



REQUEST FOR STATEMENT of QUALIFICATIONS

FROM

ARIZONA REGISTERED CONTRACTORS

for

General Contracting Construction Services

Job Order Contractor (JOC)

RSOQ NUMBER: 2015-28

January 2015

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I. PUBLIC NOTICE

City of Flagstaff – Capital Improvements NOTICE of REQUEST for STATEMENT of QUALIFICATIONS (RSOQ) #2015-28 On-Call Professional Services

The City of Flagstaff is seeking Statements of Qualifications (SOQ's) from Arizona professional contractors for General Contracting Construction Service:

Job Order Contracting (JOC) Vertical, Horizontal; Water/Wastewater Plant; Landfill; Signing/Striping/Traffic Control

Selected contractors will be expected to enter into a base contract for services. JOC Contracts will be awarded at the City's discretion for one or multiple projects. Fees associated with contracted services will be negotiated on a project by project basis after qualified contractors are selected. The City intends to award a contract or contracts in each category. JOC Construction Contract durations will be variable and contingent upon specific projects. JOC Service Contract periods will be for three years, renewable for up to two additional one-year periods, at the discretion of the City.

SCHEDULE OF STATEMENT DEADLINES

Advertise for Services:	February 1 & 15, 2015
Pre-Statement Meeting:	2:00 P.M. February 18, 2015 City Hall – Council Chambers 211 W. Aspen Avenue Flagstaff, AZ 86001
Last Day for Questions:	3:00 P.M. March 2, 2015
Statements Due:	3:00 P.M. March 9, 2015
Contractor Interviews (if necessary)	To Be Determined
Anticipated Award of Professional Services Contract:	To Be Determined

Sealed Statements may be **mailed** to: City of Flagstaff Purchasing Department, Attn: Patrick Brown, Senior Procurement Specialist, 211 West Aspen Avenue, Flagstaff AZ. 86001, or may be **hand delivered** to: City of Flagstaff Purchasing Department, Attn: Patrick Brown, Senior Procurement Specialist, 211 West Aspen Avenue, Flagstaff AZ., with the understanding that materials must be in hand no later than **3:00 p.m. March 9, 2015**. All Statements must be labeled with RSOQ Number and Title. **The City will not accept statements received via e-mail and e-mailed statements will not be considered at opening. Statements received after that time and date will be considered non-responsive and will be returned unopened.**

The City of Flagstaff reserves the right to reject any or all Statements, to waive or decline to waive irregularities in any Statement, or to withhold the award for any reason it may determine.

Published: February 1 & 15, 2015

II. INSTRUCTIONS TO RESPONDENTS

GENERAL

All Statements should follow the format and sequence described in the paragraphs below; this will allow a standard basis for evaluation by a designated Evaluation Committee. Failure to follow the instructions regarding format may result in rejection of the Statement.

For the purposes of this RSOQ, the City of Flagstaff is hereinafter referred to as the "City".

CONTENT OF STATEMENT

Responses shall be submitted in sealed envelopes indicating which contract(s) submittal is in response to. The SOQ shall not contain any reference to costs; data concerning labor hours, travel, consulting, materials and so forth. This cost information shall only be requested from contractors that are awarded contracts by Council.

STATEMENT OF QUALIFICATIONS

The SOQ shall display clearly and accurately the capability, knowledge, and ability of the contractor to meet the technical requirements of this RSOQ. **One (1) hard copy original and one (1) electronic version in Adobe Acrobat (PDF) on either compact disc or disc drive, of the SOQ are required.** The SOQ shall be fully self-contained and shall follow the format outlined in Section III of this RSOQ. Organization and presentations within the SOQs shall reflect consideration of the specific evaluation criteria included at the conclusion of Section III of this RSOQ.

PRE-STATEMENT MEETING

A pre-statement conference will be scheduled for **February 18, 2015 at 2:00 P.M.** at City Hall in the Council Chambers located on the first floor at 211 W. Aspen Avenue in Flagstaff. The purpose of the conference is to afford interested contractors the opportunity to inquire as to the specifics of this contract. Appropriate representatives from the City of Flagstaff will be present. Attendance is not mandatory, however is strongly encouraged. No minutes will be published.

DELIVERY OF STATEMENTS

Sealed Statements may be **mailed** to: City of Flagstaff Purchasing Department, Attn: Patrick Brown, Senior Procurement Specialist, 211 West Aspen Avenue, Flagstaff AZ. 86001, or may be **hand delivered** to: City of Flagstaff Purchasing Department, Attn: Patrick Brown, Senior Procurement Specialist, 211 West Aspen Avenue, Flagstaff AZ., with the understanding that materials must be in hand by **3:00 P.M. March 9, 2015.** All Statements must be labeled with RSOQ Number and Title. **Statements received after that time and date will be considered non-responsive and will be returned unopened.**

No electronically transmitted Statements or electronically transmitted modifications of Statements will be considered. Statements received after the designated submittal deadline will be considered non-responsive and will be returned unopened.

INTERVIEWS

Respondents may or may not be requested to participate in one interview with the Evaluation Committee. A maximum of the number of contractors identified in each service area to be selected may be selected for interviews.

Interviews, if conducted, will be for a maximum of 60 minutes as follows:

- | | |
|----------------|--|
| 10-20 minutes: | Respondent may make a presentation to supplement the Statement information for the Evaluation Committee. |
| 10-40 minutes: | Evaluation Committee question and answer time. |

EVALUATION CRITERIA and BASIS FOR AWARD

The Evaluation Committee as established by the City will determine a recommendation for award. The qualifying criteria included in Section III will be used as the basis of this recommendation. The City will then negotiate with the selected contractor for fee compensation that is determined to be fair and reasonable based on final agreed upon scope. Award of contract will be contingent upon mutually agreeable fee/scope of services negotiations. **Awards may be made to one or up to, but no more than, three (3) contractors in any one of the following disciplines:**

Horizontal Construction - 1 to 3 Contractors

Vertical Construction – 1 to 3 Contractors

Water/Wastewater Treatment Plant Construction – 1 to 3 Contractors

Landfill Construction – 1 to 3 Contractors

Signing, Striping and Traffic Control – 1 to 3 Contractors

FORM AND EXECUTION OF CONTRACT

It is anticipated that the City and the selected contractor will enter into a contract for services. The contract form for services will be the City of Flagstaff's standard form of **Services Agreement**. (See Attachment B, "Sample Agreement"). Thereafter, contracts for individually awarded JOC construction services projects over \$50,000 will be awarded separately on the City of Flagstaff's standard **Job Order Contracting ("JOC") Construction Agreement** (See Attachment C, "Job Order Contracting (JOC) Construction Agreement"). Individually awarded JOC construction services projects under \$50,000 will be awarded directly on a City Purchase Order. In either case, a City Purchase Order is required prior to starting any individually awarded JOC project.

DELIVERY OF MATERIALS

The contractor(s) to which the City awards a contract shall, within 10 days after receipt of Notice of Award, sign and deliver signed copies of the contract as well as certificates evidencing the required insurance coverages. Minimum insurance coverages shall be as specified in Attachment B. All policies of insurance shall be reviewed and approved by the City before the successful respondent may proceed with the services.

