

CONTRACT FOR PURCHASE OF MATERIALS/SERVICES

Contract No. 2022-66

This Contract is entered into this 4th day of ~~December, 2024~~ ^{January 2022} by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and Flagstaff Shelter Services, Inc., an Arizona nonprofit corporation ("Contractor").

WHEREAS the City desires to receive, and Contractor is able to provide materials and/or services; and

NOW THEREFORE, in consideration for the mutual promises contained herein, the parties agree as follows:

1. Scope of Work: Contractor shall provide the materials and/or services generally described as follows:

Direct response to the coronavirus pandemic through the provision of safe, secure, temporary, and emergency shelter and services for individuals experiencing homelessness, including non-congregate shelter options for homeless individuals and families in need of quarantine or isolation due to COVID-19 for the period between April 1, 2021 to the end of this Agreement.

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 \$50,000. Any price adjustment must be approved by mutual written consent of the parties. The City Manager or his 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. Insurance: Contractor shall meet insurance requirements of the City, set forth in Exhibit C.
5. Contract Term: The Contract term is for a period of one (1) year, unless terminated pursuant to the Standard Terms and Conditions. This Contract will be effective as of the date signed by both parties. Performance shall commence within ten (10) days from City's issuance of the Notice to Proceed.
6. Renewal: This Contract may be renewed or extended for up to one (1) additional one (1) year term 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.
7. City Representative: The City Representative is Sarah Darr, Housing Director, or her designee. All communications to the City shall be through the City Representative. The City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the Procurement Agent.
8. Key Personnel/Subcontractors: Contractor must identify 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 or disapprove any proposed substitution of Key Personnel or Subcontractors.

9. Notice: Any formal notice required under this Contract shall be in writing and sent by certified mail and email as follows:

To the City:

Stacey Brechler-Knaggs
Grants Administrator
211 W. Aspen Ave.
Flagstaff, AZ 86001
(928) 213-2227

To Contractor:

Ross Altenbaugh
Executive Director
PO Box 1808
Flagstaff, AZ 86002
ross@flagshelter.org
Phone (928) 225-2533 x303

With copies to:

Patrick Brown
Procurement Director
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001
pbrown@flagstaffaz.gov
Phone: (928) 213-2277

With a copy to:

Kristine Pavlik
Housing and Grants Administrator
2323 N. Walgreens St. Suite 2
Flagstaff, AZ 86004
(928) 213-2749

Sarah Darr
Housing Director
3481 N. Fanning Dr.
Flagstaff, AZ
(928) 213-2745

10. 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.

(SIGNATURES ON FOLLOWING PAGES)

EXHIBIT A
SCOPE OF WORK

1. Contractor will provide the following services:

1.1 Flagstaff Shelter Services “Emergency Homeless Services” (the Project) will provide direct response to the coronavirus pandemic through the provision of safe, secure, temporary, and emergency shelter and services for individuals experiencing homelessness, including non-congregate shelter options for homeless individuals and families in need of quarantine or isolation due to COVID-19 for the period between April 1, 2021 to the end of the Agreement.

2. Contractor will certify that clients of the Program:

2.1 Are individuals or families experiencing homelessness. Families are not single individuals but are simply more than one individual who lives together. Members of the family do not need to be related by blood, marriage or in any other legal capacity.

2.2 Are at least 18 years of age and/or accompanied by a legal guardian.

3. Contractor will conduct program administration, including, but not limited to:

3.1 Hire, train and manage staff.

3.2 Maintain program accounting records, detailing expenditures, as documented by receipts, correspondence, and any other relevant financial information.

3.3 Provide monthly reports of these accounting records to the City contact on a date established by both parties.

3.4 Maintain client files detailing income eligibility and back up documentation, ethnicity, age, and special needs, in addition to any other necessary information.

3.5 Ensure that an open process is conducted in all outreach activities and equal opportunity is provided to all persons regardless of race, color, sex, sexual orientation, religion, handicap, familial status, or national origin.



December 6, 2021

City of Flagstaff
211 W. Aspen Avenue
Flagstaff, AZ 86001

To the City of Flagstaff Mayor & Councilmembers:

I am writing today to respectfully request \$150,000 in emergency funding to support Flagstaff Shelter Services' (FSS) crucial COVID-19 mitigation efforts. Since the pandemic began, FSS has been on the frontlines of the public health crisis, and we continue to serve as the community response for COVID-positive individuals and families who lack stable housing. Our services are used by agencies across the region- who refer vulnerable people to us regularly- and represent an invaluable resource to the entire community. While we are proud to serve in this way during these unprecedented times, it poses financial challenges that we cannot overcome without additional support from the City.

