

# CITY OF FLAGSTAFF

## REQUEST FOR PROPOSALS

**SOLICITATION FOR:** Minimum Wage Study

**SOLICITATION NO.:** 2020-16

**CLOSING DATE AND TIME:** Friday, September 13, 2019 at 3:00 PM Arizona Time.

**WHERE TO SUBMIT PROPOSALS:** Proposals shall be submitted on the online bid platform with PlanetBids at the enclosed link prior to the Closing Date and Time. <https://www.planetbids.com/portal/portal.cfm?CompanyID=27606>.

**CITY NEEDS:** The City of Flagstaff ("City"), is seeking Proposals from qualified Contractors to analyze the current and future economic impacts of the City's incrementally increasing minimum wage and to equip businesses and local government alike with mitigation strategies, as outlined in the Scope of Work presented in this Request for Proposals ("RFP") document.

**INFORMATION:** The Solicitation, all related materials, and any addenda may be downloaded from the Planetbids Website, which is a third party bidding website utilized by the City for formal solicitations <https://www.planetbids.com/portal/portal.cfm?CompanyID=27606>.

**PURCHASING DIRECTOR:** **Rick Compau, C.P.M., CPPB, CPPO**, Email Address: [rcompau@flagstaffaz.gov](mailto:rcompau@flagstaffaz.gov). If the Purchasing Director cannot be immediately reached, you may contact the receptionist for the City Management Services Purchasing Division at (928) 213-2206.

**PRE-PROPOSAL MEETING:** A non-mandatory pre-proposal meeting will be held on Wednesday, September 4, 2019 at 2:00 PM Arizona Time in the City of Flagstaff City Hall, Staff Conference Room, Second Floor.

**QUESTIONS:** Any questions must be received by the Purchasing Director via email at least ten (10) calendar days prior to the Closing Date and Time of this RFP.

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## SCOPE OF WORK

### I. GENERAL INFORMATION

The City of Flagstaff (“City” or “Flagstaff”), is seeking Proposals from qualified Contractors or reputable Proposers to analyze the current and future economic impacts of the City’s incrementally increasing minimum wage and to assist businesses and local government alike with strategies for doing business differently.

The City is seeking to award a term contract to the Proposer that can best provide minimum wage consulting services outlined in the scope of work and provides the best overall value to the Flagstaff community.

The initial term of the contract will be for a one (1)-year period, with the ability to renew for up to four (4) additional one (1)-year terms based on the successful performance of the Contractor and the needs of the City.

### II. SCOPE OF WORK

#### A. Introduction

Comprehensive Analysis on the Impacts of an Increased Minimum Wage in Flagstaff

#### Introduction/ Background

In accordance with the passage of Proposition 414, a citizen’s initiative, a new hourly minimum wage schedule was established on July 1, 2017 for individuals who worked or are expected to work 25 hours or more in a given calendar year within the city limits of Flagstaff, AZ. Incremental increases in the minimum wage are scheduled through 2022 and on January 1<sup>st</sup>, 2023, the Flagstaff minimum wage will be indexed to changes in the Consumer Price Index or will be \$2.00 above the State of Arizona minimum wage (whichever is higher).<sup>1</sup>

Using the experience of the city of Flagstaff (hereby the City) and the experiences of other similar cities around the country, the City is seeking the services of a Contractor to analyze the current and future economic impacts of the City’s incrementally increasing minimum wage and to equip businesses and local government alike with mitigation strategies.

#### Objectives

The primary objectives of this research are three-fold;

- To provide information on the existing and future impacts of Flagstaff’s incrementally increasing minimum wage<sup>2</sup> on businesses, workers and general economic health.

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<sup>1</sup> <https://flagstaff.az.gov/3520/Minimum-Wage>

<sup>2</sup> <https://flagstaff.az.gov/3520/Minimum-Wage>

- To provide best practice recommendations for local businesses, non-profit organizations and state-subsidized programs as they navigate the current and future minimum wage increases.
- To provide best practice recommendations for the City of Flagstaff to support local businesses, including potential policy measures that could be implemented to foster a more robust and diverse economy.

## Scope of Work

### A. Baseline measurements

Using the years 2011 - 2016 as a baseline, this section of the study is intended to describe the City's "pre-increase" economic status, including trends for businesses, workers and the community as a whole. The following measurements are expected to be included in this section of the report.

1. Youth unemployment rate in Flagstaff;
2. Overall unemployment rate in Flagstaff;
3. Number of jobs available (at any payrate) in Flagstaff;
4. Number of small to medium enterprises in Flagstaff (broken into businesses with 1-50 employees and 51-100 employees);
5. Average monthly gross earnings of minimum wage workers in Flagstaff;
6. Average monthly gross earnings of non-minimum wage workers in Flagstaff;
7. Average weekly hours worked by minimum wage workers in Flagstaff;
8. Price of staple consumer goods in Flagstaff;
9. Average consumer spending rate in Flagstaff;
10. Turnover rate of minimum wage employees in Flagstaff;
11. Cost of living (aggregate of average cost of rent/ utilities/ transportation/ etc.) in Flagstaff;
12. Amount of commercial construction investment (CapX) in Flagstaff;
13. Amount of money employers paid employees in sick hours in Flagstaff;
14. Number of state-subsidized organizations operating in Flagstaff, disaggregated by sector.

The Contractor may propose that other measurements be included if such additional measurements would increase understanding of the impacts of Flagstaff's incrementally increasing minimum wage.

### B. Current impact with control group

Examining the 2017-2019 period, this section of the study is intended to describe the initial impacts of the City's increased minimum wage, in comparison to a real or synthetic control community(ies). The State of Arizona may also be used as an additional control group.

