

## City of Flagstaff



### Call to Artists

**SOLICITATION FOR: 3D** Artwork at a new Southside Neighborhood Park adjacent to Murdoch Center. **SOLICITATION NO: 2023-127**

**CLOSING DATE & TIME: Tuesday, ~~May 23, 2023~~ EXTENDED June 6, 2023, 5pm Arizona Time**

#### APPLICATION SUBMITTED TO:

**Susan D Hardiman, Beautification, Arts & Sciences Project Administrator**

Susan.Hardiman@Flagstaffaz.gov

Subject line: Southside Neighborhood Park Art

**CITY NEEDS:** The City of Flagstaff announces a public art opportunity for qualified artists or artist teams to design, fabricate and permanently install in an existing landscaped area a three-dimensional artwork potentially at the noted designated location at the corner of S. WC Riles Street and E. Brannen Ave, adjacent to the Murdoch Center.

**FUNDING:** Beautification, Arts and Sciences Program capital projects are funded by the Bed, Board and Beverage Tax

**Requirements and Questions:** All questions and submissions are to be electronic and sent via email to Susan Hardiman, [Susan.Hardiman@Flagstaffaz.gov](mailto:Susan.Hardiman@Flagstaffaz.gov). For questions to be answered they must be received **3 calendar days prior to the closing date** and time.

#### Project Specifications and Site

**Background:** The Flagstaff Heritage Preservation Office in conjunction with the Flagstaff Parks Recreation Open Space & Events (PROSE) plans to develop a small southside neighborhood public park managed by PROSE out of the present non-designated landscaped areas west of the Murdoch Center. The Beautification, Arts & Sciences program has allocated funding for an artwork.

The Park will be independently managed separate and distinct from the Murdoch Community Center, a leased City property. This new Southside Neighborhood Park has not been officially named.

The adjacent Murdoch Community Center is a Black heritage site. The building was constructed on the site of the Dunbar School, which was built in 1926 after the state legislature mandated racial segregation. Prior, all Flagstaff children had attended school together. The school board tried to educate Black youngsters in a separate room in Emerson School rather than move them off campus, but the state forced it to build a separate school.

The new school building was named after Paul Laurence Dunbar, the son of an escaped slave, whose songs, short stories, and poems, such as "Lyrics of Lowly Life", reached an international audience.

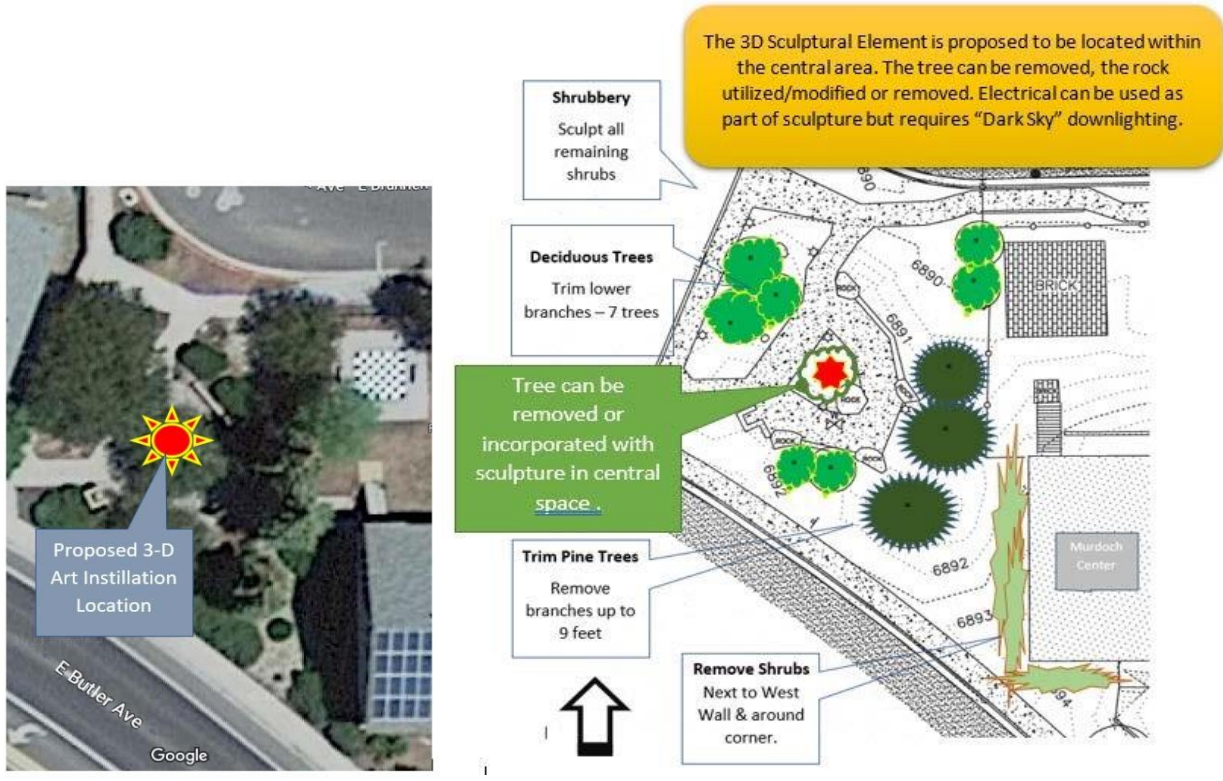
In 1952-53, before the Supreme Court Decision of Brown vs. Board of Education, Superintendent Sturgeon Cromer and Dunbar School's principal, Wilson C Riles, a 1940 graduate of the Arizona State Teachers College (renamed NAU in 1965), led a community wide effort to eliminate school segregation. In 1954 they transferred Dunbar's seventh- and eighth graders to the South Beaver School and voluntarily closed. The principal during the 1930s, Cleo Wilson Murdoch, a highly regarded community leader. In the 1980s, when Butler Street was widened to four lanes, the Murdoch Center was renovated, reduced in size, and moved to its current location and edifice, allowing the community to continue paying homage to both Dunbar and Murdoch.