INTERPRETATION OF REQUESTS FOR SOQ BEFORE STATEMENT SUBMISSION

Respondents who desire further clarification of the Project scope, conditions, or requirements may attend the Pre-Statement Meeting, scheduled as shown in the Public Notice, with the City's designated Project Manager. Requests for individual meetings prior to the statement due date will not be granted.

NON-DISCLOSURE OF DATA , REGULATIONS and OBLIGATIONS

Statements in response to this SOQ may contain data that the respondent does not wish to have disclosed for any purpose other than evaluation of the Statement. If so, the respondent must clearly identify those pages of the Statement that are to be restricted. The City assumes no liability for disclosure or use of unmarked data. Unless identified, information submitted in response to this Request for SOQ may be disclosed pursuant to the Arizona Public Records Laws, A.R.S. 39-101 and following sections.

Should this SOQ result in a contract, the terms, clauses, and conditions required by City of Flagstaff procurement regulations shall apply to the contract.

This Request for SOQ does not obligate the City to pay any costs incurred in the preparation and/or submission of any Statements or any subsequent presentations or interviews, nor to enter into a contract with any of the Respondents.

CITY RIGHTS

The City of Flagstaff reserves the right to reject any or all Statements of Qualifications, to waive any informality or irregularity in any SOQ's received, and to be the sole judge of the merits of the respective Statements of Qualifications received.

RELEASE OF PROJECT INFORMATION

The City of Flagstaff shall provide the release of all public information concerning the project, including selection announcements and contract awards. Those desiring to release information to the public must receive prior written approval from the City of Flagstaff.

CONTACT WITH CITY EMPLOYEES AND CONSULTANTS

All persons and/or contractors that are interested in this project (including the contractor's employees, representatives, agents, lobbyists, attorneys, and sub-consultants) will refrain, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process. This includes but is not limited to the evaluation panel, the design professional(s), the City Manager, Assistant City Manager(s), Deputy City Manager(s), Department Directors or other staff. This policy is intended to create a level playing field for all potential contractors, assure that contract decisions are made in public, and to protect the integrity of the selection process. All contact on this selection process should be addressed to the authorized representative identified in Section II.

CONTACT WITH ELECTED OFFICIALS (MAYOR and CITY COUNCIL)

Any contact pertaining to this selection process with elected officials must be scheduled, in person, through the Flagstaff City Clerk's Office, 211 W. Aspen Avenue, Flagstaff AZ 86001, and are posted by the City Clerk at least twenty-four (24) hours prior to the scheduled meeting. The Clerk's posting shall include and detail the participants and the subject matter, and shall invite the public to participate. No contacts made by telephone, other than to schedule a public meeting, are permitted. Copies of contacts made by letter, facsimile, e-mail, or other written method shall be made available to the public, press, and all submitting contractors.

RESERVATION OF RIGHTS

There shall be no express or implied intent to contract until expressly stated in writing by Owner, an award is made, and all conditions stated herein are satisfied. The Owner reserves the right to reject any or all SOQs, or to withhold the award for any reason it may elect, and to waive or decline to waive irregularities in any proposal

III. STATEMENT OF QUALIFICATIONS, ORGANIZATION and FORMAT

The Evaluation Committee will evaluate contractors submitting responses to this request for SOQ's based on the information provided in the Statement of Qualifications ("SOQ") and interviews as necessary. To allow for a standard basis of evaluation, all SOQ's are requested to follow a similar format. SOQ's shall not exceed ten (10) pages **total** in length excluding title and front and back cover pages (hard copy). Total allowable pages shall be double-sided 8 1/2" x 11" with the exception that up to one page may consist of an 11" x 17" fold-out. Do not include fees or pricing related to this solicitation with SOQ submittals, these materials will not be considered and failure to comply with this provision may result in the rejection of submittal. **Contractors must submit a separate SOQ for each discipline if interested in more than one.** SOQ's shall be organized (including electronic formats) with tabbed sections/dividers (excluded from page count) as follows:

Cover:

The cover should contain the following relevant data as a minimum:

- Statement indicating response to: SOQ #2015-28 for JOC Service
- Discipline Area (Vertical; Horizontal; Water/Wastewater; Landfill; or Signing, Striping & Traffic Control)
- Submittal date
- Company name (and logo, if desired)
- Other information/graphics as desired

Title Page:

Include Contractor's name, address, e-mail/website address(es), phone and FAX numbers and name(s) of principals.

Required Information: (New separate category not as a part of evaluation criteria below)

If selected as a finalist for this Project, the contractor will be required to provide a statement from an A-minus rated or better surety company describing the contractors bonding capacity, commensurate with the project estimate.

1. Provide a list of current licenses by state. Include type, category, and number.
2. List both Arizona professional and Arizona contractor licenses held, including license numbers and note whether licenses are held by the contractor, individuals or sub-Contractors.

A. Contractor Overview, General Background & Information (5 points)

(3 page maximum)

1. Provide cover letter of your Contractor/Team overview, identify the Contractor/Team's primary point of contact and contact information. **(1 page maximum – 2 points possible)**
2. Identify any contract or subcontract held by the contractor or officers of the contractor which has been terminated within the last five years and give a brief explanation **(1-2 page maximum – 3 points possible)**

B. Contractor's Project Management Approach (15 points)

1. Describe your company's approach to warrantees, warranty follow-up, repairs, and obtaining customer satisfaction. **(3 points possible)**
2. Describe your contractor's Project Management approach and experience. Include the following items as part of your overall discussion; **(6 points possible)**
 - a) systems used for planning, scheduling, estimating and managing construction;
 - b) experience with design review, development and refinement, cost and scope control, value engineering and working with a project's design engineer and owner's Project Manager protocol or process for quality control for construction (JOC); and
 - c) JOC experience with directly addressing all public concerns associated with the construction.
3. Describe your approach to the JOC process; include at minimum the following in your overall discussion; **(6 points possible)**
 - a) your process on establishing and using JOC contingencies and method for cost control;
 - b) establishing General Conditions expense; and
 - c) describe your subcontractor qualifications and selection process

C. Experience and Qualifications of Contractors and Key Personnel (40 points)

1. Identify the number of comparable projects completed within the past five (5) years where the contractor provided JOC services (Arizona projects are preferred).
2. Select three projects of character, size, budget and complexity comparable to the proposed; Include the following items as part of your overall discussion (Arizona projects are preferred). **(15 points possible)**
 - a) Role of the contractor;
 - b) Original schedule/completion date, and Final schedule/completion date;
 - c) Key issues and problems;
 - d) Specify whether JOC, Construction Manager or General Contractor. Identify the percent of work self performed if JOC or general contractor;
 - e) Specify services provided during the design phase (if any). Resolution process on issues that may arise with project stakeholders (i.e. consultant, Owner, City Departments, franchise utilities, residents, et al);

- f) Establishing critical schedule milestones, monitoring of progress, means to identify schedule slippage and methods to bring performance back in line with anticipated timelines;
- g) Managing cold weather and winter issues;
- h) Managing public expectations and disruptions, provide examples of issues & resolutions
- i) Managing contingency; and
- j) Familiarity with relevant and current City of Flagstaff, state and federal regulations and procedures

3. Provide Organizational Chart. (2 points possible)

4. For each person identified in the organizational chart, include their education, registration, years of experience and years of experience with your contractor. For each person identified in the organization chart, list at least two comparable projects in which they have played the same role as presented for the project. If a project selected for a key person is the same as one selected for the contractor/team, provide just the project name and the role of the key person. For other projects provide **(10 points possible)**:

- a) Description of project;
- b) Role of the person;
- c) Project's original contracted construction cost and final construction cost: explain cause of variance (if applicable);
- d) Construction dates;
- e) Project owner; and
- f) Reference information, including name(s) with telephone numbers and e-mail addresses per project.

