

## CONTRACT FOR PROFESSIONAL SERVICES

Contract No. 2023-114

This Contract is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and Heinfeld Meech & Co., P.C., an Arizona corporation ("Consultant").

WHEREAS, the City desires to receive and Consultant is able to provide professional services;

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

### SERVICES

1. Scope of Work: Consultant shall provide the professional services generally described as:

#### **Professional Audit Services**

and as more specifically described in the scope of work attached hereto as Exhibit A.

2. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as Exhibit B are hereby incorporated by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.
3. Key Personnel/Subcontractors: Consultant's Key Personnel, Subcontractors (if any), and contact information are designated in Exhibit A. Key Personnel are those employees whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this Contract has the right to approve any proposed substitution of Key Personnel or Subcontractors.

### CITY RESPONSIBILITIES

4. City Representative: The City Representative is Brandi Suda, Finance Director, or her designee. All communications with 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 Buyer.
5. City Cooperation: The City will cooperate with Consultant by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Consultant's performance of this Contract.

### CONTRACT TERM

6. Contract Term: The Contract term is for a period of four (4) years 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.
7. Renewal: This Contract may be renewed or extended for up to three (3) additional one (1) year term by mutual written consent of the parties. The City reserves the right to unilaterally extend the period of the contract for ninety (90) days beyond the stated expiration date. The City

Manager or his designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

#### PAYMENT

8. Compensation: Consultant shall be paid **four hundred twenty-three thousand one hundred dollars and zero cents (\$423,100.00)** for satisfactory performance of the services in accordance with the Scope of Work Fee Schedule identified in Exhibit A.
9. Price Adjustment: Any price adjustment must be approved by the City in writing as a formal Contract Amendment. The City Council must approve the price adjustment if the annual contract price exceeds \$50,000; otherwise the City Manager or his designee (the Purchasing Director) shall have authority to approve a price adjustment on behalf of the City.

#### DATA AND RECORDS

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

#### INSURANCE

13. Insurance: Consultant shall meet insurance requirements of the City, set forth in Exhibit C.

MISCELLANEOUS

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

To the City:  
Patrick Brown  
Purchasing Director  
City of Flagstaff  
211 W. Aspen Ave.  
Flagstaff, AZ 86001  
Pbrown@flagstaffaz.gov

To Consultant:  
Diane Bradley  
Partner  
Heinfeld Meech & Company, P.C.  
751 E. Pine Knoll Dr., Suite 1201  
Flagstaff, AZ 86001  
[Diane.bradley@hm.cpa](mailto:Diane.bradley@hm.cpa)

With a copy to:  
Brandi Suda  
Finance Director  
City of Flagstaff  
211 W. Aspen Ave.  
Flagstaff, AZ 86001  
Bsuda@flagstaffaz.gov

With a copy to:  
Michael Lauzen  
Partner  
Heinfeld Meech & Co., P.C.  
751 E. Pine Knoll Dr., Suite 1201  
Flagstaff, AZ 86001  
[Michael.lauzen@hm.cpa](mailto:Michael.lauzen@hm.cpa)

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15. 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.

HEINFELD MEECH & COMPANY, P.C.

\_\_\_\_\_

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

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

CITY OF FLAGSTAFF

\_\_\_\_\_

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

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

Attest:

\_\_\_\_\_

City Clerk

Approved as to form:

\_\_\_\_\_

City Attorney's Office

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

**EXHIBIT A**  
**SCOPE OF WORK AND FEE SCHEDULE**

The RFP proposal submitted by Heinfeld Meech & Co., P.C. is hereby incorporated in this scope of work for additional detail to scope of work and fee for the required services.

