



PROPOSAL DOCUMENTS

Water Barn Building Kit

REQUEST FOR PROPOSAL NO. PS-2018-0028

PROPOSAL DUE DATE AND TIME: January 15th, 2019 at 2:00 P.M.

**CITY OF GLOBE
150 N. Pine Street
Globe, AZ 85501
(928) 425-7146**

December 2018

Prepared By:
City of Globe Engineering Department

NOTICE OF REQUEST FOR PROPOSALS NO. PS-2018-0028
Water Barn Building Kit
GLOBE, AZ

Sealed proposals will be received by the City of Globe, in the **City Hall Conference Room, 150 N. Pine St., Globe, AZ 85501**, until **2:00 P.M. (AZ Time), Tuesday, January 15th, 2019** for the **Water Barn Building Kit**. **No Proposals will be accepted after 2:00 P.M on January 15th, 2019. The Proposals will be publicly opened and read aloud at 2:00 P.M., Arizona time, at the location and date listed above.**

All Proposals shall be made on the Proposal forms included in the Proposal Documents and shall include all applicable taxes.

Proposal documents are available, and may be obtained from the City of Globe Public Works Department, at 1250 N. Hagen Road, Globe, AZ, 928-425-4959. Please call ahead to order a copy of the documents. Documents may also be downloaded at the City of Globe website by going to the following link: <http://www.globeaz.gov/business/bid-on-new-contracts> .

Should you choose to download the proposal documents from the website, please notify us at bids@globeaz.gov to be placed on the plan holders list for any addendum that may be issued.

Each Proposal submitted, either by hand, United States Postal Service, or other carrier, shall be sealed and plainly marked "**WATER BARN BUILDING KIT PROJECT, GLOBE, ARIZONA, PROPOSAL NO. PS-2018-0028**". All Proposals shall be mailed or delivered to the **City of Globe Clerk, Shelly Salazar, 150 N. Pine St., Globe, AZ 85501**. The City of Globe will not be responsible for Proposals submitted that are not marked appropriately or sent to the wrong address.

Contractors are invited to be present at the opening of Proposals but absence will not be considered cause for disqualification.

Contractors shall be responsible for any licenses or permits required by the regulatory agency of the State of Arizona that apply to the performance of this contract.

The City of Globe reserves the right to reject any or all Proposals, or to accept any Proposals, or to waive any informality in any Proposal, or to withhold the award if deemed in the best interest of the City of Globe.

Dates advertised in the Arizona Silver Belt: 12/12/2018 & 12/19/2018

CITY OF GLOBE

Water Barn Building Kit

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INSTRUCTIONS TO SUBMITTERS

1. PROPOSAL DOCUMENTS

All Proposals must be made on the required forms included in the Proposal Documents. Proposals will include the Proposal Form, Proposal Schedule. All information provided by the Submitter must appear in ink or typewritten and shall be signed by the Submitter or his authorized representative, with his address. Proposals may be withdrawn prior to the scheduled time of opening. No Submitter shall withdraw his Proposal within forty-five (45) days after the actual date of opening.

Proposal prices shall include everything necessary for the completion of the scope of work, materials/equipment delivery for the fulfillment of the contract, including but not limited to, furnishing all labor, services, management, equipment, tools and materials. All applicable taxes shall be included in the Proposal price.

Basis of Award:

The City of Globe will evaluate all Proposals that are submitted in conformance of the Proposal documents. The Owner reserves the right to reject any or all proposals; waive technicalities, if such waiver is in the best interest of the Owner and is in conformance with applicable state and local laws or regulations pertaining to the letting of construction contracts; advertise for new proposals; or proceed with the work otherwise. All such actions shall promote the Owner's best interests. The contract will be awarded to the lowest responsive, responsible Submitter, whose Proposal is the most advantageous to the Owner concerning price, and conformance to the specifications.

The City reserves the right to negotiate the final terms and conditions of the Contract Agreement subsequent to review, modifications, and approval of shop drawings submittals.