5. Provide a more in depth discussion for the assigned Project Manager and Superintendent (11 points possible).

6. List any proposed consultants, including their experience and qualifications of these individuals (2 points possible).

D. Project Approach (40 points)

1. Provide your technical approach to critical success factors for a JOC project, include the following items as part of your overall discussion **(30 points possible)**;

- a) Involvement with design development and refinement;
- b) Planning, scheduling, estimating and managing construction, dispute resolution and safety management;
- c) Design review, cost and scope control, value engineering and working with a project's design engineer;
- d) Directly addressing all public concerns associated with the construction, demonstrate approach to minimizing disruptions; and.
- e) Describe your methodology and approach to the development of design solutions for this project.

2. Describe your methodology to develop and deliver a JOC GMP. Include the following in your overall discussion **(10 points possible)**:

- a) your process on establishing and using JOC contingencies and method for cost control; and
- b) establishing General Conditions expense.

KEY PERSONNEL IDENTIFIED AND LISTED ARE REQUIRED TO PERFORM THEIR IDENTIFIED ROLES UNLESS OTHERWISE AGREED TO IN WRITING BY THE CITY

E. Executive Summary of Qualifications and Experience Presented (10 points)

1. Summarize key points of your presented SOQ that adds value to the City for this project

F. Value Added Knowledge and Experience (10 points)

The contractor hired by the City must be familiar with local community needs, standards, historical challenges, local codes and site conditions. Additionally, the contractor must be accessible to City staff and citizens (e.g. public hearings, neighborhood meetings and other citizen outreach that may be identified in the JOC Project during the construction of the Project).

1. Resolution of issues may be part of the project work. Describe your response protocol and how the firm's Project Manager (or responsible person in charge) will be accessible to City staff and citizens.
2. Explain why your company is particularly qualified to perform your services in the Flagstaff area. Demonstrate the Project Manager's (or responsible person in charge) knowledge of local geology, climate practices, materials, and codes by specifying in the submittal their experience working in the Northern Arizona region or in a region with geology, climate and conditions similar to those of the City of Flagstaff.
 - a. Briefly describe two of your most recent projects that were performed in the greater Flagstaff area as defined by the Regional Plan and/or Flagstaff Metropolitan Planning Organization (FMPO) boundaries.
3. During construction, what is the response time by a qualified person (decision making authority) to meet in person and resolve concerns and to accommodate unforeseen issues?

EVALUATION CRITERIA

Responses from respondents will be ranked based on points as detailed below

<u>Section as described above:</u>	<u>Maximum Points Available:</u>
A. Contractor/Team Overview, General Background & Information	5
B. Company Project Management Approach	15
C. Experience and Qualifications of Contractors and Key Personnel	40
D. Project Approach	40
E. Executive Summary of Qualifications and Experience Presented	10
F. Value Added Knowledge and Experience	10
Total Maximum Achievable Points:	120

Attachment A

Scope of Work

SCOPE OF WORK

GENERAL

The City of Flagstaff is seeking Statements of Qualifications (SOQ's) from Independent Contractors ("Contractors" or "Providers") for Job Order Contracting (JOC) services for General Contracting Construction Services in various disciplines. The City intends to award multiple contracts to the highest rated contractors on the final list after all SOQs are evaluated based on the weighted selection criteria. The contract term will be a three (3) year consecutive period, and may be renewed for up to two (2) additional one-year terms based on the successful performance by the Independent Contractor and the needs of the City.

A Job Order Contract (JOC) is an indefinite quantity contract pursuant to which the Independent Contractor will perform an ongoing series of individual projects (Job Orders) at different locations, often simultaneously, throughout the City.

Once the successful contractors are selected, a Scope of Work for each Job Order project will be provided by the City to a number of contractors to solicit competitive price proposals.

The maximum cost per Job Order is \$1,000,000. The annual cap per contractor is \$5,000,000.

Construction services covered by the JOC will include, but are not limited to the following:

- Provide preconstruction services;
- Serve as the general contractor during construction;
- Coordinate and manage subcontractors during construction;
- Coordinate with all utilities;
- Attend public meetings and issue notifications (when required);
- Arrange for procurement of materials and equipment;
- Schedule and manage site operations;
- Continue use of a collaborative process;
- Provide quality controls;
- Bond and insure the construction;
- Comply with all federal, state and local permitting requirements;
- Maintain a safe work site for all project participants;
- Commissioning;
- Prepare and turn over record drawings (when required);
- Provide operations and maintenance manuals (when required).

SCOPE OVERVIEW

The City is in need of general contracting (vertical, horizontal, water/wastewater plant, landfill, signing/stripping/traffic control) construction services for minor and major construction projects, maintenance, renovations, repairs, additions, demolition, re-constructions and alteration services to City facilities and roadways. The Independent Contractor will be required to furnish all materials, equipment and personnel necessary to manage and accomplish each project.

All work performed by the Independent Contractor shall meet all applicable state and local codes and the Independent Contractor shall be required to obtain all required permits and inspections.

For all City projects, the following order of precedence shall govern:

1. Special Provisions/Scope of Work.
2. City of Flagstaff Engineering Design & Construction Standards.
3. Project Construction Plans.
4. ADOT Standards and Specifications, current edition(s).
5. MAG Standards and Specifications, current editions/revisions.
6. City of Flagstaff current MAG Revisions
7. Arizona Department of Environmental Quality (ADEQ) Rules under the Arizona Administrative Code

The Independent Contractor shall attend a scoping meeting for each project and be prepared to discuss the following topics:

- The general scope of the work.
- Applicable designs or sets of plans that guide the project
- Methods and alternatives for accomplishing the work and value engineering.
- Access to the site and protocol for admission / access.
- Hours of construction operation.
- Staging area.
- Specific quality requirements for equipment and material.
- Requirements for catalog cuts, technical data, samples, shop drawings and incidental design.
- The presence of hazardous materials.
- Temporary services and shutoffs.
- Safety issues / concerns and procedures.
- Construction duration.
- Date on which price proposal is due.

When a particular project is offered to the Independent Contractor, the Independent Contractor shall provide a written price proposal for a specific scope of work including a complete list of quantities and prices of parts and materials to be utilized, total labor cost to be broken down by trade, hours for each trade, hourly cost per trade, total dollar cost and completion date. The project price proposal shall be all-inclusive with any cost overruns to be absorbed by the Independent Contractor unless change orders are pre-approved by the City.

