



Request for Statement of Qualifications
Standard Specifications and Contract Documents
Job Order Contracting Services for Citywide Construction

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Request for Statement of Qualifications

Job Order Contracting Services for Citywide Construction

DESCRIPTION: This Job Ordering Contract (JOC) is for a broad range of building, altering, maintaining, repairing, improving, or demolishing any public structure or building of various scopes and sizes on an as-needed basis at various project locations throughout the City of Prescott, Arizona. For projects determined by the City to be appropriate for this JOC, the City will request the contractor prepare a scope of work, cost proposal, and project schedule. If acceptable, the City will issue an individual job order agreement and direct the contractor to proceed with the work. The City anticipates that awarded contractors will be issued work, the contractor is neither guaranteed a minimum amount of work nor jobs. The City reserves the right to issue job order contracting agreements based on the ability of the contractor to meet the City's work schedule, the availability of trades and expertise in relation to each project.

BID OPENING: September 8, 2022, at 2:00pm City Council Chambers 201 S. Cortez Street, Prescott, Arizona 86303.

In accordance with local and State law, sealed bids will be received by the Office of the City Clerk at 201 S. Cortez Street, Prescott, Arizona 86303, until 2:00pm on the date specified above, for the services specified herein. Bids will be opened and read aloud at the above noted date, time, and location. Any bid received at or after 2:00pm on the referenced date will be returned unopened.

Copies of Project Specifications and Contract Documents are available for inspection on the City's website at:

<https://www.prescott-az.gov/business-development/purchasing/bid-listings/open-bid-requests/>

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Request for Statement of Qualifications

Job Order Contracting Services for Citywide Construction

The City of Prescott is soliciting statement of qualifications for Job Order Contracting Services for Citywide Construction. Sealed requests including one (1) original, (not bound or stapled) will be opened on September 8, 2022, at the time and place indicated in Section 2.2.

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1.0 Solicitation Specifications

1.1 Project Description

This Job Ordering Contract (JOC) is for a broad range of building, altering, maintaining, repairing, improving, or demolishing any public structure or building of various scopes and sizes on an as-needed basis at various project locations throughout the City of Prescott. For projects determined by the City to be appropriate for this JOC, the City will request the contractor prepare a scope of work, cost proposal, and project schedule. If acceptable, the City will issue an individual job order agreement and direct the contractor to proceed with the work. The City anticipates that awarded contractors will be issued work, the contractor is neither guaranteed a minimum amount of work nor jobs. The City reserves the right to issue job order contracting agreements based on the ability of the contractor to meet the City's work schedule, the availability of trades and expertise in relation to each project.

1.2 Scope of Work

The City operates multiple facilities including Prescott Regional Airport, City Hall, Parks and Recreation Centers, Prescott Rodeo Grounds, 2 Wastewater Treatment Plants, 7 Water Wells, over one hundred Water and Wastewater Pump Stations, Police Stations, multiple Fire Stations, Public Works and Engineering Facility, and Library.

The Scope of work will include work tasks as requested and described below relating to a variety of citywide construction projects. These projects will include any or all of the following: earthwork and landscaping, structural, electrical, mechanical, plumbing, HVAC, drywall, painting, and any other related general contracting functions.

The following activities may be included in individual projects. If the contractor does not have direct expertise in some of these areas, they must demonstrate the knowledge needed to act as the general contractor utilizing specialty subcontractors for specific work elements.

Work Activities (including but not limited to):

- a. **Permit Management:** The attainment of permits from any and all jurisdictions which the project may require, including but not limited to the City of Prescott and Yavapai County.
- b. **Construction:** The physical construction of the work, through competitive subcontractor selection/bidding and/or self-performance as dictated by the unique needs of each individual project.
- c. **Cost Proposals:** Upon the request of the owner, project cost proposals may be submitted either as a lump sum or as a Guaranteed Maximum Price (GMP). GMP cost proposals shall be "open book" with full transparency provided to the Owner and any project allowance savings will be returned to the Owner at the end of the project.
- d. **Federal Compliance:** Where federal monies are utilized, the scope shall include prevailing wage compliance as per the Davis Bacon Act and

submission of weekly certified payroll. The City of will notify the contractor if federal grants are utilized.

- e. Project Close-Out: The preparation, maintenance, or modification of the Owner's project close-out documentation including, but not limited to: RLS certified survey as-built, CAD updates to as-built documents, operations and maintenance manuals, warranty manuals, turnover of certified payroll documentation (federal projects only), City, County, State, or Federal agency special close-out requirements, and maintenance personnel training (if applicable). Preparation of construction estimates. City staff may desire to use the contractor during capital project planning or design stages to perform construction estimates.

1.3 Contractor License

Contractor shall be a licensed contractor through the Arizona Registrar of Contractors and have the proper classification to perform the work specified in this contract.

1.4 Guarantee

The Contractor shall guarantee all work and operation of materials provided for one year after completion of the work and each offer shall provide a one-year warranty/guarantee against defects in materials, faulty workmanship and/or performance for all items required of the specifications. Contractor further warrants that all services provided under any job order agreement resultant of this Contract shall conform to the specifications of this Contract and any resulting job order agreement.

1.5 Ordering Work

Contractor shall provide the City with a written cost proposal for each project.

Proposals shall be itemized per the job pricing matrix and the job order cost proposal. Estimates are binding on the Contractor. However, conditions which will alter the original estimate may be brought to the attention of the City's Project Manager ("Project Manager") for approval. Such notification will occur quickly enough so as not to delay any project underway.

Contractor shall proceed with work only upon obtaining an off-site/ROW permit from the Engineering Department and the receipt of a purchase order. The City will waive any City permit fees.

1.6 Scope of Work Meeting

Prior to the commencement of any work on a project, a scope meeting will be held. Minimum attendance of the Contractor's staff shall include a responsible company official and the job superintendent. The agenda will include:

- a. Critical elements of the work schedule.
- b. The traffic control plans in writing.
- c. Coordination with the involved utility firms.

- d. Emergency telephone numbers for all representatives involved in the course of construction.
- e. Names and telephone numbers for all subcontractors proposed for use on the project

1.7 Contractor's Construction Schedule

The Contractor shall prepare and submit for approval a construction schedule outlining the proposed sequence of operations. The schedule shall conform to specific limitations of operations specified herein and to the approved traffic control plan, if needed.