The Proposal shall include:

- Proposal
- Proposal Schedule
- Contractor Reference List
- Subcontractor Certification
- Information as outlined in the Scope of Work (Exhibit "A")

2. EXAMINATION OF PROPOSAL DOCUMENTS & ADDENDUMS

Should a Submitter find discrepancies, inconsistencies, obscurities or omissions from the Proposal Documents he shall at once notify the City, in writing, who may issue a written addendum clarifying the intent of the Documents. Neither Owner nor Engineer will be responsible for oral instruction or information.

Prior to the receipt of Proposals, Addendum will be mailed, faxed or delivered to each person or firm recorded by the Engineer as having received the Proposal Documents, as well as being posted on the city website. Addendum will also be available for inspection wherever the Proposal Documents are kept available for that purpose.

All Addenda issued during the time of Proposal are to be included in the Proposal and shall become a part of the Proposal Documents. Acknowledge receipt of Addenda on the Proposal Form in the space provided.

3. PROPOSAL BONDS

Intentionally Removed

4. CONTRACT AGREEMENT

Within 10 days of receipt of Notice of Award the Submitter shall sign and return the Contract and all other required documents including required certifications of insurance to the Owner.

5. SUBCONTRACTOR'S AND SUPPLIERS

The successful Submitter shall supply the name and address of material/equipment suppliers and subcontractors if and when requested by the Owner.

6. DEBARMENT CERTIFICATION

The successful Submitter will be required to complete and sign the "Debarment Certification" contained in these Contract Documents.

7. TIME OF PERFORMANCE AND LIQUIDATED DAMAGES

Submitter agrees to complete the scope of work within 60 calendar days of the date of the Notice to Proceed from the Owner. Submitter also agrees to pay liquidated damages, the sum of **\$500.00** for each consecutive calendar day thereafter.

8. PERMITS AND TAXES

All fees pertaining to permits required by the Owner shall be waived. All applicable taxes are to be included in the Proposal.

9. ERRORS AND OMISSIONS

The City is not responsible for any submitter's errors or omissions. If the Submitter discovers an error or omission, such error or omission may be corrected by the Submitter, but only prior to the Proposal deadline.

10. PREPARATION OF PROPOSAL

The Submitter shall submit their Proposal on the forms furnished by the Owner. The Proposal must include the entire bid packet. All blank spaces in the proposal forms must be correctly filled in where indicated for each and every item for which a quantity is given. The Submitter shall state the price (written in ink or typed) in NUMBERALS for each item for the proposed work. The TOTAL AGGREGATE AMOUNT shall be stated in both WORDS and NUMBERALS. In the case of a conflict between words and numerals, the words, unless obviously incorrect, shall govern.

11. CERTIFICATES OF INSURANCE

Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the work. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the Owner.

Insurance Requirements

A. The Contractor shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the Contractor's execution of the Work, whether such execution be by himself or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts of them the Contractor may be liable.

1.) Claims under workman's compensation, disability benefit and other similar employee benefit acts;

2.) Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;

3.) Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;

4.) Claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;

5.) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;

6.) Claims for damages because of automobile bodily injury and property damage; and

7.) Umbrella Coverage.

B. Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement for the work. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the Owner.

C. The insurance policies shall indemnify the City of Globe and its officers, officials, employees and agents and the minimum amount of coverage shall be as hereafter specified:

CONTRACTOR'S General Public Liability and Property Damage Insurance including vehicle coverage issued to the CONTRACTOR and protecting him from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with operations under the CONTRACT DOCUMENTS, whether such operations be by himself or by any SUBCONTRACTOR under him. Insurance shall be written with a limit of liability of no less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$2,000,000 aggregated for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$400,000 aggregate for any such damage sustained by two or more persons in any one accident.

