

**CITY OF PAGE  
REQUEST FOR PROPOSAL (RFP)  
COMPREHENSIVE GENERAL PLAN UPDATE**

<b>RFP ISSUE/ADVERTISEMENT DATE:</b>	<b>September 22, 2021</b>
<b>ALL QUESTIONS MUST BE RECEIVED BY:</b>	<b>October 12, 2021 5:00 p.m.</b>
<b>RESPONSES TO QUESTIONS BY:</b>	<b>October 19, 2021</b>
<b>PROPOSAL SUBMITTAL DUE DATE:</b>	<b>November 4, 2021 4:30 p.m.</b>
<b>EVALUATION PERIOD CONCLUDE:</b>	<b>November 11, 2021</b>
<b>INTERVIEWS:</b>	<b>Third week of November 2021</b>
<b>AWARD CONTRACT:</b>	<b>Second week of December 2021</b>
<b>PROJECT BEGIN:</b>	<b>January 3, 2022</b>

*(All dates are subject to change.)*

**I. INTRODUCTION:**

The City of Page is seeking proposals for Professional Services from qualified consultants to prepare a comprehensive update of the City General Plan. The last comprehensive update was done in 2009. The current General Plan is available online at [cityofpage.org/departments/planning-zoning](http://cityofpage.org/departments/planning-zoning)

The updated General Plan must be web-friendly, visually appealing, and user-friendly. The updated General Plan must meet all governing statutory requirements. Certain sections or elements may require an entire rewrite or need to be added.

The successful consultant will be responsible for creating a thorough and transparent process for updating the General Plan that utilizes innovative strategies for public engagement and input, research for compilation of data, and analysis of all information and studies to prepare draft and final documents under the direction of the City Planning Department. The City of Page requires that the project schedule be programmed with appropriate and regularly scheduled board meetings and public hearings. Time is of the essence and favorable points will be awarded for shorter completion timelines.

The City will select from consultants whose submittals are most responsive to this RFP and in the best interest of the City. Any documents submitted in response to this RFP must provide sufficient detail and information to allow a complete evaluation of its merit. The instructions contained herein should be followed for responses to be considered responsive to this RFP. The City reserves the right to cancel this solicitation at any time.

**II. BACKGROUND**



Incorporated in 1975, the City of Page is one of the youngest communities in America. Located in northeastern Arizona, Page is approximately 270 miles from both Phoenix and Las Vegas. The city was initially built in 1956 as a construction camp to accommodate the Bureau of Reclamation employees who built the Glen Canyon Dam on the Colorado River which was completed in 1965. In 1970, the Navajo Generating Station (NGS) broke ground for a coal fired

generating station that brought hundreds of jobs to the area and boosted the local economy. In 1974, the Bureau stopped governing the town and Page became independent and unincorporated.

On March 1, 1975, the City of Page was incorporated by formal resolution. Since then, Page has emerged as a self-sufficient and progressive city, which has successfully served as the areas' regional economic hub since the 1980s. Until December of 2019, tourism and the NGS served as the primary economic sectors supporting the local and regional economies until the NGS was shut down. At the same time, and to add to the hardships facing the City, the unrelenting statewide drought caused the water level in Lake Powell to drop to around 30% of total capacity, deleteriously impacting tourism and the City and regional economies, which forced the City to make major adjustments to stay in the black.



Tourism, travel-related services, and public utilities are the remaining principle employers in Page. While tourism services experience seasonal employment peaks from March through November, small businesses provide the year-round stability and backbone for Page. The federal government is another major employer in the area, including the Glen Canyon National Recreation Area administered by the National Park Service through headquarters in Page, and the Glen Canyon Dam managed by the U.S. Bureau of Reclamation, and both of these are agencies of the U.S. Department of the Interior. These two agencies, combined with other federal, state, county and city offices, make up approximately 12 percent of the areas' total employment. Page features more than 350 local businesses and in 2020, the leading industries were healthcare, social services, retail, hotel accommodations, food services, and manufacturing.



Page also serves as the regional recreational hub for the area with over 90 major canyons to explore, as well as Rainbow Bridge National Monument, Horseshoe Bend Overlook and Antelope Canyon, which are major tourist destinations drawing between three to seven million visitors annually. And last but not least, we also have Lake Powell, with over 1,960 miles of shoreline, which is more than the shoreline of the Pacific Ocean along the western edge of the continental United States, which is also a major contributor to the tourism sector of the local and regional economies.