Presently the Murdoch Community Center is an inter-generational and multicultural center reflecting the different cultures represented in the southside. It is home to the Southside Community Association, The Murdoch Center serves the Southside Neighborhood and surrounding community in Flagstaff, AZ, and offers a large meeting hall for clubs, organizations, city/neighborhood meetings, as well as private parties.

The new park is within the Southside neighborhood, which is in the heart of downtown Flagstaff, Arizona. Historically a racially diverse neighborhood, the Southside is known for its diversity, businesses (including craft breweries and pizzerias on and around San Francisco Street), and walkability. It is home to multigenerational families and students alike, as its Southern border is comprised of Northern Arizona University.

Flagstaff's City Council unanimously adopted a community plan for the Southside Neighborhood in 2020. It can be found here: <https://www.flagstaff.az.gov/4428/Southside-Community-Specific-PlanArchiv>

**Art Location:** This new Southside Neighborhood Park is at the conjunction of S. WC Riles Street and E. Brannen Ave, adjacent to the Murdoch Center in Flagstaff, AZ and Butler Avenue. The currently proposed area for the art piece is centralized in a concrete walk around within the park boundary. The available area can at a site where a tree exists, which could be removed or left and used in a comingled design. Alternate locations within the boundaries of the park proposed by artists will be considered.



**Artwork:** Envisioned is a three-dimensional art piece of a human scale that both responds to the historic context and is aspirational either in its beauty or in its content. It may have a primary forward face but will be visible from all pedestrian angles. Material shall be strong, durable, resistant to vandalism and withstand Flagstaff's climatic conditions without significant maintenance.

**Vendor Eligibility**

This call to artists is open to all professional artists who are residents of the United States.

**Project Budget**

**Three or Four Finalists** will be chosen out of the **initial applicants based on qualifications** and past projects. **Each finalist** will receive an **honorarium fee of \$1,000** to:

- attend a site visit
- produce a design-fabrication-installation proposal • present the proposal to a selection panel.

In addition, the art budget for the artist who is awarded the contract will **not exceed \$45,000**. The total budget must cover **all** expenses including but not limited to:

- All costs, including supplies and materials, necessary for design, fabrication, and installation for completing this project.
- A contingency amount of \$3,000
- Taxes and insurance
- All costs for transportation for the artist and the artwork installation, including working with city staff and/or the community via remote meetings and on site as required. It is anticipated that 2-3 community meetings will occur.