By executing a price proposal, the Independent Contractor represents that the Independent Contractor has visited the project site(s) and become familiar with the local conditions under which the work is to be performed. The City does not undertake to represent or warrant the site or local conditions.

The City reserves the right to reject the Independent Contractor's selection of subcontractors on individual projects. Failure to include the subcontractor list in the price proposal submitted for each project shall be cause for rejection of the price proposal as non-responsive.

The City reserves the right to request Job Order proposals from more than one JOC contractor for competitive purposes. Pricing may be determined by **R.S. Means™ Cost data or Open Book Pricing** consisting of contractor subcontractor price quotes that are shared with and approved by the City. The City reserves the right to determine the pricing method on a project by project basis.

A separate Purchase Order must be issued for each Job Order before the commencement of any work by the Independent Contractor. A Purchase Order will reference the detailed Scope of Work and amount of compensation.

Payment and performance bonds are required for ALL projects for the full amount of the project. The City, at its sole discretion, may waive this requirement for small projects.

Within seventy-two (72) hours of the announcement of the project award, Independent Contractor shall tender a performance and payment bond for the City to review. This bond shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this State as issued by the Director of Insurance pursuant to ARS § Title 20, Chapter 2, Article 1. The bond shall conform to the requirements of ARS § Title 20, Chapter 6, Article 8; shall name the City of Flagstaff, a political subdivision of the State of Arizona, as the beneficiary/insured; if as a performance bond shall specifically assure the full and final completion of the scope of work entered into herein, and if as a payment bond shall be in an amount not less than the contract price for the full scope of work contracted for herein. The surety shall be a reputable company as determined by the City, and the bond shall otherwise be satisfactory in its scope and content as determined by the City in his/her sole and absolute judgment.

In the event the Independent Contractor fails to provide to the City with the certificate and proof of bond assurance within seventy-two (72) hours of the announcement of the project award then the City reserves the right to unilaterally rescind the Independent Contractor's award of this project.

In the event the Independent Contractor provides to the City the certificate and proof of bond assurance and the City determines that the certificate and/or assurance is inadequate in any regard, then the City reserves the right to unilaterally rescind the Independent Contractor's award of this project. The City's judgment as to the adequacy of the certificate and the assurance is absolute and final, but must be exercised not later than the date and time when the City issues to the Independent Contractor the Notice to Proceed with the project. The City waives any objection to the City's adequacy determination if made after the Notice to Proceed is issued unless it is later determined by the City that the tender of proof required herein was made by the Independent Contractor, its agents, employees or persons acting on Independent Contractor's behalf, in a manner that is fraudulent or in a manner that demonstrates a negligent misrepresentation of material facts, as determined by the City's sole and absolute judgment.

The Independent Contractor shall commence work on the date set forth in the Notice to Proceed. Time being of the essence of this Agreement, the Independent Contractor shall therefore prosecute the work diligently, using such means and methods of construction as will assure final completion within the time specified in the written price proposal.

The Independent Contractor shall supervise and direct the work, using the best skill and attention and shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the Agreement.

The Independent Contractor shall keep on the site, during the performance of all work, a competent superintendent who is fluent in English and any necessary assistants, all satisfactory to the City. The superintendent shall represent the Independent Contractor and have authority to act for the Independent Contractor. The Independent Contractor or qualified representative shall attend meetings with the City, at a frequency as determined by the City, for the purpose of coordinating or expediting the work.

Safety. During the construction process, the Independent Contractor shall comply with all applicable federal, state and County health and safety laws and regulations including, but not limited to all applicable "OSHA Standards for the Construction Industry" shall be followed, including, but not limited to, 29 CFR Part 1926, Subpart P – Excavations. All construction equipment and materials shall be safely fenced off from public access during the entirety of the project. Knowing and following OSHA Safety Standards is the Independent Contractor's responsibility. The City may stop construction on a project until safety concerns have been corrected.

During construction the Independent Contractor shall supply the work area (job site) with a minimum of one portable chemical toilet, or more as necessary or directed by the City for larger projects.

The Independent Contractor shall keep the premises free from accumulations of waste material or rubbish caused by their employees or work. At the completion of the work the Independent Contractor shall remove all the rubbish from the site and all tools, scaffolding and surplus materials.

To determine the date of final completion of a particular project, final inspection of the work by the City shall be made within five (5) working days after receipt of the Independent Contractor's written request. The work will be deemed finally complete as of the date of such inspection if, upon such inspection, the City determines that the Independent Contractor has achieved final completion. However, if such inspection, in the sole opinion of the City, reveals items of work still to be performed, the Independent Contractor shall promptly perform them and then request a re-inspection.

HORIZONTAL CONSTRUCTION

1. SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor agrees to perform any or all (but not limited to) the following services which will be specifically enumerated on individual JOC Construction Contracts and Purchase Orders as amendments to this contract:

- Roadway Grading, Paving and Patching
- Water, Sewer and drainage
- Curbs and Sidewalks
- Excavating
- Repairs
- Striping
- Concrete work
- Sign placement
- Electrical & Lighting
- Landscaping

VERTICAL CONSTRUCTION

2. SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor agrees to perform any or all (but not limited to) of the following services which will be specifically enumerated in individual JOC Construction Contracts and Purchase Orders as amendments to this contract:

Services will pertain to all City owned facilities and property, including any substructure needs for performing required services

- New Construction
- Facility Alterations
- Facility Renovations
- Facility Rehabilitation
- Facility (Furniture, Fixtures, and Equipment ("FFE"))
- Facility Expansion

WATER/WASTEWATER PLANT CONSTRUCTION

3. SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor agrees to perform any or all (but not limited to) the following services which will be specifically enumerated on individual JOC Construction Contracts and Purchase Orders as amendments to this contract:

Services will pertain to all City owned Water Treatment Plants and Wastewater Treatment Plants, including any substructure needs for performing required services

- Conceptual Cost Estimating
- Design Assistance
- Scheduling
- Value Engineering
- Mechanical construction
- Millwright construction
- Civil construction
- Structural Concrete
- Electrical
- Instrumentation and Controls
- Equipment Installation

LANDFILL CONSTRUCTION

4. SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor agrees to perform any or all (but not limited to) the following services which will be specifically enumerated on individual JOC Construction Contracts and Purchase Orders as amendments to this contract:

- Permitting/regulatory compliance solutions
- Mining and excavation
- Landfill mining and resource recovery
- Subgrade preparation
- Trenching
- Liner and membrane construction
- Cap construction
- Landfill gas construction
- Leachate collection
- Containment berms
- Stormwater/erosion controls
- Health and safety oversight

SIGNING, STRIPING & TRAFFIC CONTROL

5. SERVICES TO BE PERFORMED BY CONTRACTOR

Contractor agrees to perform any or all (but not limited to) the following services which will be specifically enumerated on individual JOC Construction Contracts and Purchase Orders as amendments to this contract:

Services will pertain to all City owned facilities, property, trails and rights of way.