**SCOPE OF WORK**

**1. AUDIT PROCESS**

1.1 The audit will be performed in accordance with:

- 1.1.1 Generally accepted auditing standards set forth by the American Institute of Certified Public Accountants (AICPA), and the standards for financial audits set forth by the U.S. Government Accountability Office's (GAO) Government Auditing Standards (GAS).
- 1.1.2 The provisions of the Single Audit Act of 1984 and subsequent amendments, and the provisions of U.S. Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Code of Federal Regulations (CFR) Title 2, Part 200, Subpart F - Audit Requirements.
- 1.1.3 United States Housing and Urban Development (HUD) Uniform Financial Reporting Standards (UFRS) Rule implementing requirements of United States 24 CFR part 5, subpart H.
- 1.1.4 State of Arizona Uniform Expenditure Reporting System (UERS) requirements mandated by A.R.S. §41-1279.07, with guidelines set forth by the Arizona Auditor General.
- 1.1.5 State of Arizona Highway User Revenue Fund (HURF) Expenditure requirements pursuant to A.R.S. §9-481.
- 1.1.6 State of Arizona Department of Environmental Quality Local Government Financial Test, 40CFR 258.74.
- 1.1.7 Minimum Accounting Standards for Arizona Courts (Part III, Guide for Independent Review by Auditors) every three years beginning with fiscal year ending June 30, 2025.
- 1.1.8 Federal Aviation Administration Passenger Facility Charge Audit Guide for Public Agencies

## 2. CITY STRUCTURE

### 2.2 Financial Operations

The City Management Service Director is appointed the City's Treasurer. The City Management Services Department consists of the following functions, along with the approximate number of full-time equivalent positions assigned to each.

Function	Full-Time Equivalent
Management Services Admin	2
Purchasing	7
Finance (Accounting, Budget, Payroll, Accounts Payable)	14.5
Revenue (Sales Tax, Utility Billing, Miscellaneous Billing, Meter Reading, Cashiering)	20
Grants, Contracts and Emergency Management	6

Flagstaff Housing Authority has separate finance staff and financial/compliance software for operations.

### 2.3 Fund Structure

The City's current fund structure is summarized below, but may change depending on the needs of the City:

Fund Type	Number of Funds	FY 2022 Number of Major Funds	Number with Legally Adopted Annual Budgets
General Fund	1	1	1
Special Revenue Funds	18	2	12
Debt Service Funds	3	0	3
Capital Project Funds	5	0	2
Enterprise Funds	7	4	7
Internal Service Funds	1	0	0

### 2.4 Federal Financial Assistance

Please refer to our Single Audit Report link located on our website (<https://www.flagstaff.az.gov/4826/Annual-Financial-Reports>) for the list of federal financial assistance that the City received for the year ended June 30, 2022, and for the past ten years.

## 2.5 Pension Plans

The City participates in the following pension plans:

Plan	Multiple Employer	
	Cost Sharing	Agent
Arizona State Retirement System	X	
Public Safety Personnel Retirement System (Police and Fire)		X
Elected Officials' Retirement Plan	X	

For more information regarding the above pension plans, please refer to the Retirement and Pension Plans Note C on page 74 in the ACFR for the fiscal year ended June 30, 2022.

## 2.6 Other Post-Employment Benefits (OPEB)

The City provides eligible retired employees postemployment medical benefits through the City's self-insured health plan until 65 years of age. As of July 1, 2021, there were 54 retirees and their dependents receiving these benefits. The plan is not accounted for as a trust fund as an irrevocable trust fund has not been established for the plan. The plan does issue a separate financial report; more information about other post-employment benefits may be found on page 89, Note C in the June 30, 2022 ACFR.

## 2.7 Joint Ventures

The City participates in one joint venture with other governments, the Local Enforcement Administrative Facility (LEAF). Other participating governments include Coconino County. This joint venture is for the construction, operation and maintenance of jointly used public safety jail facilities.