1. Change in youth unemployment rate in Flagstaff as compared to change in control group;

2. Change in overall unemployment rate in Flagstaff as compared to change in control group;
3. Change in number of jobs available (at any payrate) in Flagstaff as compared to change in control group;
4. Change in number of small to medium enterprises in Flagstaff as compared to change in control group;
5. Change in average monthly gross earnings of minimum wage workers in Flagstaff as compared to change in control group;
6. Change in average monthly gross earnings of non-minimum wage workers in Flagstaff as compared to change in control group;
7. Change in average weekly hours worked by minimum wage workers in Flagstaff as compared to change in control group;
8. Change in price of staple consumer goods in Flagstaff as compared to change in control group;
9. Change in average consumer spending rate in Flagstaff as compared to change in a control group;
10. Change in turnover rate of minimum wage employees in Flagstaff as compared to change in control group;
11. Change in cost of living in Flagstaff as compared to change in control group;
12. Change in amount of commercial construction investment (CapX) in Flagstaff as compared to change in control group;
13. Change in amount of money employers paid employees in sick hours in Flagstaff as compared to change in control group;
14. Change in number of state-subsidized organizations operating in Flagstaff, disaggregated by sector, as compared to change in control group;
15. Estimate any loss in qualification for public benefits due to wage increase (SNAP, TANF, Housing vouchers, etc.);
16. Estimate any increases in automation within businesses.

### C. Projected impact of future increases

As Proposition 414 calls for continued minimum wage increases with an indexing of the minimum wage against changes in the CPI occurring in 2023, this section of the study should examine the expected future economic impacts of planned minimum wage increases. Specifically, results should compare economic indicators in 2026 in Flagstaff in the case of continued minimum wage increases (as stipulated by Proposition 414) versus maintaining the current (2019) minimum wage. Special emphasis should be placed on examining the impacts of indexing the Flagstaff minimum wage against changes in the CPI. The following indicators should be examined:

1. Expected youth unemployment rate in Flagstaff in 2026, with and without post 2019 minimum wage increases;
2. Expected overall unemployment rate in Flagstaff in 2026, with and without post 2019 minimum wage increases;
3. Expected number of jobs available in Flagstaff in 2026, with and without post 2019 minimum wage increases;

4. Expected number of small to medium enterprises in Flagstaff in 2026, with and without post 2019 minimum wage increases;
5. Expected average monthly gross earnings of minimum wage workers in Flagstaff in 2026, with and without post 2019 minimum wage increases;
6. Expected average monthly gross earnings of non-minimum wage workers in Flagstaff in 2026, with and without post 2019 minimum wage increases;
7. Expected average weekly hours worked by minimum wage workers in Flagstaff in 2026, with and without post 2019 minimum wage increases;
8. Expected price of staple consumer goods in Flagstaff by 2026, with and without post 2019 minimum wage increases;
9. Expected average consumer spending rate in Flagstaff in 2026, with and without post 2019 minimum wage increases;
10. Expected turnover rate of minimum wage employees in Flagstaff in 2026, with and without post 2019 minimum wage increases;
11. Expected cost of living in Flagstaff in 2026, with and without post 2019 minimum wage increases;
12. Expected amount of commercial construction investment (CapX) in Flagstaff in 2026, with and without post 2019 minimum wage increases.

#### D. Case studies

To complement the information gathered on the City of Flagstaff in sections A-C, the Contractor is also requested to conduct a series of short case studies focused on cities around the US that have implemented a higher minimum wage than their state. The case studies should provide a narrative on the impacts of minimum wage in these cities and contextualize findings based on the unique circumstances of each locality studied. Special attention should be paid to factors such as impacts of an increased minimum wage on (youth) unemployment rates, business success rates and worker earnings in each of the cities studied.

#### E. Best practices toolkit

Lastly, the Contractor is asked to provide stakeholders impacted by an increased minimum wage with potential solutions. Specifically, the Contractor should produce a “toolkit” filled with ready-to-use techniques and methods designed to mitigate the effects of an increased minimum wage. Techniques and methods should be designed for implementation by different stakeholders, including for-profit businesses, non-profit organizations, state-subsidized organizations and municipal governments. The toolkit should focus on the following;

- Best practices implemented in other cities by for-profit businesses in adapting to an increased minimum wage and managing compaction effects;
- Best practices implemented in other cities by non-profit organizations in adapting to an increased minimum wage and managing compaction effects;
- Best practices implemented in other cities by state-subsidized organizations in adapting to an increased minimum wage and managing compaction effects;

- Best practices implemented in other cities by municipal governments in supporting businesses during a minimum wage increase;
- Best practices implemented in other cities by municipal governments in attracting new businesses or industries during a minimum wage increase.

## **Deliverables**

The Contractor will complete key deliverables by the agreed upon date. Deliverables for the project are listed below.

- Monthly update meetings between the Contractor and the City will occur during the third week of November and December of 2019 and the second week of January 2020. These meetings will take place in-person or digitally, depending on the location of the Contractor.
- The Contractor will submit a complete draft of a written report (including findings from sections A – D of the statement of work) to the City no later than the second week of January 2020.
- The Contractor will submit a complete draft of a “toolkit” (including findings from section E of the statement of work) to the City no later than the second week of January 2020.
- The Contractor will submit a final written report (including an executive summary and findings from sections A – D of the statement of work), to the City no later than January 31, 2020.
- The Contractor will submit a final “toolkit” (including findings from section E of the statement of work) to the City no later than January 31, 2020.

## **Intellectual Property Ownership**

The City shall retain all rights, title, and interest in any and all deliverables regarding information (i.e., findings, reports, toolkit) developed by Contractor, its Affiliates and their personnel.

Project Timeline

	10/2019				11/2019				12/2019				1/2020				2/2020		Actors
	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	W3	W4	W1	W2	
Award of contract																			City/ Contractor
Kickoff meeting																			City / Contractor
First progress update meeting																			City / Contractor
Second progress update meeting																			City / Contractor
Third progress update meeting																			City / Contractor
Draft written report submitted																			Contractor
Draft toolkit submitted																			Contractor
Comments provided by the City																			City
Final written report submitted																			Contractor
Final toolkit submitted																			Contractor
Acceptance by the City																			City

### III. INSTRUCTIONS IN GENERAL

**DUE DILIGENCE:** It is a Contractor's responsibility to examine the entire Solicitation prior to submitting a Proposal, including the form of Contract and the City of Flagstaff Standard Terms and Conditions.

**PRE-PROPOSAL MEETING:** If a Pre-Proposal Meeting is scheduled, a Contractor is strongly encouraged to attend. If scheduled, the date and time of this meeting will be indicated on the cover page of the Solicitation. The purpose of this meeting shall be to clarify the Solicitation in order to prevent any misunderstandings. Any questions, apparent omission, or discrepancy should be presented to the City at this time. The City shall then determine the appropriate action necessary, if any, and issue a written amendment to the Solicitation.