### **III. SCOPE OF WORK:**

*Because Page is a significant distance from other major cities, online meetings with Staff will be the norm. Travel to Page will be required at the discretion of the City for an onsite presence, including but not limited to conducting site visits, resident and stakeholder surveys, hosting public participation events and engagement efforts, and attendance at meetings with City Management, City Council, and various City Advisory Boards.*

*Regular meetings with the Planning and Zoning Commission, which serves as the “**Steering Committee**” for the General Plan Update, will be required throughout the term of the project until completion, to review the progress of the project and provide input to the consultant and City staff through a public setting.*

*The selected consultant will be responsible for completion of work per the details outlined in this section to the satisfaction of designated City staff. The consultant will perform applicable functions as an extension of City staff and will follow all applicable regulations, including State statutes, City codes, ordinances, procedures, and directives related to the services provided. The consultant will use and bill time judiciously.*

*The following scope of work is not comprehensive, and the City of Page reserves modification rights as needed depending on potential future changing needs and/or demands.*

#### **IV. SUBMISSION REQUIREMENTS:**

All submittals must be prepared and submitted in accordance with this RFP to be considered responsive. Incomplete, late, and/or nonresponsive submittals will not be evaluated or ranked, and at the City's discretion a submittal may be disqualified at any time during the evaluation process if:

- It lacks sufficient information for reasonable determination of compliance to minimum qualifications;
- It is determined that the submitting consultant does not meet the minimum required skill, experience, or requirements to provide the requested services;
- The submitting consultant has a history of failing to fully perform or fulfill contractual obligations; or
- The submitting consultant's proposal packet contains false, inaccurate, or misrepresenting statements that are intended to mislead the City in its evaluation of the submittal.

Interested consultants shall review all submittal requirements including the attached Professional Services Contract sample and submit a proposal packet including the required items outlined in this section:

##### **(A) Format**

Applicants shall submit their proposal with an original hard copy along with an electronic copy (PDF format on USB flash drive). Submittals must not exceed 20 single-sided pages, excluding the cover letter and staff resumes. Font shall be Arial, Times New Roman, or similar type, and must not be smaller than 11-point. Wingdings shall be disqualified.

##### **(B) Cover Letter**

Provide an introduction letter identifying the consultant. Briefly summarize any distinguishing qualities or capabilities that uniquely qualify the consultant for this project. Please include the RFP subject, consultant name, address, telephone number, email address, contact name(s) and date.

##### **(C) Response to the Scope of the Work**

Description of how the consultant will approach the development of the City General Plan, with a timeline/schedule including how and when the elements listed in the Scope of Work will be achieved in a timely manner.

##### **(D) Statement of Qualifications**

- A statement for all key personnel and subcontractors showing related work experience, education, training, and any other pertinent data that would demonstrate competence and experience in General Plan updates. This portion of the submittal may include a resume for each proposed individual. This includes any individual that will be a subcontractor or consultant outside of the lead firm. Resumes may be attached as an exhibit to the submittal packet and will not be counted toward the total page limit.
- Briefly explain the consultant's previous experience with each subcontractor listed.

##### **(E) References/Relevant Experience**

A statement including a list of three previous clients, including federal, state and local governments, and similar projects. Information should at a minimum include the following:

- Name of project, location, and contract award date
- Owner/Client's name and address
- Contact name and phone number
- Nature and scope of services provided
- Contract budget

- Contract completion date and a brief explanation regarding steps that the consultant's team member(s) took to maintain project schedule
- End total dollar amount of the project
- Design problems encountered and solutions developed by the project team
- How the overall sample project experience relates to this RFP

**(F) Graphic Materials**

Provide graphic examples of projects completed by your firm that indicate the quality and character of your firm's work. Projects named in "References/Relevant Experience" above are of particular interest to the selection committee.

**(G) Project Timelines**

- A statement that specifically includes when the team can start the project, a progress projection timeline, and a completion date.
- A high-level matrix (similar to a PERT Chart) that identifies major project tasks and milestones, estimated date/timeline for completing the project and any phases therein, and personnel/subconsultants and their hours planned.
- The timeline of the selected consultant will be incorporated into the negotiated contract.