The Contractor will be required to purchase and maintain Worker's Compensation Insurance, including occupational disease provisions, for all employees at the site of the Project and in case any work is sublet, the Contractor shall require such Subcontractor similarly to provide Worker's Compensation Insurance, including occupational disease provisions, for all the latter's employees unless such employees are covered by the protection afforded by the Contractor.

EXHIBIT "A"
SCOPE OF WORK

This Project requires the successful engineering, manufacturing, and delivery of a complete building "Kit" clear span 50 ft x 100 ft x 16 ft 26 gauge galvalume steel building specifically engineered to meet elevated wind load of 115 mph, snow load of 25 pounds, and building code requirements of the City of Globe. The building shall include two (2) 10ft (w) x 14ft (h) rollup doors; and two (2) 3ft (w) x 7ft (h) walk-in doors.

Submitter shall provide complete shop drawing submittal including but not limited to building plans, literature containing product details and specifications, and engineering criteria, for review and approval by the owner, City of Globe.

Proposal will include detailed plans and freight, delivered FOB to Public Works Facilities, 1250 N. Hagen, Globe, AZ 85501.

This contract has no assembly requirements. The construction of the building will be on a separate bid and contract.

EXHIBIT "B"

PROPOSAL
Water Barn Building Kit

City of Globe
150 N. Pine Street
Globe, Arizona 85501

Date: _____

The undersigned, as Submitter, acknowledges that we have received and examined the Proposal Documents for the

Water Barn Building Kit

By submission of this Proposal we certify this Proposal has been arrived at independently, without consultation, communication or agreement as to any matter related to this Proposal with any other Submitter for this contract.

We agree to complete the contract within 60 calendar days of the date of the Notice to Proceed.

We acknowledge we have received the following Addendum:

Contractor's Signature (Print Name) Title

Company Name

Address

Telephone Email

EXHIBIT "C"
PROSAL SCHEDULE

CITY OF GLOBE
Water Barn Building Kit

Item Number	Description	Unit	Quantity	Unit Price	Extended Price
1	Water Barn Building Kit	LS	1		
Total Proposal					\$

TOTAL PROPOSAL PRICE

\$ _____
(In Numbers)

Dollars

(In Words)

Cents

(In Words)

EXHIBIT "D"
REFERENCE LIST

These references are required to enable the evaluation team to assess the qualifications of the Submitter under consideration for final award. The information may be a determining factor in award.

References

Please list a minimum of four (4) references for projects of similar size and scope as this Invitation for Proposal during the past twelve (12) months, in, or as close to the City of Globe as possible.

1. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

2. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

3. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

4. **Company:** _____
 Contact: _____
 Phone: _____
 Address: _____

Name of Business

Signature of Authorized Representative

EXHIBIT "E"
CITY OF GLOBE
CONTRACT PERFORMANCE WARRANTY

I, _____, representing

(company name)

do hereby warranty the : **Water Barn Building Kit Project for the City of Globe** for a period of **two (2) years** from completion of said work.

Said work shall be free from defects which would cause the work not to perform in its intended manner.

(Officer, Partner, Owner)

Date

EXHIBIT "F"
NOTICE OF AWARD

CITY OF GLOBE
Water Barn Building Kit

To: _____

The Proposal submitted by you on _____, 20__ for the above referenced work has been reviewed and evaluated by the Owner and his Engineer. You are hereby notified your Proposal has been accepted in the amount of \$_____.

You are required by the Instructions to Submitters to execute the Contract Agreement within ten (10) calendar days of receipt of this Notice.

If you fail to execute the Contract and/or to furnish the required certificates of insurance within ten (10) days of receipt of this Notice, the Owner will be entitled to consider your Proposal abandoned. The Owner will be entitled to such other rights as may be granted by law.

You are required to return a signed copy of this Notice of Award to the Owner.

Dated this _____ day of _____, 20__.