## 2.8 Computer Systems

Following are the applications most significant to the City's annual financial statements:

Application	Software
General Ledger	Innoprise
Accounts Payable	Innoprise
Budget	Innoprise
Fixed Assets	Naviline
Miscellaneous Receivables	Innoprise
Purchasing	Innoprise
Capital Projects	Innoprise
Payroll	Naviline
Work Orders/Fleet	Naviline
Utility Billing	Innoprise
Permits	Innoprise
Court Fines	AzTec
Cash Receipting	Innoprise

Housing Authority specific software	Emphasys
Excel, Word, and other applications	Microsoft Office, Adobe

## 2.9 City Audit Function

The City audit function is conducted by the Finance Section within the Management Services Division. The principal contact with the City is the Finance Director, who will coordinate the assistance to be provided by the City to the external audit team.

## 3. CONTRACT REQUIREMENTS

- 3.1 The City prepares an Annual Comprehensive Financial Report (ACFR). The Auditor is to express an opinion on the fair presentation of the basic financial statements, including the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information in conformity with accounting principles generally accepted in the United States of America.
- 3.2 The Auditor is required to express an "in relation to" opinion on the fair presentation of the combining and individual fund financial statements and schedules, including the internal service funds, and other supplementary information in conformity with accounting principles generally accepted in the United States of America.
- 3.3 The ACFR includes the management discussion and analysis and certain schedules as supplementary information required by accounting principles generally accepted in the United States of America. In accordance with generally accepted auditing standards, the Auditor is to apply certain limited procedures during the audit of the basic financial statements, but is not required to express an opinion on the required supplementary information.
- 3.4 The introductory and statistical sections are not a required part of the basic financial statements. The Auditor is not required to express an opinion on the introductory or statistical sections of the ACFR, but should review the information for consistency with the audited financial statements.
- 3.5 The Auditor is required to provide an "in relation to" opinion on the schedule of expenditures of federal awards based on auditing procedures applied during the audit of the basic financial statements and certain additional procedures in accordance with applicable auditing standards.
- 3.6 The Auditor is required to express an opinion on the City's Annual Expenditure Limitation Report (AELR) prescribed by the UERS as required by Arizona Revised Statutes §41-1279.07. This examination is conducted in accordance with AICPA attestation standards.
- 3.7 The Auditor is required to express an opinion on the City's State of Arizona Department of Environmental Quality Local Government Financial Test, as required by 40 CFR 258.74.
- 3.8 The Auditor is required to express an opinion on the City's compliance with the authorized transportation uses of Highway User Revenue Fund (HURF) and other dedicated transportation revenue requirements pursuant to Arizona Revised Statutes § 9-481. This examination is performed in accordance with the AICPA's attestation

standards.

- 3.9 The Auditor is required to express an "in relation to" opinion on the Financial Data Schedule (FDS) for HUD based on auditing procedures applied during the audit of the basic financial statements and certain additional procedures in accordance with applicable auditing standards.
- 3.10 The Auditor will, as an agreed-upon procedures engagement under AICPA's attestation standards, compare the electronically submitted financial data in the Real Estate Assessment Center (REAC) staging database to the audited financial reports and the FDS. The Auditor must currently have or have the ability to obtain from HUD the Independent User ID and the Unique IPA Identifier necessary for access to REAC.

#### **4. REPORTS TO BE ISSUED**

- 4.1 Following the completion of the audit of the fiscal year's financial statements, the Auditor shall issue:
  - 4.1.1 An independent auditor's report on the fair presentation of the City's financial statements in conformity with accounting principles generally accepted in the United States of America.
  - 4.1.2 An independent auditor's report on internal control over financial reporting and on compliance and other matters based on an audit of the basic financial statements performed in accordance with Government Auditing Standards.
  - 4.1.3 A complete Single Audit Report including an independent auditor's report on compliance for each major federal program, on internal control over compliance and on the schedule of expenditures of federal awards in accordance with Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
  - 4.1.4 An independent auditor's report on the fair presentation of the FDS for HUD in relation to the basic financial statements as a whole.
  - 4.1.5 Auditor's letter of recommendations to management.
  - 4.1.6 An independent accountant's report on the AELR prepared in compliance with A.R.S. § 41-1279.07.
  - 4.1.7 An independent accountant's report on compliance with the HURF requirements pursuant to Arizona Revised Statutes Title 28, Chapter 18, Article 2.
  - 4.1.8 An independent accountant's report on the State of Arizona Department of Environmental Quality (ADEQ) Local Government Financial Test, 40 CFR 258.74.
  - 4.1.9 An independent accountant's report on the compliance for the Minimum Accounting Standards (MAS) of the Flagstaff Magistrate Court to satisfy Arizona Supreme Court, Administrative Office of the Courts (AOC) requirements for FY 2025 and three (3) years thereafter.