**Estimated Schedule**

The City of Flagstaff reserves the right to alter these dates as necessary. Where non-performance is caused by usual and natural consequences of external forces, installation schedule shall be adjusted accordingly.

~~May 23, 2023~~ **June 6, 2023**- Application submission deadline (5:00 p.m.)  
By ~~June 13~~ **27, 2023** - Submission Evaluations  
By ~~June 20~~ **July 05, 2023** - Notification of Finalists with Proposal Instructions  
By ~~July 21~~, **August 04, 2023** - Site Visit  
By August ~~17~~ **31, 2023** - Proposals Due  
By ~~Aug. 30~~ **Sept 13, 2023** – Proposal Evaluation  
By September ~~05~~ **19, 2023** - Notification of Recommended Proposal  
~~Sept. 11~~, **Oct. 09, 2023** – Beautification and Public Art Commission Approval  
By ~~Sept. 25~~, **Oct. 13, 2023** – Contract Offer  
By ~~October 16~~, **Nov. 03, 2023** Notice to Proceed

Fabrication and Installation Schedule to be determined, with completion of project anticipated within 9 months of Notice to Proceed

**Project Contact shall be:** Susan D. Hardiman, Beautification, Arts & Sciences Project Administrator.  
Email [Susan.Hardiman@Flagstaffaz.gov](mailto:Susan.Hardiman@Flagstaffaz.gov).

**Provide the Following in Your Response:**

**Application Requirements**

The following separate attachments, must be submitted as specified below:

- A **statement** of interest in **PDF** format, qualifications, and general project approach (not to exceed 600 words in a minimum of 11-point font). Include at the bottom of the page **Contact information** (name, address, email and telephone no.)
  - **ten (10) images** of completed representative past work, preferably placed in a Power Point, one (1) image per slide, plain black background and no words; however, if an applicant does not have Power Point, separate JPEGs are allowed.
  - **An image list** in **PDF** format with **the title, medium, dimensions, project budget, date completed, commissioning agency** if applicable, and a **short description (not to exceed 50 words)** of the artwork pictured for each image.

Three or four (3-4) finalists will be chosen based on requested written materials and images of past projects. Ideal candidates for the project will have:

- Consistent and strong aesthetic throughout previous public art projects.
- Previous public art projects that demonstrate ability to create site specific art.
- Experience and expertise in two and three-dimensional public art media appropriate for outdoor installation in high desert environments; that is media that is durable, vandalism resistant, and easily maintained in high desert environments with numerous freeze-thaw cycles.
- Ability to successfully deal with local public issues and concerns with sensitivity.

**All finalists will receive instructions for submission of proposals.**

Email application materials **as attachments** to: [Susan.Hardiman@Flagstaffaz.gov](mailto:Susan.Hardiman@Flagstaffaz.gov)

**Total size of the email** with application requirement attachments **cannot exceed 30 MB**. Send separate emails if necessary. You will receive a notification that your application has been received within 48 hours. Please send a separate email inquiry without attachments if you do not receive this notification.

Applications not meeting the above listed requirement will not be considered. Finalists will receive additional instruction upon selection regarding what to include in their proposals. **No proposals are to be included in the initial application.**

### Selection Process

A selection panel will be convened to review all submissions meeting the application requirements and deadline. The artist will be selected on the basis of submission materials evidencing artistic quality of past work and experiences with site specific public art projects (specific criteria below). Based upon preliminary submission materials the panel will invite three to four (3-4) finalists for a site visit and to submit a proposal. Upon receipt of the proposals, the selection panel reconvenes to evaluate the proposals and make a recommendation. Once recommended by the panel, the Heritage Preservation Office and the Beautification and Public Art Commission must approve the artist proposal before a contract will be offered and the project may begin. The City reserves the right to reject the recommended proposal.

### Evaluation Criteria for the Selection Panel to Choose Three to Four Finalists

- a. **30 points.** Consistent originality, visual/aesthetic quality, and artistic merit in previous public art projects:
- b. **30 points.** How well the previous public art projects complement the specific site location of the artwork, including how well the projects improve the physical environment and how well the project reflects the community in which it resides.
- c. **20 points.** Ability to successfully deal with local public issues and concerns with sensitivity.
- d. **20 points.** Experience and expertise in public art media appropriate for outdoor installation in high desert environments; that is media that is durable, vandalism-resistant, and easily maintained in a high desert environment with numerous freeze and thaw cycles.