**DISABILITIES:** A Contractor with a disability may request a reasonable accommodation in the Solicitation process by contacting the Senior Procurement Specialist as early as possible to allow time to arrange the accommodation.

**COST OF PROPOSAL:** A Contractor is responsible for all costs related to preparation and submittal of a Proposal. The City will not reimburse any such costs.

**LATE PROPOSALS:** Late Proposals shall not be accepted on the PlanetBids website. Please make sure to submit the Proposal in a timely manner to allow for all documents to transfer to PlanetBids. Keep in mind that if a Contractor does not receive a notice from PlanetBids stating the Proposal was submitted successfully, then the submittal is not valid.

**WITHDRAWAL OF PROPOSALS:** A Contractor may withdraw a Proposal before the Closing Date and Time. A withdrawal must be signed by the Contractor's authorized representative and submitted to the Senior Procurement Specialist by hand delivery or mail.

**PROPOSAL ACCEPTANCE PERIOD:** A Proposal made in response to this Solicitation shall be valid and irrevocable for ninety (90) days after the Closing Date and Time.

**QUESTIONS:** If a Contractor has any questions about this Solicitation, contact the Senior Procurement Specialist. The City will only respond to questions at least ten (10) calendar days before the Closing Date and Time. Questions should be submitted in writing. All questions shall refer to the Solicitation number, page and paragraph number in question. The City **will not** be responsible if a Contractor adjusts the Proposal based on any verbal statements made by employees or officers of the City, particularly if such statements conflict with the Solicitation. A Contractor may request the Senior Procurement Specialist to issue an addendum to the Solicitation.

**ADDENDA:** The City will issue any interpretation or correction of the Solicitation only by written addendum and will be posted on the PlanetBids website. Failure to acknowledge ANY addenda issued will show the Contractor non-responsive once the solicitation has closed. **PLEASE MAKE SURE TO ACKNOWLEDGE ALL ADDENDA ITEMS ON THE PLANETBIDS WEBSITE.**

**IMPROPER CONTACT WITH CITY EMPLOYEES:** A Contractor submitting a Proposal (including the Contractor's employees, representatives, agents, lobbyists, attorneys, and subcontractors) will refrain from direct or indirect contact for the purpose of influencing or creating bias in the evaluation/selection process with any person who may play a part in the evaluation/selection

process. This includes, but is not limited to, the evaluation committee, City Council Members, City Manager, Assistant City Manager(s), Deputy City Manager(s), Department Directors or other staff ("City Staff"). This policy is intended to create a level playing field for all potential Contractors, assure that Contract decisions are made in public, and to protect the integrity of the selection process. A Contractor is responsible for bringing all questions and concerns to the Senior Procurement Specialist identified on Page One of this document. If the Senior Procurement Specialist is unresponsive, the Contractor may contact the City Manager. A Contractor may be disqualified if the Contractor: (a) contacts a quorum of the Council or contributes to an open meeting law violation; (b) offers political support or gratuities in exchange for approval or support of the Contractor's Proposal; (c) obtains information from City Staff not available to other Contractors which may result in an unfair advantage in the competitive procurement process and fails to notify Senior Procurement Specialist of this fact within 48 hours thereafter; or (d) engages in any other egregious conduct.

**PROCUREMENT PROCESS:** The City's procurement process is described in the Procurement Code Manual, which can be accessed at <http://www.flagstaff.az.gov/index.aspx?NID=2991>. A Contractor is not required, but it is advised that you review this Manual. The Solicitation is intended to provide all relevant information related to the procurement so that a Contractor may submit a Proposal. In the event of any conflict, the procedure outlined in this Solicitation will be followed or the conflict will be resolved by an Addendum.

**FORM OF CONTRACT:** The City's proposed form of Contract for is included as Attachment A. The final form of Contract will be conformed to match this RFP prior to Contract award.

**SCOPE OF WORK:** The Scope of Work is included at the beginning of this RFP. The final Scope of Work will be found as Exhibit A of the Contract. The Scope of Work is an explicit part of the RFP and any resulting Contract with the City, unless otherwise specified in the RFP.

**STANDARD TERMS AND CONDITIONS:** The City of Flagstaff's Standard Terms and Conditions are attached as Exhibit B of the Contract. They can also be accessed at <http://www.flagstaff.az.gov/index.aspx?NID=3052>. The Standard Terms and Conditions are an explicit part of the RFP and any resulting Contract with the City, unless otherwise specified in the RFP.

**EXCEPTIONS:** A Contractor may request changes to the form of Contract, insurance, or any terms and conditions as part of the Proposal through the Exceptions Form attached hereto.

**CHANGES TO CONTRACT AFTER CONTRACT AWARD:** Requests to change the Contract after Contract award, including but not limited to changes to insurance, may be rejected by the City. The Contract shall not be modified within the first three years after Contract award where: (a) an amendment may result in a competitive advantage that was not made available to other Contractors; (b) requests for changes may delay commencement of performance.

**SUBCONTRACTING:** A Contractor may not subcontract work in whole or in part without the City's advance written consent. The City reserves the right to withhold consent if the subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance under the Contract. All subcontracts shall comply with the underlying Contract. A Contractor will continue to be responsible for Contract performance whether or not subcontractors are used.

**PARTIAL AWARD:** The City reserves the right to make multiple awards or to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City.

**ALL FEES:** The Proposal should separately list all applicable fees, charges, and taxes, including cost of staff, materials, and any other related expenses. The failure to include such information may cause the City to consider the Proposal as non-responsive or non-responsible.

**ACCOUNTING:** Please check all math prior to submittal of the Proposal. If the fees for services identified in the Proposal do not correspond with the fees requested on the invoice, the fees identified in the Proposal shall prevail unless there is a blatant clerical error in either the Proposal or the invoice.

**PAYMENT:** Payment will be made within 30 days following receipt and acceptance of service and a correct invoice.

**FEDERAL EXCISE TAXES:** The City is exempt from Federal Excise Tax, including the Federal Transportation Tax.

**CONTRACTOR'S REIMBURSEMENTS:** Fees and entitlements for the full and proper performance of the Contract shall be as set forth in the Scope of Work attached to the Contract as Exhibit A. A Contractor shall not be reimbursed for any travel, copy or other expenses incurred by the Contractor in connection with or related to the performance of the Contract.