**(H) Cost**

- A matrix of team structure and pricing, including subconsultants.
- An estimated total cost broken down by any suggested phasing, not including travel expenses.
- An estimated average cost for single-day travel expenses for core team.

**(I) Submittals shall be received by 4:30 p.m. on November 4, 2021, by:**

**Kim Larson, City Clerk  
City of Page  
P.O. Box 1180  
697 Vista Avenue  
Page AZ 86040**

Submittals shall be sealed and labeled as "**Response to RFP for Comprehensive General Plan Update**". The City is not responsible for any submittal not properly addressed or identified. Faxed or emailed submittals will not be accepted. The City does not reimburse the cost of providing any response to this solicitation.

**It is the sole responsibility of the proposer to assure that the submittal is received on time. Any submittal received after the deadline shall not be returned and will become the property of the City of Page.**

Submittals will be opened publicly at 4:30 p.m. on November 4, 2021. Only the names of the proposers will be read aloud at that time.

**Contact with the City of Page**

All consultants interested in this project (including employees, representatives, agents, lobbyists, attorneys, and sub-consultants) will refrain, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process. This policy is intended to protect the integrity of the selection process and assure that contract decisions are made in public.

**Questions**

If information of a material matter is provided in response to any correspondence or question or if a clarification is issued by the City, a copy of the questions and answers will be provided to all prospective respondents who have requested a copy of the Request for Proposal. This response shall serve as an addendum to the advertised call for proposals. Questions may be directed in writing, including email correspondence, to the City of Page, Attn: Zach Montgomery, Planning Director, P.O. Box 1180, 697 Vista Avenue, Page AZ 86040 or [zmontgomery@pageaz.gov](mailto:zmontgomery@pageaz.gov), with "Response to RFP for Comprehensive General Plan Update" in the subject line.

## **V. PROJECT TIMELINES:**

See Page 1.

## **VI. EVALUATION CRITERIA AND SELECTION PROCESS:**

### **Submittal Evaluation and Scoring:**

Submittals will be evaluated based on the criteria set forth herein including but not limited to qualifications, demonstrated past performance, quality of submittal, availability, and ability to meet City needs and requirements.

Submittals will be evaluated by a Selection Committee comprised of representatives of the City of Page.

- The Selection Committee will screen and rank all submittals to determine the finalists to participate in interviews.
- The Selection Committee will conduct interviews to rank the finalists for recommendation to Page City Council.
- Final approval to award the contract to the selected consultant will be given by Page City Council.

The City reserves the right to solicit additional information from any and all proposers and will be the sole judge of the merits of the proposals received. The City reserves the right to waive any informalities in the submittals, whether technical or substantial in nature, and to negotiate with any and all proposers. The City reserves the right to reject any and all submittals if deemed in the best interest of the City.

All proposers will be notified of the results within thirty (30) days after the close of the RFP period.

Submittals will be scored using the following specific criteria and based on a maximum of 100 points:

- Consultant experience on similar projects and demonstrated quality of work and ability to convey information. **25 points**
- Overall experience and qualifications of the assigned team. **25 points**
- Demonstrated public outreach approach including activities, methods, and schedule. **20 points**
- Proposed work schedule, general availability, responsiveness, and time frame for delivery of service by the consultant and team, with points awarded for shorter timelines. **20 points**
- Price proposal. **10 points emphasis**

***Acceptance of Evaluation Methodology.*** By submitting its qualifications in response to this RFP, proposer acknowledges and accepts the evaluation process, the established criteria and associated scoring system, and that determination of the "most qualified" consultant will require subjective judgments by the City.

### **Interviews:**

Based on the submittal evaluation and scoring, the Selection Committee will generate a list of candidates to participate in interviews.

Interviews will be conducted telephonically, on video conference or in person. Interviews will consist solely of questions posed by the Selection Committee. No additional presentation by the consultants will be accepted.

Subject to the number, quality, and suitability to City needs of the submittals received, there will be up to three (3) finalist interviews.

The Selection Committee will choose the consultant to be awarded the contract based on a combination of the results of the interview and the evaluation of the submittal. Final approval to award the contract will be determined by Page City Council.

**Finalist/Award of Contract:**

The City will conduct negotiations with the selected final candidate. The contract negotiations shall include consideration of compensation and other contract terms that the City determines to be fair and reasonable to the City. If the City is unsuccessful in negotiating a contract with the best qualified consultant, the City may then negotiate with the next most qualified consultant until a contract is executed, or may decide to terminate the selection process.

