



# REQUEST FOR PROPOSAL

Finance Department

10000 N. El Mirage Rd.  
El Mirage, AZ 85335

CONSULTANT SERVICE  
EM21-PDS01

Phone: (623) 876-2953  
Fax: (623) 972-8110

## City of El Mirage Notice of Request for Proposal

Solicitation Number: **EM21-PDS01XXX**

Solicitation Description: **POLICE DEPARTMENT STUDY**

Release Date: **July 15, 2021**

Advertisement Date: **July 15<sup>th</sup>, 16<sup>th</sup>, 22<sup>nd</sup>, & 23<sup>rd</sup>, 2021**

Final Date for Inquiries: **August 5, 2021** **1:30 p.m., Arizona time**

Prospective Offeror's Conference: **N/A** **N/A**

Location: **N/A** **N/A**

Proposal Due Date: **August 13, 2021** **1:30 p.m., Arizona time**

Location: *City Hall  
Administration Building*

Download Request for Proposal from the City Website at  
<http://www.elmirageaz.gov/1681/Bid-and-Contract-Opportunities>

In accordance with City of El Mirage Procurement Code submissions for the material or services specified will be received by the City of El Mirage Administration Department at the specified location until the date and time specified above. Responses to the Request for Proposals must be electronically submitted and in actual receipt by the City of El Mirage Administration Department on or prior to the Proposal Due Date and Time. Late proposals will not be considered, except as provided in the City of El Mirage Procurement Code. ***Proposals shall be electronically submitted via email. Please identify the project in the subject line of the email.*** Submitters are strongly encouraged to carefully read the *entire* Request for Proposals package.



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### 1. GENERAL

The City of El Mirage (City) seeks to enter into a contract with a qualified consultant to conduct an independent study evaluating the current operational efficiency and status of the El Mirage Police Department (EMPD) and to identify future needs for strategic planning purposes. The scope of the study will include an assessment of the Police Department's management structure and operations; to identify potential risks associated with current practices, and an analysis of EMPD's organizational structure, calls for service, staffing, overtime, personnel and equipment deployment, emergency communications (911), strategic planning, crime prevention and community engagement education efforts.

The consultant shall develop a final report from the study providing the information requested in Section 3, Scope of Work. The report shall be presented in electronic and written format to the City Manager and Chief of Police for review. It will be required of the consultant to make a formal presentation of the report at a City Council Meeting. The final deliverable study will include a full report.. Recommendations should offer City Officials short and long-term approaches to prioritize services in these areas and to assure services are effectively delivered based on best management practices and community service level demands.

The term of the contract shall be one (1) year commencing on the contract effective date. No charge shall be allowed for preparation of a submittal. The City reserves the right to reject any or all submittals, or to withhold the award for any reason it may determine, and to waive or not to waive informalities in any submittal. All information regarding the content of the specific submittals will remain confidential until a contract is finalized, or all submittals are rejected.

### 2. BACKGROUND

The City is considered the gateway to the Northwest Valley of the Greater Phoenix Metro Area. El Mirage has grown from a small-town dependent on agriculture, to a diverse urban economy with a 2019 census population estimate of 35,753. The City's mission is to offer exemplary service to all who live, work, and visit El Mirage. We take great pride in treating each citizen equally and professionally in a manner that fosters continued confidence in the City's leadership.

The City is an incorporated city that is organized with a Mayor/Council form of government. The City Council consists of seven members, including the Mayor. The Council is comprised of members that are elected at-large and serve four-year staggered terms.

The Police Department currently consists of seventy-two (72) full time employees (FTEs), including fifty-two (52) sworn personnel. Police Chief Paul Marzocca oversees the department. An Assistant Police Chief leads the Operations Division and a Civilian Deputy Director leads the Administration Division. There are two (2) Police Lieutenants and eight (8) Police Sergeants who work in patrol and investigations.



# Police Department Study

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There are six (6) patrol squads made up of five (5) officers and a sergeant. Other patrol assets are one (1) Police K9 Officer, one (1) Motor Officer who splits time working in the five (5) elementary schools and one (1) School Resource Officer who works at the one (1) high school.

