

CONTRACT FOR PURCHASE OF MATERIALS AND/OR SERVICES

Contract No. 2022-39

This Contract is entered into this _____ day of _____, 2022 by and between the City of Flagstaff, a political subdivision of the State of Arizona (“City”), and Morning Dew Landscaping, Inc., an Arizona corporation (“Contractor”).

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

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

1. Scope of Work: Contractor shall provide materials and/or services related to Landscape Maintenance and Snow Removal Services, subject to all terms, conditions, and specifications identified in the Scope of Work attached hereto as Exhibit A.
2. Compensation: Contractor shall be compensated for work performed under the Bid schedule and work performed under purchase order section identified in the Scope of Work attached hereto as Exhibit A. Any price adjustments 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 in 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 as set forth in Exhibit C.
5. Contract Term: Initial term is for three (3) year term, with annual renewal options not to exceed two (2) additional one (1) year terms.
6. Contract Renewal: The City reserves the right to unilaterally extend the term of the Contract for ninety (90) days beyond the stated expiration date.
7. Notice: Any formal notice required under the Contract shall be in writing and sent by certified mail and email as follows:

To the City:
Emily Markel
Senior Procurement Specialist
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, Arizona 86001
emarkel@flagstaffaz.gov

To Contractor:
Chris Lloyd
2684 E. Huntington Dr.
Flagstaff, AZ 86004
chris@morningdewlandscaping.com

With a copy to:
Amy Hagin
Parks Manager/Interim Recreation
Manager
City of Flagstaff
211 West Aspen Ave
Flagstaff, AZ 86001
ahagin@flagstaffaz.gov

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

CONTRACTOR

Print name: _____

Title: _____

CITY OF FLAGSTAFF

Print name: _____

Title: _____

Attest:

City Clerk

Approved as to form:

City Attorney's Office

EXHIBIT A

Fee Schedule (attached)

SCOPE OF WORK

The City has contracted with Contractor to provide Landscape Maintenance and Snow Removal Services for the following physical locations:

Accelerator BBB Site
101 W. Route 66
Flagstaff, AZ 86001

Flagstaff Pulliam Airport
6200 S. Pulliam Dr.
Flagstaff, AZ 86005

Flagstaff Visitors Center
1 E. Route 66
Flagstaff, AZ 86001

Northern Arizona Center for Entrepreneurship and Technology (NACET)
2225 N. Gemini Rd.
Flagstaff, AZ 86001

United States Geological Survey (USGS)
2255 N. Gemini Dr.
Flagstaff, AZ 86001

Water Services Location
2323 N. Walgreen Blvd.
Flagstaff, AZ 86004

Various Street Median Locations (Weed Control, Herbicide and/or Pesticide Applications Only)

1. Woodlands Village Blvd. Medians
2. Beulah Blvd. Medians
3. North Hwy 89 Medians
4. East Flagstaff Traffic Interchange Medians
5. Lone Tree Rd. Medians
6. Butler Ave. Medians

LANDSCAPE MAINTENANCE AND/OR SNOW REMOVAL AREAS BY LOCATION

Herbicide/Pesticide

USGS: 2255 North Gemini Drive. Flagstaff, AZ 86001

NACET: 2225 N Gemini Rd, Flagstaff, AZ 86001

FLAGSTAF F VISITOR'S CENTER: 1 E Rte 66, Flagstaff, AZ 86001

ACCELERATOR BBB SITE: 101 W. Route 66. Flagstaff, AZ 86001

Areas listed above will receive Herbicide applications only.

- Areas will receive a total of two (2) pre-emergent herbicide applications at the end of the correlating month (March, October).
- Areas will receive a total of seven (7) post emergent applications at the beginning of the month (April thru October)

Accelerator BBB

- | | |
|--------------------------|--------------------|
| 1. Parking Lot | 35,950 Square Feet |
| 2. Sidewalks | 10,450 Square Feet |
| 3. Natural Areas | 66,000 Square Feet |
| 4. Mulch/Hardscape Areas | 44,900 Square Feet |

Flagstaff Pulliam Airport

1. Short-Term Parking Lot
2. Long-Term Parking Lot
3. Sidewalks:
 - a. Terminal
 - b. Inside Parking Lots
 - c. Connecting Sidewalks
 - d. Sidewalks from JW Powell on Pulliam Drive into the terminal
4. Landscape Area:
 - a. Front/Around Airport Terminal
 - b. Inside/Around Parking Lots
 - c. Entrance into Flagstaff Airport along Pulliam Drive

Flagstaff Visitors Center Site

- | | |
|-------------------|--------------------|
| 1. Parking Lot | 30,880 Square Feet |
| 2. Sidewalks | 10,450 Square Feet |
| 3. Landscape Area | 13,820 Square Feet |

NACET Building Areas

- | | |
|----------------------------------|--------------------|
| 1. Parking Lot | 29,800 Square Feet |
| 2. Sidewalks | 3,700 Square Feet |
| 3. Natural Areas/Landscape Areas | 34,808 Square Feet |