1.8 Change in the Work

The Director may at any time, as the need arises, order changes within the scope of work of any job order agreement without invalidating the agreement. If such changes increase or decrease the amount due under the Contract documents, or in the time required for performance of the work, an equitable adjustment shall be authorized by written change order.

The Director also may, at any time, by issuing a written field order, make changes in the details of the work for any job order agreement. The Contractor shall proceed with the performance of any changes in the work so ordered unless the Contractor believes that such written field order entitles him/her to a change in Contract price or time, or both, in which event Contractor shall give the City written notice thereof within three days after the receipt of the field ordered change, and the Contractor shall not execute such changes pending the receipt of an executed change order or further written instruction from the City.

1.9 Layout, Field Measurements, and Inspection of Surfaces

Contractor shall be solely responsible for the accuracy of measurements and laying out their own work and shall make good any errors due to faulty measurements taken, information obtained, layout, or failure to report discrepancies. The City will assist the Contractor in establishing preliminary working lines and benchmarks.

The Contractor shall notify the Project Manager in writing of any defects noted in such surfaces that are to receive their work. The Project Manager will direct such surfaces to be remedied.

1.10 Inspection

City Inspectors ("Inspectors") will monitor the work site(s) to report as to the progress of the work, the manner in which it is being performed, and report whenever it appears that material furnished, or work performed by the Contractor fails to fulfill the requirements of the job order agreement. The Inspectors may direct the attention of the Contractor to such failures or infringement.

In a case of a dispute arising between the Inspector and the Contractor as to material furnished or the manner of performing the work, the Inspector shall have the authority to reject materials or suspend the work until the question and issue can be referred to and decided by the Director or designee. Inspectors are not authorized to revoke, alter,

enlarge, relax, or release any requirements of the specifications. Inspector shall in no case act as foremen or perform other duties for the Contractor or interfere with the management of the work by the Contractor.

Inspection or supervision by the Director or designee shall not be considered as direct control of the individual worker and/or their work. The direct control shall be solely the responsibility of the Contractor.

1.11 Quality Assurance

The Contractor/Vendor is responsible for all laboratory tests and certifications to assure that the material is in conformance to the requirements set forth in this advertisement. Representative samples of the cover material, taken under the direct supervision of the Engineer, laboratory test results and certificates of compliance shall all be submitted to the Engineer. The Engineer may reject delivered base material if, in his opinion, the delivered material differs significantly from the representative sample.

1.12 Protection of Finished or Partial Finished Work

The Contractor shall properly guard and protect all finished or partially finished work and shall be responsible for the same until the entire contract is completed and accepted by the City. Partial payment on work so completed shall not release the Contractor from such responsibility, but they shall turn over the entire work in full accordance with these specifications before final settlement shall be made.

1.13 Stockpile of Materials

The Contractor may, if approved by the Project Manager, place materials in the public right of way provided they do not prevent access to adjacent properties or prevent compliance with traffic regulations. Traffic shall not be required to travel over stockpiled materials and proper dust control shall be maintained.

1.14 Supervision by Contractor

The Contractor shall supervise and direct the work and shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Contractor shall employ and maintain at the work site a qualified supervisor or superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The representative shall have full authority to act on behalf of the Contractor and all communications given to the representative shall be as binding as if given to the Contractor. The representative shall be present on the site at all times as required to perform adequate supervision and coordination of the work.

1.15 Standard Specifications and Details

Except as otherwise noted, cost allocations of this project and all work done under this Contract shall be in accordance with these specifications and all applicable Uniform Standard Specifications For Construction sponsored and distributed by Maricopa Association of Governments (MAG), MAG Standard Details, the City supplements to MAG Standard Details, including the latest approved revisions thereto in force at the time of bid advertisement, which shall be referred to hereinafter as the "Standard Specifications." In all cases where accepted standards (American Water Works

Association (AWWA), American National Standards Institute (ANSI), American Association of State Highway and Transportation Officials (AASHTO), Arizona Department of Transportation (ADOT), American Society for Testing and Materials (ASTM), MAG, etc., are referred to in the "Standard Specifications," the latest revisions as of bid advertisement shall prevail.

1.16 Dumping and Disposal of Waste

The Contractor is responsible for the cost to dispose of all waste products including excess earth material which will not be incorporated into the work under this contract. The waste product referred to herein shall become the property of the Contractor, unless otherwise directed by the Director.

1.17 Clean Up

Clean up shall include the removal of all excess materials in conjunction with the project accumulated on any driveways, curbs, landscaping, or any other surface. No special payment will be made for this item.

The Contractor shall, upon completion of the work, remove all temporary construction facilities, debris, and unused materials provided for in the work, and put the work site of the work and public right-of-way in a neat and clean condition. No special payment will be made for this item.

1.18 Dust Prevention

The Contractor shall take whatever steps, procedures or means required to prevent abnormal dust conditions due to construction operations in connection with this contract. The dust control measures shall be maintained at all times during construction of the project to the satisfaction of the Director and in accordance with the requirements of the Yavapai County Health Department Air Pollution Control and Environmental Protection Agency (EPA) regulations. Contractor will work under the City's Dust Control permit.

1.19 Miscellaneous Removal and Relocations

Miscellaneous removals and relocations shall be construed to mean the removal of all unsuitable materials whether designated or allied by the plans and specifications and shall include but not be limited to the removal of such items as pipes, concrete, asphalt, block, brick, rock, metal, etc. of every nature and description, unless such items are specifically designated in a separate line item. Certain items require temporary removal and reinstallation such as mailbox stands, signposts, survey monument frames and covers, etc., and are included in this category.

1.20 Traffic Control

Most projects will be small enough where major traffic control will not be required. Quotes will be requested for each project. If the need for major traffic control arises for a certain project the cost for traffic control can be added as a separate line item. Any revisions shall be submitted to Public Works for review and approval.

All traffic shall be regulated in accordance with MAG Specifications and the Manual on Uniform Traffic Control Devices (MUTCD).

The Contractor shall have the full responsibility and liability for traffic control under each job order agreement. The Contractor shall submit a Traffic Control Plan to the Public Works Department for approval prior to beginning any work under any job order agreement. It shall be noted that Traffic under this Contract shall include all motor vehicles, bicyclists, and pedestrians.

The Contractor shall notify all adjacent or affected residents or businesses at least 48 hours in advance of any street, alley, sidewalk, and driveway closures and make suitable arrangements to have all vehicles moved to a satisfactory location outside the closed area.

Access shall be maintained to adjacent businesses at all times during construction. Where property has more than one point of access, no more than one access shall be restricted or closed at any one time. Access to adjacent private driveways shall be maintained during all non-working hours.