OWNER/CITY OF GLOBE:

Signature

Al Gameros, Mayor
Title

CONTRACTOR:

Signature

Date

EXHIBIT "G"

**CONDITIONAL WAIVER AND RELEASE
ON FINAL PAYMENT**

Project: **Water Barn Building Kit**
City of Globe

On receipt by the undersigned of a check from the City of Globe
in the sum of \$ _____ payable to _____.

and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien, any state or federal statutory bond right, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position, the undersigned has on the job of the City of Globe located at the Public Works Facilities, 1250 N. Hagen, Globe, AZ 85501. This release covers the final payment to the undersigned for all labor, services, equipment or materials furnished to the jobsite or to the City of Globe,

except for disputed claims in the amount of \$ _____. Before any recipient of this document relies on it, the person should verify evidence of payment to the undersigned.

The undersigned warrants that he either has already paid or will use the monies he receives from this final payment to promptly pay in full all his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provided for or to the above referenced project up to the date of this waiver.

Dated: _____
_____ (Company Name)

By: _____
_____ (Signature)
_____ (Title)

EXHIBIT "H"

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. IN addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name and Title of Authorized Representative

Signature of Authorized Representative

I am unable to certify the above statements. My explanation is attached.



**PROFESSIONAL SERVICES CONTRACT
NO. PS-2018-0028
CITY OF GLOBE**

This Professional Services Contract (“**Contract**”), is made and entered into as of _____, 2019, by and between the City of Globe, a municipal corporation of the State of Arizona (“**City**”), and _____ (“**Contractor**”).

WITNESSETH

WHEREAS, the City desires to contract for WATER BARN BUILDING KIT as specified in plans, specifications and Attachment “A” to Contract No PS-2018-0028 (“**Submitter’s Proposal**”); and
WHEREAS, Contractor is duly qualified to perform the requested services; and

WHEREAS, Contractor has agreed to provide the services and/or products as set forth in Exhibit “A” (Scope of Work) and Attachment “A” (Submitter’s Proposal) attached hereto and incorporated herein;

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1.0 DESCRIPTION, ACCEPTANCE, DOCUMENTATION

Contractor shall act under the authority and approval of the City Manager, or his designee, further named herein, to provide the professional services required by this Contract.

1.1 Service Description. The Contractor shall provide the requested services and/or products as set forth in Exhibit “A” (Scope of Work) and Attachment “A” (Submitter’s Proposal) to Contract No. PS-2018-0028 and shall do so in a good, workmanlike, and substantial manner and to the satisfaction of the City under the direction of the City Manager or his designee.

All work performed by the Contractor shall be completed to local codes and regulation per the City of Globe, Gila County and the State of Arizona.

1.2 Acceptance and Documentation.

1.2.1 All documents, including but not limited to, data compilations, studies, and/or reports, which are prepared in the performance of this Contract are to be, and remain, the property of the City, and are to be delivered to the City Manager before final payment is made to the Contractor.

1.2.2 To the extent that the terms and conditions of this Contract conflict with the Terms and Conditions of Attachment “A” to Contract No. GS-2018-0028, the terms and conditions of this Contract will prevail and govern the contractual relationship between the parties.

2.0 FEES, CATEGORIES OF SERVICE AND PAYMENTS

2.1 Fees. Contractor will be paid within 30 days of the receipt of an itemized invoice, as approved by the City Engineer or his designee, for a total contract amount not to exceed a contract price of \$ _____ for providing the deliverables as spelled out in Attachment "A" to Contract No. PS-2018-0028.

2.2 Payment Approval. Amount set forth in Section 2.1 represents the entire amount payable under this Contract and shall be paid upon the submission of invoice to and upon approval by, the City.

