


Direct Contract		 DEPARTMENT OF ECONOMIC SECURITY <i>Your Partner For A Stronger Arizona</i>
Contract No.:	CTR046165	
Description:	Flagstaff Voluntary Payment	

Contract between the Department of Economic Security (the "Department") and City of Flagstaff (the "City or Contractor").

WHEREAS the Contractor is:

[] a Non-profit Organization as defined in Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as prescribed in 2 C.F.R. § 200;

[] a For-profit Organization; and

WHEREAS the Department is duly authorized to execute and administer contracts under A.R.S. §41-1954;

THEREFORE, the Department and City agree to abide by all the terms and conditions set forth in this Contract.

Contract Term: This contract shall be effective 9/1/2019 (or date of last signature) and shall terminate on 8/31/2020, unless extended in accordance with the Section six (6) Extension.

BY SIGNING THIS FORM ON BEHALF OF THE CONTRACTOR, THE SIGNATORY CERTIFIES HE/SHE HAS THE AUTHORITY TO BIND THE CONTRACTOR TO THIS CONTRACT.

FOR AND ON BEHALF OF THE
ARIZONA DEPARTMENT OF ECONOMIC SECURITY:

FOR AND ON BEHALF OF THE CITY OF FLAGSTAFF:

Signature of Authorized Individual

Signature of Authorized Individual

Yesenia Sandoval

Typed Name

Typed Name

Procurement Manager

Title

Title

Date


Date

Contractor Mailing Address

Contractor Mailing Address (cont.)

Contact Name and Title

Phone number and Email address

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Scope of Work

1. Arizona Department of Economic Security (ADES) Mission and Vision Statement

- 1.1 ADES Mission: The Arizona Department of Economic Security makes Arizona stronger by helping Arizonans reach their potential through temporary assistance for those in need, and care for the vulnerable.
- 1.2 ADES Vision: All Arizonans who qualify receive timely ADES services and achieve their potential.

2. Purpose of Contract

- 2.1. Purpose Statement: The purpose of this agreement is for the City of Flagstaff to provide funding to the Arizona Department of Economic Security that will be matched through the Developmental Disabilities Medicaid expenditure authority, and then distributed to Division of Developmental Disabilities (DDD) Qualified Vendors that have experienced cost increases in the City of Flagstaff as a result of the Proposition 414 Minimum Wage Act.
- 2.2. Legal Authority: A.R.S. § 41-1954(A)(6) provides ADES, hereafter referred to as the Department, the authority to contract and incur obligations within the general scope of its activities and operations.

2. Definitions


- 3.1 Division of Developmental Disabilities (DDD) - A Division of the Department of Economic Security that provides supports and services that help enable eligible individuals with opportunities to exercise their rights and responsibilities of independent decision-making and engagement in the community.
- 3.2 DDD Qualified Vendors – For the purposes of this agreement, this term applies to DDD Qualified Vendors who also provide services to ALTCS/DDD members in zip codes 86001, 86003, and 86004 (City of Flagstaff limits).
- 3.3 Proposition 414 – Minimum Wage Act that established a new City of Flagstaff minimum wage schedule effective July 1, 2017.

3. Service Description

The City will provide ADES voluntary payment for labor cost increases for DDD Qualified Vendors.

4. Background

On November 8, 2016 Proposition 414 the Minimum Wage Act (the “**Act**”), was a citizen initiative on Flagstaff ballot. It was approved by 53.99% of voters. The Act established a new City of Flagstaff minimum wage schedule effective July 1, 2017.

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5. Contractor Requirements

The Contractor Shall:

5.1. Provide voluntary payment not to exceed \$150,000 to ADES.

ADES will:

- 5.2. Provide funding not to exceed \$350,000 from DDD's Medicaid expenditure authority, the combined funds from DDD and the City will go to DDD Qualified Vendors in Flagstaff.
- 5.3. Spend two dollars (\$2) of the DDD's Medicaid expenditure authority monies for each dollar (\$1) that the City provides as voluntary payments to DDD's Qualified Vendors.
- 5.4. Determine which DDD Qualified Vendors are eligible to be funded as authorized by House Bill 2747, Section 108 on pages 78 - 79.
- 5.5. Refund any of the City's unspent voluntary payment to the City by July 31, 2020.