#### **IV. EVALUATION OF PROPOSAL AND CONTRACT AWARD**

##### **EVALUATION CRITERIA**

The following evaluation criteria will be used by the City's evaluation committee for the selection of Contractor(s) to provide organizational consulting, facilitation, and training services. The evaluation committee will review the initial Proposals and score them according to the evaluation criteria listed below. Depending on the total number of Proposals submitted for this RFP, the evaluation committee may "short list" the Contractor(s) with Proposals receiving the highest scores and conduct formal discussions / presentations to make a final evaluation. However, presentations are anticipated. After the final evaluation of Proposals, the City may narrow the total number of responses down and may request "Best and Final" Proposals.

The following evaluation criteria will be used for selection of a contractor or contractors.

<b>EVALUATION CRITERIA</b>	<b>RELATIVE IMPORTANCE PERCENTAGE</b>
1. Presented Approach	40%
2. Experience and Qualifications	20%
2. Project Personnel Assigned to This Project	20%
4. Proposed Fee	20%
<b>TOTAL RELATIVE IMPORTANCE PERCENTAGE</b>	<b>100%</b>

**PROPOSAL MOST ADVANTAGEOUS TO THE CITY:** The City will award a Contract to a responsible and responsive Contractor whose Proposal is the most satisfactory and advantageous to the City based on the Evaluation Criteria set forth in the RFP.

**RESPONSIBILITY:** In evaluating responsibility, the City may consider all matters related to the Contractor's ability to perform the Contract satisfactorily as further described in Article 16 of the City's Procurement Code Manual.

The responsibility criteria will include:

1. The Contractor's capacity to do the work, including adequate finances, equipment, facilities, employees and competing commitments;
2. The Contractor's experience in performing similar work;
3. The Contractor's integrity and record of performance:
  - a. Positive factors include but are not limited to timely completion within budget, quality of work, prompt resolution of problems, good working relationships and the ability to resolve disputes without litigation;
  - b. Negative factors include, but are not limited to, past contract terminations or deductions due to failure to perform; termination for cause due to breach; failure to comply with the contract; documented poor performance; customer complaints and/or negative references; unresolved disputes with project owners or subcontractors; and litigation without merit. In addition, any of the grounds set forth in Article 30 for suspension or debarment may be considered.
4. The Contractor is qualified legally to contract with the City;
5. Whether the Contractor has truthfully supplied all information concerning its responsibility requested by the Purchasing Agent;
6. Whether the Contractor holds any required and active valid State of Arizona license(s) to conduct business or to perform the work proposed; and

7. Any other evaluation criteria listed in the solicitation. Examples of other evaluation criteria include but are not limited to requirement of a balanced bid, requirement that the bid or proposal identify the percentage and cost of work that each subcontractor will perform and a cap on the total project value that can be completed by subcontractors, or requirement that no work shall be subcontracted.

Any single factor or combination of factors may be grounds for determination of non-responsibility. Additional factors shall include the Contractor's past performance specifically on City or other public agency contracts. This includes threats of litigation, contract terminations for any reason and the lack of ability to resolve disputes without litigation.

**EVALUATION PROCESS:** The City's evaluation committee will review the initial Proposals and score them according to the evaluation criteria. The evaluation committee may then:

1. Engage in discussions with highest scoring Contractors. If the parties are unable to reach an agreement, the evaluation committee may engage in discussions with the second-highest scoring Contractors.

Or

2. Engage in discussions with the highest scoring Contractors ("short list"). Following such discussions, the City may request such Contractors to make Best and Final Offers ("BAFOs"). The City may score BAFO's. If the City scores the BAFOs, these points will be added to the points awarded during the scoring of the proposal for a total cumulative score.

Following the evaluation process the Selection Committee will select a Final List of Firms deemed most qualified to provide the services, ranked in order of preference based on the Proposal evaluation and/or the interview evaluation. Award of contract will be contingent upon mutually agreeable fee/scope of services negotiations

**PURPOSE OF DISCUSSIONS:** The purpose of discussions with Contractors (pursuant to Section 11.9 of the Procurement Code Manual) shall be to:

1. Determine in greater detail such Contractor's qualifications;
2. Explore with the Contractors the scope and nature of the services offered, the Contractor's proposed presented approach, the relative utility of alternate methods of approach and methods of performance;
3. Determine that the Contractors will make available the necessary personnel and facilities to perform within the required time; and
4. Agree upon compensation which is fair and reasonable, taking into account the value of the estimated value of the required services/equipment, the scope and complexity of the proposed services and natures of such services/equipment.

In conducting discussions, there shall be no disclosure of any information derived from Proposals submitted by competing Contractors.

**REVISIONS TO PROPOSALS:** If the City calls for Best and Final Proposals, those Contractors will be accorded fair and equal treatment with respect to any opportunity for discussion and revision of Proposals prior to contract award.

**REQUESTS FOR ADDITIONAL INFORMATION:** After the Closing Date and Time, the City may request that the Contractor provide additional information related to the Proposal. Failure to provide this information within five (5) business days after communication of the request by the City will be grounds for the City to reject a Proposal, and/or to declare the Proposal as non-responsive or non-responsible.

**RESERVATION OF RIGHTS:** The City reserves the right to reject any and all Proposals, or any part thereof. The City reserves the right to accept any Proposal in whole or in part, or any line item, and to award a contract for purchase of the same. The City reserves the right to waive any clerical error or nonmaterial defect in the Proposal when it is deemed to be in the City's best interest. The City reserves the right to cancel or reissue a Solicitation.

**NOTICE OF PROPOSED CONTRACT AWARD OR RECOMMENDATION:** All Contractors will receive an email notifying them of the City's proposed contract award or recommendation to reject all Proposals. This notice will be posted as part of the agenda for the regular meeting of the City Council, on the City website. The agenda is typically posted at least one (1) week prior to the Council Meeting.

**PUBLIC RECORDS:** Proposals received by the City are available for public inspection after a contract has been awarded, subject to any confidentiality restrictions.

