as soon as possible of any occurrence of an unusual

nature that may result in a prolonged interruption of service.

2. Response time

- a. Upon notification of a routine equipment/service trouble request, the CONTRACTOR shall repair or replace proper service within 24 hours.
- b. Emergency service calls shall require an onsite response within 2 hours of notification by an NEC 8500/Fusion certified technician.
- c. The CITY defines emergency trouble call as the PBX being in a major alarm mode or completely down, the voice-mail or ACD system down, SIP media gateway, DC rectifier, 911 system and/or 20% or more stations or circuits are affected at any one time.
- d. The CONTRACTOR shall provide service on a seven day a week, twenty-four hour per day basis.
- e. The primary hours for routine maintenance are 6:00 AM to 6:00 PM, Monday through Friday.
- f. Upon receipt of a request for moves, adds, or changes the CONTRACTOR shall complete the work required within 5 working days.
- g. The CONTRACTOR shall provide a means for remote alarm monitoring for early detection of system outages or alarms.

3. Parts

- a. All replacement parts used by the CONTRACTOR shall be original manufacturer's parts or functionally equivalent. Equivalent parts shall be approved by the CITY prior to installation.
- b. All replacement parts must be immediately available at the CONTRACTORS local facility within the Phoenix metropolitan area. The CITY reserves the right to inspect local inventory at their discretion.

4. Personnel

- a. The CONTRACTOR shall provide an NEC 8500/Fusion certified technician to perform the required maintenance and future installations under this contract, and they must live within the local Phoenix metropolitan area.
- b. The CONTRACTOR shall be held responsible for the actions of its employees while on the premises of any CITY facility.
- c. The CONTRACTOR shall be responsible for good housekeeping in all equipment areas.

5. Repair Coordination

- a. The CONTRACTOR shall be responsible for all contacts and coordination with the local telephone company and/or other suppliers of service concerning maintenance of the CITY systems.
- b. The CONTRACTOR shall not order, install or place any type of equipment or services where there is an obligation of charges to the CITY unless the CITY has issued a written request.
- c. The CONTRACTOR shall maintain and provide the CITY at the termination of the contract or upon request a record of all moves, adds, changes, installations or removals that the CONTRACTOR has completed during this contract.

6. Upgrades

All upgrades shall be performed after hours, with CITY approval, between the hours of 9:00 PM and 6:00 AM and completed no later than 6:00 AM. Some upgrades may need to be performed on weekends.

**EXHIBIT B  
FEE SCHEDULE**

City shall pay Contractor for services described in above Exhibit A Scope of Work as follows:

Year One	\$49,536.00 per year
Year Two	\$49,536.00 per year
Year Three	\$49,536.00 per year
Year Four	\$49,536.00 per year
Year Five	\$49,536.00 per year

Price per hour for any additional services over and above maintenance calls: \$75.00 per hour

**Cost of Equipment for Purchase by City:**

DTH-1-1 S/L analog phone	\$24.00
ETJ-8-2 (BK) 8-button phone	\$130.00*
ETJ-16DC-1 (BK) 16-button phone	\$145.00*
ETJ-24DS-1 (BK) 24-button phone	\$178.00*
DTH-4R-2 (BK) D-term cordless multi-line	\$317.00 (replaced with DTL-8R)
DTR-8D-2 (BK) 8-button phone	\$90.00*
DTR-16D-2 (BK) 16-button phone	\$125.00*
DTR-32D-2 (BK)	\$155.00*
WMU-W (BK) unit	\$32.00*
APR-J (BK) unit	\$117.00*
ADA-J (BK) unit	\$90.00*
16 ELCJ digital line card	\$644.00*
16 LCBJ 24V analog line card	\$260.00*
16 LCBE 48V analog line card	\$260.00*
4 DATA digital announcement trunk card	\$276.00
4 DATB digital announcement trunk card	\$276.00*
16 COTBE central office trunk card	\$420.00*
8RSTAE Analog Caller ID	\$2,158.75
32IPADA PAD Card	\$12,163.94
PRTC PRI	\$4,983.00 (PRTC-B)
IPG/UG50	\$3,506.25 (UG50Package)
GBAL-L Gigabyte Adaptor	\$106.47
DT700 Series ITL-8LD-1 (BK)	\$180.18
DT700 Series ITL-12D-1 (BK)	\$141.96
DT700 Series ITL-24D-1 (BK)	\$161.07
DT700 Series ITL-32D-1 (BK)	\$191.10
DT700 Series ITL-12CG-3 (BK)	\$218.40
DT700 Series ITL-24CG-3 (BK)	\$242.42 (incl ITL-12CG& 12LK)
DT700 Series ITL-32CG-3 (BK)	\$274.09 (incl ITL-12CG, 12LK & 8LK)
Adtran MX2800 Fiber MUX	\$425.00 (refurb-new model available)
Adtran 28 port DSX unit	\$495.00 (refurb-new model available)
Smart 16 Shelf 2 <sup>nd</sup> Gen	\$224.00 (refurb-no replacement model)
DC Power Supply	\$75.00
T1 ESF CSU # 1202.06621	\$75.24 (refurb-new model available)

Discount off of manufacturer's published list prices for any NEC equipment not listed above: 30%

\*This item is discontinued by the manufacturer. The item provided will be refurbished. The pricing provided is based upon availability of American Telephone stock. If American Telephone has to locate the part on the secondary market, the price may change.

Note: NEC, AVST, Metropolis and Spok require current software assurance to obtain manufacturer support. The City is responsible for keeping software assurance current with these manufacturers and the cost of the software assurance is not included in this contract.