No measurement will be made for traffic control. No payment will be made for traffic control the cost thereof shall be included in the price bid submitted for the construction or installation of the items to which such traffic control is incidental or appurtenant.

1.21 Survey Control Points

Existing survey monuments shall be protected by the Contractor or removed and replaced under the direct supervision of the City Department Prior to construction, it is the responsibility of the Contractor to notify the City of any survey monuments which need to be referenced off. Any monuments which are lost and have not been referenced off due to the Contractor's negligence and lack of notification to the City shall be replaced at the Contractor's expense. Lot corners shall not be disturbed without knowledge and consent of the property owner and only after such corner has been properly referenced for replacement.

1.22 Protection of Existing Facilities

The Contractor shall protect all existing facilities during construction. Utility poles that may be affected by the construction activities shall be protected and/or braced by the Contractor. The Contractor shall notify the appropriate Utility Company or agency of any construction that may affect their facilities and state the course of action, which will be taken to protect same.

1.23 Testing of Materials

Most projects will be small enough where testing is not required. All tests shall be done according to the City and results certified by an independent laboratory approved by the City. All material testing should be included in the project price.

1.24 Cooperation with Utilities

The Contractor shall comply with the requirements of the A.R.S 40-360.21 through 40-360.43 in notification to the interested utility owners prior to the start of construction and shall ascertain the approximate locations of the various underground utilities shown on the plans, and as may be brought to their attention. The exact location of these underground utilities shall be determined by excavations made by the Contractor prior to any trenching operations. When the Contractor's operations result in damage to any

utility, the location of which has been brought to their attention, they shall assume full responsibility for such damage.

- a. The Contractor shall contact the City's Public Works Department for blue staking of all traffic signals, when required.
- b. The Contractor shall assume full responsibility for all damage to all utilities, the locations of which have been made known to them due to their operations, and shall repair the damaged utilities as required herein, at their own expense.
- c. It is the Contractor's sole responsibility to coordinate with the utility companies to have any conflicts between existing utilities and the new construction project resolved. The City will not be held responsible for any delay claims due to such conflicts.
- d. Any waterlines or fire hydrants damaged during construction shall be replaced at the Contractor's expense as per the requirements of the MAG Standard Specifications.
- e. No water valve, sewer manhole or clean out shall be left damaged or inaccessible for more than seven working days. If deficiencies are not corrected within the prescribed time period, the necessary repairs will be affected by the City at the Contractor's expense.

1.25 Required Permits

Contractor will be responsible for any required permits either City or any other agency.

1.26 Independent Contractor

1.26.1 General

- a. The Contractor acknowledges that all services provided under tills Contract are being provided as an independent contractor, not as an employee or agent of the City.
- b. Both parties agree that this Contract is nonexclusive, and that Contractor is not prohibited from entering into other contracts nor prohibited from practicing their profession elsewhere.

1.26.2 Other Benefits

The Contractor is an independent contractor; therefore, the City will not provide the Contractor with health insurance, life insurance, workmen's compensation, sick leave, vacation leave, or any other fringe benefits. Further, Contractor is exempt from coverage of the Comprehensive Benefit and Retirement Act (COBRA). Any such fringe benefits

shall be the sole responsibility of Contractor.

1.27 Inspections

All material and/or services are subject to inspection and acceptance by the City. Materials and/or services failing to conform to the specifications of this Contract will be remedied immediately by the Contractor.

1.28 Project Completion

Project Completion is full completion of all construction associated with a job order agreement, including, but not limited to, punch list items, close out documentation, Operation & Maintenance manuals, warranties, and record drawings as certified by the Architect or Engineer of record.

1.29 Award

This contract will be awarded to the responsible bidder(s) whose bid conforms to the invitation and whose bid is the most advantageous to the City concerning price, conformity to the specifications and other factors. The City may, at its discretion, award multiple contracts if determined to be in the best interest of the City. The Prescott City Council reserves the right to reject any or all bids, to waive formalities, and to accept the bid(s) deemed to be in the best interest of the City of Prescott. Past performance on City projects or other public projects will be evaluated in awarding contracts, and the City may decide to award to a contractor who is not the low bidder. Each bidder must include delivery and a corresponding delivery charge on Form B (Price Sheet) for each material type that the bidder offers. The primary delivery location for the material will be to the City facilities located along Sundog Ranch Road; however, occasional deliveries will be required to specific job sites within the Prescott City limits. The delivery location for slurry and concrete will always be to specific job sites within the Prescott City limits.

2.0 Solicitation Process Requirements

2.1 Communications with the City and Request for Information

All communications regarding this solicitation must be directed in writing to the Department. Unless authorized by the Director, no other City official or employee is empowered to speak for the City with respect to this solicitation. Bidders are advised that the City shall not be bound by information, clarifications, or interpretations from other City officials or employees. Bidders are cautioned against contacting any City official or employee other than the City Contact for this solicitation. Failure to observe this requirement may be grounds for rejection of Bidder's bid.

The City's buyer for this solicitation is:
Tim Legler, Deputy Recreation Services Director
Recreation Services
E-mail: tim.legler@prescott-az.gov

Requests for information must be received by the Project Manager by **5:00 PM on Thursday**,

September 1, 2022. Responses or addenda will be issued **no later than 05:00 PM on Friday, September 2, 2022.** It is the prospective proposer's full responsibility to check the City's website at <http://www.prescott-az.gov/business/bids/> for Addenda related to this procurement. Signed copy of all addenda must submitted with the proposal package.

2.2 Schedule

2.2.1 Solicitation Advertisement

August 21, 2022

2.2.2 Bid Opening [one (1) original, not bound or stapled]

Thursday, September 8, 2022, at 2:00pm

City of Prescott City Clerk's Office

Council Chambers

201 South Cortez Street

Prescott, AZ 86303

2.3 Addenda

Changes to this solicitation will be made only by addenda issued by the CITY'S Contact. It is the bidder's responsibility to check for any addenda prior to submitting a bid. All addenda issued by the City shall become a part of the specifications of this solicitation and will be made part of the resulting agreement.

2.4 Proprietary Material

A Bidder shall clearly mark any proprietary information contained in its bid with the words "proprietary information." Bidder shall not mark any Solicitation Form as proprietary. Marking all or nearly all of a bid as proprietary may result in rejection of the bid. Bidders should be aware that the City is required by law to make its records available for public inspection. The Bidder, by submission of materials marked proprietary, acknowledges, and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Bidder in the event that the City must legally disclose these materials.