USGS Building 3 Areas

- | | |
|-----------------------------|--------------------|
| 1. Parking Lot | 69,714 Square Feet |
| 2. Sidewalks | 1,615 Square Feet |
| 3. Planters/Natural Areas | 30,692 Square Feet |
| 4. East Atrium Planter #1 | 648 Square Feet |
| 5. East Atrium Sidewalks #1 | 974 Square Feet |
| 6. West Atrium Planter #2 | 782 Square Feet |
| 7. West Atrium Sidewalks #2 | 895 Square Feet |

USGS Building 4 Areas

- | | |
|---------------------------|--------------------|
| 1. Parking Lot | 40,732 Square Feet |
| 2. Sidewalks | 3,520 Square Feet |
| 3. Planters/Natural Areas | 42,020 Square Feet |
| 4. Turf Area | 13,240 Square Feet |

USGS Building 5 Areas

- 1. Parking Lot 41,331 Square Feet
- 2. Natural Areas 9,080 Square Feet

USGS Building 6 Areas

- 1. Parking Lot 46,323 Square Feet
- 2. Sidewalks 7,710 Square Feet
- 3. Planters 6,575 Square Feet
- 4. Natural Areas 61,487 Square Feet
- 5. Turf Areas 13,240 Square Feet

Water Services Locations

- 1. Parking Lots 18,610 Square Feet
- 2. Sidewalks 1,356 Square Feet
- 3. Natural Areas for weed removal 12,577 Square Feet

Various Street Median Locations (Weed Control, Herbicide and/or Pesticide Applications Only)

- 1. Woodlands Village Blvd. Medians 20,534 Square Feet
- 2. Beulah Blvd. Medians 15,915 Square Feet
- 3. North Hwy 89 Medians 67,905 Square Feet
- 4. East Flagstaff Traffic Interchange Medians 39,803 Square Feet
- 5. Lone Tree Rd. Medians 17,750 Square Feet
- 6. Butler Ave. Medians 20,762 Square Feet

LANDSCAPE MAINTENANCE SPECIFICATIONS

- 1. The Contractor shall have a minimum five (5) years' experience providing Landscaping Services of native plants, trees, scrubs, etc. indigenous to Northern Arizona.
- 2. The Contractor and all sub-Contractors shall be certified by the State of Arizona Office of Pest Management as a qualifying party and Certified with any National Accreditation recognized by the State of Arizona current or future and shall remain so through the term of this contract. Failure to comply with this specification will result in disqualification of your RFP submittal and is grounds for immediate termination of any contract awarded as a result of this Solicitation.
- 3. Contractor shall provide regular, weekly landscaping maintenance services as outlined herein.
- 4. Contractor shall examine the landscape on a weekly basis (winter schedule bi-weekly) to identify any problems or potential problems with the landscape.
- 5. Contractor shall provide at Contractor's own risk all labor, materials, tools, equipment, insurance, transportation, hauling, dumping, and all other items needed to provide the services outlined in this Scope of Work/Specifications.
- 6. Contractor shall make minor replacements and repairs to the landscape facilities as part of the required maintenance work. A minor item would be something that takes less than thirty (30) minutes to repair by skilled workmen, using minimal replacement parts. The following is a non- exhaustive list of items that are considered to be minor replacement

or repairs: damaged and clogged sprinkler nozzles, adjustment of sprinkler patterns or arcs, adjustment of sprinkler positions (raise, lower or straighten sprinkler head), replacement of clogged, broken, or missing drip emitters, and replacement or repositioning of drip distribution tubing. Contractor at Contractor's expense shall correct these repair items. Major items needing replacement or repair must be reported to the City's representative within one week of occurrence. Contractor shall be available to perform additional work related to the landscape maintenance as may be authorized in writing by the City. Such work shall be non-minor items relating to landscape care, which are not a part of the normal maintenance work as outlined in this specification.

7. Contractor shall take all reasonable precautions required to protect landscape areas from equipment and snow removal damage.

CARE OF PLANTED AREAS

1. Trees shall be maintained in a healthy, vigorous growing condition, free from disease and large concentrations of pests.
2. Once a year, prune all trees to encourage a high-branching structure. Trees are to be pruned to remove dead, diseased, broken, dangerous, or crossing branches, and as required below. Pruning of this type is a minor, non-reimbursable cost to be included as part of the regular maintenance.
3. Prune trees only in appropriate months as determined by an arborist. Prune in accordance with the International Society of Arboriculture Standards for proper pruning.
4. Discard all tree trimmings off-site in a legal manner (i.e., no illegal dumping). The City Landfill has a greenery area for disposal of trimmings.
5. Any tree found to be dead or missing shall be replaced with plant material of identical species; replacement shall be paid for as additional work and shall conform to the American Nursery Association Standards. Before replacement, Contractor shall submit a quote for replacement, as outlined in the Schedule and Frequency section of these specifications, within two (2) weeks of the discovery of the loss.
6. The City's authorized representative shall approve the size and appearance of replacement trees prior to planting. Replacement trees must be double staked with 2-inch diameter stakes unless otherwise approved by the City's authorized representative. Six slow-release fertilizer tablets must be placed in the backfill material evenly spaced around, but not touching, the root ball.
7. Remove tree stakes from trees one (1) year after planting, if the trees are able to support themselves. Tree ties should be adjusted as needed throughout the year. Remove stakes from site and dispose of them in a legal manner. Recycle used stakes if possible.
8. The cutting blades on pruning shears, clippers, blades, saws, etc. shall be sterilized after pruning each tree to minimize the possibility of spreading disease. When pruning trees known or suspected to be diseased, cutting blades shall be sterilized after each cut. Sterilize blades by dipping them in a solution of 1-part bleach and 9-parts water or heavily spray them with a disinfectant spray, such as Lysol. After dipping or spraying, wait 20 seconds before using again.