Our life-saving efforts over the past 20 months have protected our vulnerable neighbors experiencing homelessness, as well as the community at large, but this work has been very costly. It has required FSS to exhaust our rainy-day funds and direct every available resource to keeping our community safe and healthy through the pandemic. Because congregate shelter promotes virus transmission, we have been renting rooms at local motels in order to adequately provide non-congregate shelter space. Once COVID vaccines became available, we also began conducting onsite vaccine clinics in partnership with North Country HealthCare, and we are proud to report that an impressive 83% of our clients are vaccinated against the deadly virus. This is a significantly higher vaccination rate than that of the general population and allowed FSS to safely move most of our emergency shelter guests out of hotel rooms and back to our congregate shelter, where we require masks at all times and conduct rapid COVID testing of all guests and staff at least every two weeks. But today we continue to rent private hotel rooms for COVID-positive individuals and families experiencing homelessness.

This CDC-recommended emergency shelter model saves lives but is also an extremely costly mitigation strategy that has drained us financially. FSS incurred \$1.2 million in COVID-related costs that we were led to believe the Federal Emergency Management Agency (FEMA) would reimburse. Though we diligently trudged through FEMA's reimbursement request process, ultimately the money did not come through. Instead, FEMA directed us to look to American Rescue Plan Act (ARPA) funds and local government resources. In response, the Governor's office supported FSS' COVID-mitigation work with \$400,000 in emergency funds and recommended we leverage their dollars to request City and County funding.

Today, FSS is at a point where we urgently need \$150,000 to continue caring for our vulnerable neighbors who have been disproportionately affected by the pandemic. So far in 2021, we have served

over 2,100 unduplicated individuals experiencing homelessness (up from about 1,100 in 2019) with over 35,000 bed nights at our congregate shelter and more than 41,000 bed nights at our quarantine hotel locations. The men, women, and children we are serving are at increased risk of both contracting and dying from the coronavirus, and oftentimes, FSS is the only agency in town they can turn to. About 40% of those served are women, 98% of whom report having experienced physical or sexual abuse. Around 15% are seniors, 20% are veterans, and about half of those we serve report struggling with chronic physical or mental illness. Our Indigenous neighbors are particularly over-represented in the homeless population in comparison to their portion of the general population in Flagstaff, with about 56% of those we serve identifying as Indigenous (as compared to 7.8% of the general Flagstaff population).

FSS's average monthly expenses run around \$100,000. This includes \$70,000 for payroll; \$15,000 for COVID-response via rented hotel rooms; and \$15,000 for general operating expenses. **In order to really focus on recovery and put this devastating pandemic behind us, FSS needs \$150,000 in emergency funding.** These funds will allow us to pay for private hotel rooms for vulnerable Flagstaff residents and will support crucial payroll expenses going forward in order to support recovery efforts.

At FSS, what that recovery looks like is the \$6.5 million, Arizona Department of Housing-supported acquisition of a local, historic motel to better care for individuals and families experiencing housing insecurity in Flagstaff. In the short-term, this property will be used as non-congregate emergency shelter to keep vulnerable individuals safe during the pandemic. It will put an end to our need to continue hemorrhaging money through hotel room rentals. Once COVID-19 is no longer an active threat to our community, this hotel site will operate as a Permanent Supportive Housing complex, increasing the extremely limited inventory of affordable housing units in the region. As a result of the pandemic, FSS has already doubled our personnel and are prepared to appropriately staff this new location. We know how to do this work, and we excel at it. We are well prepared with the knowledge, resources, staffing and partnerships to successfully put this property to use immediately after the close of escrow (December 2021 or January 2022) and begin providing expanded services to Flagstaff's most vulnerable households- helping them recover from the devastating COVID-19 pandemic.

Thank you for your consideration,

A handwritten signature in blue ink, appearing to read "Ross Schaefer Altenbaugh". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ross Schaefer Altenbaugh
Executive Director

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 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.

PAYMENT

5. **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.
6. **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.

7. **FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.
8. **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.
9. **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.
10. **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.

11. **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

12. **INDEPENDENT CONTRACTOR:** Contractor, and each of Contractor's employees, shall be considered independent contractors 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.

INSPECTION. RECORDS. ADMINISTRATION

13. **RECORDS:** The City shall have the right to inspect and audit all of Contractor's books and records related to the Contract for up to five (5) years after completion of the Contract.
14. **RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect Contractor's place of business or its subcontractor's place of business during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
15. **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.
16. **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

17. **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.
18. **INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including public liability and worker's compensation.
19. **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

20. **PRICE INCREASES:** Except as expressly provided for in the Contract, no price increases will be approved.
21. **COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.
22. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.
23. **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.
24. **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.
25. **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.
26. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

27. **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.
28. **NONDISCRIMINATION:** Contractor warrants that it complies with any state and federal laws, rules and regulations which mandate that all persons, regardless of race, color, pregnancy, religion, sex, sexual orientation, gender identity, genetic information, age, national origin, disability, veteran status, caregiving responsibilities, or familial status shall have equal access to employment opportunities. Contractor shall take affirmative action to ensure that it will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Pregnancy Discrimination Act of 1978, Americans with Disabilities Act of 2008 as

amended, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, Age Discrimination and Employment Act of 1967 as amended, Genetic Information Nondiscrimination Act of 2008. In addition, any Contractor shall also comply with City Code, Chapter 14-02, Civil Rights which prohibits discrimination based upon sexual orientation, or gender identity or expression.