- Temporary and Permanent Signage and or Striping
- Construction Signage and or Striping
- Roadway Signage and or Striping
- Parking Signage and or Striping
- Construction Traffic Controls (including signage and or striping)
- Barricading
- Event Traffic Controls (including barricading and or signage)

ATTACHMENT B

SAMPLE SERVICE AGREEMENT

SAMPLE

**SERVICE AGREEMENT
FOR
JOB ORDER CONTRACTING SERVICES: [SERVICE NAME]

CITY OF FLAGSTAFF
and**

This Agreement for the On-Call Professional Services (“Agreement”) is made by and between the City of Flagstaff (“City”), an Arizona municipal corporation with offices at 211 W. Aspen Avenue, Flagstaff, Coconino County, Arizona, and [Party's Name], [Form of organization], with offices at [Party's address] (“Provider”), effective as of the date written below.

RECITALS

A. The City desires to enter into this Agreement in order to obtain services of a Contractor for the On-Call Professional services [Service Name], as outlined in the Scope of Work/Specifications section of the RSOQ document; and

B. Provider has available and offers to provide the personnel necessary to provide said services within the required time in accordance with the Scope of Services included in this Agreement;

For the reasons recited above, and in consideration of the mutual covenants contained in this Agreement, the City and Provider agree as follows:

1. SERVICES TO BE PERFORMED BY PROVIDER

Provider agrees to perform the following services:

1.1 Provider agrees to provide the services as set forth in detail in Exhibit “A” attached and incorporated in this Agreement. All of the terms and conditions set forth in this RSOQ pertaining to the services set forth in Attachment A, including all standard terms and conditions shall be incorporated in this Agreement as if fully set forth herein.

1.2 Provider warrants that all materials, services or construction delivered under the Agreement shall conform to the specifications of the Agreement. The City’s receipt or inspection of the materials, services, or construction specified shall not alter or affect the obligations of Provider or the rights of the City under the foregoing warranty.

1.3 All services, information, computer program elements, reports and other deliverables which may be created under the Agreement are the sole property of the City and shall not be used or released by Provider or any other person except with prior written permission of the City.

2. COMPENSATION OF PROVIDER

Provider agrees to provide all of the services set forth in Exhibit “A” for prices not to exceed the amounts set forth in the fee. Contractor agrees that any specific scopes of work for individual Job Order Construction Contracts will have specific and mutually agreed upon fee schedules attached.

3. RIGHTS AND OBLIGATIONS OF PROVIDER

3.1 Independent Contractor. The parties agree that Provider performs specialized services and that Provider enters into this Agreement with the City as an independent contractor. Nothing in this Agreement shall be construed to constitute Provider or any of Provider’s agents or employees as an agent, employee or representative of the City. As an independent contractor, Provider is solely responsible for all labor and expenses in connection with this Agreement and for any and all damages arising out of Provider’s performance under this Agreement.

3.2 Provider’s Control of Work. All services to be provided by Provider shall be performed as determined by the City in accordance with the Scope of Services set forth in Exhibit “A.” Provider shall furnish the qualified personnel, materials, equipment and other items necessary to carry out the terms of this Agreement. Provider shall be responsible for, and in full control of, the work of all such personnel.

3.3 Reports to the City. Although Provider is responsible for control and supervision of work performed under this Agreement, the services provided shall be acceptable to the City and shall be subject to a general right of inspection and supervision to ensure satisfactory completion. This right of inspection and supervision shall include, but not be limited to, all reports to be provided by Provider to the City and the right of the City, as set forth in the Scope of Services, and the right of the City to audit Provider’s records.

3.4 Compliance with All Laws. Provider shall comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government, which may affect the performance of this Agreement. Any provision required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement shall be deemed inserted, whether or not such provisions appear in this Agreement.

4. NOTICE PROVISIONS

Notice. Any notice concerning this Agreement shall be in writing and sent by certified or registered mail as follows:

To the City’s Authorized Representative

Patrick Brown, C.P.M.
Senior Procurement Specialist
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001

To Provider:

Provider's representative's name, title
Provider's name, e.g. name of corporation
Address Line 1
Address Line 2
City, State Zip Code

5. INDEMNIFICATION

To the fullest extent permitted by law, Provider shall indemnify, defend, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys’ fees, and costs of claim processing, investigation and litigation) (“Claims”) including claims for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Provider or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers’ Compensation Law or arising out of the failure of such Provider to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Provider from and against any and all claims. It is agreed that Provider shall be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Provider shall waive all rights of subrogation against

the City, its officers, officials, agents and employees for losses arising from the work performed by Provider for the City.

6. INSURANCE

Provider and subcontractors shall procure and maintain insurance against claims for injury to persons or damage to property, which may arise from or in connection with this Agreement by the Provider, Provider's agents, representatives, employees or contractors until all of their obligations under this Agreement have been discharged, including any warranty periods. The insurance requirements are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement. The City does not represent or warrant that the minimum limits set forth in this Agreement are sufficient to protect the Provider from liabilities that might arise out of this Agreement, and Provider is free to purchase such additional insurance as Provider may determine is necessary.

6.1. Minimum Scope and Limits of Insurance. Provider shall provide coverage at least as broad and with limits not less than those stated below.

6.1.1. Commercial General Liability - Occurrence Form
(Form CG 0001, ed. 10/93 or any replacement thereof)

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage (any one fire)	\$500,000
Medical Expense (any one person)	Optional

6.1.2. Automobile Liability - Any Automobile or Owned, Hired and Non-owned Vehicles
(Form CA 0001, ed. 12/93 or any replacement thereof)

Combined Single Limit Per Accident for Bodily Injury and Property Damage	\$1,000,000
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6.1.3. Workers' Compensation and Employer's Liability

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

6.1.4. Professional Liability \$1,000,000

6.2 Self-insured Retention/Deductibles. Any self-insured retentions and deductibles must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers.

6.3. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:

6.3.1 Commercial General Liability and Automobile Liability Coverages. The City of Flagstaff, its officers, officials, agents and employees shall be named as additional insureds with respect to liability arising out of the use and/or occupancy of the Premises subject to this Agreement and activities performed by or on behalf of the Provider, including products and completed operations of the Provider; and automobiles owned, leased, hired or borrowed by the Provider.

6.3.2 The Provider's insurance shall contain broad form contractual liability coverage.

6.3.3 The City of Flagstaff, its officers, officials, agents and employees volunteers shall be named as additional insureds to the full limits of liability purchased by the Provider even if those limits of liability are in excess of those required by this Agreement.

6.3.4. The Provider's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Provider's insurance and shall not contribute to it.

6.3.5 The Provider's insurance 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.

6.3.6 Coverage provided by the Provider shall not be limited to the liability assumed under the indemnification provisions of this Agreement.

6.3.7 The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Provider for the City.

6.6 Notice of Cancellation. Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City. When cancellation is for non-payment of premium, then at least ten (10) days' prior notice shall be given to the City. Notices required by this section shall be sent directly to Patrick Brown, Senior Procurement Specialist, City of Flagstaff, 211 W. Aspen Avenue, Flagstaff, Arizona 86001.