9. A vertical clearance of 114 inches is required above all parking spaces. A vertical clearance of 80 inches is required above all walkways. Trim trees to remove all limbs within these areas and any overhanging limbs or branches over driveways and roadways. Obtain City approval prior to pruning.

SHRUBS AND VINES

1. Shrubs and vines shall be kept in a healthy, vigorous condition, free from disease and large concentrations of pests.
2. Shrubs shall be pruned weekly only as needed to remove branches that are dead, broken, extending beyond the face of curbs or sidewalks, or are climbing building walls (unless they are intended to climb the wall, such as climbing vines). Formal hedges and topiary shall be regularly pruned to maintain a uniform height and width. Except as noted previously, allow the shrubs to grow un-pruned to their natural sizes.
3. Shrubs uniformly planted in rows, where it is clear the intent was to create a hedge, shall be pruned to encourage a hedge. Shrubs in hedges shall be encouraged through pruning to form a dense, continuous hedge branching fully to the ground. All other shrubs shall be pruned only as required for safety, visibility, and plant health, and allowed to develop into the natural shapes expected of the plant variety.
4. Any shrub found to be dead or missing shall be replaced with plant material of identical species; replacement shall be paid for as additional work. Before replacement, Contractor shall submit a quote for replacement, as outlined in the Schedule and Frequency section of these specifications, within two (2) weeks of the discovery of the loss.
5. Replacement shrubs shall be at least five-gallon container or 18 inches in height when planted, unless otherwise approved by the City's authorized representative. Two slow-release fertilizer tablets must be placed in the backfill material evenly spaced around, but not touching, the root ball.
6. The cutting blades on pruning shears, clippers, blades, saws, etc. shall be sterilized between every three shrubs to minimize the possibility of spreading disease. When pruning shrubs known or suspected to be diseased, the cutting blades shall be sterilized after each cut. Sterilize blades by dipping them in a solution of 1-part bleach and 9-parts water or heavily spray them with a disinfectant spray, such as Lysol. After dipping or spraying, wait 20 seconds before using again.
7. Discard all trimmings off-site in a legal manner. The City Landfill has a greenery area for disposal of trimmings.

GROUNDCOVER

1. Groundcover shall be maintained in a healthy, vigorous growing condition.
2. Any groundcover found to be dead or missing shall be replaced with plant material of identical species at the landscape maintenance Contractor's expense, unless the loss was due to excluded damage. If the loss resulted from excluded damage, replacement shall be paid for as additional work. Before replacement, Contractor shall submit a quote for replacement, as outlined in the Schedule and Frequency section of these specifications,

within two (2) weeks of the discovery of the loss. Replacement groundcover shall be planted at 8 inches spacing from flats to encourage quick coverage. Prior to planting replacement groundcover, the soil shall be tilled to a depth of 6 inches to prepare it for the new plants.

3. Trim groundcover back from sidewalks, curbs, and paved areas on a weekly basis. Do not create vertical edges when pruning groundcover. Cut the edges at an angle \searrow for a more natural appearance and healthier plants.
4. If regular foot traffic through a planter is preventing the groundcover from reaching full coverage of the soil, contact the City's authorized representative to discuss options for redirecting the foot traffic. Consider installing pavers, stepping-stones, a concrete walk, a gravel path, and/or barriers to redirect pedestrians. Provide costs for these options to the City's authorized representative.

FERTILIZER

1. Granular fertilizer shall be applied at the manufacturer's recommendation label rate for turf and plant type. A soil sample shall be performed before applying fertilizer to determine appropriate fertilizer mix for the upcoming season. Water immediately after applying to move the fertilizer into the soil and wash the fertilizer off any plant surfaces.
2. Itemized receipts for fertilizer and other required soil amendments purchased and used by Contractor shall be submitted to show City's authorized representative as proof of application. The cost of all fertilizer work and materials shall be included in the proposal price for landscape maintenance.

WEED CONTROL AND APPLICATION OF HERBICIDES AND/OR PESTICIDE

1. Weeds in planted areas, sidewalks, turf, curbs, cobble & decorative rock areas, cinder areas, gutters, natural areas, and pavement shall be removed. Dispose of weeds off-site in a legal manner.
2. Remove any weeds in natural areas larger than 12 inches high or wide or if they become a fire danger. All noxious weeds shall be removed immediately.
3. Weeding services shall be provided on a weekly basis to ensure that weeds do not become established. The primary/preferred method for weed control shall be by mechanical or manual methods.
4. Herbicides may only be applied when authorized in advance by the City's authorized representative and their application must meet Arizona State Office of Pest Management (OPM) rules and regulations. The City reserves the right to inspect equipment used in weed control and to authorize the use of herbicides by Contractor. Contractor is to use environmentally friendly products when applicable. Contractor shall supply the City Safety Data Sheets (SDS) in accordance with Federal requirements before any product can be applied on the premises.
5. All herbicides and pesticides shall be used in accordance with label directions and the manufacturer's recommended handling methods. All herbicides and pesticides shall be handled in accordance with all applicable regulations. Registered herbicides and pesticides shall be used only on the advice of a qualified and licensed (if required) pest control

advisor. Nothing in this specification shall be construed to be the advice of, or to substitute for the advice of, a pest control advisor.