Staffing/subcontractor substitutions must be approved by the City in writing.

No binding contract will exist between the consultant and the City until the City executes a written contract.

**Sample Contract.** An example of the City’s Professional Services Contract is attached. If a proposer wishes to request modification to any of the terms and conditions contained in the contract, these should be identified specifically; otherwise by submitting a proposal, the proposer indicates that it is willing to enter into the contract as written. Failure to identify contractual issues of dispute may be the basis for the City disqualifying a proposer. Any exceptions to terms, conditions, or other requirements must be clearly stated.

**VII. GENERAL CONDITIONS**

**COST**

This will be a “not to exceed” time and materials contract based upon the cost matrix submitted to include hourly rates and other expenses to be billed to the City. The deliverables are expected to be fully completed by the dates stipulated in the contract.

**RIGHTS OF THE CITY OF PAGE**

The City of Page may cancel this RFP, reject in whole or in part any or all submittals or proposals, or determine not to enter into one or more of the multiple contracts as specified in the solicitation if the City determines in its absolute and sole discretion that such action is in the best interest of the City.

**SUSPENSION/DEBARMENT**

By submitting a proposal in response to this solicitation, the respondent is certifying that it is neither debarred nor suspended nor under consideration for suspension or debarment by any federal, state, or local government or agency. If a respondent is not able to so certify, the respondent must submit a letter that identifies the agency involved and a contact and explains why respondent is suspended or debarred or being considered for suspension or debarment.

**PROFESSIONAL SERVICES CONTRACT**

This Professional Services Contract (hereinafter the “**Contract**”) is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the City of Page, an Arizona municipal Corporation (hereinafter the “**City**”), and \_\_\_\_\_ (hereinafter the “**Firm**”) (collectively referred to as the “**Parties**” or a “**Party**”).

WHEREAS, the Mayor and City Council of the City of Page are authorized and empowered to approve and execute contracts for professional services; and

WHEREAS, Firm represents that Firm has the expertise and is qualified to perform the services described in the Request for Proposals (RFP) for the Comprehensive General Plan Update and in the Contract.

**1. PROJECT.**

The City agrees to engage the Firm to perform the professional services (hereinafter the “**Services**”) as set forth on Exhibit “A” attached hereto and incorporated herein (the “**Scope of Services**”) for the project known and described as the Comprehensive General Plan Update (hereinafter the “**Project**”) on the following terms. Agreement to the terms set forth herein is a material and necessary precondition and inducement to the City entering into this Contract with Firm. The City Project Manager designated by the City for this Project is: Zach Montgomery, Planning Director (“**City Project Manager**”).

**2. SCOPE OF SERVICES.**

The Firm shall furnish all labor, materials and/or equipment necessary to perform the work provided for in the Contract Documents as defined herein. The following documents are hereby incorporated by reference into this Contract, and shall be referred to as the Contract Documents:

- a. Request for Proposals
- b. Scope of Work (Exhibit A)
- c. Firm’s Proposal
- d. Fee Schedule (Exhibit B)

The above-named documents are essential parts of this Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complimentary and to describe and provide for a complete work. Firm agrees to be bound by all terms, conditions, covenants, and obligations in the Contract Documents as if each were again fully set forth verbatim herein. In the event any Contract Document conflicts with or contradicts this instrument, this instrument shall control. The Services include any and all services reasonably contemplated, normally included, and necessary to complete the Scope of Services in a professional and timely manner with due diligence. Firm is responsible, to the extent necessary to perform the Services, at no additional charge to the City, to fully familiarize itself with the special and/or unique qualities and/or requirements of the Services, the Project, and the City.

Payment for additional services and/or expenses shall be made only if such additional services and/or expenses are expressly approved, in writing, by the City prior to the additional services being performed. The City shall issue a Contract Modification for any approved additional services. The City shall not pay for any costs not expressly designated as reimbursable in this Contract or the written approval for the additional work.