6.7 Acceptability of Insurers. Provider 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 provide the Provider from potential insurer insolvency.

6.8 Verification of Coverage. The Provider shall furnish the City with certificates of insurance (ACORD form) as required by this Agreement. 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.

6.8.1 The City must receive and approve all certificates of insurance before the Provider commences work. Each insurance policy required by this Agreement shall be in effect at, or before, commencement of work under this Agreement and shall remain in effect until all Provider's and its subcontractors' obligations under this Agreement have been met. The Provider's failure to maintain the insurance policies as required by this Agreement or to provide timely evidence of renewal will be considered a material breach of this Agreement.

6.8.2 All certificates of insurance shall be sent directly to Patrick Brown, Senior Procurement Specialist, 211 West Aspen Avenue, Flagstaff, Arizona 86001. The City project/contract number and project description shall be noted on the certificates of insurance. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Agreement at any time. The City shall not be obligated, however, to review any insurance policies or to advise Provider of any deficiencies in such policies and endorsements. The City's receipt of Provider's policies or endorsements shall not relieve Provider from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Provider's obligations under this Agreement.

6.9 Subcontractors. Provider's certificate(s) shall include all subcontractors as additional insureds under its policies, or Provider shall furnish to the City Separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

6.10 Approval. Any modification or variation from the insurance requirements in this Agreement must have the prior approval of the City's Attorney's Office, whose decision shall be final. Such action will not require a formal Agreement amendment but may be made by administrative action.

7. DEFAULT AND TERMINATION

7.1 Events of Default Defined. The following shall be Events of Default under this Agreement:

7.1.1 Any material misrepresentation made by Provider to the City;

7.1.2 Any failure by Provider to perform its obligations under this Agreement including, but not limited to, the following:

7.1.2.1 Failure to commence work at the time(s) specified in this Agreement due to a reason or circumstance within Provider's reasonable control;

7.1.2.2 Failure to perform the work with sufficient personnel and equipment or with sufficient equipment to ensure completion of the work within the specified time due to a reason or circumstance within Provider's reasonable control;

7.1.2.3 Failure to perform the work in a manner reasonably satisfactory to the City;

7.1.2.4 Failure to promptly correct or re-perform within a reasonable time work that was rejected by the City as unsatisfactory or erroneous;

7.1.2.5 Discontinuance of the work for reasons not beyond Provider's reasonable control;

7.1.2.6 Unsatisfactory performance as judged by the Contract Administrator;

7.1.2.7 Failure to provide the City, upon request, with adequate assurance of future performance;

7.1.2.8 Failure to comply with a material term of this Agreement, including, but not limited to, the provision of insurance; and

7.1.2.9 Any other acts specifically stated in this Agreement as constituting a default or a breach of this Agreement.

7.2 Remedies.

7.2.1 Upon the occurrence of any Event of Default, the City may declare Provider in default under this Agreement. The City shall provide written notification of the Event of Default. If such Event of Default is not cured within seven (7) days of receipt of the notification, the City may invoke any or all of the following remedies:

7.2.1.1 The right to cancel this Agreement as to any or all of the services yet to be performed;

- 7.2.1.2 The right of specific performance, an injunction or any other appropriate equitable remedy;
- 7.2.1.3 The right to monetary damages;
- 7.2.1.4 The right to withhold all or any part of Provider's compensation under this Agreement;
- 7.2.1.5 The right to deem Provider non-responsive in future contracts to be awarded by the City; and
- 7.2.1.6 The right to seek recoupment of public funds spent for impermissible purposes.

7.2.2 The City may elect not to declare an Event of Default or default under this Agreement or to terminate this Agreement upon the occurrence of an Event of Default. The parties acknowledge that this provision is solely for the benefit of the City, and that if the City allows Provider to continue to provide the Services despite the occurrence of one or more Events of Default, Provider shall in no way be relieved of any of its responsibilities or obligations under this Agreement, nor shall the City be deemed to waive or relinquish any of its rights under this Agreement.

7.2.3 In the Event of Default by the Provider, the City shall not be liable to Provider for any amount, and Provider may be liable to the City for any and all damages sustained by reason of the default which gave rise to the termination.

7.3 Right to Offset. Any costs, including but not limited to attorney's fees, costs of remediation, and costs of delay, incurred by the City due to default of Proposer, or due to the City's exercise any of the remedies available to it under this Agreement, may be offset by use of any payment due for services completed before the default or the exercise of any remedies. If the offset amount is insufficient to cover excess costs, Provider shall be liable for and shall remit promptly to the City the balance upon written demand from the City.

7.4 Termination for Convenience. The City reserves the right to terminate, with or without cause, this Agreement upon ninety (30) days written notice. The City shall be responsible only for those standard items or services which have been delivered and accepted. If any items being purchased are truly unique and therefore not saleable or useable for any other application, the City shall reimburse Proposer for actual labor, material, and burden costs, plus a profit not to exceed 8%. Title to all materials, work in progress, and completed but undelivered goods, shall pass to the City after costs are claimed and allowed. Proposer shall submit detailed cost claims in an acceptable manner and shall permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

8. GENERAL PROVISIONS

8.1 Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

8.2 Jurisdiction and Venue. This Agreement shall be administered and interpreted under the laws of the State of Arizona. Provider hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

8.3 Attorney's Fees. Subject to Section 8.11, if suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court, including an appellate court, may adjudge reasonable as attorney fees.

8.4 Severability. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, the

remainder of this Agreement shall remain in full force and effect and such term or provision shall be deemed to be deleted.

8.5 Successors and Assigns. No right or interest in the Agreement shall be assigned by Provider without prior written permission of the City, and no delegation of any duty of Provider shall be made without prior written permission of the City. The City shall not unreasonably withhold approval and shall notify Provider of the City's position within fifteen (15) days of receipt of written notice by Provider. This Agreement shall extend to and be binding upon the Provider, its successors and assigns, including any individual, company, partnership, or other entity with or into which the Provider shall merge, consolidate, or be liquidated, or any person, corporation, partnership, or other entity to which the Provider shall sell its assets.

8.6 Subcontracts. No subcontract shall be entered into by Provider with any other party to furnish any service specified in this Agreement without the advance written approval of the City. All subcontracts shall comply with Federal, State and local laws and regulations that are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth in the Agreement which shall apply with equal force to the subcontract, as if the subcontractor were the Provider. Provider is responsible for contract performance whether or not subcontractors are used. The City shall not unreasonably withhold approval and shall notify Provider of the City's position within fifteen (15) days of receipt of written notice by Provider. Provider shall be responsible for executing the agreement with subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

8.7 Conflict of Interest. Provider covenants that Provider presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Provider further covenants that in the performance of this Agreement, Provider shall not engage any employee or apprentice having any such interest. The parties agree that this Agreement may be cancelled for conflict of interest in accordance with Arizona Revised Statutes § 38-511.

8.8 Authority to Contract. Each party represents and warrants that it has full power and authority to enter into this Agreement and perform its obligations hereunder, and that it has taken all actions necessary to authorize entering into this Agreement.