There are five and one-half (5.5) Detectives led by a Sergeant, not included in the detectives' total are one (1) officer assigned to the Drug Enforcement Administration Task Force and one (1) officer assigned to the State Gang Task Force. It is the intent of the department, when fully staffed, to create a Neighborhood Enforcement Team (NET) led by a Sergeant and three (3) officers to combat crime.

### Non-sworn Personnel:

#### Administrative Division

- Police Property Specialist 1
- Community Policing Specialist, Sr. 1
- Fiscal Services Specialist, Sr. 1
- Management Support Specialist, Sr. 1
- Police Program Specialist Sr. 1
- Police Records Supervisor 1
- Police Records Tech, Sr. 3
- Management Support Assistant 1
- Vehicle Impound Technician .5

#### Operations Division

- Victim Assistance Supervisor 1
- Victim Advocate 2
- Police Investigations and Charging Specialist 1
- Police Investigator Specialist, Sr. .5
- Analytical Research Coordinator 1
- Police Assistant 3

### 3. SCOPE OF WORK

#### A. Study Objective

1. The study will evaluate and compare El Mirage police services with those of other communities of similar size. The analysis will identify recommendations based upon the traditional core services, estimated costs, current and future trends, and assess service demands of the community for the next ten (10) years. This will include an analysis of the department's organizational structure, processes, and staffing.
2. The study will evaluate the current primary Public Safety Answering Point (PSAP) - City of Tolleson Police Department Dispatch Center - to determine contractual requirements and



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current performance in answering incoming E911 emergency and non-emergency police and fire service-related calls. Using data and information collected to evaluate efficiency. The report will also include any recommendations or alternatives to enhance communication dispatching service levels and estimated costs.

3. The study must include what resources (facilities, staff, equipment, materials, etc.) will be required.

#### B. Developmental Study Report

The following components should be considered essential to the operational study:

##### 1. Operational and Management Analysis:

- Assess EMPD's current operations and management structure.
- Provide recommendations for structural improvement.
- Identify technology that could be implemented to improve efficiency.
- Review equipment and vehicle fleet required to perform services.
- Determine if there is a different model(s) by which EMPD might provide its law enforcement and crime prevention services in a more efficient manner (from a response time, staff deployment, and/or financial perspective).
- Assess overall approach to addressing crime and quality of life issues.
- Review current and proposed community engagement strategies (that supports equity, diversity, and inclusion) and assess how the department can expand on these activities.
- Review the internal communications strategies and culture and provide recommendations.
- Review and provide recommendations for policies and procedures.
- Identify gaps in resources (facilities, staff, training, equipment, materials, etc.).

##### 2. Staffing Analysis:

- Determine staffing needs through an in-depth study of service demands, resource allocation, and response times, and recommend alternative approaches to workload management.
- Analysis of law enforcement staffing based on analysis of:
  - Community service expectations and characteristics.
  - Analysis of police response times, including alignment with community expectations.
  - Analysis of police call response protocols – Should the police department be responding to all calls for service? If not, what types of call response might be eliminated to improve call response times and proactive contacts?
  - Analysis of law enforcement *embedded non-sworn* response capability to assist police with calls for service.
  - Analysis of workload. Do officers have enough time to be proactive? How is that time used to solve problems? What are the best practices and staffing considerations that support reducing crime and enhancing quality of life for the community?



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- Opportunities for alternative service delivery, such as civilianization and/or regionalization.
3. Patrol Scheduling and Deployment: Determine the most effective way to deploy police resources with the correct shift schedule. The analysis should examine a number of shift schedule configurations in order to determine the best options to meet El Mirage's call demands while maintaining officer safety and response capabilities at all times.
  4. Overtime: The use of overtime in law enforcement agencies is an important area of public debate. Analysis of overtime usage in the context of these factors listed below will help control and enhance accountability for its usage. Identify best practices to control costs by examining the needs for overtime, controls, and service alternatives in the context of:
    - Overall staffing needs
    - Deployment and scheduling
    - Policies, procedures, and management practices
    - Supervisory controls
    -
  5. Community Policing: Assess department strengths and weaknesses as well as areas for additional community engagement possibilities. Policing requires law enforcement to be holistic in its engagement with the community. It is every employee's job to be appropriately engaged with the community to address crime and quality of life issues. This requires organizations to be committed to providing effective:
    - Leadership
    - Commitment to the community
    - Partnerships with the community
    - Recruitment and training techniques
    - Policies and procedures
    - Mentoring and supervision
    - Data-driven support
  6. Capital infrastructure: Identify capital needs including apparatus, facilities, and equipment. Capital needs should support the personnel and operational recommendations identified in the study with estimated costs.
  7. Support resources: Identify what City resources and staffing are needed from other departments to support Police Operations. Police Departments rely on support departments to provide 'back office' functionality. A review should be made to determine the needed levels of support from other departments (i.e. Is an IT Technician needed as a dedicated resource to support PD networks, computers, and software? Should a HR position be dedicated to PD