6. Pesticides shall not be applied within one (1) hour of the start of operating hours for businesses at the site. In the event that it is not possible to complete the application by one (1) hour prior to business hours (e.g., 24-hour operations), applications shall be made at times when customer presence is minimal. Pesticides shall be used as a last resort.
7. Contractor shall take precautions to keep persons away from pesticide and herbicide-treated areas until the applied material is fully dry and the treated area is safe for entry. Contractor shall follow the recommendations of the pesticide manufacturer and all applicable governmental and industry regulations.

MULCH AND/ROCK LAYER

1. Soil mulch and/or rock layer shall be cared for as needed to create and maintain an even and uniform appearance over the visible soil surface of each planter area.
2. Contractor shall add additional mulch and/or decorative rock regularly to maintain a layer no less than 2 inches deep at all times in shrub planters. Decomposition of organic mulch is considered normal wear and tear and Contractor shall replace decomposed mulch as part of the required maintenance work. Mulch and/or decorative rock are not required in areas where plant foliage completely covers the soil surface, such that the soil is not visible through the foliage. Note: only 2 inches of mulch is required; however, maintaining a deeper layer of mulch and/or decorative rock greatly reduces the labor and chemicals needed to control weeds, reduces water use, and helps the plants stay healthy.
3. Replacement of large amounts of mulch and/or decorative rock (over one cubic yard) which has been stolen, vandalized, or washed away by a single storm shall be paid as additional work. Before replacement, Contractor shall submit a quote for replacement, as outlined in the Schedule and Frequency section of these specifications, within two (2) weeks of the discovery of the loss.
4. Any mulch or decorative rock found outside planter areas shall be returned to the planter on a weekly basis.
5. Mulch and/or decorative rock shall be uniform in color and appearance and free of leaves, sticks, and trash. Mulch may be chipped or shredded wood, bark, or decorative rock. When replacing existing mulch, use a mulch product that is similar in appearance to that already at the site.
6. In areas of the site where wood-based mulch frequently washes away, submit a quote for replacement of the organic mulch with decorative rock having a similar color.
7. Replacement rock shall be the same size and color as existing decorative rock on site.

LAWNS

1. Lawns shall be kept in a healthy, vigorous condition, free of disease and pests. Weeding services shall be provided on a weekly basis to ensure that weeds do not become established. Whenever possible, weed control shall be by mechanical or manual methods.

2. Prior to mowing, Contractor shall ensure that the area to be mowed is cleaned and free from all debris (paper, stone, bottles, tree limbs, etc.) All debris shall be disposed of off-site by Contractor in a legal manner.
3. The turf shall be mowed with mowing equipment that has proper deflection devices, adjustable cutting heights, and sharp cutting edges to provide a high-quality cut at 2 to 2 ½ inch height. Mowing equipment shall be operated at an optimum speed that produces a smooth surface appearance without scalping. Mowing that produces varying heights of turf will be considered unsatisfactory. Mowing patterns shall be alternated to avoid creating ruts and compaction.
4. Lawn height shall not exceed 3 1/2 inches at any time.
5. Edging at sidewalks, curbs, and other paved areas located on and surrounding the designated mowing areas shall be done directly following or in conjunction with the mowing operation.
6. Mow, edge, and trim lawns weekly or as required to maintain an even, well-groomed appearance.
7. Remove lawn clippings and dispose of them off-site in a legal manner. The City landfill has a greenery area for disposal of lawn clippings. Contractor is encouraged to use mulching mowers, which cut clippings into small pieces that sift down into the lawn when not required to pick-up.
8. Weeds shall be controlled in lawn areas as noted above under the weed-control section.
9. Any lawn found to be dead or severely yellowed shall be replaced with sod of identical species at the landscape maintenance Contractor's expense unless the loss was due to excluded damage. If the loss resulted from excluded damage, replacement shall be paid for as additional work. Before replacement, Contractor shall submit a quote for replacement, as outlined in the Schedule and Frequency section of these specifications, within two (2) weeks of the discovery of the loss. Replacement sod shall be similar in all respects to the existing grass. Do not seed dead lawn areas. Sod must be used for replacement, unless directed, in writing, by the City's authorized representative.
10. Thatching: Contractor shall be required at the sole direction and authorization of the City to thatch all lawn areas covered under this Solicitation one time per year in the spring. Any thatching performed shall be done in a manner specifically designed for such operation. Contractor shall be responsible for raking, vacuuming, removal, and proper disposal of all thatch clipping.

WATER APPLICATION AND SCHEDULING

1. Hand-water as needed to supplement natural rainfall and maintain plantings in a healthy, stress-free condition. It is Contractor's responsibility to make sure that plants receive adequate water regardless of weather conditions.
2. It is the responsibility of Contractor to conserve water and assure that all watering rules and regulations are followed. Contractor shall coordinate with the City's authorized representative to establish a mowing and water schedule that coincides with the City's

irrigation water ordinances. Contractor shall pay any penalties, fines, or citations for watering ordinance violations.