8.9 Integration. This Agreement represents the entire understanding of City and Provider as to those matters contained in this Agreement, and no prior oral or written understanding shall be of any force or effect with respect to those matters, except for documents comprising the RSOQ Package that have been incorporated into this Agreement. This Agreement may not be modified or altered except in writing signed by duly authorized representatives of the parties.

8.10 Non Appropriation. If the City Council does not appropriate funds to continue this Agreement and pay for charges under this Agreement, the City may terminate this Agreement at the end of the current fiscal period, or at the time that funds are no longer available to meet the City's payment obligations. The City agrees to give written notice of termination to the Provider at least thirty (30) days prior to any termination for a lack of funds and will pay to the Provider all approved charges incurred prior to Provider's receipt of such notice, subject to the availability of funds appropriated and budgeted by the City to fund payments under this Agreement.

8.11 Non-Discrimination. Provider shall not discriminate against any employee, or applicant for employment in violation of Federal Executive Order 11246, State Executive Order 75-5 as modified by State Executive Order 99-4 or A.R.S. 41-1461 et. seq. The Provider shall be required to comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

8.12 Compliance with Federal Immigration Laws and Regulations. Provider hereby warrants to the City that the Provider and each of its subcontractors ("Subcontractors") will comply with, and are

contractually obligated to comply with, all Federal Immigration laws and regulations that relate to its employees and A.R.S. §23-214(A) (hereinafter "Provider Immigration Warranty").

8.12.1 A breach of the Provider Immigration Warranty shall constitute a material breach of this Agreement and shall subject the Provider to penalties up to and including termination of this Agreement at the sole discretion of the City.

8.12.2 The City retains the legal right to inspect the papers of any Provider or Subcontractor employee who works on this Agreement to ensure that the Provider or Subcontractor is complying with the Provider Immigration Warranty. Provider agrees to assist the City in regard to any such inspections.

8.12.3 The City may, at its sole discretion, conduct random verification of the employment records of the Provider and any of Subcontractors to ensure compliance with Provider's Immigration Warranty. Provider agrees to assist the City in regard to any random verifications performed.

8.12.4 The provisions of this Article must be included in any contract the Provider enters into with any and all of its Subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

8.13 Anti-Trust Violations. The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Provider. Therefore, to the extent permitted by law, Provider hereby assigns to the City any and all claims for such overcharges as to the goods or services used to fulfill this Agreement.

8.14 Advertising. Proposer shall not advertise or publish information concerning the Agreement, without the prior written consent of the City.

8.15 Inspection. All material, services or construction are subject to final inspection and acceptance by the City. The City may, at reasonable times and at its expense, inspect the plant or place of business of Provider or its subcontractor(s) which is related to the performance of this Agreement. This right of inspection and supervision shall include, but not be limited to the right of the City to audit Provider's records.

8.16 Force Majeure. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Agreement if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure.

8.16.1 The term "force majeure" means an occurrence that is unforeseeable and beyond the control of the party affected, which occurs without its fault or negligence, and which it is unable to prevent by exercising reasonable diligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, lockouts, injunctions-intervention-acts, or unreasonable failures or refusal to act by government authority, and other similar occurrences. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party, in writing, of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this agreement.

8.16.2 Force majeure shall not include the following occurrences:

8.16.2.1 Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or by an oversold condition of the market.

8.16.2.2 Late performance by a Subcontractor unless the delay arises directly out of a force majeure occurrence in accordance with this force majeure term and condition. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that, such delay or failure is caused by force majeure.

8.16.3 If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing as soon as is practical, of the commencement of such delay and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed certified-return receipt and shall make a specific reference to this section, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Agreement.

8.17 No Third Party Beneficiaries. The parties acknowledge and agree that the terms, provisions, conditions, and obligations of this Contract are for the sole benefit of, and may be enforceable solely by, the Parties to this Contract, and none of the terms, provisions, conditions, and obligations of this Contract are for the benefit of, or may be enforced by, any person or entity not a party to this Contract.

8.18 Assignment. Provider shall not assign this Contract, in whole or in part, without the prior written consent of the City. No right or interest in this Agreement shall be assigned, in whole or in part, by Provider without prior written permission of the City and no delegation of any duty of Provider shall be made without prior written permission of the City. The City shall not unreasonably withhold consent to such assignment. Provider agrees that any assignment agreement between Provider and the Assignee shall include and subject to the assignee to all obligations, terms and conditions of this Agreement and that Provider shall also remain liable under all obligations, terms and conditions of this Agreement.

8.19 Notice. Many notices or demands required to be given, pursuant to the terms of this Agreement, may be given to the other Party in writing, delivered in person, sent by facsimile transmission, emailed, deposited in the United States mail, postage prepaid, or deposited with any commercial air courier or express service at the addresses set forth below, or to such other address as the Parties may substitute by written notice, given in the manner prescribed in this paragraph. However, notices of termination, notices of default and any notice regarding warranties shall be sent via registered or certified mail, return receipt requested at the address set forth below **and** to legal counsel for the party to whom the notice is being given.

8.20 Records. The City and its employees, agents, and authorized representatives shall have the right at all reasonable times and during all business hours to inspect and examine Provider's records related to this Agreement. Provider shall retain all records related to this Agreement for a period consistent with the City of Flagstaff's records retention policy. This record retention requirement shall remain in effect following termination of the Agreement.

9. SPECIAL TERMS AND CONDITIONS

9.1 Job Order; Authorization to Proceed. All proposed work under this Agreement shall be performed pursuant to the issuance of individual Job Orders. Contractor shall perform no work under this Agreement until or unless a written Job Order has been issued by the City and executed by the Parties, which Job Order describes the specific services and the time of performance requested by the City. Contractor shall respond to each Job Order issued by the City by submitting a written fee proposal and time required to complete the specific services requested in the Job Order. When the Job Order is agreed to and executed by both Parties, the Job Order shall constitute Contractor's authorization to proceed with the requested services. All Contractor invoices shall reference the Job Order number and shall contain an itemization of all hours and expenses per the Price Schedule.

9.2 Technical and Professional Requirements; Key Personnel. Contractor shall be professionally licensed and qualified in all pertinent disciplines for consulting services required under this Agreement. It is essential that Contractor provide adequately experienced personnel who are capable of, and devoted to, the successful accomplishment of all services performed under this Agreement. Key personnel to be assigned to the project shall be identified in writing to the City by Contractor at the time of Notice to Proceed. At a minimum the Contractor shall identify for the City's written approval, the project manager who shall be empowered to act for the Contractor in accordance with this agreement in all matters relating to the technical administration of services to be provided. Authorization for changes in key personnel must be requested in writing by the Contractor.

9.3 Subcontracts. At the time subcontracted services are anticipated, the Contractor shall notify the City of the nature of, and need for, such services and identify the proposed subcontracting contractor. The Contractor must receive approval in writing from the City prior to utilization of any subcontractor other than the parties listed in this article. The Contractor is authorized by the City to subcontract work having a cost which will not exceed 30 percent (30%) of the total amount of compensation due under this Agreement. The Contractor shall be responsible to the Owner for the actions of persons and contractors performing subcontract work.