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personnel support based on turnover and operational staffing complexity? Should there be a full-time maintenance person assigned to the Police Department?)

8. Complete set of any other documents, information, or data utilized to complete the study and to obtain an accurate depiction of the current and future needs of the EMPD.

#### C. Study Conclusion

The report developed based on the findings of the study shall address specifically, but not be limited to the following items:

1. Are the current EMPD staffing levels adequate to support the demands of current and future emergency and non-emergency service level requests, and what triggers should be used for future requests?
2. Are there any identifiable recommended changes that need to be made to enhance the efficiency and safety of current operations?
3. Identify capital needs including apparatus, facilities, and equipment and expected timeframes with estimated costs.
4. Identify gaps in service delivery and recommend solutions for improved performance as related to staffing, apparatus, and facility placement with estimated costs.
5. Recommend changes to maintain and increase service levels within the City of El Mirage with estimated costs.
6. The awarded firm will be required to submit/present the following:
  - a. A preliminary detailed written and electronic report of findings will be provided by (proposer) by **MM/DD/YYYY**.
  - b. A final detailed written and electronic report of findings by (proposer) **MM/DD/YYYY** to include current department status and recommendations to accomplish over the next 1 - 5 years (short term) and 5 - 10 years (long term) to enable the EMPD to develop a comprehensive strategic plan.
  - c. Develop an operational and financial plan demonstrating the understanding of the City's financial capacity and possibility of tiered growth, including planning thresholds to address current and future service requirements.
  - d. Present findings and recommendations to City Council by (proposer) **MM/DD/YYYY**. City Council meetings are held at City Hall 10000 N. El Mirage Road, El Mirage, AZ 85335, and are generally scheduled on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday evening of each month.



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#### 4. SUBMITTAL DEADLINE

Proposals must be submitted in the form specified in this RFP. Submittal results will be posted online at <http://www.elmirageaz.gov/1681/Bid-and-Contract-Opportunities> within a reasonable time after the proposals have been evaluated. **Proposals shall be received electronically by the City until 1:30 P.M. (Arizona time) on the 13<sup>th</sup> DAY OF August 2021.** Late proposals will not be accepted. Submittals are to be emailed to: [vojeda@elmirageaz.gov](mailto:vojeda@elmirageaz.gov), and the proposal included as an attachment. Proposer assumes the burden of proper and timely delivery. The project title/description should be included in the subject line of the email.

#### 5. LATE SUBMITTALS

Late submittals will not be considered, except as provided by the City of El Mirage Procurement Code. A proposer submitting a late proposal shall be so notified.

#### 6. WITHDRAWAL OF SUBMITTAL

At any time prior to the specified due date and time, a submitter (or designated representative) may withdraw the proposal.

#### 7. EXCEPTIONS TO SPECIFICATIONS

Proposer must provide with the proposal as an attachment any and all exceptions to either the specifications and/or the terms and conditions contained herein. Failure to note exceptions shall be interpreted to convey the proposer agrees to perform in the manner described and/or specified in this RFP. City's acceptance of proposer's offer shall be limited to the terms of this RFP unless expressly agreed in writing by the City.

#### 8. ADDENDA

Any change to the RFP shall be in the form of a numbered addendum issued by the Administration Department. The addendum will be furnished to all who received the RFP. The City will not be responsible for any oral or written instructions made by any employees, officers, contracted consultant, or agent of the City in regard to the RFP. The City will not be responsible for proposer adjusting their offer based on oral or written instructions.