6. EXTENSION


This agreement may be extended through a mutual written amendment of the parties, but in no event for a total period that exceeds five (5) years.

7. TERMINATION

- 7.1. This agreement may be terminated by mutual agreement of the parties at any time during the term of this agreement.
- 7.2. Each Party shall have the right to terminate this agreement by personal delivery or by certified mail, return receipt requested, to the other party written notice of termination at least thirty (30) days prior to the effective date of said termination. Either party may terminate this Agreement upon thirty (30) working days written notice to the other party.

8. AMENDMENTS

- 8.1. This agreement may be amended only by mutual written amendment. No agent, employee, or other representative of either Party is empowered to alter any of the terms of this Agreement, unless amended in writing and signed by an authorized representative of the respective Parties.
- 8.2. Each party shall give written notice to the other party of any non-material alteration that affects the provisions of this Agreement. Non-material alterations that do not require a written amendment are as follows:
 - 8.2.1. Change of telephone number;
 - 8.2.2. Change in authorized signatory; and/or

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8.2.3. Change in the name and/or address of the person to whom notices are to be sent.

9. MANNER OF FINANCING

9.1. Funds paid by the City to ADES shall not be derived from federal source or federal funds. Payments to ADES by the City shall be voluntary permissible non-federal funds.

9.2. Each party shall appropriate funding called for hereunder.

10. REPORTING REQUIREMENTS

ADES shall provide to the City the following reports:

10.1. Quarterly funding distribution reports within thirty (30) days of quarter end. Reports will include DDD Qualified Vendors name, date of payment, ADES amount and City amount.

11. PAYMENT REQUIREMENTS

City will provide voluntary payment to ADES within 30 days of execution of this IGA.

12. NOTICES, REPORTS, AND CORRESPONDENCE

12.1. All notices to the City regarding this agreement shall be sent to the following address:

City of Flagstaff
ATTN: Cliff Bryson
211 W. Aspen Avenue
Flagstaff, AZ 86001


Or via email
CBryson@flagstaffaz.gov

12.2. All notices to ADES regarding this agreement shall be sent to the following address:

Arizona Department of Economic Security
ATTN:DDD Contracts - 2HC3
1789 W Jefferson St.
Phoenix, AZ 850007

13. APPLICABLE LAW

This Agreement shall be governed and interpreted by the laws of the State of Arizona. The materials and services supplied under this Agreement shall comply with all applicable Federal, State and local laws. The Contractor shall maintain all applicable licenses and permit requirements.

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14. ARBITRATION

The Parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. §§ 12-1518(B) and 12-133, except as may be required by other applicable statutes.

15. AUDIT

15.1. In accordance with A.R.S. § 35-214, the Contractor shall retain and shall contractually require each subcontractor to retain all data, books and other records (“records”) relating to this Agreement for a period of five (5) years after the completion of this Agreement except if subject to Health Insurance Portability & Accountability Act which is six (6) years from the date of final payment. All records shall be subject to inspection and audit by the State at reasonable times. Upon request, Contractor shall produce an original copy of any or all such records.

15.2. All contracts and subcontracts for the furnishing of goods, equipment, labor, materials or services to the state, or any of its agencies, boards, commissions or departments, there shall be a provision that all books, accounts, reports, files and other records relating to the contract shall be subject at all reasonable times to inspection and audit by the state for five years after completion of the contract. The contract provision shall also require that such records be produced at such state offices as designated by the state in the contract


16. CONFLICT OF INTEREST

16.1. In accordance with A.R.S. § 38-511, the State may within three years after execution terminate the agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of either party, at any time while the agreement is in effect, becomes an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party to the agreement with respect to the matter of the agreement.

16.2. The state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

17. E-VERIFY

In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. § 23-214, Subsection A.


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18. FEDERAL IMMIGRATION AND NATIONALITY ACT

- 18.1. By entering into the agreement, the Contractor warrants compliance with the Federal Immigration and Nationality Act. (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the agreement. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor’s Immigration and Control Act, for all employees performing work under the Agreement. I-9 forms are available for download at USCIS.GOV.
- 18.2. The State may request verification of compliance for any Contractor or subcontractor performing work under the agreement. Should the State suspect or find that the Contractor or any of its subcontractors are not in compliance, the State may pursue any and all remedies allowed by law, including, but not limited to suspension of work, termination of the agreement for default, and suspension and/or debarment of the City. All costs necessary to verify compliance are the responsibility of the City.

