

**AGREEMENT FOR CONTRACTOR SERVICES**  
**CITY OF KINGMAN**  
**TRANSPORTATION MASTER PLAN**

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the City of Kingman, an Arizona municipal corporation, hereinafter called "CITY" and \_\_\_\_\_ hereinafter called "CONTRACTOR".

**WITNESSETH**

WHEREAS, the CITY wishes to obtain consulting services for a comprehensive transit study for the CITY. With an evaluation of the current system, a short-range plan (5-year), a mid-range (10-year), a long-range (20-year), and other deliverables as described in the attached Scope of Work hereafter called "THE WORK", attached hereto and made part hereof as Exhibit A; and

WHEREAS, CONTRACTOR has agreed to complete THE WORK as detailed in Exhibit A for a fee not to exceed \_\_\_\_\_; and

WHEREAS, it has been determined that CONTRACTOR is qualified and ready to perform the services as required by this Agreement;

NOW THEREFORE, it is mutually agreed as follows:

**I. CONTRACTOR'S DUTIES**

- A. CONTRACTOR shall provide all labor, materials, and equipment necessary for the completion of THE WORK
- B. CONTRACTOR shall provide electronic and, as applicable, hard copies of all reports, models, plans, drawings and other materials prepared under this Agreement.

**II. CITY DUTIES**

The CITY agrees to provide information as available and make payment for THE WORK covered under this Agreement in accordance with the following:

- A. The CITY shall provide CONTRACTOR with currently available: data, reports, drawings and other information of record as applicable to this project.

- B. The CITY shall pay CONTRACTOR for work performed on a monthly basis, upon receipt of a progress report that coincides with the payment scheduled in Exhibit A. The final payment will be paid after the project is complete and the work is accepted by the CITY.

### III. GENERAL COVENANTS

It is further agreed by the CITY and CONTRACTOR as follows:

- A. **TERMINATION OF CONTRACT FOR CAUSE.** If through any cause, and after reasonable opportunity to commence a remedy, CONTRACTOR shall fail to fulfill in a timely and proper manner the obligations under the Agreement, or if CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Agreement, the CITY shall thereupon have the right to terminate this Agreement by giving written notice to CONTRACTOR of such termination and specifying the effective date thereof, at least five 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 CONTRACTOR under this Agreement shall at the option of the CITY, become its property and CONTRACTOR shall be entitled to receive compensation for any work satisfactorily completed on the date of termination.

Notwithstanding the above, CONTRACTOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the Agreement by CONTRACTOR.

- B. **CHANGES.** The CITY may, from time to time, request changes in the scope of the services of CONTRACTOR to be performed hereunder. Such changes, including any increase or decrease in the amount of CONTRACTOR compensation, which are mutually agreed upon by and between the CITY and CONTRACTOR, shall be incorporated in written amendments to this Agreement.
- C. **PERSONNEL.** CONTRACTOR represents that he has or will secure at his expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have contractual relationship with the CITY. All personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- D. **ASSIGNABILITY.** Neither party shall assign, subcontract or transfer their interests, rights or obligations in this Agreement without prior written consent of the other party.
- E. **RECORDS AND AUDITS (Maintenance and Retention).** CONTRACTOR shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Agreement to assure proper

accounting for all project funds. A monthly summary of these records will be maintained by CONTRACTOR at the completion of the Agreement for retention for 5-years. Said records shall be made available for inspection at CONTRACTOR's offices during normal business hours, upon request, to the CITY and any other body authorized in writing by the CITY.

F. **FINDINGS CONFIDENTIAL.** All of the reports, data, information, etc., prepared or assembled by CONTRACTOR under this Agreement are confidential and shall not be made available to any individual or organization without the prior written approval of the CITY, with the exception of any recording of survey information required by law and with respect to information that:

- 1) becomes generally available to the public other than as a result of disclosure by CONTRACTOR or its agents or employees;
- 2) was available to CONTRACTOR on a non-confidential basis prior to its disclosure by City;
- 3) becomes available to CONTRACTOR from a third party who is not, to the knowledge of CONTRACTOR, bound to retain such information in confidence.

In the event CONTRACTOR is compelled by subpoena, court order, or administrative order to disclose any confidential information, CONTRACTOR shall promptly notify CITY and shall cooperate with CITY prior disclosure so that CITY may take necessary actions to protect such confidential information from disclosure.

G. **COPYRIGHT.** No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of CONTRACTOR.

H. **DELAYS.** CONTRACTOR shall not be responsible for damages or be deemed to be in default by reason of delays in performance by reason of strikes, lockouts, accidents, acts of God, shortages of materials, delays caused by failure of CITY or CITY's agents to furnish information or to approve or disapprove work promptly or any other event beyond the control of CONTRACTOR. In the case of the happening of any such cause of delay, the time of completion shall be extended accordingly.

I. **Arbitration.** In the event of a dispute, the Parties agree to use arbitration only to the extent it is required by A.R.S. § 12-1518 or otherwise required by Arizona Rules of Civil Procedure. The Parties shall agree to fully exhaust administrative remedies before filing litigation.