**PROTESTS:** If you wish to protest the Solicitation, a protest shall be in writing and shall be personally delivered or served upon the City Purchasing Director. A protest related to the Solicitation (such as specifications, requirements, or scope) shall be received by the City Purchasing Department before the Closing Date and Time. A protest of a proposed award or of an award shall be personally delivered or served upon the City Purchasing Director within ten (10) days after the protester knows or should have known the basis of the protest. A protest shall include:

1. The name, address and telephone number of the protester;
2. The signature of the protester or its representative;
3. Identification of the solicitation or contract number;
4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
5. The form of relief requested.

## PROPOSAL FORMAT

**QUALITY OF PROPOSAL:** The City will evaluate the quality of the Proposal as evidence of the Contractor's qualifications and competence. The Proposal should be: (1) complete; (2) thorough; (3) accurate; (4) comply with Solicitation instructions; (5) organized; and (6) concise.

**PAGE LIMIT:** The Proposal **shall not exceed a total of thirty (25) pages**, except the Cover, Cover Letter, and City Forms will not be counted in the page limit. Any pages attached to the City Forms shall be counted toward the page limit. The City may reject a Proposal that exceeds the page limit as non-responsive.

### PROPOSAL FORMAT:

#### Required Sections of Proposal:

##### **A. Cover Letter (1 page)**

A profile of the organization (company overview), number of years in business, and a description of services being offered.

##### **B. Experience and Qualifications (20%)**

- a. Proposer shall provide detailed information regarding your firm & individual experience in providing minimum wage consulting services and any experience providing these services for a municipality.
- b. Proposer shall provide a list of specific qualifications and expertise the Proposer has in providing the services listed in this proposal, including any professional designations and affiliations, certifications or licenses, etc. Proposer shall also identify support staff to assure timely and efficient delivery of services.
- c. Proposer shall provide a complete listing of past and current clients Contact information for at least three (3), and a maximum of five (5), previous customers as references for the City including organization name, contact name, email and telephone number. The City will contact these references as part of the evaluation process.
  1. Positive reference factors will include, but are not limited to, timely completion of services, quality of work, prompt resolution of concerns, and good working relationships.
  2. Negative reference factors will include, but are not limited to, past contract terminations, failure to comply with contract, documented poor performance, and customer complaints and/or negative references.

##### **C. PROJECT PERSONNEL ASSIGNED TO THIS PROJECT (20%)**

This section outlines the project personnel that your firm will assign to this project.

- a. Resume:

Proposers shall provide the resume(s) of the personnel that their organization will assign to this project. Resumes shall outline all relevant experience and qualifications in providing minimum wage consulting services for municipalities, as well as managing these services.

b. Role in This Project:

Proposers shall describe the role each person will fulfill in providing minimum wage consulting services and tenure with the organization.

**D. PRESENTED APPROACH (40%)**

a. Proposed approach for providing minimum wage consulting services:

Proposer shall provide detailed information regarding their proposed presented approach for minimum wage consulting services you are submitting a proposal response for. The proposed approach shall address the three (3) objectives outlined in the scope of work.

b. Project Timeline:

Proposer shall provide a proposed detailed project timeline and if the proposed timeline is different from what is outlined in the scope of work, Proposer shall provide reasons for their proposed project timeline.

**E. PROPOSED FEE (20%)**

a. Proposers shall provide a fee cost proposal. Proposer's fee must be inclusive of all services required as outlined in the Scope of Work herein. A Schedule of any reimbursable expenses that are to be paid directly by the City, is to be included as a part of the proposed fee schedule.

**F. Contractor Questionnaire (see form)**

**G. Exceptions (see form)**

**H. Confidential Materials (see form)**

**I. Cooperative Purchases (see form)**

**J. Disclosure (see form)**

**K. Declaration Related to Solvency (form); Declaration Related to Gratuities (form); Declaration of Non-Collusion (see form) (Attach explanations)**

All completed forms must be submitted with Proposal.

Forms are located at the end of this RFP document.

### CONTRACTOR QUESTIONNAIRE (FORM)

**Contractor:**

Company Name: \_\_\_\_\_

Doing Business As (if different than above): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ - \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_ Website: \_\_\_\_\_

Taxpayer Identification Number: \_\_\_\_\_

**Mailing Address (if different than above):**

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ - \_\_\_\_\_

**Contractor Contact for Questions about Proposal:**

Name: \_\_\_\_\_ Fax: \_\_\_\_\_

Phone: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

**Transaction Privilege (Sales)Tax/Use Tax Information (check one):**

\_\_\_\_\_ Contractor is located outside Arizona (The City will pay use tax directly to the AZ Dept of Revenue)

OR

\_\_\_\_\_ Contractor is located in Arizona (The Contractor must invoice the applicable state and local tax to City, and remit taxes.)

Arizona Department of Revenue TPT License Number: \_\_\_\_\_  
(Attach proof of registration)

**Business License Information (check one):**

\_\_\_\_\_ Contractor does not have a business location within the City of Flagstaff

OR

\_\_\_\_\_ Contractor has a business location (uses a building) within the City of Flagstaff

Flagstaff TPT/Business License Number: \_\_\_\_\_

**Other Licenses (list any existing licenses you have required for work, e.g. Arizona Registrar of Contractor licenses, and attach copies):**

### EXCEPTIONS (FORM)

Notations. Any strikeouts, notes or modifications to the Solicitation documents shall be initialed in ink by the authorized person who signs the Proposal. If notations are made, they must be submitted with your Proposal and are considered Exceptions.

Exceptions: In addition to any notations on the Solicitation documents, please identify and list any exceptions to the Solicitation, by section/paragraph, on this Exceptions Form. The City reserves the right to reject, accept or further negotiate Exceptions. Exceptions may render the Proposal non-responsive.

Exceptions to Form of Contract: You may request changes to the form of contract (including any Standard or Special Terms and Conditions) on the Exceptions Form. You may also submit your own form of contract. The City will consider these in the same manner as any other exceptions.

You must indicate any and all exceptions taken to the requirements, specifications, and/or terms and conditions of this Solicitation, including the contract.

**Exceptions (INITIAL ONE):**

\_\_\_\_\_ No exceptions

\_\_\_\_\_ Exceptions taken (describe). Attach additional pages if needed.