2.5 Multiple Bids

A Bidder may submit multiple bids for any solicitation however, each bid must be submitted separately (in its own complete package) from the others.

2.6 Delivery of Bids

Sealed bids one (1) original must be received at the City Clerk's office no later than the date and time listed in Section 2.2. The bids will be opened and read publicly in the Conference Room at that time.

If the bid is delivered by the U.S. Postal Service, the bid should be addressed to:

Job Order Contracting Services for Citywide Construction

C/O the City Clerk's Office

201 South Cortez Street

Prescott, AZ 86303

Bidder shall enclose one (1) original bid, not stapled, or bound, in a sealed envelope. The envelope should identify the Bidder's name, mailing address, Title, and the time and date of opening. The City shall not consider late bids, telegraphic (fax) or telephone bids. Bidder is solely responsible for ensuring that bids are delivered on time. Delays caused by any delivery service, including the U.S. Postal Service, will not be grounds for an extension of the deadline for receipt of bids. Bids received after the deadline will be returned unopened. A Bidder may submit multiple bids for any solicitation however, each bid must be submitted separately (in its own complete package) from the others.

2.7 Cost of Bids

The City shall not be liable for any costs incurred by Bidder in the preparation and submittal of a bid(s) in response to the solicitation or in the participation of any part of the procurement process.

2.8 Errors in Bids

Bidder is responsible for all errors or omission in their bids, and any such errors or omission will not serve to diminish their obligations to the City.

2.9 Withdrawal of Bids

A bid may be withdrawn by written request of the Bidder prior to the bid due date and time listed in Section 2.2. No bid may be withdrawn for a period of 60 calendar days after the bid due date and time.

2.10 Changes in Bids

Prior to the bid due date and time listed in Section 2.2, a Bidder may make changes to its bid provided the change is initialed and dated by the Bidder. Corrections and/or modifications received after the closing time specified will not be accepted.

2.11 Rejection of Bids

The City reserves the right to reject any and all bids and to waive any immaterial defects and irregularities in bids.

2.12 Disposition of Bids

All materials submitted in response to the solicitation, including samples, shall become the property of the City upon delivery to the City.

2.13 Incorporation of Solicitation and Response in Agreement

This solicitation, including all attachments and addenda, and all promises, warranties, commitments, and representations in the successful bid shall be binding and shall become obligations of the agreement.

2.14 Protests

Any protest of a notice that a bid is non-responsive must be filed by 5:00 p.m. on the third business day after such notification. All such protests shall be in writing, contain a complete statement of the grounds for protest, and is filed with the City Clerk's Office, 201 S Cortez Street, Prescott, AZ 86303. Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of

this solicitation to resolve the basis or bases of their protest during the solicitation process, including asking questions, seeking clarifications, requesting addenda, and otherwise alerting the City to perceived problems so that corrective action could be taken prior to the selection of the Apparent Successful Bidder(s). The City will not consider any protest based on items which could have been or should have been raised prior to the deadline for submitting questions or requesting addenda. The filing of a protest shall not prevent the City from executing an agreement with any other bidder.

2.15 Bid Submittal

Bid one (1) original (not stapled or bound) must be sealed and the envelope must clearly indicate the information as described in Section 2.9. Bidder must fully complete and submit the following documents:

- 2.4.1 Bid Form A - Bidder Response
- 2.4.2 Bid Form B – Job Pricing Matrix
- 2.4.3 Bid Form C - Bid Certification
- 2.4.4 Bid Form D - Non-Collusion Certificate
- 2.4.5 Bid Form E – Certificate of Ownership
- 2.4.6 Bid Form F – Bidder Qualifications, Representations and Warranties
- 2.4.7 Bid Form G – Subcontractor’s List

3.0 General Contract Terms and Conditions

3.1 Entire Agreement

This contract, including all attachments referenced herein, constitutes the entire agreement between the City and the Contractor. The City’s NIB/RFB, all addenda to the NIB/RFB, and the Contractor’s response to the NIB/RFB are explicitly included in this contract. Where there is any conflict among or between any of these documents, the controlling document shall be the first listed in the following sequence: the most recently issued Contract amendment; the Contract; the most recently issued addendum to the City’s NIB/RFB; the City’s NIB/RFB; and the Contractor’s response to the NIB/RFB.

3.2 Term

The initial term of the contract shall be for a period of two (2) years. The contract may be extended for additional one (1) year period up to a total of three (3) additional years, with the mutual consent of the City of Prescott and Contractor. The contract shall commence when the contract is fully executed. Extensions allowed for in this paragraph 3.2 may be done administratively, without additional City council action. Extensions shall be memorialized in writing, agreed to and signed by both parties in an amendment.

3.3 Title

Prices are F.O.B. destination. Title to items and risk of loss remain with Contractor until City receives items at the delivery point.

3.4 Schedule

The Contractor shall deliver the items or render the services as stated in the Contract. At the City’s option, the Contractor’s failure to timely deliver or perform may require

expedited shipping at the Contractor's expense or may be cause for termination of the Contract and the return of all or part of the items at the Contractor's expense. If the Contractor anticipates difficulty in meeting the schedule, the Contractor shall promptly notify the City of such difficulty and the length of the anticipated delay.

3.5 Invoicing

All invoices shall be emailed to the project manager and reviewed for accuracy prior to submission and payments.

3.6 Payment

Invoices will be paid according to early payment discount terms, or if no early payment discount is offered, thirty (30) days after the City's receipt and acceptance of the goods or completion and acceptance of the services. Payment periods will be computed from either the date of delivery of all goods ordered, the completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract. No payment shall be due prior to the City's receipt and acceptance of the items identified in the invoice.

3.7 Unlawful Overcharges

The Contractor assigns to the City all claims for anti-trust violations and overcharges relating to items purchased by the City.

3.8 Price Warranty

The Contractor warrants that the prices for the items sold to the City hereunder are not less favorable than those currently extended to any other customer for the same or similar items in similar quantities. The Contractor warrants that price shown on this Contract are complete, and that no additional charge of any type shall be added without the City's express written consent.

3.9 Warranties

The Contractor warrants that all goods are merchantable, comply with the City's latest drawings and specifications, and are fit for the City's intended use; all goods comply with all applicable safety and health standards established for such products; all goods are properly packaged; and all appropriate instructions or warnings are supplied.