2.3 Term. 60 days from the date of Notice to Proceed.

3.0 TERMINATION

3.1 Termination.

3.1.1 Termination for Convenience: The City reserves the right to terminate this contract, or any part hereof, for its sole convenience, with thirty (30) days written notice. In the event of such termination, Contractor shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and Subcontractors to cease such work. As compensation in full for services performed to the date of such termination, the Contractor shall receive a fee for the percentage of services actually completed. This fee shall be in the amount to be mutually agreed upon by the Contractor and the City, based on the agreed Scope of Work. If there is no mutual agreement, the City Manager shall determine the percentage of completion of each task detailed in the Scope of Work and the Contractor's compensation shall be based upon such determination. The City shall make this final payment within sixty (60) days after the Contractor has delivered the last of the partially completed items. Contractor shall not be paid for any work done upon receipt of the notice of termination, nor for any costs incurred by Contractor's suppliers or Subcontractors, which Contractor could reasonably have avoided. The City Manager may provide notice hereunder on behalf of the City.

3.1.2 Termination for Cause: The City may terminate this Contract with seven (7) days' prior written notice for cause, in the event of any default by the Contractor, or if the Contractor fails to comply with any industry standards and customary practices, or terms and conditions of this Contract. Unsatisfactory performance as judged by industry standards and customary practices, and failure to provide City, upon request, with adequate assurances of future performance, shall all be causes allowing City to terminate this Contract for cause. In the event of termination for cause, Contractor shall be liable to City for any and all damages sustained by reason of the default which gave rise to the termination.

3.1.2 Termination for Violation of Law. In the event Contractor is in violation of any Federal, State, County or City law, regulation or ordinance, the City may terminate this contract immediately upon giving notice to the Contractor.

3.1.3 Non-Appropriations Clause. Contractor acknowledges that the City is a governmental entity, and the Contract validity is based upon the availability of public funding under the City's authority. In the event that public funds are unavailable and not appropriated for the performance of the City's obligations under this Contract, then this Contract shall automatically expire, without penalty to the City after written notice to Contractor of the unavailability and non-appropriation of public funds; provided, however that the City shall remain liable for the services rendered by Contractor under this Contract and accepted material received by the City before the effective date of termination.

It is expressly agreed that the City shall only activate this non-appropriations provision as an emergency fiscal measure. The City shall not activate this non-appropriations provision for its convenience, to circumvent the requirements of this Contract, or to enable the City to contract with another Contractor for the same supplies or services covered under this Contract.

4.0 GENERAL TERMS

4.1 Entire Contract. This Contract constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services and goods or products specified herein. This

Contract may not be modified or amended except by a written document, signed by authorized representatives or each party.

4.2 Arizona Law. This Contract shall be governed and interpreted according to the laws of the State of Arizona. The parties further agree that the jurisdiction for any legal dispute arising out of this Contract shall be the Superior Court of the State of Arizona. The parties agree that even if this Contract does not specifically reference any provision required by state or federal law, those state and federally required provisions are incorporated into this Contract by this referenced as though they were specifically listed herein.

Contractor shall maintain in current status all Federal, State and Local licenses and permits required to perform work and deliver materials required under this Contract.

4.3 Modifications. Any amendment, modification or variation from the terms of this Contract shall be in writing and shall be effective only after approval of all parties signing the original Contract.

4.4 Assignment. Services and goods or products covered by this Contract shall not be assigned or sublet in whole or in part without the prior written consent of the Purchasing Director and Contract Administrator.

4.5 Successors and Assigns. This Contract shall extend to and be binding upon Contractor, its successors and assigns, including any individual, company, partnership or other entity with or into which Contractor shall merge, consolidate or be liquidated, or any person, corporation, partnership or other entity to which Contractor shall sell its assets.

4.6 Contract Administrator. The Contract Administrator for the City shall be the City Manager or designee. The Contract Administrator shall oversee the execution of this Contract, assist the Contractor in accessing the organization, audit billings, and approve payments. The Contractor shall channel reports and special requests through the Contract Administrator.