### CONFIDENTIAL MATERIALS (FORM)

If you believe part of your Proposal is confidential, mark the page(s) "CONFIDENTIAL" and isolate the pages as an attachment to this form. Also include an explanation why they are confidential.

Requests to deem the entire Proposal as confidential will not be considered.

If you want confidential information returned to you after contract award (and you are not selected for contract award), then note this below. You will be responsible for pick up.

Generally, information submitted in response to a Solicitation is subject to disclosure pursuant to the Arizona Public Records Law after contract award.

The information identified as confidential shall not be disclosed until the City makes a written determination whether the information may be treated as confidential. If the City determines it is necessary to disclose the information, the City will inform you in writing.

#### **Confidential/Proprietary Materials (INITIAL ONE):**

\_\_\_\_\_ No confidential/proprietary materials have been included with this Proposal

\_\_\_\_\_ Confidential/Proprietary materials are included in this Proposal. See attached.

### COOPERATIVE PURCHASES (FORM)

The City of Flagstaff is a member of Flagstaff Alliance for the Second Century, along with the Coconino County Community College District, Northern Arizona University, Coconino County and Flagstaff Unified School District. The City is also a member of S.A.V.E. (Strategic Alliance for Volume Expenditures), which consists of numerous municipalities, counties, universities, colleges, schools and other Arizona State agencies. Cooperative purchasing arrangements such as the above are sanctioned by state law and allow a Contractor to sell services and materials to any member of a cooperative group under the same pricing, terms and conditions of contract awarded to the Contractor by any other member, following a competitive procurement process.

Is your company willing to offer the goods and services solicited under the terms and conditions of this solicitation to other members of the Flagstaff Alliance for the Second Century and S.A.V.E. under the same pricing, terms and conditions?

\_\_\_\_\_ Yes      \_\_\_\_\_ No      (INITIAL ONE)

If you answered No, that is acceptable. The City will not reject your Proposal or consider it to be non-responsive. If you answered Yes, and a contract is approved, others may seek to do business with you under the same terms and conditions, subject to your approval.

### DISCLOSURE (FORM)

For any item checked YES, you must provide information. Answering YES to one or more questions does not necessarily mean you will be disqualified from this Solicitation. **FAILURE TO PROVIDE TRUE AND COMPLETE INFORMATION MAY RESULT IN DISQUALIFICATION FROM THIS SOLICITATION.**

1. Has your company or any affiliate\* in the past 5 years: (i) had a permit revoked or suspended, (ii) been required to pay a fine, judgment or settlement of more than \$100,000, (iii) been convicted of a criminal offense (including a plea of guilty or *nolo contendere*), or (iv) been found in contempt of court, as a result of or in connection with any of the following:
  - a. Any offense relating to integrity or honesty, including fraud, bribery, embezzlement, false claims, false statements, falsification or destruction of records, forgery, obstruction of justice, receiving stolen property, theft, price fixing, proposal rigging, restraint of trade or other antitrust law violation? YES \_\_\_\_\_  
NO \_\_\_\_\_
  - b. Violation of the terms of any public contract? YES \_\_\_\_\_  
NO \_\_\_\_\_
  - c. Failure to pay any uncontested debt to a government agency? YES \_\_\_\_\_  
NO \_\_\_\_\_
  - d. Violation of any law or regulation pertaining to the protection of public health or the environment? YES \_\_\_\_\_  
NO \_\_\_\_\_

\*An "affiliate" of your company means any person, company or other entity that, either directly or indirectly (for example, through stock ownership by family members), controls, is controlled by, or is under common control with, your company.

2. Has your company or any affiliate in the past 5 years been named as a party in any lawsuit related to performance of a contract (you do not need to list subcontractor lien claims which have been fully paid/satisfied)?

YES \_\_\_\_\_ NO \_\_\_\_\_

3. Has your company or any affiliate of your company in the past 5 years been debarred or suspended from submitting proposals on public contracts?

YES \_\_\_\_\_ NO \_\_\_\_\_

**I hereby verify that the foregoing information, and any explanation attached are to the best of my knowledge, true and complete.**

\_\_\_\_\_  
Signature of Person Authorized to Sign Proposal

**DECLARATION RELATED TO SOLVENCY (FORM)**

Is your Contractor currently involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or has a trustee or receiver been appointed over all or a substantial portion of the property of your Contractor under federal bankruptcy law or any state insolvency law?

\_\_\_\_\_ Yes      \_\_\_\_\_ No      (INITIAL ONE)

**DECLARATION RELATED TO GRATUITIES (FORM)**

I hereby verify and declare that, to the best of my knowledge, neither the Contractor nor anyone associated with the Contractor has given, offered to give, or intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Proposal ("Gratuities").

\_\_\_\_\_  
Signature of Person Authorized to Sign Proposal

**DECLARATION OF NON-COLLUSION (FORM)**

I hereby verify and declare that:

The pricing for this Proposal has been arrived at independently and without consultation, communication or agreement with any other Contractor who may submit an Proposal.

The pricing for this Proposal has not been disclosed to any other Contractor who may submit a Proposal, and will not be, prior to the Closing Date and Time.

No attempt has been made or will be made to induce any Contractor or person to refrain from submitting a Proposal, or to submit a Proposal with higher pricing than this Proposal, or to submit an intentionally high or noncompetitive Proposal or other form of complementary Proposal.

This Proposal is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any Contractor or person to submit a complementary or other noncompetitive bid.

Contractor, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

\_\_\_\_\_  
Signature of Person Authorized to Sign Proposal

**ATTACHMENT A**  
**SAMPLE CONTRACT**

**CONTRACT FOR PROFESSIONAL SERVICES**

Contract No. 2020-16

This Contract is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and, \_\_\_\_\_ ("Contractor").