### Sample Contract

#### CONTRACT FOR PURCHASE OF SERVICES

Contract No. 2023-xxx

This Contract is entered into this \_\_\_\_ day of \_\_, 2 by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and \_\_\_\_\_ ("Contractor").

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

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

1. Scope of Work: Contractor shall provide the services generally described as follows:

**SOUTHSIDE PARK ART**

and as more specifically described in the Scope of Work attached hereto as Exhibit A.

2. Compensation: In consideration for the Contractor's satisfactory performance, City shall pay Contractor an amount not to exceed Forty-Five Thousand Dollars and Zero Cents (**\$45,000.00**). Any price adjustments must be approved by mutual written consent of the parties. The City Manager or his/her designee (the Purchasing Director) may approve an adjustment if the annual contract price is less than \$50,000; otherwise City Council approval is required.
3. Standard Terms and Conditions: The City of Flagstaff Standard Terms and Conditions, attached hereto as Exhibit B are hereby incorporated into this Contract by reference and shall apply to performance of this Contract, except to the extent modified in Exhibit A.
4. City Representative: The City Representative is Jana Weldon, Beautification, Arts and Sciences Project Administrator, or his/her designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the City Buyer.
5. City Cooperation: The City will cooperate with Contractor by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Contractor's performance of this Contract.
6. Contract Term: The Contract shall be effective as of the date signed by both parties and shall continue through September 30, 2024, unless renewed or sooner terminated per the terms of this Contract.
7. Renewal: This Contract may be renewed for up to two (2) additional six (6) month terms by mutual written consent of the parties. The City Manager or his/her designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City

8. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions attached hereto.
  
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 Contractor in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing.
  
11. Intellectual Property Rights Warranty; City Ownership and Use of Artwork; Artist Ownership of Artwork Copyright and Commercial Use. The rights of the parties are set forth in *Exhibit A*.
  
12. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Contractor shall immediately deliver to City copies all of City's work product and any other documents and data accumulated by Contractor in performance of this Contract, whether complete or in process.



211 WEST ASPEN AVE.

INSURANCE

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

MISCELLANEOUS

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

SIGNATURE PAGE

**EXHIBIT**

**A**

**SCOPE OF**  
**WORK**

**A. SITE:**

The location is a park, which has not been officially named but is presently called the Southside Neighborhood Park, at the corner of Brannen & WC Wiles just west of the Murdoch Center, which is being developed out of the present non-designated landscaped areas by the Flagstaff Heritage Preservation Office in conjunction with the Flagstaff Parks Recreation Open Space & Events (PROSE).

**B. DESIGN:**

The Artist will develop, fabricate, and install the design\_\_\_\_\_, proposed by the artist and approved by the Beautification and Public Art Commission on October 09, 2023.

(Further detail to be provided by artist proposal)

The Artist, in coordination with Beautification, Arts & Sciences staff, will conduct public outreach to promote the upcoming artwork, including a model and displays as directed by Beautification, Arts & Sciences staff. All public outreach will meet City standards for COVID-19.

Artist shall prepare fabrication and installation budget(s) for the Artwork and promotional materials. The budget shall include a 5% contingency and no more than a \$7,800 professional service fee for the Artist.

It is an essential element of the Artist's services to coordinate with the City.

For fabrication and installation of all public art elements, the artist must adhere to designated areas and measurements as specified by City staff. City staff is required to authorize commencement of fabrication and installation of the Artwork in writing before Artist proceeds with these steps.

**C. CONSTRUCTION DOCUMENTS AND PERMITS:**

Artist shall produce construction documents necessary for the fabrication and installation of the Artwork. Payment for any sub-consultants to produce construction documents, including the structural engineer and electrical engineer, shall be the responsibility of the Artist.

All construction documents submitted by Artist shall be under seal of a registered Arizona engineer or architect if required in accordance with the City engineering standards.

Artist must seek and pay for all necessary City permits and plans to install the artwork, including but not limited to a Commercial Building Permit, and Encroachment Permit and a Traffic Control Plan

**D. SUBCONTRACTS:**

Artist will contract with any and all fabricators required to create the Artwork and provide City Beautification, Arts & Sciences staff access to review progress of fabrication. Artist will contract with any and all installers required to install the Artwork and meet all City requirements to work on-site including having an Arizona Contractor's License.