9.4 Rights and Obligations of Contractor

9.4.1 Work Schedule: Upon receipt of an executed copy of a Job Order, the Contractor shall prepare a work schedule. The work schedule shall include:

9.4.1.1. Events which will satisfy SECTION 1. Services to be performed by the Contractor.

9.4.1.2 Date each event shall start and its duration.

9.4.1.3 Critical relationship of events.

9.4.1.4 Name(s) of the person(s) responsible for the project. The work schedule shall provide for the completion of SECTION I services not later than 365 calendar days from the written Notice-to-Proceed.

9.4.1.5 The schedule shall be updated periodically as necessary.

9.4.1.6 The Contractor agrees to maintain adequate resources to provide the described services within the time provided in the agreed upon schedule. Failure to adhere to the schedule may result in termination of this contract.

9.5 Maintenance of Documents. Contractor shall deliver to the City copies of reports, specifications and drawings prepared under the terms of this agreement. If drawings are prepared, the City will be provided with a set of full-size reproduces. Originals of design and study notes, calculations, correspondence and similar material will be filed by the Contractor and made available to the City on Request. Copies will be furnished to the City by the Contractor at cost. Except as otherwise provided herein, documents prepared under the terms of this agreement will not be used by the City on other projects or extensions to this project except with the written agreement of the Contractor.

9.6 Alteration in Character of Work. Whenever an alteration in the character of work results in a substantial change in the Planned Consulting Services, thereby materially increasing or decreasing the cost of the performance, the work will be performed in accordance with the contract and as directed; provided however, that before such work is started, a contract change order shall be approved and executed by the City and the Contractor. Additions to, modifications, or deletions from the project provided herein may be made and the compensation to be paid to the Contractor may be adjusted accordingly by mutual agreement of the City and Contractor. It is distinctly understood and agreed that no claim for extra work done or materials furnished by the Contractor will be allowed by the City except as provided herein, nor shall the Contractor do any work, or furnish any materials not covered by this Agreement unless such work is first ordered in writing.

9.6.1 Any such work or materials furnished by the Contractor without such written order first being given shall be at his own risk, cost, and expense, and Contractor hereby agrees that without such written order he will make no claim for compensation for such work or materials furnished.

9.7 Completeness and Accuracy of Contractor's Work. The Contractor shall be responsible for the completeness and accuracy of his survey work, plans, supporting data, and Special Provisions prepared or compiled under his obligation for this project and shall correct, at his expense, all errors or omissions therein which may be disclosed during the review of the plans.

9.7.1 All documents prepared by the design professional shall bear the stamp or seal of the design professional. All preparation of technical and related documents shall be completed in accordance with the prevailing Arizona law.

9.7.2 Correction of engineering errors or omissions disclosed and determined to exist by the City during the construction of the project shall be accomplished by the Contractor. The cost of the design necessary to correct those errors attributable to the Contractor and any expense incurred by the City as a result of additional construction costs caused by such engineering errors shall be chargeable to the Contractor. The fact that the City has accepted or approved the Contractor's work shall in no way relieve the Contractor of any of his responsibilities. Should the Contractor be contracted to perform construction inspection of the project, he shall be responsible for errors and omissions in construction inspection disclosed and determined to exist by the City during and subsequent to the construction of the project. Contractor's duty in the construction inspection phase is to assure City that the project is constructed in conformity with detailed plans and specifications and the cost of design necessary to correct errors and omissions in inspection attributable to the Contractor and any expense incurred by City as a result of additional construction costs caused by such errors shall be chargeable to the Contractor. Acceptance or approval by City of Contractor's work shall not relieve Contractor of inspection responsibilities.

9.8 General Responsibilities and Obligations of Contractor. The Contractor is employed to render a professional service only, and any payments made to him are compensation solely for such services as he may render and recommendations he may make in carrying out the work. The Contractor shall follow the practice of the profession to make findings, opinion, factual presentations, and to offer professional advice and recommendations. To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract. The Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with the claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.

9.8.1 The amount and type of insurance coverage requirements set forth herein (Section, 7. Insurance) will in no way be construed as limiting the scope of the indemnity in this paragraph.

9.8.2 In performing construction management services, Contractor shall act as agent of the City. The Contractor's review or supervision of work prepared or performed by other individuals or contractors employed by the City shall not relieve those individuals or contractors of complete responsibility for the adequacy of their work.

9.8.3 It is understood that any resident consulting or inspection provided by the Contractor is for the purpose of determining compliance with the technical provisions of the project specifications and does not constitute any form of guarantee or assurance with respect to the performance of a contractor. The Contractor does not assume responsibility for methods or appliances used by a contractor, for safety of construction work, or for compliance by contractors with laws and regulations.

9.8.4 The Contractor agrees to notify the owner of any potential unsafe conditions observed at a construction site while performing resident consulting services. It is understood that the resident Contractor will perform the aforesaid services only as incidental to the agreed consulting services and only while at the site; no duty to inspect for unsafe conditions is accepted by the resident Contractor.

9.9 Cooperative Use Of Contract. This Agreement resulting from the RSOQ may be extended for use by the members of the Flagstaff Alliance for the Second Century. An Intergovernmental Agreement (IGA) has been executed between the City, Coconino County Community College District, Northern Arizona University, Coconino County and Flagstaff Unified School District. The Agreement may also be extended to other municipalities and government agencies of the state. Any such usage by other municipalities and government agencies must be in accordance with the ordinance, charter and/or rules and regulations of the respective political entity. Any public agencies not identified within this Agreement who wish to cooperatively use the contract are subject to the approval of Vendor.

The City is also a member of S.A.V.E. (Strategic Alliance for Volume Expenditures), which consists of numerous municipalities, counties, universities, colleges, schools and other Arizona State agencies. These cooperatives are achieved through Intergovernmental Agreements (IGA) in accordance with provisions allowed by A.R.S. §11-952 and §41-2632. The IGAs permit purchases of material, equipment and services from Vendors at the prices, terms and conditions contained in contracts originated between any and all of these agencies and the Vendor(s) contract, as awarded.

10. DURATION

This Agreement shall become effective on and from the date it is executed by the Parties and shall continue for a period of **three (3) consecutive years**, unless sooner terminated as provided in this Agreement. The City reserves the right to unilaterally extend the period of the Agreement for ninety (90) days beyond the stated termination date. The Agreement may be renewed in writing for a supplemental period of up to **two (2) additional one-year terms, at the discretion of the City**. The City Council authorizes the City of Flagstaff Purchasing Director to administratively renew this Agreement for the additional terms specified in this paragraph. Any additional renewals must be approved by the City Council.

(Please sign in blue ink. Submit original signatures – photocopies not accepted)

City of Flagstaff

Provider

City Manager

PROVIDER'S NAME AND TITLE

Attest:

City Clerk

Approved as to form:

City Attorney

Date of Execution: _____

ATTACHMENT C

SAMPLE JOB ORDER CONTRACT

*** * * END of RSOQ * * ***