- 4.1.10 An independent auditor's report on Compliance with Requirements Applicable to the Passenger Facility Charge Program and on Internal Control over Compliance and Report on the Schedule of Expenditures of Passenger Facility Charges.

## **5. ADDITIONAL REPORTING**

- 5.1 In the required reports on internal controls, the Auditor shall communicate the significant deficiencies and material weaknesses, as defined in generally accepted auditing standards, including those remediated during the audit. Other deficiencies in internal control that are detected by the Auditor shall be reported in the separate letter of recommendations to management. This letter shall be provided to Finance Director and referred to in the reports on internal controls.
- 5.2 The reports on compliance shall include all instances of noncompliance.
- 5.3 The Auditor is required to make an immediate written report to the Finance Director of any irregularities and illegal acts or indications of irregularities or illegal acts of which they become aware.
- 5.4 Reporting to Council – The Auditor will ensure that the City's Audit Committee is informed of each of the following in the Report to Council:
  - 5.4.1 The Auditor's responsibility under generally accepted auditing standards and Government Auditing Standards
  - 5.4.2 The planned scope and timing of the audit
  - 5.4.3 Qualitative aspects of the City's significant accounting practices
  - 5.4.4 Management judgments and accounting estimates
  - 5.4.5 Significant difficulties encountered in performing the audit
  - 5.4.6 Significant audit adjustments and uncorrected misstatements
  - 5.4.7 Disagreements with management
  - 5.4.8 Management's consultations with other accountants
  - 5.4.9 Significant issues discussed with management, including those in connection with the Auditor's retention
  - 5.4.10 The Auditor will be required to present its communications during the Audit Committee's meetings near the completion of the audit. The Auditor will be required to present and/or make a presentation at a City Council meeting after the audit concludes. This service shall be included in the contract price.

## **6. SPECIAL CONSIDERATIONS**

- 6.1 The City has determined that HUD will function as the oversight agency in accordance with the Single Audit Act amendments and OMB 2 CFR Subpart F – Audit Requirements.

- 6.2 The Schedule of Expenditures of Federal Awards (SEFA) and related auditor's report, as well as the reports on internal controls and compliance, AELR, HURF, ADEQ, AOC, PFC's are to be issued separately rather than included in the ACFR.

## **7. WORKING PAPER RETENTION AND ACCESS TO WORKING PAPERS**

- 7.1 All working papers and reports must be retained, at the Auditor's expense, for a minimum of five (5) years unless the Auditor is notified in writing by the City Auditor of the need to extend the retention period. The Auditor will make working papers available upon request to the following parties or their designees:
- 7.1.1 The City
  - 7.1.2 U.S. Department of Housing and Urban Development
  - 7.1.3 U.S. Government Accountability Office
  - 7.1.4 The Arizona Auditor General
  - 7.1.5 Auditors of entities of which the City is a sub-recipient of grant funds
  - 7.1.6 Officials designated by the federal or the state governments of which the City is a subrecipient of grant funds or as part of an audit quality review process.
- 7.2 In addition, the Auditor shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

## **8. TIME REQUIREMENTS**

- 8.1 Work and Conference Schedule for the Fiscal Year Audit

The following are key dates relating to the City's preparation of the ACFR and the related audit and may be subject to change by mutually negotiated approval during the Contract period.