29. **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.
30. **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 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).

DEFAULT AND TERMINATION

31. **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.
32. **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.
33. **CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.
34. **SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.

35. **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.
36. **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.
37. **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.
38. **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.
39. **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.
40. **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

41. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.
42. **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.
43. **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.
44. **GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.
45. **FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.

46. **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 attorneys' fees, costs, professional fees and expenses.
47. **NO BOYCOTT OF ISRAEL:** Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten employees and the Contract is worth at least \$100,000, the Party shall certify that it is not currently engaged in, and agrees, for the duration of the Contract, will not engage in a boycott of Israel.

EXHIBIT C

STANDARD INSURANCE REQUIREMENTS

1. **IN GENERAL:** Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with the Contract by Contractor, its agents, representatives, employees, and/or subcontractors.
2. **REQUIREMENT TO PROCURE AND MAINTAIN:** Each insurance policy required by the Contract shall be in effect at, or before, commencement of work under the Contract and shall remain in effect until all of Contractor's obligations under the Contract have been met, including any warranty periods. Contractor's failure to maintain the insurance policies as required by the Contract, or to provide timely evidence of renewal, will be considered a material breach of the Contract.
3. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** The following insurance requirements are minimum requirements for the Contract and in no way limit the indemnity covenants contained in the Contract. The City does not represent or warrant that the minimum limits set forth in the Contract are sufficient to protect Contractor from liabilities that might arise out of the Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000

b. Umbrella Coverage \$2,000,000

c. Automobile Liability

Any Automobile or Owned, Hired, and Non-owned Vehicles	\$1,000,000
Combined Single Limit Per Accident for Bodily Injury & Property Damage	

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$500,000
Disease - Each Employee	\$500,000
Disease - Policy Limit	\$500,000

e. Professional Liability \$2,000,000

f. Network Security and Privacy Liability

Per claim	\$1,000,000
Annual Aggregate	\$1,000,000

4. **NETWORK SECURITY AND PRIVACY LIABILITY:** Contractor shall maintain the requisite insurance requirements covering all acts, errors, omissions, negligence, infringement of intellectual property (except patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of confidential information, privacy perils, and including coverage for related regulatory defense and penalties; data breach expenses, including but not limited to, consumer notification, whether or not required by law, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring or remediation services in the performance of services for the City. The insurance policy shall include coverage for third-party claims. The insurance policy shall contain an affirmative coverage grant for contingent bodily injury and property damage emanating from the failure of the technology services or an error or omission in the content/information provided.
5. **SELF-INSURED RETENTION:** Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that Contractor reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and/or subcontractors. Contractor shall be solely responsible for any self-insured retention amounts. The City at its option may require Contractor to secure payment of such self-insured retention by a surety bond or irrevocable and unconditional letter of credit.
6. **OTHER INSURANCE REQUIREMENTS:** The insurance policies shall contain, or be endorsed to contain, the following provisions:
 - a. Additional Insured: In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents, employees, and/or subcontractors shall be named and endorsed as additional insureds with respect to liability arising out of the Contract and activities performed by or on behalf of Contractor, including products and completed operations of Contractor, and automobiles owned, leased, hired, or borrowed by Contractor.
 - b. Broad Form: Contractor's insurance policy shall contain broad form contractual liability coverage.
 - c. Primary Insurance: Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees, and/or subcontractors. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, and/or subcontractors shall be in excess of the coverage of Contractor's insurance and shall not contribute to it.
 - d. Each Insured: Contractor's insurance policies shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Not Limited: Coverage provided by Contractor shall not be limited to the liability assumed under the indemnification provisions of the Contract.
 - f. Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation against the City, its officers, officials, agents, employees, and/or subcontractors for losses arising from work performed by Contractor for the City.

7. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of the Contract shall provide the required coverage and shall not be suspended, voided, cancelled, and/or reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Procurement Agent and shall reference the Contract Number.
8. **ACCEPTABILITY OF INSURERS:** Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a “Best’s” rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.
9. **CERTIFICATES OF INSURANCE:** Contractor shall furnish the City with certificates of insurance (ACORD form) as required by the Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City Contract number shall be noted on the certificates of insurance. If requested by the City, all certificates of insurance and endorsements must be received and approved by the City before the Contractor commences work.
10. **POLICIES:** The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by the Contract. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City’s receipt of Contractor’s policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City’s right to insist on strict fulfillment of Contractor’s obligations under the Contract.
11. **MODIFICATIONS:** Any modification or variation from the insurance requirements in the Contract must have the prior approval of the City’s Attorney’s Office in consultation with the City’s Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.