3.10 Equal Employment Opportunity

During the term of this Contract, the Contractor agrees as follows: The Contractor will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification.

3.11 Discrimination in Contracting

The Contractor shall not create barriers to open and fair opportunities for subcontractors and suppliers in obtaining or competing for contracts and subcontracts as sources of supplies, equipment, construction, and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate on the

basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

3.12 Record-Keeping

The Contractor shall maintain, for at least 12 months after expiration or earlier termination of the term of this Contract, relevant records, and information necessary to document the Contractor's utilization of other businesses as subcontractors and suppliers in this contract and in its overall public and private business activities. The Contractor shall also maintain all written quotes, bids, estimates, or proposals submitted to the Contractor by all businesses seeking to participate as subcontractors or suppliers in the contract. The City shall have the right to inspect and copy such records. If this Contract involves federal funds, the Contractor shall comply with all record-keeping requirements set forth in every applicable federal rule, regulation and statute referenced in the contract documents.

3.13 Publicity

The Contractor shall not advertise or publish the fact that the City has contracted to purchase items from the Contractor without the City's prior written approval.

3.14 Proprietary and Confidential Information

The Contractor acknowledges that the City is required by law to make its records available for public inspection, with certain exceptions. City staff believes that this legal obligation would not require the disclosure of proprietary descriptive information that contains valuable designs, drawings, or formulas. The Contractor, by submission of materials marked proprietary and confidential, nevertheless acknowledges, and agrees that the City will have no obligation or any liability to the Contractor in the event that the City must disclose these materials by law.

3.15 Indemnification of City against Liability

To the fullest extent permitted by law, the Contractor agrees to defend, indemnify and hold harmless the City of Prescott, its employees, officers, agents, representatives, directors, and officials from and against all claims, damages, losses, expenses (including but not limited to attorney fees, court costs, and costs 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; Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to or impairment, whether or not recovered under Workmen's Compensation law, destruction or property including loss of use resulting there from, or arising out of the failure of the Contractor or those acting under Contractor to conform to any statutes, ordinance, regulation, law or court decree. It is the intent and agreed to by the parties to this contract that the City of Prescott shall, in all instances, be indemnified against all liability, losses and damages of any nature whatever resulting from injuries to or death of persons or damages to or destruction of

property belonging to any person arising out of or in any way connected with the performance of this contract, whether the liability, loss or damage is caused by, or alleged to be caused in whole or in part by the negligence or fault of the Contractor or of its officers, agents or employees, or subcontractors.

3.16 Compliance with Law

The Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States, the State of Arizona, Yavapai County; the Prescott City Charter, the Prescott Municipal Code, and ordinances of The City of Prescott; and rules, regulations, orders, and directives of their respective administrative agencies and officers, as may be applicable.

3.17 Licenses and Similar Authorizations

The Contractor, at no expense to the City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all related requirements.

3.18 Taxes

The Contractor shall pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment, and improvements; and taxes on the Contractor's interest in this Contract.

3.19 Tax ID Number

Bidder must provide its Arizona Transaction Privilege Tax Number and/or Federal Tax Identification number in the space provided in the Bid Section. A City of Prescott Sales Tax Number, if applicable, must also be supplied.

3.20 Americans with Disabilities Act

The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. If the Contractor is providing services, programs, or activities to City employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.

3.21 Adjustments

At any time, the City may make reasonable changes in the place of delivery, installation or inspection; the method of shipment or packing; labeling and identification; and ancillary matters that Contractor may accommodate without substantial additional expense to the City.

3.22 Amendments

Except for adjustments authorized above, modifications or amendments to the Contract may only be made by a change order or by written document signed by or for both parties.

3.23 Price Adjustment

If the Contractor wishes to increase its prices for a contract extension, the contractor shall provide written notice to the City not less than sixty (60) days prior to the expiration of the original term of the contract (or any extension hereof). The City will consider a fully documented request for price increases. The requested increase shall be based upon a cost increase to Contractor that is directly correlated to the price of the product concerned. City shall determine whether the requested price increase or an alternate option, is in the best interest of City. If a price increase is agreed upon a written Contract Amendment shall be approved and executed by the Parties.

3.24 Acceptance by City

City reserves the right to accept or reject the request for a price increase. If City approves the price increase, the price shall remain firm for the renewal term for which it was requested. If a price increase is agreed upon a written Contract Amendment must be approved and executed by the Parties.

3.25 Price Reduction

Contractor shall offer City a price reduction for its products concurrent with a published price reduction made to other customers.

3.26 Estimated Quantities

Payment shall be based on actual quantities and there is no guarantee that any certain quantity shall be required by City. City reserves the right to increase or decrease the quantities required. The City does not guarantee and maximum or minimum amounts of purchase.

3.27 Assignment

Neither party shall assign any right or interest nor delegate any obligation owed without the written consent of the other, except Contractor may assign the proceeds of this Contract for the benefit of creditors upon 21 days advance written notice to the City.

3.28 Binding Effect

The provisions, covenants and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.

3.29 Waiver

The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.

3.30 Applicable Law

This Contract shall be construed under the laws of the State of Arizona. The venue for any action relating to this Contract shall be in the Superior Court for Yavapai County, State of Arizona.

3.31 Remedies Cumulative

Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.

3.32 Severability

Any invalidity, in whole or in part, of any provision of this Contract shall not affect the validity of any other of its provisions.

3.33 Gratuities

The City may, by written notice to the Contractor, terminate Contractor's right to proceed under this Contract upon one (1) calendar days' notice, if the City finds that any gratuity in the form of entertainment, a gift, or otherwise was offered or given by the Contractor or any agent thereof to any City official, officer or employee.

3.34 Termination

3.34.1 For Cause

Either party may terminate this Contract in the event the other fails to perform its obligations as described herein, and such failure has not been corrected to the reasonable satisfaction of the other within thirty calendar days after notice of breach has been provided to such other party.

3.34.2 For Reasons Beyond Reasonable Control of a Party

Either party may terminate this Contract without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as but not limited to an act of nature; war or warlike operations; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.

3.34.3 For Public Convenience

The City may terminate this Contract in whole or in part whenever the City determines that such termination is in its best interest (including but not limited to for lack of continuing appropriations). In such a case the Contractor shall be paid for all items accepted by the City.

3.34.4 Notice

Notice of termination for convenience shall be given by the party terminating this Agreement to the other not less than ten (10) working days prior to the effective date of termination.