**3. TIME.**

Time is of the essence for this Contract. Firm shall complete all Services within a maximum of \_\_\_\_\_ calendar days from Contract execution. If a further or more detailed schedule is set forth in Exhibit “A,” Firm shall strictly comply with said schedule and failure to do so, without prior written agreement of the City, shall be a material breach of this Contract. Firm shall promptly respond (and in no event more than ten (10) calendar days after receiving the request) to any requests for approvals, information or clarification within sufficient time to allow the City to timely respond so as to not delay the Project.

**4. FEE AND PAYMENT.**

Firm agrees to provide all Services for prices not to exceed the amount set forth in the fee schedule, attached as Exhibit "B". Firm shall complete Services and shall bill the City monthly for the fees and reimbursable expenses due to the Firm based upon the work completed during the billing period. Fees will not be paid in advance of a service being performed unless agreed upon in writing by both parties prior to the request for payment.

The City shall make payments within thirty (30) days of approval by the City of Firm's submittals. If a dispute over payment arises, and during all claims resolution proceedings, including mediation and arbitration, Firm shall continue to render the Services in a timely manner. Payment by the City does not constitute acceptance by the City of the Services or Firm's performance, nor does payment constitute a waiver of any rights or claims by the City. Unless otherwise agreed and authorized by the City in writing, the total payment(s) paid to Firm under this Contract shall not exceed \$\_\_\_\_\_.

As a necessary precondition to any payment under this Contract, the City may require Firm to provide such certifications; lien waivers (in statutory form); and proofs of performance, costs, and/or percentage of completion as may be reasonably required by the City, to ensure that payment is then due and owing pursuant to the payment terms set forth in this Contract.

Firm shall be solely responsible for any and all tax obligations which may result out of the Firm's performance of this Contract.

**5. PERFORMANCE.**

Firm shall perform the Services required by, and as outlined herein to the satisfaction of the City, exercising the degree of care, skill, diligence and judgment a Firm experienced in the performance of such Services of similar scope, function, size, quality, complexity and detail to the Project, would exercise at such time, under similar conditions. Firm shall, at all times, perform the required Services consistent with generally accepted principles and practices. Firm shall be fully responsible for all acts and omissions of its subcontractor(s) and of persons directly or indirectly employed by subcontractor(s).

Firm shall promptly provide, at no additional cost to the City, any and all corrections, modifications, additional documents, or other items that may be necessary to correct any errors and/or omissions in the documents and other work product provided by Firm.

Firm shall utilize the key personnel listed in Firm's proposal to the City. Firm shall not change key personnel, not utilize the listed key personnel, nor utilize any other key personnel without the prior written approval of the City Project Manager. Any substituted personnel shall have the same or higher qualifications as the personnel being replaced.

**6. USE OF DOCUMENTS.**

Upon execution of this Contract, the Firm and all Firms and sub-consultants working under or for Firm, hereby grant to the City an irrevocable, exclusive, royalty-free perpetual license to reproduce and use any and all data, documents (including electronic documents and files), designs, and drawings prepared or furnished by Firm pursuant to this Contract (the "**Instruments of Service**"), for the purposes of completing the Project, including for the use, sales, marketing, modification, expansion, and/or further development of the Project or any portion thereof (including making derivative works from Firm's Instruments of Service), by the City and others retained by the City for such purposes. This license shall extend to those parties retained by the City for such purposes, including other Firms. The Firm shall obtain, in writing, similar non-

exclusive licenses from its Firms, and sub-consultants. The license granted hereunder shall survive any termination of the Contract and the completion of the Project. Upon completion of the Project and/or termination of the Contract for any reason, Firm shall deliver to the City full sized, usable and reproducible copies (including any and all computer files) of all Instruments of Service generated by Firm, including those generated by any suppliers, subcontractors or sub-consultants. The City shall retain all rights and ownership of all documents provided to Firm by the City in relation to this Contract and the Project, and Firm shall not utilize any such material in relation to any other work or project. Firm may re-use any standard documents or details included in the Instruments of Service that were not developed by Firm specifically for the Project.

## **7. INSURANCE.**

Firm, at its own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed and subject to legal process within the State of Arizona, possessing a current A.M. Best, Inc. Rating of A- or better. The form of any insurance policies and forms must be acceptable to the City.

All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Contract are satisfactorily completed and formally accepted; failure to do so may, at the sole discretion of the City, constitute a material breach of this Contract.