### **8.1.1 June**

- 8.1.1.1 Entrance Conference - This Auditor will meet with the City Finance representatives to obtain a preliminary review of the City's operations and to discuss the interim work to be performed. This meeting will also be used to identify key personnel and make arrangements for the Auditor's workspace and other needs. At this meeting, the Auditor will provide a list of the assigned audit staff and their qualifications and the audit schedule with planned dates.
- 8.1.1.2 Communication with Governance - The Auditor will be available to meet with the City's Audit Committee to discuss the audit scope and timing and other applicable matters if request by the Audit Committee. Any documents to be presented to the Audit Committee will be provided to the City Finance Director at least ten (10) days in advance of the scheduled meeting for inclusion in the Audit Committee's meeting materials.

8.1.1.3 Interim Work - The Auditor may begin interim work during June. Upon completion, the Auditor must provide a progress meeting with the Finance Director and Finance representatives to summarize the results of the interim work and identify the key internal controls or other matters to be tested.

### **8.1.2 July**

Detailed Audit Plan - The Auditor shall provide the Finance Director with a detailed audit plan and a list of all year-end schedules and audit confirmation letters to be prepared by the City.

### **8.1.3 October**

The City will provide a preliminary draft of the financial trial balances. The Auditor will complete fieldwork and provide all recommendations, revisions, and suggestions for improvements to the annual financial reports. The Finance Director or designee will complete final financial statements.

City's ACFR – The City Finance Section will provide a draft of the government-wide financial statements, individual fund and combining fund financial statements, notes, all required supplementary schedules, statistical schedules, Management Discussion & Analysis, and the transmittal letter.

## **8.2 Work and Conference Schedule for the Fiscal Year Audit- Cont'd**

### **8.2.1 November**

Exit Conference - The Auditor will meet with the Finance Director and City representatives to summarize the results of the fieldwork and to review significant findings.

### **8.2.2 December**

#### *Final Reports*

The Auditor will provide all recommendations, revisions and suggestions for improvements to the ACFR. The Auditor will provide drafts of all independent Auditor reports and the letter of recommendations as described in "Reports, Schedules, and Statements to be Issued" section (excluding the AELR) to the Finance Director for the City's review.

The Finance Section will complete its revisions to the financial statements and reports. During the revision period, the Auditor should be available to discuss and resolve all issues relating to the financial statements and audit reports.

By the end of month, the Auditor will complete its final review and deliver to the City the signed Auditor's opinion letters for the ACFR, Single Audit Report, internal control, compliance, component units, HUD, PFC, AOC and HURF reports.

#### *Other Reports*

The Auditor will provide a draft of the Data Collection Form, SF-FAG for Reporting on Audits of States, Local Governments and Non-Profit Organizations, for the City's

Single Audit requirements to the Finance Section. The Finance Section will complete its review of the draft in two days. The Auditor will submit the Data Collection Form in accordance with OMS Circular A-133 requirements.

Communication with Governance - The Auditor will present the audit results, including any significant findings and recommendations, at an Audit Committee meeting. All completed reports will be provided to the Finance Director at least ten (10) days in advance of the scheduled meeting for inclusion in the Audit Committee's meeting materials.

### 8.2.3 January

Annual Expenditure Limitation Report

The City shall provide the AELR draft to the Auditor for review.

AELR - The Auditor will provide all recommendations, revisions and suggestions for improvement.

The City shall provide a final AELR to the Auditor and the Auditor will provide the independent accountant's report on the AELR to the Finance Director.

The Auditor will certify the HUD Financial Data Schedule (FDS) and complete the required comparison within the REAC staging database.

### 8.2.4 February- March

Presentation to Audit Committee

Presentation to City Council

### 8.3 Date Final Reports are Due

The Auditor shall deliver the final signed reports, and the letter of recommendations to management, to the Finance Director. The following timeline is subject to mutually agreed-upon change.

Report Description	Date
Auditor's report on the City's ACFR	December
Auditor's reports for Single Audit requirements, including reports on internal control over financial reporting and compliance	December
Auditor's letter of recommendations to management if any	December
Auditor's reports on compliance	December
Submit Single Audit Data Collection Form to the Federal Clearinghouse in coordination with City Treasurer's Office	December/January
Report on the Landfill Assurance	January/February

Report on the AELR	January/February
Certify the HUD FDS and related comparison within the Real Estate Assessment Center (REAC) staging database	January/February

All reports will be provided to the Finance Director in electronic form (PDF) identified above.