3. Irrigation shall be made using the permanent irrigation systems. Hand water as needed to supplement the permanent system. Failure of the irrigation system to provide full and proper coverage shall not relieve the landscape maintenance Contractor of the responsibility to provide adequate irrigation. It is Contractor's responsibility to make sure that the irrigation system is maintained and operates properly.
4. Contractor is responsible for the complete operation and maintenance of the irrigation systems. Contractor shall examine the irrigation system for damage or malfunction on a weekly basis. Contractor shall be responsible for all damages to grass/plants from the lack of watering from a malfunctioning system that should have been caught during routine inspections.
5. Contractor shall adjust watering times on a weekly basis to ensure adequate irrigation. Do not over-water plantings. Use multiple-start times and short-run times to prevent run-off if controller is capable. Drip systems should be left on for sufficient time to allow for saturation of the root zone. Shorter runs with drip irrigation do not provide sufficient water penetration for healthy root development. Avoid multiple-start times with drip systems if possible. Do not allow run-off from any irrigation.
6. When breakdowns or malfunctions exist, Contractor shall hand-water, if necessary, to maintain all plant material in a healthy condition. If the irrigation repairs are major, Contractor shall report damage or malfunction to the City's authorized representative in writing. Do not wait for approval to begin hand-watering if it is required to save the plantings.

IRRIGATION SYSTEM SCHEDULED MAINTENANCE

1. Each valve zone shall be monitored on a weekly basis during the irrigation season for signs of damage.
2. The landscape maintenance Contractor shall maintain the irrigation system, including cleaning of filter screens, yearly or more often as needed, and flushing pipes.
3. The landscape maintenance Contractor shall flush drip irrigation systems to remove sediment on a periodic basis, or when flushing is necessary. Drip systems shall be flushed at least once a year. When flushing, the ends of the drip lines should be opened and run for at least 10 minutes at full flow to flush. It may be necessary to install flush outlets in order to flush the drip system.
4. Run-off of water from irrigation systems into or onto streets, sidewalks, stairs, or gutters is not permitted. Contractor shall immediately shut down the irrigation system and make adjustments, repairs, or replacements as soon as possible to correct the source of the run-off.

IRRIGATION SYSTEM REPAIR

1. The landscape maintenance Contractor shall replace or repair, at the landscape maintenance Contractor's expense, any damaged irrigation components, unless due to excluded damage. Repair shall be made within one (1) week of the day the damage

occurred. If the damage was due to excluded damage, the irrigation repairs shall be paid for as additional work. Before replacement, Contractor shall submit a quote for replacement, as outlined in Schedule and Frequency section of these specifications, within one (1) week of the discovery of the damage. Regardless of the cause of damage, Contractor shall take immediate action to prevent further damage by shutting off the damaged part of the irrigation system and commencing with hand- watering as needed. Contractor shall make repairs as soon as possible after receiving written authorization to proceed. The following items are considered to be repairs: damaged heads, valves, wiring, broken irrigation lines, or missing drip emitters.

2. Any replacement of irrigation system components shall be made with materials of the same manufacturer and model as the original equipment. Substitutions of materials other than original equipment shall be approved only when the original equipment has been discontinued and is no longer available for purchase at any location. The substituted equipment shall be completely compatible with the original and shall be approved in advance by the City's authorized representative.
3. All repairs to the system shall be identical to the original installation, unless approved otherwise in advance by the City's authorized representative. If a change to the installation may result in lower future maintenance costs, less frequent breakage, or an increase in public safety, Contractor shall request authorization to make the change from the City's authorized representative.
4. For safety, never install sprinklers on risers above the ground level, even if the risers are flexible. Always use spring-operated, pop-up type sprinkler heads. Sprinkler heads are available with pop- up heights up to 12 inches above ground level. If the existing sprinklers are mounted on aboveground risers, the replacements shall be pop-up type sprinklers.
5. If any existing sprinklers at the sites identified in this Solicitation are installed on risers above the ground level, submit a quote for additional work to the City's authorized representative covering the cost of removal and replacement of these sprinklers with new, spring-loaded, pop-up type sprinklers. Submit the quote within two (2) weeks of being awarded a contract as a result of this Solicitation.
6. Contractor shall check the entire irrigation system weekly for items such as dry spots and missing or malfunctioning irrigation components. Check for leaking valves, water running across sidewalks, water standing in puddles, or any other condition that hampers the correct operation of the system or may be a safety concern. Contractor shall carefully observe plant materials for signs of wilting or any other condition that indicates a lack of water. Plants that die due to irrigation failure shall be considered to have died due to Contractor's negligence and shall be replaced at Contractor's expense.
7. Plastic sprinkler nozzles with bad patterns shall be replaced with new nozzles of the same gallon age and arc as part of the regular maintenance of the sprinkler system. Do not attempt to clean plastic nozzles by sticking knife blades or wire into the openings. The plastic may be scratched, and the pattern ruined. Brass nozzles may be carefully cleaned, if needed.