WHEREAS, the City of Flagstaff desires to receive and Contractor is able to provide certain services; and

NOW THEREFORE, in consideration for the mutual promises contained herein, the City and Contractor (the "parties") agree as follows:

**SERVICES**

1. **Scope of Work:** Contractor shall provide services to analyze the current and future economic impacts of the City's incrementally increasing minimum wage  
  
and as more specifically described in the scope of work attached hereto as Exhibit A.
2. **Compensation:** In consideration for the Contractor's satisfactory performance, City shall pay Contractor \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$XXX.XX). Any price adjustment must be approved by mutual written consent of the parties. The City Manager or his/her designee (the Purchasing Director) may approve an adjustment if the annual Contract price is less than \$50,000; otherwise City Council approval is required.
3. **Standard Terms and Conditions:** The City of Flagstaff Standard Terms and Conditions, attached hereto as Exhibit B, are hereby incorporated into this Contract by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.
4. **Key Personnel/Subcontractors:** Contractor shall provide the contact information for Key Personnel and Subcontractors (if any). Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this contract has the right to approve any proposed substitution of Key Personnel or Subcontractors.

**CITY RESPONSIBILITIES**

5. **City Representative:** The City Representative is Cliff Bryson, Assistant to the City Manager or his designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the Purchasing Director.
6. **City Cooperation:** City will cooperate with Contractor by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Contractor's performance of this Contract.

### CONTRACT TERM

7. Contract Term: The Contract term is for a period of three (3) years unless terminated pursuant to the Standard Terms and Conditions. This Contract shall be effective as of the date signed by both parties. Performance shall commence within the time specified on individual Service Orders and shall be completed on or before the agreed upon time consistent with the Schedule of Services.
8. Renewal: This Contract may be renewed or extended for up to two (2) additional one (1) one-year terms by mutual written consent of the parties. The City Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

### DATA AND RECORDS

9. City Ownership of Document and Data: Any original documents prepared or collected by Contractor in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Contractor agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and interests Contractor may have in the materials it prepares under this Contract, including any right to derivative use of the material.
10. Re-Use. City may use City's work product without further compensation to Contractor; provided, however, City's reuse without written verification or adaption by Contractor for purposes other than contemplated herein is at City's sole risk and without liability to Contractor. Contractor shall not engage in any conflict of interest nor appropriate any portion of City's work product for the benefit of Contractor or any third parties without City's prior written consent.
11. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Contractor shall immediately deliver to City copies all of City's work product and any other documents and data accumulated by Contractor in performance of this Contract, whether complete or in process.

### MISCELLANEOUS

12. Notice: Any notice concerning this Contract shall be in writing and sent by certified mail and email as follows:

#### **To Contractor:**

#### **To the City:**

Cliff Bryson  
Assistant to City Manager  
City of Flagstaff  
211 W. Aspen Ave. Flagstaff, AZ 86001  
[cbryson@flagstaffaz.gov](mailto:cbryson@flagstaffaz.gov)  
Phone: (928) 213-2070

**With a copy to:**

Rick Compau, C.P.M., CPPO, CPPB  
Purchasing Director  
City of Flagstaff  
211 W. Aspen Avenue  
Flagstaff, AZ 86001  
[rcompau@flagstaffaz.gov](mailto:rcompau@flagstaffaz.gov)  
Phone: (928) 213-2275

**With a copy to:**

13. Authority. Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

CONTRACTOR

\_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

CITY OF FLAGSTAFF

\_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

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

Approved as to form:

\_\_\_\_\_  
City Attorney's Office

Notice to Proceed issued: \_\_\_\_\_, 20\_\_

**EXHIBIT A**

**SCOPE OF WORK**

The final Scope of Work, On-Call Organizational Consulting, Facilitation and Training Services are to be determined.

**EXHIBIT B**  
**STANDARD TERMS AND CONDITIONS**

**IN GENERAL**

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.
2. **LICENSES AND PERMITS:** Contractor at its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.
3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.
4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.
5. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

**MATERIALS**

6. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.
7. **QUALITY:** Contractor warrants that all materials supplied under this Contract will be new and free from defects in material or workmanship. The materials will conform to any statements made on the containers or labels or advertisements for the materials and will be safe and appropriate for use as normally used. City's inspection, testing, acceptance or use of materials shall not serve to waive these quality requirements. This warranty shall survive termination or expiration of the Contract.
8. **ACCEPTANCE:** All materials and services provided by Contract are subject to final inspection and acceptance by the City. Materials and services failing to conform to the Contract specifications may be rejected in whole or part. If rejected, Contractor is responsible for all costs associated arising from rejection.
9. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to City upon City's acceptance of the materials.
10. **PACKING AND SHIPPING:** Contractor shall be responsible for industry standard packing which conforms to requirements of carrier's tariff and ICC regulations. Containers shall be clearly marked as to lot number, destination, address and purchase order number. All shipments shall be F.O.B. Destination, City of Flagstaff, 211 West Aspen Avenue, Flagstaff, Arizona 86001, unless otherwise specified by the City. C.O.D. shipments will not be accepted.

11. **TITLE AND RISK OF LOSS:** The title and risk of loss of material shall not pass to the City until the City actually receives the material at the point of delivery, and the City has completed inspection and has accepted the material, unless the City has expressly provided otherwise in the Contract.
12. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender of materials shall fully comply with all provisions of the Contract. If a tender is made which does not fully conform, this shall constitute a breach and Contractor shall not have the right to substitute a conforming tender without prior written approval from the City.
13. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor may not substitute nonconforming materials, or services. Delivery of nonconforming materials, and/or services, or a default of any nature, at the option of the City, shall constitute shall deliver conforming materials, or services, in each installment or lot of the contract a breach of the contract as a whole.
14. **SHIPMENT UNDER RESERVATION PROHIBITED:** Contractor is not authorized to ship materials under reservation and no tender of a bill of lading shall operate as a tender of the materials.
15. **LIENS:** All materials and other deliverables supplied to the City shall be free of all liens other than the security interest held by Contractor until payment in full is made by the City. Upon request of the City, Contractor shall provide a formal release of all liens.
16. **CHANGES IN ORDERS:** The City reserves the right at any time to make changes in any one or more of the following: (a) methods of shipment or packing; (b) place of delivery; and (c) quantities. If any change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment shall be evidenced in writing and approved by the City Purchasing Director prior to the institution of the change.