**E. PAYMENT SCHEDULE:**

1. Initial payment – **\$4,500 (10%)** Contract Initiation shall be paid upon Contract signing.
2. Progress payment - **\$27,000 (60%)** – Shall be paid upon **initiation of fabrication**, estimated to be completed by **February 2023**. Contractor shall submit all constructions documents, including any structural engineering required, and contact information for any fabrication subcontractors.
3. Progress payment - **\$9,000 (20%)** – Shall be paid upon **initiation of installation**, estimated to be completed by **July 2023**. Contractor shall provide contact information for any installation subcontractors.
4. Final payment - **\$ 4,500 (10%)** – Shall be paid upon City's final acceptance of 100% of the installed Artwork, estimated to be completed by **September 2023**. The invoice shall be labeled as "final". The final invoice submitted shall include photographs of the completed artwork, the Artistic, Technical and Maintenance Record set forth in **Exhibit D**, Title and ownership of Artwork transfer to the City upon Contractor's receipt of this final payment.

**F. NOTICE AND CORRECTION OF DEFICIENCIES:**

If at any time the City determines that the Artwork design, fabrication, or installation does not conform to the approved final design or this Agreement, the City reserves the right to notify the Contractor in writing of the deficiencies and that the City intends to withhold the next payment within 30 days of the determination, and the City may issue a stop work order. Contractor will have 30 days to cure the City's objections and will notify the City in writing of completion of the cure. If Contractor disputes the City's determination, within 15 days of Contractor's receipt of City's notice, Contractor shall notify the City in writing. In such event, the City shall make reasonable efforts to resolve the dispute however, final determination as to whether Contractor has complied with the terms of this Agreement will remain with the City.

**G. FINAL ACCEPTANCE:**

The City shall notify the Artist in writing of its final acceptance of the Artwork. Final determination as to whether all services have been performed according to this Agreement shall remain with the City.

**H. INTELLECTUAL PROPERTY RIGHTS WARRANTY:**

Artist hereby warrants that the Artwork provided, and that City's purchase and use of the Artwork pursuant to this contract/purchase order does not infringe on any patent, trademark or copyright or other proprietary rights of any third parties.

**I. CITY OWNERSHIP AND USE OF ARTWORK:**

- a. Upon purchase, title to the Artwork passes to the City.
- b. Artist grants City the non-exclusive right to photograph, reproduce or manufacture renderings of the Artwork of all sizes, materials, shades of color, or black and white (collectively “the Artwork Reproductions”).
- c. Artist grants the City the non-exclusive right to display the Artwork Reproductions on City property.
- d. Artist grants City the non-exclusive right to publish the Artwork and Artwork Reproductions in any type of medium, including but not limited to electronic formats for the purposes of publicity, marketing, community outreach, education, or public exhibition, and local calendars.
- e. Upon prior written request of Artist, City shall place a copyright notice on the Artwork or Artwork Reproductions prior to manufacture.

**J. ARTIST OWNERSHIP OF ARTWORK COPYRIGHT AND COMMERCIAL USE:**

1. The Artist retains: (1) all rights to the Artwork under the Copyright Act of 1976, 17 U.S.C. § 101, et seq., as amended by the Visual Artists Rights Act (VARA), and any successor act; and (2) all rights expressly granted in this contract, as well as any and all other intellectual property rights in the Artwork, whether statutory or common law, international, federal, state or local, except as specifically set forth herein.
2. Artist may, at the Artist’s expense, cause to be registered with the United States Register of Copyrights, a copyright of the Artwork in the Artist’s name and may provide the City with a copy of the application for registration, the registration number and the effective date of the registration.
3. Artist as copyright owner may use or sell the Artwork for commercial purposes, so long as such sale is subject to City’s ownership and use rights as stated herein.