CLEAN UP AND LITTER REMOVAL

1. Sweep or blow-off all walks, curbs, and gutters weekly.
2. Do not sweep or blow trash, leaves, clippings, or landscape debris into planters or onto adjacent property. Collect all debris swept or blown from landscape areas and remove from the site.
3. Do not use blowers around parked vehicles to avoid scratching vehicle paint with blowing sand and debris. Blowers may not be used where prohibited by law. All litter shall be removed from sidewalks, gutters, and all planted areas on a weekly basis. In no case shall trash, litter, or leaves be blown or swept onto the property of others. All trash, litter, leaves, etc. shall be collected, hauled away, and disposed of in a legal manner.
4. In addition to removing all litter from sidewalks, gutters, and planted areas, Contractor shall remove and dispose of any large miscellaneous debris or trash in the parking lot. For the purpose of any contract awarded as a result of this Solicitation, "large" shall mean items the size of a small beverage cap or cigarette butt. The intent of this requirement is that Contractor's workers should take sufficient pride in the appearance of the site and pick up any significant litter they come across at the site. Sweeping of the parking lots is included in the landscape maintenance. All litter shall be removed from planter areas, parking lots, and sidewalks regardless of the size of the litter.

SCHEDULE

REGULAR LANDSCAPE MAINTENANCE FOR ALL LOCATIONS

Weekly: April 1st to October 31st.

1. Completing all tasks from Scope of Work as needed by each site's need.

Bi-Weekly: November 1st to March 31st.

1. Mow and edge lawns during the growing season. All turf shall be mowed no less than once a week. (26 - 30 mowing's per season).
2. Prune back any shrubs/groundcover hanging over curbs or sidewalks.
3. Remove litter and leaves from plants, planters, and parking lots.
4. Remove any broken or fallen branches from trees. Remove sucker growth from tree trunks.
5. Remove any weeds from planters. In natural areas, landscape, hydro seeded areas, remove weeds larger than 12 inches high or wide. Note: All grasses and flowers shall be left to avoid soil erosions, unless instructed for removal. All noxious weeds shall be removed.
6. Replace bark mulch that has been knocked or washed out of planters. Smooth mulch layer if it has been disturbed.

7. Replace decorative rock that has been knocked or washed out of planters.
8. Smooth decorative rock surface if it has been disturbed.
9. Check plants for signs of stress or disease. Replace any plants that meet conditions for replacement. Contractor shall request authorization in writing prior to replacing any dead or missing plants and trees.
10. Sweep or blow clean all walkways, curbs, and gutters.
11. Treat plants, trees, and turf for any signs of disease or pest infestation.
12. Complete any items required on the Monthly Checklist (referenced on following page).
13. Hand-water any plants that are dry and stressed.
14. Check the irrigation system and make all repairs as needed.
15. Irrigation timers shall be set and irrigation controllers adjusted for current water requirements of plants, trees, and turf.

TENTATIVE MONTHLY MAINTENANCE CHECKLIST

January: Dependent on weather conditions.

February: Dependent on weather conditions.

March: Dependent on weather conditions.

April:

1. Charge irrigation system for upcoming season depending on day and night-time temperatures. Make sure backflow preventer is tested by the City prior to operation. Keep backflow preventer insulated to prevent freezing and damage due to cold nighttime temperatures. Flush out irrigation systems as needed and check for proper operation of each valve zone.
2. Remove and clean wye filter screens.
3. Clean or replace plugged sprinkler nozzles. Replace plugged drip emitters.
4. Replace irrigation controller program back-up batteries.
5. Start irrigation watering as needed depending on weather conditions.

May:

1. Apply fertilizer to all landscape plants, shrubs, trees, and turf areas. The May fertilization of shrubs/groundcover areas may be deleted when the plants reach maturity or completely fill the planters without space between them.
2. Submit receipts to City's authorized representative as proof of fertilizer purchase.

3. Clean all tree and shrub wells to hold water. Inspect all drip lines within well areas and, when necessary, bury to at least two (2) inches in-depth.
4. Prune spring & winter-flowering shrubs as needed to maintain proper shape.

June:

1. Add new mulch to planters where the mulch depth has been reduced to less than 2 inches. Mulch shall not be required where shrubs or groundcover completely hide the soil surface from view.
2. Plant annual color for spring/summer bloom.

July: Apply fertilizer to all turf areas.

August: No additional items.

September: Perform a winter root fertilizer to promote healthy strong roots to the turf areas for the upcoming winter.

October:

1. Prepare irrigation system for winter depending on day and nighttime temperatures. Make sure backflow preventer is well insulated or drained prior to first freeze. Blow out pipes using compressed air in areas where freezing could result in breakage.
2. All native grasses and flowering plants (excluding shrubs) shall be mowed to a four (4) to six (6) inch height, eliminating all dead flowering stalks and seed heads while leaving the main plant intact.

November:

1. Prune any tree branches that interfere with public safety. Prune all parking lot and street trees yearly to encourage strong upward growth.
2. Prune summer and fall-blooming shrubs as needed to maintain proper shape.
3. Mow all natural areas to three to four inches in height after all grasses and flowers have seeded.

December: Dependent on weather conditions.