3.35 Major Emergencies or Disasters

The following provision shall be in effect only during major emergencies or disasters. The City is committed to preparing thoroughly for any major emergency or disaster situation. As part of its commitment, the City is contracting with the Contractor under the following terms and conditions: Contractor shall provide to the City, upon the City's

request, such goods and/or services at such time as the City determines. In the event the Contractor is unable to meet the delivery date commitment due to circumstances beyond the reasonable control of the Contractor, the Contractor shall make such delivery as soon as practicable. If the Contractor is prevented from making such delivery to the requested delivery location due to circumstances beyond its reasonable control, the Contractor shall immediately assist the City in whatever manner is reasonable to gain access to such goods and/or services. In the event that the Contractor is unable to provide such goods and/or services as requested by the City, the Contractor may offer to the City limited substitutions for its consideration and shall provide such substitutions to the City as required above, provided the Contractor has obtained prior approval from the City for such substitution. The Contractor shall charge the City the price determined in this Contract for the goods and services provided, and if no price has been determined, it shall charge the City a price that is normally charged for such goods and/or services (such as listed prices for items in stock). In the event that the City's request results in the Contractor incurring unavoidable additional costs and causes the Contractor to increase prices in order to obtain a fair rate of return, the Contractor shall provide the City with appropriate documentation of the additional costs. The Contractor acknowledges that the City is procuring such goods and/or services for the benefit of the public. The Contractor, in support of public good purposes, shall consider the City as a customer of first priority and shall make its best effort to provide to the City the requested goods and/or services in a timely manner. For purposes of this Contract, a "major emergency" or "disaster" shall include, but is not limited to a storm, high wind, earthquake, flood, hazardous material release, transportation mishap, and loss of any utility service, fire, terrorist activity or any combination of the above.

3.36 Contractor Immigration Warranty

The Contractor understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. §34-301, "Employment of Aliens on Public Works Prohibited," and A.R.S. §34-302, as amended, "Residence Requirements for Employees."

Under the provisions of A.R.S. §41-4401, Contractor hereby warrants to the City that the Contractor 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 their employees and A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

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

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

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

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the 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 Subsection A.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract 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.

4.0 Standard Bid Information

4.1 Default by Bidder

In case of default by the bidder, the City of Prescott may procure the items or service from other sources and may deduct from any monies due or that may thereafter become due to the bidder the difference between the price named in the contract or purchase order and the actual cost thereof to the City of Prescott. Prices paid by the City shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Director.

4.2 Litigation

The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. Neither party shall be entitled to an award of attorneys' fees, either pursuant to the Contract or any other state or federal statute.

4.3 Cooperative Use of Contract

This contract may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of the contracted vendor. Any such usage by other entities must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of the respective government agency.

4.4 Brand Names

Brand names are only used for reference to indicate character or quality desired unless otherwise indicated.

5.0 Instructions for Submittal Forms

5.1 Form A – Solicitation Response Cover Sheet

Bidder shall complete, sign, and submit Form A as the first page of the bid package.

5.2 Form B – Job Pricing Matrix

Bidder shall certify that its bid will be valid for 90 days after submission. Bidder may be asked to extend this certification. Bidder shall complete, sign, and submit Form B.

5.3 Form C – Bid Certification

Bidder shall complete, sign, and submit Form C.

5.4 Form D – Non-Collusion Certificate

Bidder shall complete, sign, and submit Form D.

5.5 Form E – Certificate of Ownership

Bidder shall complete, sign, and submit Form E completely and accurately stating the names and addresses of all persons, firms, corporations, partnerships, or other associations having any direct or indirect financial interest in the Bidder's business and the nature and extent of each such interest.

5.6 Form F – Bidder Qualifications, Representations and Warranties

5.6.1

The City shall consider awarding agreements only to responsible Bidders. Responsible Bidders are those that have, in the sole judgment of the City, the financial ability, character, reputation, resources, skills, capability, reliability, and business integrity necessary to perform the requirements of the agreement. In determination of responsibility, the City may consider all information available to the City, whether specifically provided by the Bidder in response to this solicitation or other information otherwise available to the City in evaluating the responsibility of the Bidder. Such information may include, but is not limited to, experience and history of the City with current and/or prior contracts held by the Bidder with the City or with other agencies, references provided by the Bidder to the City, information provided by the Bidder as part of the solicitation responses, and information not specifically provided by the Bidder but is otherwise available to the City and has merit in consideration of responsibility, in the opinion of the City. The evaluation of responsibility shall be determined by the City and shall be in the sole opinion of the City. Such evaluation by the City shall be final and not subject to appeal. Furthermore, no agreement will be awarded to a Bidder if any owner of such Bidder has been convicted within the past ten years of a crime involving dishonesty or false statements, or if the Bidder has unsatisfied tax or judgment liens.

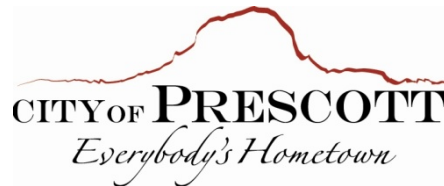
5.6.2

Bidder shall provide two (2) references, a sub-contractors list (if applicable) and certify there are no unsatisfied tax liens or judgments on record. Bidder shall complete, sign and submit Form F.

5.7 Form G – Subcontractors List

Bidder shall complete and submit Form G completely and accurately stating the names and addresses of all persons, firms, corporations, partnerships, or other associations that they may utilize for projects as subcontractors.

Construction Contract



Job Order Contracting Services for Citywide Construction

Contract No. 2023-XXX

THIS AGREEMENT made and entered into this ** day of **, 20**, by and between ** of the city of **, county of **, state of **, hereinafter designated “Contractor”, and the City of Prescott, a municipal corporation, organized and existing under and by virtue of the laws of the State of Arizona, hereinafter designated “City”.

WITNESSETH: That the said Contractor, for and in consideration of the sum to be paid by the said City, and of the other covenants and agreements herein contained, and under the penalties expressed in the bonds provided, hereby agrees, for himself, his heir, executors, administrators, successors and assigns as follows:

ARTICLE I - SCOPE OF WORK: The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities, required to perform all work for the construction of the project described as City of Prescott: Job Order Contracting Services for Citywide Construction and install the material therein for the City, in a good and workmanlike and substantial manner and to the satisfaction of the City through its Engineers and under the direction and supervision of the Public Works Director, or his properly authorized agents and strictly pursuant to and in conformity with the Plans and Specifications prepared by the engineers for the City, and with such written modifications of the same and other documents that may be made by the City through the Public Works Director or his properly authorized agents, as provided herein.