**K. ARTIST’S WARRANTIES OF QUALITY AND CONDITION OF ARTWORK:**

1. The Artist warrants to the City that the fabrication and installation of the Artwork will be performed in a workmanlike manner and that the Artwork will be free of defects in workmanship, fabrication, materials or installation, including inherent vice, and that the Artist will, at the Artist’s own expense, remedy any defects found in the Artwork due to faulty workmanship, fabrication, materials or installation for a period of two (2) years after the final acceptance of the Artwork by the City. Artist shall promptly repair or replace in the City’s sole discretion and at no additional cost to the City any portion of the Artwork that is found to be defective during the warranty period.
2. The Artist warrants to the City that the Artwork maintenance recommendations to be provided by the Artist to the City set forth in *Exhibit D* will be adequate to maintain the Artwork in good condition, reasonable wear and tear excepted, for the estimated life of the Artwork.
3. With the exception of damage due to vandalism or accident by any person other than the Artist or persons under Artist’s employ, direction or supervision, the Artist warrants that the Artwork will not contain any defect in design or construction including any defect which may be a hazard or a danger to the health and safety of the public and further agrees to cooperate in making or permitting adjustments to the work, if necessary, to eliminate hazards or potential hazards which become apparent after the Artwork is accepted by the City.

4. The Artist represents and warrants that the Artwork and the materials used are not currently known to be harmful to public health and safety.

**L. MESSAGING OF ARTWORK:**

Artists shall use best efforts to ensure that no work or services funded under this Contract shall inhibit, promote, or convey a religion, a political party or position, or a religious or political message or advocacy.

**M. MAINTENANCE AND REPAIRS:**

1. As a condition of and prior to final acceptance of the Artwork by the City, the Artist will supply the City with maintenance instructions for the Artwork.
2. The City is responsible for the proper care and maintenance of the Artwork. The City agrees to ensure that the work is maintained and protected to the extent practical.
3. During the lifetime of the artwork the Artist will supply at no cost to the Artist and at no charge to the City, advice as to problems arising in relation to maintenance of the Artwork.
4. The City shall make every reasonable effort to consult with the Artist concerning repairs to the Artwork. To the extent practical, the Artist shall be given the opportunity to accomplish repairs at a reasonable fee. The City reserves the right to obtain competitive bids and to choose the highest quality but not necessarily the least expensive vendor for all repairs and restoration. In the event that City makes repairs or restoration not approved by Artist, Artist shall have the right, at Artist's sole option, to have Artist's association with Artwork severed.

**N. SURVIVAL OF PROVISIONS:**

These representations and warranties shall survive the termination or other expiration of this Agreement:

- H. INTELLECTUAL PROPERTY RIGHTS WARRANTY;
- I. CITY OWNERSHIP AND USE OF ARTWORK;
- J. ARTIST OWNERSHIP OF ARTWORK COPYRIGHT AND COMMERCIAL USE
- K. ARTIST'S WARRANTIES OF QUALITY AND CONDITION OF ARTWORK;
- L. MESSAGING OF ARTWORK;
- M. MAINTENANCE AND REPAIRS.

**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.~~ Contract shall commence upon effective date of the Contract.
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 14 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. 15



- 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.

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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 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 17 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 18 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 19 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. 20
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.
- 21
- 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
	<del>b. Umbrella Coverage</del>	<del>\$2,000,000</del>
e.	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. <del>Professional Liability</del>	\$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.

**EXHIBIT D**

**ARTISTIC, TECHNICAL AND MAINTENANCE RECORD**

**(To be submitted with final invoice)**

1. General Information

Artist

Title of artwork

Location

General description of artwork

2. Artist's Statement about Artwork – to be used for publicity of the Artwork.

3. Artwork Information – in depth information for overall Artwork and for each individual element.

Medium and Description of Materials (include materials thickness, welding rod alloy or joint material, casting alloy, wax body, glass or fiber type)

Special Methods Utilized in Execution of Artwork (welding or joint method, technique or construction method – attach fabrication drawings)

Material Finish (glaze, paint color and type, sanding grit, tool pattern, patina, surface sealer)

Installation Method(s) (foundation installation structure, bolt/pin size, grout)

Placement of Artwork (cautions regarding sunlight, heat, etc.)

4. Vendors/Parts/Storage – include supplier’s name, address and phone number, description for all components of Artwork; attach copies of manufacturer specifications whenever possible.
  
5. Regular Maintenance Schedule – include cleaning agents and recommended cleaning procedure, yearly maintenance schedule for the entire Artwork and recommended procedure to check any electrical or mechanical parts that are integrated in this work.
  
6. Special Considerations and/or Additional Pertinent Information
  
7. Plaque Text

Artist’s Name

Title of Artwork, Year Completed

Beautification, Arts & Sciences, City of Flagstaff