SNOW REMOVAL

1. The Contractor shall have a minimum five (5) years' experience providing snow removal services.
2. Contractor is responsible for clearing snow and ice from sidewalks, parking lots, door entrances, emergency door exits, patios, plaza, snow against windows and all concrete and asphalt pavement areas at the sites identified in this Solicitation.
3. Parking lots shall be plowed when there is over 3" of snowfall and 1" of snowfall at airport.

4. Sidewalks shall be shoveled when there is ½" or more snowfall and de-iced as needed to provide safe walking conditions.
5. Contractor and City will work together to establish a schedule and guidelines to meet the requirements of snow removal depending on the nature of the snowstorm. Contractor shall keep owner informed and updated on work progress/so additional equipment is not needed. Examples: Snow shall be removed off sidewalks and parking lots by the beginning of business hours (7am) during the weekdays and throughout the day until the business is closed (6pm). Weekend snow shall be removed when the snowfall has completed and depending on the amount of snowfall. After 6pm, the snow removal may begin in the early morning hours before business opens. Work may be continuous or intermittent depending upon the nature of the storm.
6. Be very careful of curbs and landscaping when shoveling or plowing snow.
7. Contractor may encounter some difficulties with parked cars or equipment.
8. Contractor shall take all precautions when applying ice melt or any chemical deicers to treated areas. Contractor shall follow the recommendations of the manufacturer and all applicable governmental and industry regulations when applying ice melt or any chemical deicers.
9. Contractor shall comply with all City Sidewalk Snow Ordinances.

Fees:

NOTE: REPLACEMENT OF PLANTS, TREES, SOD, MULCH/DECORATIVE ROCK, AND GROUNDCOVER SHALL INCLUDE A COST OF TIME AND LABOR INCLUSIVE OF HOURLY RATES. APPROVAL OF BILLABLE WORK IS TO BE OBTAINED BEFORE WORK BEGINS.

EXHIBIT B

STANDARD TERMS AND CONDITIONS

*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

IN GENERAL

1. **PARTIES:** The City of Flagstaff ("City") and the contractor identified in the Contract ("Contractor") may be referred to individually as "Party" or collectively as "Parties".
2. **NOTICE TO PROCEED:** Contractor shall not commence performance until after the City has issued a Notice to Proceed.
3. **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.
4. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of the Contract.
5. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, the Contract is non-exclusive and the City reserves the right to contract with others for materials or services.
6. **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

7. **PURCHASE ORDERS:** The City will issue a purchase order for the materials covered by the Contract, and such order will reference the Contract number.
8. **QUALITY:** Contractor warrants that all materials supplied under the 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. The 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.
9. **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.
10. **MANUFACTURER'S WARRANTIES:** Contractor shall deliver all Manufacturer's Warranties to the City upon the City's acceptance of the materials.

11. **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.
12. **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.
13. **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.
14. **DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor and 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.
15. **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.
16. **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.
17. **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

18. **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 had been shipped or work performed. Invoices shall be sent within thirty (30) days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.
19. **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, the City will not honor any invoices or claims submitted after August 15 for materials or services supplied in the prior fiscal year.

- 20. 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 the 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.

- 21. FEDERAL EXCISE TAXES:** The City is exempt from paying certain Federal Excise Taxes and will furnish an exemption certificate upon request.
- 22. 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 the City.
- 23. 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 the City.
- 24. 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 the City or fees and charges owed to the City under the Contract.
- 25. OFAC:** No payments may be made to any person in violation of Office of Foreign Assets Control regulations. 31 C.F.R. Part 501.

SERVICES

- 26. 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.
- 27. CONTROL:** Contractor shall be responsible for the control of the work.
- 28. WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.

29. **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.
30. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.
31. **ACCEPTANCE:** If the City rejects Contractor's work 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.
32. **WARRANTY:** Contractor warrants all work for a period of one 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

33. **RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five years after completion of the Contract.
34. **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.
35. **PUBLIC RECORDS:** The 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.
36. **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

37. **GENERAL INDEMNIFICATION:** Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense, arising out of the acts, errors, or omissions of Contractor, its officers, agents, employees, and subcontractors, in performing or failing to perform the responsibilities identified in the Contract. In the event any such action or claim is brought against the City,

Contractor shall, if the City so elects, and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

38. INTELLECTUAL PROPERTY INDEMNIFICATION: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from and against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of the alleged 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 the Contract. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

39. NETWORK SECURITY AND PRIVACY LIABILITY: Contractor shall indemnify and hold the City, and its officers, agents, employees, and subcontractors, harmless from an against any third-party claims, actions, liabilities, costs, including reasonable attorneys' fees and other costs of defense arising out of 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. In the event any such action or claim is brought against the City, Contractor shall, if the City so elects and upon tender by the City: (a) defend the same at Contractor's sole cost and expense; and/or (b) promptly satisfy any judgment adverse to the City; or (c) reimburse the City for any loss, cost, damage, or expense, including attorneys' fees, suffered or incurred by the City. The City shall notify Contractor, within a reasonable time, of any claim, threat of claim, or legal action as it relates to the responsibilities identified in the Contract. This indemnification shall survive termination or expiration of the Contract.