ARTICLE II - CONTRACT DOCUMENTS: The Notice Inviting Bids, Project Plans and Specifications, MAG Specifications and Details, City Supplement to MAG, Special Provisions, Addenda, Contractor Bid Proposal as accepted by the Mayor and Council per Council Minutes of **, 20**, Proposal Guarantee, Performance Bond, Payment Bond, Certificates of Insurance and required Endorsements, Contract Allowance Authorizations and Contract Amendments, are by this reference made a part of this Contract to the same extent as if set forth herein in full.

ARTICLE III - TIME OF COMPLETION: The initial term of the contract shall be for a period of two (2) years. The contract may be extended for additional one (1) year period up to a total of three (3) additional years, with the mutual consent of the City of Prescott and Contractor. The contract shall commence when the contract is fully executed.

ARTICLE IV - COMPENSATION: Contractor shall be paid, pursuant to the provisions as set forth in the Contract Documents, the total sum of ** dollars and ** cents (\$**), plus any approved contract amendments, for the full and satisfactory completion of all work as set forth in the Project Plans, Specifications and Contract Documents. Retention shall be in accordance with A.R.S. § 34-221, if applicable.

ARTICLE V - CONFLICT OF INTEREST: Pursuant to A.R.S. § 38-511, the City may cancel this contract, without penalty or further obligation, if any person significantly involved in initiating, negotiation, securing, drafting or creating the contract on behalf of the City is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In the event of the foregoing, the City further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiation, securing, drafting or creating this contract on behalf of the City from any other party to the contract, arising as a result of this contract.

ARTICLE VI - AMBIGUITY: This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

ARTICLE VII - NONDISCRIMINATION: The Contractor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, the Americans With Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, and Arizona Governor Executive Orders 99-4, 2000-4 and 2009-09 as amended.

ARTICLE VIII - INDEPENDENT CONTRACTOR STATUS: It is expressly agreed and understood by and between the parties that the Contractor is being retained by the City as an independent contractor, and as such the Contractor shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled other than that compensation as set forth in Article IV - Compensation above. As an independent contractor, the Contractor further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, the Contractor further agrees that he will conduct himself in a manner consistent with such status, and that he will neither hold himself out nor claim to be an officer or employee of the City by reason thereof, and that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or

employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

ARTICLE IX - CITY FEES: Prior to final payment to the Contractor, the City shall deduct therefrom any and all unpaid privilege, license and other taxes, fees and any and all other unpaid moneys due the City from the Contractor and shall apply to those moneys to the appropriate account. Contractor shall provide to the City any information necessary to determine the total amount(s) due.

ARTICLE X - LIQUIDATED DAMAGES: All time limits stated in the Contract Documents are of the essence and should the Contractor fail to complete the work required to be done on or before the time of completion as set forth in these Contract Documents, including any authorized extension of time, it is mutually agreed and understood by and between the parties that the public will suffer great damages; that such damages, from the nature of the project, will be extremely difficult and impractical to fix; that the parties hereto wish to fix the amount of said damages in advance; and that the sum according to the table in MAG 108-1 in section 108.9, per day for each and every day's delay in completion and acceptance of the work required to be done by the Contractor subsequent to the time of completion, including any authorized extensions of time, is the nearest and most exact measure of damages for such breach that can be fixed now or could be fixed at or after such breach and that, therefore, the Owner and Contractor agree to fix said sum according to the table in MAG 108-1 in section 108.9 per day for each and every said day's delay as liquidated damages, and not as a penalty or forfeiture for the breach of the agreement to complete the work required to be done by the Contractor on or before the time of completion and acceptance and, in the case of such breach, the Owner shall deduct said amount from the amount due the Contractor under the contract. In the event the remaining balance due the Contractor is insufficient to cover the full amount of assessed liquidated damages, then the Contractor or the surety on the bonds shall pay the difference due the Owner.

ARTICLE XI - OTHER WORK IN PROJECT AREA: The City, any other contractors, whether under contract with the City, a third party, and/or utilities, may be working within the project area while this Contract is in progress. The Contractor herein acknowledges that delays and disruptions may, and in all likelihood, will occur due to other work. The Contractor's bid shall be deemed to have recognized and included costs arising from and associated with other work in the project area disclosed by the Contract Documents or which would be apparent to an experienced contractor exercising due diligence during inspection of the project documents, the question-and-answer session in the pre-bid process or during site inspection. No payment will be made for any delays or disruptions in the work schedule that are wholly the fault of the Contractor, its agents, employees, or any of the Contractor's subcontractors. In the event that the Contractor encounters delay or disruption in the project schedule due to factors not wholly the fault of the Contractor or within the Contractor's control then the Contract may be adjusted pursuant to the Delay's and Extension of Time provisions of this Contract and a timely request submitted for Contract Amendment. Failure to submit a timely request for Contract Amendment shall be deemed a waiver of any entitlement to additional compensation.

ARTICLE XIII – RIGHT TO ASSURANCE:

If the City in good faith has reason to believe that the Contractor does not intend to or is unable to perform or continue performing under this Contract, the Public Works Director may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the City’s option, be the basis for terminating the Contract.

ARTICLE XIV – TERMINATION FOR CONVENIENCE:

The City reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the City without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination, and minimize all further costs to the City. In the event of termination under this paragraph, all documents, data, and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the City upon demand. The Contractor shall be entitled to receive just and equitable compensation for work completed, and materials accepted before the effective date of the termination.

ARTICLE XV - MISCELLANEOUS:

- A. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project, which is the subject of this Agreement.
- B. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney fees, either pursuant to the Contract, pursuant to A.R.S. § 12-341.01 (A) and (B), or pursuant to any other state or federal statute, court rule, case law or common law. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project that is the subject of this Agreement.
- C. In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- D. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage, at the following addresses:

Public Works Director	**
City of Prescott	**
433 N. Virginia Street	**
Prescott, Arizona 86301	**

- E. This Agreement shall be construed under the laws of the State of Arizona.