## **PAYMENT**

17. **INVOICES:** A separate invoice shall be issued for each shipment and each job completed. Invoices shall include the Contract and/or Purchase Order number, and dates when goods were delivered or work performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.
18. **LATE INVOICES:** The City may deduct up to 10% of the payment price for late invoices. The City operates on a fiscal year budget, from July 1 through the following June 30. Except in unusual circumstances, which are not due to the fault of Contractor, City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.
19. **TAXES:** Contractor shall be responsible for payment of all taxes including federal, state, and local taxes related to or arising out of Contractor's performance of this Contract. Such taxes include but are not limited to federal and state income tax, social security tax, unemployment insurance taxes, transaction privilege taxes, use taxes, and any other taxes or business license fees as required.

Exception: The City will pay any taxes which are specifically identified as a line item dollar amount in the Contractor's bid, proposal, or quote, and which were considered and approved by the City as part of the Contract award process. In this event, taxes shall be identified as a separate line item in Contractor's invoices.

20. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.
21. **FUEL CHARGES:** Contractor at its own expense is liable for all fuel costs related to performance. No fuel surcharges will be accepted or paid by City.
22. **DISCOUNTS:** If the Contract provides for payment discounts, payment discounts will be computed from the later date of the following: (a) when correct invoice is received by the City; or (b) when acceptable materials and/or materials were received by City.
23. **AMOUNTS DUE TO THE CITY:** Contractor must be current and remain current in all obligations due to the City during performance. Payments to Contractor may be offset by any delinquent amounts due to City or fees and charges owed to City under this Contract.
24. **OFAC:** No City payments may be made to any person in violation of Office of Foreign Assets Control regulations, 31 C.F.R. Part 501.

### **SERVICES**

25. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.
26. **CONTROL:** Contractor shall be responsible for the control of the work.
27. **WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.
28. **SAFEGUARDING PROPERTY:** Contractor shall be responsible for any damage to real property of the City or adjacent property in performance of the work and safeguard the worksite.
29. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.
30. **ACCEPTANCE:** If work is rejected by the City due to noncompliance with the Contract, The City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.
31. **WARRANTY:** Contractor warrants all work for a period of one (1) year following final acceptance by the City. Upon receipt of written notice from the City, Contractor at its own expense shall promptly correct work rejected as defective or as failing to conform to the Contract, whether observed before or after acceptance, and whether or not fabricated, installed or completed by Contractor, and shall bear all costs of correction. If Contractor does not correct deficiencies within a reasonable time specified in the written notice from the City, the City may perform the work and Contractor shall be liable for the costs. This one-year warranty is in addition to, and does not limit Contractor's other obligations herein. This warranty shall survive termination or expiration of the Contract.

### **INSPECTION, RECORDS, ADMINISTRATION**

32. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.
33. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
34. **PUBLIC RECORDS:** This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as “confidential”, the City will endeavor to notify Contractor prior to release of such information.
35. **CONTRACT ADMINISTRATION:** Contractor will be required to participate in the City’s Contract Administration Process. Contractor will be closely monitored for contract compliance and will be required to promptly correct any deficiencies.

### **INDEMNIFICATION, INSURANCE**

36. **GENERAL INDEMNIFICATION:** Contractor shall indemnify, defend and hold harmless the City, its council, boards and commissions, officers, employees from all losses, claims, suits, payments and judgments, demands, expenses, attorney’s fees or actions of any kind resulting from personal injury to any person, including employees, subcontractors or agents of Contractor or damages to any property arising or alleged to have arisen out of the negligent performance of the Contract, except any such injury or damages arising out of the sole negligence of the City, its officers, agents or employees. This indemnification provision shall survive termination or expiration of the Contract. This indemnification clause shall not apply, if a different indemnification clause is included in the City’s Specific Terms and Conditions.
37. **INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including public liability and worker’s compensation.
38. **INTELLECTUAL PROPERTY INDEMNIFICATION:** Contractor shall indemnify and hold harmless the City against any liability, including costs and expenses, for infringement of any patent, trademark or copyright or other proprietary rights of any third parties arising out of contract performance or use by the City of materials furnished or work performed under this Contract. Contractor shall promptly assume full responsibility for the defense of any suit or proceeding which is, has been, or may be brought against the City and its agents for alleged infringement, or alleged unfair competition resulting from similarity in design, trademark or appearance of goods, and indemnify the City against any and all expenses, losses, royalties, profits and damages, attorneys fees and costs resulting from such proceedings or settlement thereof. This indemnification shall survive termination or expiration of the Contract.

### **CONTRACT CHANGES**

39. **PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.
40. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.
41. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.

42. **SEVERABILITY:** If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.
43. **NO WAIVER:** Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.
44. **ASSIGNMENT:** This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.
45. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

#### **EMPLOYEES AND SUBCONTRACTORS**

46. **SUBCONTRACTING:** Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.
47. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition, any Contractor located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02 Civil Rights which also prohibits discrimination based on sexual orientation, or gender identity or expression.
48. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.
49. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors will comply with, and are contractually obligated to comply with, all State and Federal Immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty"). A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City. The City retains the legal right to inspect the papers of any Contractor or subcontractor employee who works on this Contract to ensure compliance with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections. The City may, at

its sole discretion, conduct random verification of the employment records of the Contractor and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A).

- 50. NO BOYCOTT OF ISRAEL:** Pursuant to A.R.S. §§ 35-393 and 35-393.01, the parties certify that they are not currently engaged in and agree, for the duration of the agreement, not to engage in a boycott of Israel.

### **DEFAULT AND TERMINATION**

- 51. TERMINATION FOR DEFAULT:** Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed thirty (30) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.
- 52. CITY REMEDIES:** In the event of Contractor's default, City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.
- 53. CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.
- 54. SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- 55. TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of this Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.
- 56. TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.
- 57. TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding, or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice

thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding, makes an assignment for a creditor, or there is any similar action that affects Contractor's ability to perform under the Contract.

- 58. **PAYMENT UPON TERMINATION:** Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.
- 59. **CANCELLATION FOR GRATUITIES:** The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.
- 60. **CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

**MISCELLANEOUS**

- 61. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.
- 62. **NOTICES:** All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent Notice may be sent by email as a secondary form of notice.
- 63. **THIRD PARTY BENEFICIARIES:** This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.
- 64. **GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.
- 65. **FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.
- 66. **ATTORNEYS FEES:** If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs, professional fees and expenses.