Firm's insurance shall be primary insurance in regard to the City, and any insurance or self-insurance maintained by the City shall not contribute to it. The insurance policies shall contain a waiver of transfer rights of recovery (subrogation) against the City, its agents, officers, officials and employees for any claims arising out of Firm's acts, errors, mistakes, omissions, work or services.

Prior to commencing work or services under this Contract, Firm shall furnish the City with Certificates of insurance, or formal endorsements as required by this Contract, issued by Firm's insurer(s), as evidence that policies providing the required coverages, conditions and limits required herein are in full force and effect.

If a policy does expire during the life of this Contract, a renewal certificate must be sent to the City fifteen days prior to the expiration date. Insurance required herein shall not expire, be cancelled, or materially changed without thirty (30) days written notice to the City.

The insurance policies required by this Contract, except Workers' Compensation, and Errors and Omissions, shall name the City, its agents, representatives, officers, directors, officials and employees as Additional Insured's. Firm waives all rights against the City and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Firm pursuant to this Contract.

In the event any insurance policy(ies) required by this Contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Firm's work or services and as evidenced by annual Certificates of Insurance.

### ***Commercial General Liability***

Firm shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual

coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract. Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision, which would serve to limit third party action over claims. The Commercial General Liability shall include coverage for the Firm's operations and products and completed operations.

### ***Automobile Liability***

Firm shall maintain Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the Firm's owned, hired, and non-owned vehicles assigned to or used in performance of the Firm's work.

### ***Workers' Compensation***

Firm shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over the Firm's employees engaged in the performance of the work or services; and, Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit. In case any work is subcontracted, this Contract will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of Firm.

### ***Errors and Omissions /Professional Liability***

Firm shall maintain Errors and Omissions/Professional Liability Insurance covering acts, errors, mistakes and omissions arising out of the work or services performed by Firm, or any person employed by Firm, with a limit of not less than \$1,000,000 for each claim.

## **8. INDEMNIFICATION.**

To the fullest extent permitted by law, Firm shall indemnify, defend and hold harmless the City, its agents, officers, officials and employees from and against any and all claims, demands, suits, actions, proceedings, loss, cost and damages of every kind and description, including any reasonable attorney fees and/or court costs, which may be brought or made against or incurred by the City on account of (1) loss or damage to any property or interest of the City, its officers, employees and agents, or any damages, injury to person or property, or death of any person arising out of, relating to, or alleged to have resulted from the negligence, recklessness or intentional wrongful conduct of Firm, its employees, agents, representatives, or subcontractors, their employees, agents, or representatives, (2) any workers' compensation claims, unemployment compensation claims or unemployment disability claims of employees of Firm or claims under similar such laws or obligations. This indemnification shall not extend to any loss, damage, injury, or death to the extent caused by the gross negligence or willful misconduct of the City, or its employees. The amount and type of insurance coverage requirements set forth within this Contract shall in no way be construed as limiting the scope of the indemnity as set forth herein.

## **9. INDEPENDENT CONTRACTOR STATUS.**

The Parties agree that: (a) the work contracted for in this Contract falls within the distinct nature of Firm's business; (b) the nature of the work contained within this Contract is specialized, and the City has elected to contract out the work rather than attempt to perform the work with its current workforce; (c) Firm is an incorporated business that possesses the personnel and materials necessary to perform the work; (d) the relationship of the work provided by Firm has no

relationship to the regular business conducted by the City; (e) it is understood and agreed that Firm is an independent contractor, and nothing herein contained shall constitute, create, give rise to, or otherwise recognize an employment relationship, joint venture, partnership, or formal business association or organization of any kind between the parties hereto, other than as contracting parties, nor shall Firm or any subcontractor, or any employee of Firm or any subcontractor be deemed to be employed by the City or entitled to any remuneration or other benefits from the City, other than as set forth in this Contract.

**10. ASSIGNMENT.**

Firm shall not assign its rights to this Contract, in whole or in part, without prior written approval of the City. Approval may be withheld at the sole discretion of the City.

**11. AUTHORITY TO CONTRACT.**

Firm warrants its right and power to enter into this Contract. If any court or administrative agency determines that the City does not have authority to enter into this Contract, the City shall not be liable to Firm or any third party by reason of such determination or by reason of this Contract.

**12. CANCELLATION FOR CONFLICT OF INTEREST.**

This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

**13. TERMINATION OF CONTRACT FOR CAUSE.**

If, through any cause, Firm shall fail to fulfill in timely and proper manner its obligations under this Contract, or if Firm shall violate any of the covenants, provisions, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to Firm of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination.