- F.** This Agreement represents the entire and integrated Agreement between the City and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Contractor. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.
- G.** In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
- H.** No oral order, objection, claim or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver or modification shall be introduced in any proceeding.
- I.** Contractor agrees that notwithstanding the existence of any dispute, the Contractor shall continue to perform the obligations required of Contractor during the negotiation and resolution of any such dispute unless specifically enjoined or prohibited by an Arizona Court of competent jurisdiction.
- J.** In the event of a discrepancy between this Agreement and other documents incorporated into this Agreement, this Agreement shall control over Exhibit "A".
- K.** Non-Availability of Funds: Fulfillment of the obligation of the City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the performance of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the City at the end of the period for which the funds are available. No liability shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments as a result of termination under this paragraph.
- L.** Israel: Contractor certifies that it is not currently engaged in and agrees for the duration of this Agreement that it will not engage in a "boycott", as that term is defined in A.R.S. § 35-393, of Israel.

ATTEST:

Witness, if Contractor is an Individual

**
(Authorized Signature)

By: _____
(Printed Name)

Title: _____

Email: _____

City of Prescott, a municipal corporation:

Philip R. Goode, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah M. Siep, City Clerk

Joseph D. Young, City Attorney

Form A – Solicitation Response Cover Sheet



Job Order Contracting Services for Citywide Construction

Please note all that apply:

- Job Pricing Matrix
- Addenda Number(s) Received (if any)
- Original Forms A through G

Business Name: _____

Business Address: _____

Business Phone: (_____) _____

Business Contact: _____

Contact Email: _____

Contractor Comments: _____

Form B – Job Pricing Matrix



Job Order Contracting Services for Citywide Construction

Company Name: _____

JOC MATRIX	\$1.00 - \$50,00.00	\$50,001.00 - \$100,000.00	\$100,001.00 - \$300,000.00	OVER \$300,001.00
INDIRECT COSTS				
General Contractor Overhead				
General Contractor Profit				
Subcontractor				
Bonds				
Insurance				
AZ/County/City Tax				
Total Indirect Costs %				

_____ Signature of Company Official	_____ Date Signed
_____ Title	_____ Email Address
_____ Company Name	_____ Phone Number
_____ Address	
_____ City / State	_____ Zip Code

Form C – Bid Certification



Job Order Contracting Services for Citywide Construction

Company Name: _____

The undersigned Bidder hereby certifies as follows:

C1 That he/she has read The City of Prescott’s solicitation documents, its appendices and attachments, and the following Addenda, and to the best of his/her knowledge, has complied with the mandatory requirements stated therein.

Addendum	Date Issued
_____	_____
_____	_____
_____	_____

C2 That he/she has had opportunity to ask questions regarding the solicitation, and that such questions having been asked, have been answered by the City.

- C3 That the Bidder’s bid consists of the following:
1. Form A – Solicitation Response Cover Sheet
 2. Form B - Price Sheet
 3. Form C – Bid Certification
 4. Form D – Non-Collusion Certificate
 5. Form E – Certificate of Ownership
 6. Form F – Bidder Qualifications, Representations and Warranties
 7. Form G – Subcontractor’s List

C4 That the Bidder’s bid is valid for 90 days.

Dated this _____ day of _____ 2022.

Signature

Phone Number

Written Name

Email Address

Form D – Non-Collusion Certificate



Job Order Contracting Services for Citywide Construction

Company Name: _____

The undersigned Bidder hereby certifies as follows:

To the best of his/her knowledge, the person, firm, association, partnership or corporation herein, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in the preparation and submission of a bid to The City of Prescott for consideration in the award of this solicitation.

Dated this _____ day of _____ 2022.

Signature

Phone Number

Written Name

Email Address

Form E – Certificate of Ownership



Job Order Contracting Services for Citywide Construction

Company Name: _____

The undersigned Bidder hereby certifies as follows:

To the best of his/her knowledge, the person, firm, association, partnership, or corporation herein, are the only person, firms, corporations, partnerships, or other associations having any direct or indirect financial interest in the Bidder's business as legal or equitable owner, creditor (except current bills for operating expenses), or holder of any security or other evidence of indebtedness.

Dated this _____ day of _____ 2022.

Signature

Phone Number

Written Name

Email Address

Form F – Bidder Qualifications, Representations and Warranties



Job Order Contracting Services for Citywide Construction

Company Name: _____

The undersigned Bidder hereby certifies as follows:

- F1 Taxes and Liens - Bidder has no unsatisfied tax or judgment lien on record.

- F2 Subcontractors – Bidder submits as Attachment 4 to this Bid Form A, a list of all subcontractors it will use in performing the requirements of the agreement resulting from this solicitation. A subcontractor is any separate legal entity used to perform requirements of the proposed agreement. The list shall include the firm’s name, contact person and title, mailing address, telephone number, fax number and a description of the service(s) to be subcontracted. Bidder shall also attach a copy of the letter from the subcontractor stating its commitment to perform the services(s) subcontracted.

- F3 References – The City will enter into an agreement only with a Bidder(s) having a reputation of satisfactory performance. The Bidder’s ability to provide timely service; knowledgeable, conscientious, and courteous staff; reasonable care and skill; invoicing consistent with contract pricing, etc., are important to the City. Bidder provides information for two clients, other than the City of Prescott, that presently contract with Bidder for similar goods or services:

Reference #1

Firm Name: _____

Address: _____

Contact Person: _____

Phone Number: _____

Reference #2

Firm Name: _____

Address: _____

Contact Person: _____

Phone Number: _____

Note: The bid evaluators may contact the customer references, as well as any other customers or customer employees including The City of Prescott. A Bidder with unsatisfactory references may have its bid rejected.

F4 Bidder's Examination - Bidder has made its own examination, investigation, and research regarding the requirements of the solicitation including but not limited to the work to be done, services to be performed, any conditions affecting the work and services, the type and quantity of labor, equipment and facilities necessary to perform. Bidder fully understands the character of the work and services, the manner in which payment is to be made, the terms and conditions of the draft agreement (see Appendix C), and the solicitation. Bidder acknowledges and agrees that it has satisfied itself by its own examination, investigation, and research, and that it will make no claim against the City because of erroneous estimates, statements, or interpretations made by City. Bidder hereby proposes to furnish all materials, equipment, and facilities and to perform all labor which may be required to do the work within the time required and upon the terms and conditions provided in the draft agreement and the solicitation, and at the prices as bid.

Dated this _____ day of _____ 2022.

Signature

Phone Number

Written Name

Email Address

Form G – Subcontractors List



Job Order Contracting Services for Citywide Construction	
Subcontractor Information	Bid Item(s)
Name: Address: Phone #: License #:	
Name: Address: Phone #: License #:	
Name: Address: Phone #: License #:	
Name: Address: Phone #: License #:	

**Use additional form(s) if needed*