CONTRACT CHANGES

40. PRICE INCREASES: Except as expressly provided for in the Contract, no price increases will be approved.

41. COMPLETE AGREEMENT: The Contract is intended to be the complete and final agreement of the Parties.

42. **AMENDMENTS:** The Contract may be amended by written agreement of the Parties.
43. **SEVERABILITY:** If any term or provision of the 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 the Contract shall remain in full force and effect.
44. **NO WAIVER:** Both Parties have 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.
45. **ASSIGNMENT:** Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. Any assignment without such consent shall be null and void. No assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to the City. The Purchasing Director shall have authority to consent to an assignment on behalf of the City.
46. **BINDING EFFECT:** The Contract shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

47. **SUBCONTRACTING:** Contractor was selected for its special knowledge, skills, and expertise, and shall not assign the services/materials required in the Contract, in whole or in part, without the City's prior written consent, which may be withheld for any reason. The City reserves the right to withhold consent if the 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.
48. **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 whose business is 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.
49. **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's personnel shall abstain from use or possession of illegal drugs while engaged in performance of the Contract.
50. **IMMIGRATION LAWS:** Pursuant to A.R.S. § 41-4401, Contractor hereby warrants to the City that Contractor and each of its subcontractors shall comply with all state and federal

immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and federal immigration laws and regulations shall constitute a material breach of the Contract and shall subject Contractor to penalties up to and including termination of the Contract. The City may, at its sole discretion, conduct random verification of the employment records of the employees of the Contractor and any subcontractors to ensure compliance with all state and federal immigration laws and regulations. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contract 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

- 51. TERMINATION FOR DEFAULT:** Prior to terminating the 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 to the Contract remedies provided for herein.
- 52. CITY REMEDIES:** In the event of Contractor's default, the 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. The 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 the City's default, Contractor may pursue all remedies available at law, except as provided for herein.
- 54. TERMINATION FOR NONAPPROPRIATION OF FUNDS:** The City may terminate all or a portion of the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Contractor.
- 55. TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, the 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 the Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by the City before the effective date of termination.
- 56. 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 the 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.

57. **PAYMENT UPON TERMINATION:** Upon termination of the Contract, the City will pay Contractor for satisfactory performance up until the effective date of termination. The City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.
58. **CANCELLATION FOR GRATUITIES:** The City may cancel the 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 in connection with award or performance of the Contract.
59. **CANCELLATION FOR CONFLICT OF INTEREST:** Pursuant to A.R.S. § 38-511, if the City identifies a conflict of interest in the award or performance of the Contract, the City may cancel the Contract within three years after its execution, without penalty or further liability to Contractor.

MISCELLANEOUS

60. **COOPERATIVE PURCHASE CONTRACTS:** Presuming that Contractor agreed to such during the procurement process, Contractor will enter into cooperative purchase arrangements, as sanctioned by state and federal law, to allow Contractor to sell materials and services to any member of a cooperative group under the same pricing, terms and conditions of the contract awarded to the Contractor by the public procurement unit, following a competitive procurement process.
61. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with the City without the prior written consent of the City.
62. **NOTICES:** All notices given pursuant to the 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 days after being sent; or (c) sent by overnight courier, with receipt deemed effective two days after being sent. Notice may be sent by email as a secondary form of notice.
63. **THIRD PARTY BENEFICIARIES:** The 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:** The Contract shall be construed in accordance with the laws of Arizona.
65. **FORUM:** In the event of litigation relating to the 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 the Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, professional fees and expenses.
- 67. FORCE MAJUERE:**
- a. There may be events that occur during the term of the Contract that are beyond the control of both the City and Contractor, including events of war, floods, labor, disputes, earthquakes, epidemics, pandemics, adverse weather conditions not reasonably anticipated, forest fires, and other acts of God ("Events"). These Events may result in a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables that are the subject of the Contract.
 - b. There shall be no claims arising from a temporary delay of contractual deliverables, or the permanent inability to provide the contractual deliverables caused by the Events and the City shall not pay additional costs incurred by Contractor as a result of such Events.
 - c. The Parties shall act in good faith to extend the Contract completion date without any penalty to Contractor and that the extension will be in an amount of time equal to any temporary delay. This provision of the Contract supersedes all other terms regarding temporary delay, permanent shut down, or increased costs.
- 68. NO BOYCOTT OF ISRAEL:** Pursuant to A.R.S. §§ 35-393 and 35-393.01, if a Party has over ten (10) employees and the Contract is worth at least one-hundred thousand dollars and no cents (\$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.
- 69. CHANGES TO CONTRACT:** The Contract shall not be modified within the first year after Contract award where: (a) an amendment may result in a competitive advantage that was not made available to other proposers/bidders; or (b) requests for changes may delay commencement of performance.

EXHIBIT C

**CITY OF FLAGSTAFF
STANDARD INSURANCE REQUIREMENTS**

*The term "Contractor" may substitute for the term "vendors," "consultants," or "firms," depending on the purpose of the underlying Contract.

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	\$1,000,000
Disease - Each Employee	\$1,000,000
Disease - Policy Limit	\$1,000,000

e. Professional Liability	\$2,000,000
f. Network Security and Privacy Liability	
Per claim	\$2,000,000
Annual Aggregate	\$2,000,000

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.