4.7 Records and Audit Rights.

4.7.1 Contractor's records (hard copy, as well as electronic copy), and any other supporting evidence deemed necessary by the City to substantiate charges and claims related to this Contract shall be open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Contractor or any of his payees pursuant to the execution of the Contract. The City's authorized representative shall be afforded access, at reasonable times and places, to all of the Contractor's records and personnel pursuant to the provisions of this article throughout the term of this Contract and for a period of three years after last or final payment.

4.7.2 Contractor shall require all subcontractors, insurance agents, and material suppliers to comply with the provisions of this article by insertion of the requirements hereof in a written contract between Contractor and such subcontractors, insurance agents, and material suppliers.

4.7.3 If an audit in accordance with this section, discloses overcharges, of any nature, by the Contractor to the City in excess of one percent (1%) of the monthly billings, the actual cost of the City's audit shall be reimbursed to the City by the Contractor. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a reasonable amount of time, not to exceed thirty (30) days from presentation of City's findings to Contractor.

4.8 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

4.9 Ineligible Bidder. The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a bidder or Contractor on the solicitation for which they prepared the specification.

4.10 Independent Contractor.

4.10.1 The services and goods or products Contractor provides under the terms of this Contract to the City are that of an Independent Contractor, not an employee, or agent of the City. The City will report the value paid for these services and goods or products each year to the Internal Revenue Service (I.R.S.) using Form 1099.

4.10.2 City shall not withhold income tax as a deduction from contractual payments. As a result of this, Contractor may be subject to I.R.S. provisions for payment of estimated income tax. Contractor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

4.10.3 Contractor warrants that he has obtained or will obtain Worker's Compensation Insurance for his employees working on this Contract and that any subcontractors (if permitted) shall likewise obtain Worker's Compensation Insurance for their employees working on this contract. Neither Contractor nor any employee of the Contractor shall be deemed an officer, employee, or agent of the City.

4.11 Conflict of Interest. Pursuant to A.R.S. §38-511-The City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City's departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. The cancellation shall be effective when written notice from the City is received by all other parties to the contract, unless the notice specifies a later time.

4.12 Compliance with Federal and State Laws.

4.12.1 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.

4.12.2 Under the provisions of A. R. S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its 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**").

4.12.3 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.

4.12.4 The City retains the legal right to inspect the papers of any Contractor or Subcontractors 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.

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

4.12.6 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 section 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A. R. S. § 23-214, Subsection A.

4.12.7 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 or goods or products 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.

4.12.8 The provisions of this Section 4.12 must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services or goods or products under this Contract or any subcontract.

4.13 Israel Boycott Certification. Contractor hereby certifies that it is not currently engaged in and will not, for the duration of this agreement, engage in a boycott of Israel as defined by A.R.S. §35-393.01. Violation of this certification by Contractor may result in action by City up to and including termination of this Contract.

4.14 Notices. All notices or demands required to be given pursuant to the terms of this Contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of Contractor:

In the case of City: City of Globe
150 N. Pine St.
Globe, AZ 85501
Attn: City Manager

Notices shall be deemed received on date delivered, if delivered by hand, or on the delivery date indicated on receipt if delivered by certified or registered mail.

4.15 Force Majeure. Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.

4.16 Taxes. Contractor shall be solely responsible for any and all tax obligations which may result out of the Contractors performance of this Contract. The City shall have no obligation to pay any amounts for taxes, of any type, incurred by the Contractor.

4.17 Advertising. No advertising or publicity concerning the City using the Contractor’s services or goods or products shall be undertaken without prior written approval of such advertising or publicity by the City Contract Administrator.

4.18 Counterparts. This Contract may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Contract shall be deemed to possess the full force and effect of the original.

4.19 Captions. The captions used in this Contract are solely for the convenience of the parties, and do not constitute a part of this Contract and are not to be used to construe or interpret this Contract.

4.20 Subcontractors. The addition of subcontractors shall be subject to the prior approval of the City Manager on a case by case basis.

4.21 Indemnification.

4.21.1 To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall indemnify, defend, save, and hold harmless City of Globe, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, damages for personal injury or personal property damage, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to,

arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services or goods or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees.

4.21.2 In the event the subject action alleges negligence on the part of the Contractor and/or the City, or any third parties not under contract with the Contractor, Contractor's obligations regarding the City's defense under this paragraph include only the reimbursement of the City's reasonable defense costs incurred to the extent of the Contractor's negligence as expressly determined by a final judgment, arbitration, award, order, settlement, or other final resolution. The Contractor shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits or for economic, incidental or consequential damages to the City or any third party arising out of breach of contract, termination, or for any other reason whatsoever. Additionally, the Contractor shall not be responsible for acts and decisions of third parties, including governmental agencies, other than the Contractor's sub-consultants, that impact project completion and/or success.

4.21.3 Insurance provisions set forth in this Contract are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this paragraph shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

4.22 Changes in the Work.

4.22.1 The City may at any time, as the need arises, order changes within the scope of the work without invalidating the Contract. 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.

4.22.2 The City will execute a formal Change Order based on detailed written quotations from the Contractor for work related changes and/or a time of completion variance. All Change Orders shall be submitted to City for approval within ten (10) days of occurrence and are subject to prior written approval by the City.

4.22.3 Contract Change Orders are subject to the Rules and Procedures within the City's Procurement Code.

4.23 Co-op Use of Contract. In addition to the City of Globe, this Contract may be extended for use by other municipalities, government agencies and governing bodies, including the Arizona Board of Regents, and political subdivisions of the State. Any such usage by other entities may be in accord with the ordinances, charter and/or rules and regulations of the respective entity and the approval of the Contractor.

4.24 Alternative Dispute Resolution. If a dispute arises between the parties relating to this Contract, the parties agree to use the following procedure prior to either party pursuing other available remedies:

4.24.1 A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

4.24.2 If, within 30 days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "**neutral**"), seeking assistance in such regard if they have been unable to agree upon such appointment within 40 days from the initial meeting. The fees of the neutral shall be shared equally by the parties.

4.24.3 In consultation with the neutral, the parties will select or devise an alternative dispute resolution procedure ("**ADR**") by which they will attempt to resolve the dispute, and a time and place for the ADR to be held, with the neutral making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than 60 days after selection of the neutral) if the parties have been unable to agree on any of such matters within 20 days after initial consultation with the neutral.

4.24.4. The parties agree to participate in good faith in the ADR to its conclusion as designated by the neutral. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration or a private adjudicator, or either party may seek an adjudicated resolution through the appropriate court.

4.25 City-Provided Information and Services. The City shall furnish the Contractor available studies, reports and other data pertinent to the Contractor's services or goods or products; obtain or authorize the Contractor to obtain or provide additional reports and data as required; furnish to the Contractor services of others required for the performance of the Contractor's services or provision of goods or products hereunder, and the Contractor shall be entitled to use and rely upon all such information and services provided by the City or others in performing the Contractor's services or provision of goods or products under this Agreement

4.26 Access. The City shall arrange for access to and make all provisions for the Contractor to enter upon public and private property as required for the Contractor to perform services or provide goods or products hereunder.

4.27 Third Parties. The services to be performed by the Contractor are intended solely for the benefit of the City. No person or entity not a signatory to this Agreement shall be entitled to rely on the Contractor's performance of its services hereunder, and no right to assert a claim against the Contractor by assignment of indemnity rights or otherwise shall accrue to a third party as a result of this Agreement or the performance of the Contractor's services hereunder.

5.0 INSURANCE. The Contractor shall procure and maintain, at Contractor's sole expense the following:

5.1 Commercial General Liability Insurance Policy with limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in aggregate against claims for bodily injury, death and property damage and names the City of Globe, AZ as an additional insured (with corresponding endorsement relative to the additionally insured indemnification) in connection with the consulting services as provided herein.

5.2 Workers' Compensation coverage. Coverage includes Statutory, plus Coverage A: Each Accident, B: Each Employee and C: Disease, Each \$1,000,000.

5.3. Commercial automobile liability insurance for any owned, hired or non-owned autos, with a limit of not less than \$1,000,000 each accident (if Contractor performance hereunder requires driving for the City of Globe other than the commute to and from City facilities).

5.4 The Contractor shall keep said policies in force for the duration of the Contract and for any possible extension thereof. The policy shall not be suspended, voided canceled or reduced in coverage for the duration of the Contract and for any possible extension thereof without at least thirty (30) days' notice of cancellation of material change in coverage.

5.5 All carriers shall be approved to write insurance in the State of Arizona and possess a rating of not less than B= VI or better A.M. Best rating.

5.6 Within ten (10) days of the execution of this Contract, Contractor shall furnish any original Certificates of Insurance and corresponding endorsement(s) evidencing the required coverage to be in force on the date of this Contract.

5.7 Contractor shall furnish to the City of Globe any renewal Certificates of Insurance (if coverage has an expiration or renewal dates occurring during the term of this Contract).

5.8 The receipt of any Certificate of Insurance and endorsement does not constitute an agreement by the City of Globe that insurance requirements have been met.

5.9 The failure of Contractor to obtain Certificates or other insurance evidence from other contractors shall not be deemed a waiver by the City of Globe of any obligation hereunder.

5.10 The Contractor's liability under this Contract is not in any way limited by the insurance required by this Contract.

5.11 The policies set forth in these requirements may provide coverage which contain deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to City of Globe. Contractor shall be solely responsible for any such deductible or self-insured retention amount. City of Globe, at its option, may require Contractor to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.

6.0 WARRANTY

6.1 Warranty. Contractor expressly warrants that all goods or services furnished under this agreement shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Contractor warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Contractor warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. If Contractor knows or has reason to know the particular purpose for which City intends to use the goods or services, Contractor warrants that such goods or services will be fit for such particular purpose. Contractor warrants that goods or services furnished will conform in all respects to samples. Inspection, test, acceptance of use of the goods or services furnished hereunder shall not affect the Contractor's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Contractor's warranty shall run to City, its successors, and assigns. Contractor agrees to replace or correct, at Contractor's sole cost and expense, defects of any goods or services not conforming to the foregoing warranty, or improperly installed, as well as guarantee to the City and to the Owner, against liability, losses or damage to any or all parts of the work arising from said installation during a period of two (2) years from date of completion. All guarantees will inure to the benefit of the City and the Owner, their successors or assigns, including equipment warranties, ordinary wear and tear and unusual abuse or neglect excepted.

6.2 Corrective Actions. In the event of failure of Contractor to correct defects in or replace nonconforming goods or services promptly, City, after reasonable notice to Contractor, may make such corrections or replace such goods and services and charge Contractor for the cost incurred by the City in doing so. Contractor recognizes that City's requirements may require immediate repairs in reworking of defective goods, without notice to the Contractor. In such event, Contractor shall reimburse City for those costs, delays, or other damages which City has incurred.

7.0 SEVERABILITY AND AUTHORITY

7.1 Severability. If any term or provision of this Contract shall be found to be illegal or unenforceable, then notwithstanding such illegality or unenforceability, this Contract shall remain in full force and effect and such term or provision shall be deemed to be deleted.

7.2 Authority. Each party hereby warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

Contractor shall be paid an amount not to exceed \$_____ for completion of projects as outlined in the Scope of Services – Exhibit "A" – Contract No. PS-2018-0028.

IN WITNESS WHEREOF, Contract No. PS-2018-0028, has been duly executed by the parties hereinabove named, on this _____ day of _____, 2019.

CITY OF GLOBE

CONTRACTOR:

By: _____
Al Gameros, Mayor

By: _____

Name: _____

Its: _____

ATTEST

Shelly Salazar, City Clerk

By: _____
William J. Sims III, City Attorney