19. INDEMNIFICATION:

- 19.1. Each party (as "Indemnitor") agrees to defend, indemnify, and hold harmless the other party (as "Indemnitee") from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "Claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such Claims which result in vicarious/derivative liability to the Indemnitee are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents, employees, or volunteers. The State of Arizona, Department of Economic Security is self-insured per A.R.S. 41-621.
- 19.2. In addition, should (City of Flagstaff) utilize a contractor(s) and subcontractor(s) the indemnification clause between (City of Flagstaff) and its contractor(s) and subcontractor(s) shall include the following:
- 19.3. To the fullest extent permitted by law, contractor shall defend, indemnify, and hold harmless the (City of Flagstaff) and the State of Arizona, and any jurisdiction or agency issuing any permits for any work arising out of this agreement, and its departments, agencies, boards, commissions, universities, , officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the contractor or any of the directors, officers, agents, or employees or subcontractors of such contractor. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of such contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims

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arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by such contractor from and against any and all claims. It is agreed that such contractor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Additionally on all applicable insurance policies, contractor and its subcontractors shall name the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as an additional insured and also include a waiver of subrogation in favor of the State.

20. IT 508 COMPLIANCE

Unless specifically authorized in the agreement, any electronic or information technology offered to the State of Arizona under this agreement shall comply with A.R.S. §§ 18-131 and §§ 18-132 and Section 508 of the Rehabilitation Act of 1973, which requires that employees and members of the public shall have access to and use of information technology that is comparable to the access and use by employees and members of the public who are not individuals with disabilities.

21. NON-AVAILABILITY OF FUNDS

In accordance with A.R.S. § 35-154, every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for payment of such obligation. If funds are not allocated and available for the continuance of this agreement, this agreement may be terminated by the State at the end of the period for which funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

22. NON-DISCRIMINATION


The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.

23. OFFSHORE PERFORMANCE OF WORK PROHIBITED

Due to security and identity protection concerns, direct services under this agreement shall be performed within the borders of the United States. Any services that are described in the specifications or scope of work that directly serve the State of Arizona or its clients and may involve access to secure or sensitive data or personal client data or development or modification of software for the State shall be performed within the borders of the United States. Unless specifically stated otherwise in the specifications, this definition does not apply to indirect or 'overhead' services, redundant back-up services or services that are incidental to the performance of the Agreement. This provision applies to work performed by subcontractors at all tiers.

24. PARTICIPATION IN BOYCOTT OF ISRAEL

Contractor warrants it is not engaged in a boycott of Israel as defined by A.R.S. § 35-393.01.

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25. RIGHT OF OFFSET

ADES shall be entitled to offset against any sums due the City, any expenses or costs incurred by ADES, or damages assessed by ADES concerning the Contractor’s non-conforming performance or failure to perform the agreement. The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds. Any offset taken for damages assessed by the ADES shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance.”

26. THIRD- PARTY ANTITRUST VIOLATIONS

The Contractor assigns to ADES any claim for overcharges resulting from antitrust violations concerning materials or services supplied by third parties to the Contractor, toward fulfillment of this Agreement.

27. CONFIDENTIALITY

27.1. The Contractor shall observe and abide by all applicable State and federal statutes, rules and regulations regarding the use or disclosure of information including, but not limited to, information concerning applicants for and recipients of contract services. To the extent permitted by law, the Contractor shall release information to ADES and to the Attorney General's Office as required by the terms of this agreement, by law or upon their request.

27.2. The Contractor shall comply with the requirements of Arizona Address Confidentiality Program, A.R.S. § 41-161 et. seq. ADES will advise the Contractor as to applicable policies and procedures ADES has adopted for such compliance.

28. DATA SHARING AGREEMENT

When determined by ADES that sharing of confidential data will occur with the City, the Contractor shall complete ADES Data Sharing Request Agreement and submit the completed Agreement to ADES Program Designated Staff prior to any work commencing or data shared. A separate Data Sharing Request Agreement shall be required between the Contractor and each ADES Program sharing confidential data.