J. **STANDARD OF CARE – PROFESSIONAL SERVICES.** Subject to limitations inherent in the agreed scope of work as to the degree of care, amount of time and expenses to be incurred, and subject to any other limitations contained in this Agreement, CONTRACTOR shall perform its services in accordance with generally accepted standards

and practices customarily utilized by competent consulting firms in effect at the time CONTRACTOR's services are rendered. CONTRACTOR does not expressly or impliedly warrant or guarantee its services.

- K. **RELIANCE UPON INFORMATION PROVIDED BY OTHERS.** If CONTRACTOR's performance of services hereunder requires CONTRACTOR to rely on information provided by other parties (excepting CONTRACTOR's subcontractors) CONTRACTOR shall not independently verify the validity, completeness, or accuracy of such information unless expressly engaged to do so by CITY.
- L. **SEPARABILITY.** In the event any term or provision of this Agreement is held to be invalid and unenforceable, the validity of the other provisions shall not be affected, and this Agreement shall be construed and enforced as if it did not contain the particular term or provision that is invalid or unenforceable.
- M. **COMPLETION TIME.** The CONTRACTOR shall complete the work per the schedule outlined in Exhibit A.
- N. **INDEMNIFICATION.** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the City and each officer, employee or agent thereof, for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including but not limited to, reasonable attorney's fees, court costs and the costs of appellate proceedings) to which the City may become subject, under any theory of liability whatsoever to the extent that such claims are caused by the negligent acts, recklessness or intentional misconduct of the Contractor, its officers, employees, agents, or any tier of subcontractor in connection with this agreement. This Indemnifying clause will survive the termination of this agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnification.
- O. **INSURANCE REQUIREMENTS.** Contractor warrants that, at its own expense, it shall procure and maintain the following minimum insurance coverage for the duration of the Agreement with companies duly licensed to do business in the State of Arizona, possessing a current A.M. Best, Inc. Rating of A- or better. The Contractor shall not begin work under this Agreement until it obtains insurance required under this Article and shall maintain in full force and effect the required insurance during the term of this Agreement. All liability policies shall be written on an occurrence basis form. In the event any insurance policy(ies) required by the Agreement is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Contractor's work or services.
- Commercial General Liability Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$1,000,000 Products and Completed Operations Aggregate and \$2,000,000 General Aggregate Limit.
  - Professional Liability Insurance that shall indemnify the Contractor against errors and omissions arising out of the work or services performed by Contractor, or anyone employed by Contractor, or anyone for whose acts, mistakes, errors and omissions Contractor is legally liable, with a liability insurance limit of \$1,000,000 each claim and \$2,000,000 all claims.

- 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 Contractor's owned, hired and non-owned vehicles assigned to or used in the performance of the Contractor's services related to this Agreement.
- Worker's Compensation insurance as imposed by Arizona state statutes. A copy of certificate of coverage shall be furnished to the CITY at least ten (10) days prior to the Contractor's commencement of services under this Agreement. All policies shall provide for at least thirty (30) calendar days prior notice to the CITY before coverage is canceled; the Contractor shall notify the CITY at least thirty (30) calendar days prior to any suspension, voiding, or reduction of coverage or of limits. Any deductibles or self-insured retention exceeding \$25,000 shall be declared to the CITY and the CITY shall determine whether to approve such deductible or self-insurance retention, or to require the Contractor to provide additional coverage. The Contractor's insurance shall be primary with respect to the CITY and its employees. Remit insurance verification to: City of Kingman, Attn: Risk Management, 310 N. 4<sup>th</sup> Street, Kingman, AZ 86401

P. **COMPLIANCE WITH FEDERAL AND STATE LAWS.** The CONTRACTOR understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. 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. The CITY may, at its sole discretion, conduct random verification of the employment records of the CONTRACTOR and any SUBCONTRACTORS to ensure compliance with the CONTRACTOR's Immigration Warranty. CONTRACTOR agrees to assist the CITY in regard to any such inspections. The CONTRACTOR and its SUBCONTRACTORS warrant to keep the papers and records open for random inspection during normal business hours by the CITY. The CONTRACTOR and its SUBCONTRACTORS shall cooperate with the CITY'S random inspections including granting the City entry rights onto its property to perform the random inspections and waiving their respective rights to keep such papers and records confidential.

Neither the CONTRACTOR nor any SUBCONTRACTORS 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.

This Agreement may be canceled in accordance with A.R.S. §38-511.

CONTRACTOR hereby certifies that is it not currently engaged in, and agrees for the duration of this Contract that it will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393.

IN WITNESS WHEREOF, we have set our hands and seal the day, month and year first above written.

For CONTRACTOR:

\_\_\_\_\_ (COMPANY NAME)

\_\_\_\_\_ (SIGNATURE)

\_\_\_\_\_ (PRINTED NAME)

\_\_\_\_\_ (TITLE)

\_\_\_\_\_ (LICENSE NUMBER)

State of \_\_\_\_\_ )  
 )ss.  
County of \_\_\_\_\_ )

Subscribed and Sworn to

Before Me This \_\_\_\_\_ day  
of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

FOR: CITY OF KINGMAN, ARIZONA

\_\_\_\_\_  
JEN MILES, MAYOR

Attest:

\_\_\_\_\_  
ANNIE MEREDITH, CITY CLERK

## EXHIBIT A

(Content to be determined from successful bidder's documentation)