#### 9. AWARD OF CONTRACT

- a. Any resulting contract shall include all provisions listed in this RFP.
- b. Notwithstanding any other provision of this RFP, the City expressly reserves the right to:
  1. Waive any immaterial defect or informality: or
  2. Reject any or all submittals, or portions thereof, or
  3. Reissue an RFP.
- c. A response to an RFP is an offer to contract with the City based upon the terms, conditions and specifications contained in the City's RFP and the written amendments thereto. Proposals do not



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become contracts unless and until accepted by the City and executed by the City Manager. All terms and conditions of this RFP and its attachments shall be incorporated in the Contract, unless any terms and conditions are modified by a solicitation amendment, a contract amendment, or by mutually agreed upon terms and conditions in the final contract documents.

- d. The successful proposer agrees to, upon written receipt of notification of award, execute a contract and provide insurance and license documents, and any other required documentation within ten (10) business days. Failure to do so shall be just cause for annulment of the award.

## 10. EVALUATION CRITERIA

Proposers are encouraged to keep their proposals brief and relevant to the specific work required. To be considered for this contract, the information requested below is required in response to this Request for Proposals. Proposals shall be no more than twenty (20) pages, including the cover letter, all attachments, and any other information. Any additional pages shall be removed and discarded from the back of the proposal and shall not be used in the evaluation process.

### 1. Qualifications and Expertise

The organization shall provide documentation of experience, expertise, and knowledge in working with and conducting evaluations on police departments of the size, demographics, budget, and call volumes of the EMPD. It is important for the consultant to have a knowledgeable foundation on the unique requirements and needs placed on a small full-time paid municipal department such as El Mirage.

Proposer shall describe consulting experience for conducting police department studies and data collection. Relevant information shall include, but not be limited to the following:

- a. Provide information about your firm including length of time organization has been in business, number of employees, areas of specialty, relevant field experience in evaluating small municipal full-time police departments and any potential conflicts of interest.
- b. Provide details regarding offerors experience in providing services as outlined in this solicitation. Public sector experience required, prefer experience in evaluating small municipal police departments.
- c. Identify and describe your organization's experience with a minimum of three (3) similar projects within the last five (5) years. Provide the clients' contact name, and current contact information, including phone numbers and email address.
- d. Provide a list and explanation for any contract that was cancelled, revoked, or renewed within the past five (5) years. Include contact names and phone numbers.
- e. Describe any and all pending litigation involving the offeror and the resolution of any and all litigation during the past five (5) years.



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- f. Provide resumes of key personnel who will be assigned to work on this study if successfully awarded.
- g. Provide at least three (3) professional references relevant to the services submitted in the proposal. Please include the following information for each firm:
  - Company Name
  - Address
  - Contact Name and Title
  - Phone
  - Email Address
  - Description and Date of Services
- h. Provide a timeline for the completion of the project that includes the benchmarks detailed in Section 3. SCOPE OF WORK, paragraph C. Study Conclusion, subparagraph 6 of this RFP.

### 2. Project Understanding and Proposed Methodology

- a. Summarize the organization’s understanding of the requested study.
- b. Describe the organization’s project management methods and how the organization would propose to coordinate projects with City staff.
- c. Location of office performing services.
- d. State experience in preparing report findings/recommendations for operational, data collection and financial plans for Police.

### 3. Price/Cost Consideration

Total cost of the EMPD Study, to include all requirements listed in this RFP. It shall provide an all-inclusive lump sum amount of all time and materials necessary to complete the desired services, including any required travel expenses, per diem, etc. No additional charges, including travel and other expenses will be allowed. Please submit the total project cost in the following format:

Total Lump Sum Amount for El Mirage Police Department 2021 Study:  
 {Insert Total Cost in Written Format \_\_\_\_\_} \$ {Insert Total Cost in Numeric Format}

### 4. Proposal Evaluation – Proposals will be evaluated based on the following criteria:

% OF SCORING WEIGHT	EVALUATION CRITERIA
30%	Qualifications and Expertise
60%	Project Understanding and Proposed Methodology



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10%	Price/Cost Consideration
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### 11. SUBMITTAL REQUIREMENTS

- **Proposals must be submitted by 1:30 P.M. (Arizona time) on the 13<sup>th</sup> DAY OF August, 2021. Proposals are to be emailed to: vojeda@elmirageaz.gov.**
- Send submittal as an attachment to an email.
- Include a 1-page cover letter prepared on the company's letterhead, with the name and contact information of the firm's lead person and signed by an individual authorized to sign on behalf of the company.
- Proposals shall be in an 8 1/2" x 11" format with a total page count of not more than twenty (20) pages (which includes the cover page). Each page with criteria information (including photos, charts, and graphs) will be counted toward the maximum number of pages. All pages exceeding the specified maximum page limit will be removed from the submittal and not considered in evaluating a submission.
- Provide all information requested as described in this RFP.

### 12. INQUIRIES

Any questions related to the RFP shall be directed to the Finance Department. Questions should be submitted in writing via email to [vojeda@elmirageaz.gov](mailto:vojeda@elmirageaz.gov). Any correspondence should refer to the appropriate page and paragraph number. Questions may not be submitted after August 5, 2021 at 1:30 p.m., Arizona time.

### 13. PROTEST OF AWARD

Any person who has an objection to the awarding of a contract by the City, pursuant to competitive solicitation procedures, shall lodge that protest, in writing, with the Administration Director. The protest should specifically identify the objection to the award, pursuant to the formal purchase procedure. The protest must be submitted no later than seven (7) calendar days after the notice of intent to award is issued.

### 14. VENDOR REGISTRATION

After the award of a contract, the successful submitter shall complete a Vendor Registration Application and submit it to the City of El Mirage Finance Department.



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The following terms and conditions shall be incorporated into any resulting contract:

## **1. DESCRIPTION, ACCEPTANCE, DOCUMENTATION**

Consultant shall act under the authority and approval of the Contract Administrator for the City to provide the Services required by this Contract. The Contract Administrator for the City shall be Valerie Ojeda, City of El Mirage Procurement Administrator, or designee. The Contract Administrator shall oversee the execution of this Contract, assist the Consultant in accessing the organization, audit billings, and approve payments. The Consultant shall channel reports and special requests through the Contract Administrator. City reserves the right to change the Contract Administrator for the City without prior approval of the Consultant.

## **2. SERVICE DESCRIPTION**

Consultant shall provide the Services described in Exhibit "A." All work will be reviewed, evaluated, approved, and monitored by the Contract Administrator to determine acceptable completion. Review and approval by the Contract Administrator shall not relieve Consultant of any liability for improper, negligent or inadequate services rendered pursuant to this Contract. Consultant shall provide all work necessary to assure the Services are completed in a timely and efficient manner consistent with service requirements, including, but not limited to, working in close interaction with, and interfacing with, City and its designated employees, and working closely with others, including other consultants or contractors retained by City.

## **3. DOCUMENTATION AND DATA**

All documents, including but not limited to, data compilations, studies, and reports which are prepared in the performance of this Contract are to be, and remain the property of, the City and are to be delivered to the Contract Administrator before final payment is made to the Consultant.

## **4. FEE SCHEDULE, RECORDS, AUDIT RIGHTS**

The fee Consultant shall be paid for all Services provided pursuant to the terms of this Contract, inclusive of all expenses under this Contract, shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_).

The Contract Administrator reserves the exclusive right to determine the amount of work performed and payment due the Consultant on a monthly basis. Consultant shall maintain all books, paper documents, accounting records and other evidence pertaining to such monthly billings and shall make such materials available at all reasonable times to the Contract Administrator. Monthly billings shall be accompanied by such documentation as the Contract Administrator may require to determine the work performed and payment due.



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Consultant's records (hard copy, as well as computer readable data) and any other supporting evidence deemed necessary by the City to substantiate charges and claims related to this Contract shall be open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Consultant or any of its payees pursuant to the execution of the Contract. The City's authorized representative shall be afforded access, at reasonable times and places, to all of the Consultant's records and personnel pursuant to the provisions of this article throughout the term of this Contract and for a period of three years after last or final payment.

Consultant shall require all subconsultants, insurance agents and material suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in a written contract agreement between Consultant and payee. Such requirements will also apply to any and all subconsultants.

If any audit in accordance with this article discloses overcharges of any nature by the Consultant to the City in excess of one percent (1%) of the total contract billings, the actual cost of the City's audit shall be reimbursed to the City by the Consultant. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Consultant's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to Consultant.

### **5. ADDITIONAL SERVICES; PRICE ADJUSTMENT**

The total Scope of Work to be performed by Consultant in accordance with this Contract is set forth herein and in Exhibit "A." Services not included in this Contract, including Exhibit "A," will be considered Additional Services. Consultant shall not perform any Additional Services without written authorization from the City. It shall be presumed that all Services performed/provided by Consultant were included in the Contract and contemplated by Consultant as being part of the original Scope of Work and the fees set forth herein, unless such Services have been separately approved by the City, in writing, as Additional Services. Consultant shall not be paid for any Additional Services that are not authorized by the City in writing.

### **6. OWNERSHIP**

Upon receipt of payment for Services, Consultant grants to City, and shall cause its subconsultants to grant to City, the exclusive ownership of any and all copyrights, if any, to evaluations, reports, data, reviews, minutes, and other intellectual work product as may be applicable ("Work Product"). This grant is effective whether the Work Product is on paper (e.g., a "hard copy"), in electronic format, or in some other form. Consultant warrants, and agrees to indemnify, hold harmless and defend City for, from and against any claim that any Work Product infringes on third-party proprietary interests. City may reuse the Work Product at its sole discretion. In the event the Work Product is used for another project without further consultations with Consultant, the City agrees to indemnify and hold Consultant harmless from any claim arising out of the Work Product. In such case, City will also remove any title block from the Work Product.



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## 7. **CONTRACT TERM**

This Contract shall be in full force and effect only when approved and signed by City Manager as attested by the City Clerk. This Contract shall begin on the contract effective date and shall be in effect for one (1) year from the contract effective date.

## 8. **TERMINATION**

### Termination for Cause

The City has the right to terminate this Contract for cause in the event the Consultant materially breaches any provision of this Contract or portion of the Services and fails to remedy the breach within five (5) business days of notification of the breach, if the breach is remedial. If Consultant fails to remedy the breach or if the breach is not remedial, City may terminate this Contract for cause immediately upon written notice to Consultant. In the event the City terminates this Contract or any part of the Services as herein provided pursuant to this Section 8, the City shall notify the Consultant in writing, and immediately upon receipt of such notice, the Consultant shall discontinue all work under this Contract.

Upon termination for cause, Consultant shall immediately deliver to the City all research, data, studies, reports, and any and all other documents or work product generated by the Consultant under the Contract, together with all unused material supplied by the City. Consultant shall be responsible only for such portion of the work which has been completed and accepted by the City. Use of incomplete data by the City shall be the City's sole responsibility.

In the event of termination for cause, Consultant shall only be compensated a portion of the agreed upon fee for such portion of the work that City agrees, in its sole discretion to accept. City shall have no obligation to accept any portion of Consultant's work if the contract is terminated for cause and shall have no obligation to pay Consultant for any portion of the work, if any, not accepted by City.

If the Consultant materially fails to fulfill in a timely and proper manner its obligations under this Contract, or if the Consultant violates any of the covenants, agreements, or stipulations of this Contract, the City may withhold from payment due to the Consultant such amounts as are necessary to protect the City's position for the purpose of set-off until such time as the exact amount of damages can be determined.

### Termination for Convenience

The City has the right to terminate this Contract for convenience or to abandon any portion of the work for which Services have not been performed by the Consultant. In the event the City terminates this Contract or any part of the Services as herein provided pursuant to this Section 8, the City shall notify



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the Consultant in writing, and immediately upon receipt of such notice, the Consultant shall discontinue all work under this Contract.

Upon such termination for convenience or abandonment, the Consultant shall immediately deliver to the City all research, data, studies, reports, and any and all other documents or work product generated by the Consultant under the Contract, together with all unused material supplied by the City. Consultant shall be responsible only for such portion of the work which had been completed and accepted by the City. Use of incomplete data by the City shall be the City's sole responsibility.

The Consultant shall receive as compensation in full for Services performed to the date of such termination or abandonment, a fee for the Services actually completed and accepted by the City. This fee shall be in an amount to be mutually agreed upon by the Consultant and the City, based upon the scope of work set forth in Exhibit "A." If mutual agreement cannot be reached after reasonable negotiation, the Contract Administrator shall determine the percentage of satisfactory completion of work and the amount of compensation Consultant is entitled to for such work and the Contract Administrator's determination in this regard shall be final.

## **9. FUNDS APPROPRIATION**

If the City Council does not appropriate funds to continue this Contract and pay for charges hereunder, the City may terminate this Contract at the end of the current fiscal period. The City agrees to give written notice, pursuant to Section 8, Termination, of this Contract to the Consultant at least thirty (30) days prior to the end of its current fiscal period and will pay the Consultant all approved charges incurred through the end of such period.

The City's fiscal year begins July 1<sup>st</sup> and ends June 30<sup>th</sup> 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 forty-five (45) days to allow payment within this period.

## **10. ENTIRE AGREEMENT**

This Contract constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the Services specified herein. This Contract may not be modified or amended except by a written document signed by authorized representatives of each party.

## **11. ARIZONA LAW**

This Contract shall be governed and interpreted according to the laws of the State of Arizona. Any action brought to interpret or enforce any provision of this Contract that cannot be administratively resolved, or otherwise related to or arising from this Contract, shall be commenced and maintained in



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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.

### **12. 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 Contract. If a subsequently enacted law imposes substantial additional costs on Consultant, a request for an amendment may be submitted pursuant to this Contract.

### **13. MODIFICATIONS**

Any amendment, modification or variation from the terms of this Contract shall be in writing and shall be effective only after approval of all parties signing the original Contract.

### **14. ASSIGNMENT**

Services covered under this Contract shall not be assigned or sublet in whole or in part without the prior written consent of the Administration Director and Contract Administrator.

### **15. SUCCESSORS AND ASSIGNS**

This Contract shall extend to and be binding upon Consultant, its successors and assigns, including any individual, company, partnership or other entity with or into which Consultant shall merge, consolidate or be liquidated, or any person, corporation, partnership or other entity to which Consultant shall sell its assets.

### **16. ATTORNEY'S FEES**

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, the prevailing party may be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses determined by the court sitting without a jury or arbitration board, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment or by arbitration award.

### **17. INDEPENDENT CONTRACTOR**

The Services Consultant provides under the terms of this Contract to the City are that of an Independent Contractor, not an employee or agent of the City. The City will report the value paid for these Services each year to the Internal Revenue Service (I.R.S.) using form 1099.

City shall not withhold income tax as a deduction from contractual payments. As a result of this, Consultant may be subject to I.R.S. provisions for payment of estimated income tax. Consultant is responsible for consulting the local I.R.S. office for current information on estimated tax requirements. Consultant will not be entitled to any benefits provided by City to its employees, including, but not



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limited to, health benefits, workers' compensation, unemployment coverage, deferred compensation, and all other typical employee benefits.

## 18. CONFLICT OF INTEREST

This Contract is subject to cancellation pursuant to A.R. S. § 38-511.

## 19. NOTICES

All notices or demands required to be given pursuant to the terms of this Contract 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 Consultant:

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, Arizona \_\_\_\_\_

In the case of City:

City of El Mirage  
Attn: City Manager  
10000 North El Mirage Road  
El Mirage, Arizona 85335

With a copy to:

City of El Mirage  
City Attorney  
10000 North El Mirage Road  
El Mirage, Arizona 85335

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.

## 20. 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.



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## **21. TAXES**

Consultant shall be solely responsible for any and all tax obligations which may result out of the Consultant's performance of this Contract. The City shall have no obligation to pay any amounts for taxes of any type incurred by the Consultant.

## **22. 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 Contract, 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 or judicial or regulatory process. 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.

## **23. COUNTERPARTS**

This Contract may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Contract shall be deemed to possess the full force and effect of the original.

## **24. CAPTIONS**

The captions used in this Contract are solely for the convenience of the parties, do not constitute a part of this Contract and are not to be used to construe or interpret this Contract.

## **25. SUBCONSULTANTS**

During the performance of the Contract, the Consultant may engage such additional subconsultants as may be required for the timely completion of this Contract. The addition of any subconsultants shall be subject to the prior approval of the City.

Irrespective of the use of subconsultants, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Consultant.

## **26. INDEMNIFICATION**

The Consultant agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City, its officers, directors and employees (collectively, City) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Consultant's negligent performance of professional services under this Contract and that of any subconsultants, or anyone for whom the Consultant is legally liable.

The City agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, to the extent caused by the



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City's negligent acts in connection with the Services and the acts of its contractors, subcontractors or consultants or anyone for whom the City is legally liable.

Neither the City nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

### **27. INSURANCE**

The Consultant shall secure and maintain at all times that this Contract is in effect, insurance coverage which shall include statutory workers' compensation, comprehensive general and automobile liability, owner's and Consultant's protective liability insurance and errors and omissions professional liability. The comprehensive general and automobile liability limits shall be no less than one million dollars (\$1,000,000) combined single limit. The owner's and Consultant's protective liability limits shall be no less than one million dollars (\$1,000,000) for each occurrence and one million dollars (\$1,000,000) policy aggregate naming the City as an additional insured. The minimum amounts of coverage for Consultant's professional liability shall be one million dollars (\$1,000,000). In other than errors and omissions professional liability, City's and Consultant's protective liability and worker's compensation, the City of El Mirage shall be named as an additional insured.

All insurance coverage shall be written through a carrier licensed in Arizona, or an approved non-admitted list of carriers published by the Arizona Department of Insurance, and possessing an A.M. Best rating of at least A- or above with policies and forms satisfactory to the City.

The Consultant shall submit to the City a certificate of insurance evidencing the coverage and limits stated in the foregoing paragraph within ten (10) days of award of this Contract. City shall not issue a "Notice to Proceed" until after Consultant has submitted the certificate of insurance to City. Insurance evidenced by the certificate shall not expire or be canceled or materially changed without thirty (30) days prior written notice to the City, and a statement to that effect must appear on the face of the certificate and the certificate shall be signed by a person authorized to bind the insurer.

The insurance policies, except Workers' Compensation required by this Contract, shall name the City, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

### **28. FEDERAL AND STATE EMPLOYMENT IMMIGRATION LAWS**

To the extent applicable under A.R.S. § 41-4401, Consultant warrants its and its subconsultants' compliance with all federal immigration laws and regulations that relate to their compliance with the E-Verify requirements under A.R.S. § 23-214(A). Consultant's or its subconsultants' breach of the above-mentioned warranty shall be deemed a material breach of the Contract and may result in the termination of the Contract by the City. The City retains the legal right to randomly inspect the papers and records of Consultant and its subconsultants to ensure that the Consultant and its subconsultants are complying with the above-mentioned warranty.



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The Consultant warrants to keep the papers and records open for random inspection during normal business hours by the City. The Consultant shall cooperate with the City's random inspections including granting the City entry rights to Consultant's property to perform the random inspections and waiving its right to keep such papers and records confidential. The failure of Consultant to comply with this warranty regarding the keeping of papers and records and cooperating with City's random inspections shall constitute a material breach of the Contract and the City will have the right to immediately terminate the Contract.

### **29. SEVERABILITY**

If any term or provision of this Contract shall be found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this Contract shall remain in full force and effect and such term or provision shall be deemed to be deleted.



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## EXHIBIT "A"

**{Consultant's submittal to be attached}**



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**Please list a minimum of three (3) references that the City of El Mirage may contact.** Proposer shall include the name, address and telephone numbers of three clients demonstrating your experience providing services comparable to the solicitation. References should be current and relevant to the proposed use and/or services submitted in the proposal. Please provide a one line description of services provided with each reference.

Company Name:	
Address:	
Contact Name:	Title:
Phone:	Email Address:
Description & Date of Services:	

Company Name:	
Address:	
Contact Name:	Title:
Phone:	Email Address:
Description & Date of Services:	

Company Name:	
Address:	
Contact Name:	Title:
Phone:	Email Address:
Description & Date of Services:	