**9. ASSISTANCE TO BE PROVIDED TO THE AUDITOR**

9.1 City Finance Section

The City staff and responsible management personnel will be available during the audit to assist the Auditor by providing information, documentation and explanations.

The City Finance Section will prepare the trial balances, all required statements and schedules, and confirmations for the Auditor in accordance with the time requirements in Section 8 of this Contract.

9.2 Information Systems

Personnel will be available to provide systems documentation and explanations. The City will not provide the Auditor with use of City computer equipment, but wireless internet access will be available.

9.3 Work Space and Internet Access

The City will provide the Auditor with reasonable work space and access to the City internet connection. Remote work can also be considered for field work.

**10. CORRESPONDENCE**

All correspondence from the Auditor to the City pertaining to audit services shall be sent to the Finance Director.

**11. LIAISON**

The Auditor will provide a primary audit liaison for the Finance Director. The liaison must be capable of coordinating all audit activities with the City and be available to resolve any problems or issues that may arise. The liaison must be available by email, phone and personal contact.

**FEE SCHEDULE**

The following fees include all out-of-pocket expenses related to the scope of work specified in the City's Request for Proposals.

<b>Service</b>	<b>FY 2022-23</b>	<b>FY 2023-24</b>	<b>FY 2024-25</b>	<b>FY 2025-26</b>
Financial Statement Audit (GAS audit)	\$75,250	\$77,525	\$79,900	\$82,300
Single Audit	10,000	10,300	10,600	10,900
HUD FDS Report	3,500	3,600	3,700	3,800
Annual Expenditure Limitation Report	3,000	3,100	3,200	3,300
HURF Report	2,500	2,575	2,650	2,725
ADEQ Report	2,250	2,300	2,350	2,425
Triennial Court Review	<b>N/A</b>	<b>N/A</b>	4,750	<b>N/A</b>
<b>FAA</b> Report	3,500	3,600	3,700	3,800
<b>Total</b>	<b>\$100,000</b>	<b>\$103,000</b>	<b>\$110,850</b>	<b>\$109,250</b>

**Hourly Rates for Additional Services:**

Our proposed audit fees do not include additional time required for scope expansion due to changes in audit and/or reporting requirements, including GASB Statements issued after the date of this proposal.

Any additional services will be discussed with the City in advance and may be billed at the hourly rates listed below or at a negotiated fixed fee, depending on the nature of the additional work.

Any additional work authorized by the City completed during the first contract year will be billed at the following hourly rates. These hourly rates will be increased 3% annually for any work completed in subsequent contract years.

Principal - \$2 80; Manager - \$230; Senior - \$160; Staff- \$120

## **EXHIBIT B**

### **STANDARD TERMS AND CONDITIONS**

(Last Updated January 19, 2023)

\*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 may not substitute nonconforming materials and/or services. Delivery of nonconforming materials and/or services, or a default of any nature, shall constitute 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.
- 70. FORCED LABOR OF ETHNIC UYGHURS:** If Contractor engages in for-profit activity and has ten (10) or more employees, pursuant to A.R.S. §35-394, the Contractor certifies that it does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People’s Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; and 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. If the Contractor becomes aware during the term of the contract that the company is not in compliance with the written certification, the Contractor shall notify the City within five (5) business days after becoming aware of the noncompliance. If the Contractor does not provide the City with a written certification that the Contractor has remedied the noncompliance within 180 days after notifying the City of the noncompliance, this Contract terminates, except that if the contract termination date occurs before the end of the remedy period the Contract terminations on the Contract termination date.

**EXHIBIT C**  
**STANDARD INSURANCE REQUIREMENTS**  
(Last Updated January 19, 2023)

\*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.

Where applicable, as related to the Scope of Work, 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.