In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by Firm shall, at the option of the City, become its property and Firm shall be paid an amount based on time and expenses incurred by Firm prior to the termination date; however, no payment shall be allowed for anticipated profits on unperformed work or services. Notwithstanding the above, Firm shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Firm and the City may withhold payments to Firm for purpose of set-off until such time as the exact amount of damages due the City from Firm are determined.

**14. TERMINATION FOR CONVENIENCE.**

The City may terminate this Contract at any time by giving written notice to Firm of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. In that event, all finished or unfinished documents and other materials shall, at the option of the City, become its property. If this Contract is terminated by the City as provided herein, Firm shall be paid an amount based on the time and expense incurred by Firm prior to the termination date, however, no payment shall be allowed for anticipated profit on unperformed work or services.

**15. NON-APPROPRIATION OF FUNDS.**

Notwithstanding any other provision of this Contract, this Contract may be terminated if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining the City or other public entity obligations under this Contract. The City shall have no further obligation to Firm, other than to pay for services rendered prior to termination.

**16. COMPLIANCE WITH FEDERAL AND STATE LAWS.**

In performance of the Services under this Contract, Firm shall fully comply with all applicable laws, regulations, or legal requirements applicable to Firm's Services and/or the Instruments of Services, the design of the Project, and/or this Contract.

Firm warrants compliance with all Federal immigration laws and regulations relating to employees and subcontractors and warrants its compliance with A.R.S. § 41-4401 including the E-verify program. A breach of this section shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. City retains the legal right to inspect the papers of Firm or any subcontractor employee who works on the Contract to ensure compliance with this provision.

Pursuant to A.R.S. § 35-393 et seq., Firm certifies that it is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel.

**17. REMEDIES.**

Either Party may pursue any remedies provided by law for breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.

**18. WAIVER.**

Failure of either Party to insist on one or more instances upon the full and complete compliance with any of the terms or provisions of this Contract to be performed on the part of the other, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either Party of sums less than may be due and owing it at any time shall not be construed as an accord and satisfaction.

**19. CHOICE OF LAW/VENUE AND ATTORNEYS' FEES.**

Any dispute, controversy, claim or cause of action arising out of or related to this Contract shall be governed by Arizona law. The venue for any such dispute shall be in Coconino County, Arizona. Each Party waives the right to object to venue in Coconino County for any reason.

In the event that litigation is brought by any Party in connection with this Contract, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees incurred by the prevailing party in the exercise of any of its rights or remedies hereunder.

**20. CONSTRUCTION OF THIS CONTRACT.**

This Contract shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting this Contract. The Parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the review of and entry into this Contract.

**21. NOTICES.**

All notices, requests, demands, payments and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following address on the date received:

**City:**

City of Page  
697 Vista Ave.  
P.O. Box 1180  
Page, Arizona 86040

**Firm:**

**22. NO KICK-BACK CERTIFICATION.**

Firm warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no member of the City Council or any employee of the City has any interest, financially or otherwise, in the Contracting firm.

Firm covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required to be performed under this Contract. Firm further covenants that in the performance of Services, Firm shall not engage any employee or apprentice having any such interest.

The Parties agree that this Contract may be cancelled for conflict of interest in accordance with Arizona Revised Statutes § 38-511.

**23. SEVERABILITY.**

If any provision of this Contract is held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would be valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**24. ENTIRE AGREEMENT / NO THIRD-PARTY BENEFICIARIES.**

This Contract represents the entire understanding of City and Firm as to those matters contained in this Contract, and no prior oral or written understanding shall be of any force or effect with respect to those matters. This Contract may not be modified or altered except in writing signed by duly authorized representatives of the Parties.

No other parties are intended to be direct or incidental beneficiaries of this Contract and no other third party shall have any right in, under or to this Contract.

**25. HEADINGS.**

Paragraphs and subparagraph headings contained in this Contract are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Contract.

**26. COUNTERPARTS.**

This Contract may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract through their duly authorized representatives and bind their respective entities as of the effective date.

**FIRM**

**CITY OF PAGE**

\_\_\_\_\_

\_\_\_\_\_

Its \_\_\_\_\_

Mayor

Attested By:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney