

NOTICE OF REQUEST FOR STATEMENT OF QUALIFICATIONS FROM
ENGINEERING FIRMS FOR
CITY ENGINEER SERVICES
CITY OF WILLIAMS, ARIZONA

Project Name: City Engineering Services
Deadline: 12/29/2016@ 12:00 PM
Submittal Location: Williams City Clerk's Office
113 South 1st Street, Williams, AZ 86046
Williams Staff Contact: Skylor R. Miller, City Manager
RFQ available at: 113 South 1st Street, Williams, AZ 86046

Date and Location for Submittal: Sealed Statements of Qualifications (SOQ's) from qualified engineering firms will be received at the City Clerk's Office, 113 South 1st Street, Williams, AZ 86046 by 12:00 p.m., MST, December 29, 2016. SOQ's must be submitted in a sealed envelope clearly marked in accordance with the requirements of the Request for Qualifications (RFQ). The SOQ must include all information items listed in the RFQ in the order listed. Any SOQ received after the time specified will be returned unopened. (No electronic submittals or amendments will be accepted). It is the firm's responsibility to assure SOQ's are received at the above location on or before the specified time.

Project Description: Provide City Engineering services for the City of Williams, Arizona, on an on-call, contract basis in coordination with any other selected service providers.

SOQ Format: Each SOQ received must be in accordance with the format and information provided within the Request for Qualifications package. Any submittal that does not conform, in all material respects to what is outlined in the RFQ, will be considered non-responsive. Each SOQ shall be submitted in a sealed envelope per the directions provided in the RFQ.

Right to Reject SOQ: Williams reserves the right to waive any irregularities in any submittal and to reject all submittals and re-advertise or cancel the project in its entirety, each at its sole discretion. Williams, or its consultants and advisors, will not be responsible for any cost incurred by any firm submitting a SOQ or responding to this notice.

Equal Opportunity: WILLIAMS is an equal opportunity employer. Minority and women's business enterprises are encouraged to submit on this Project.

Publications Date(s):

DATED: _____

CITY OF WILLIAMS, ARIZONA

Pamela Galvan, City Clerk

REQUEST FOR STATEMENT OF QUALIFICATIONS FOR CITY ENGINEER SERVICES

1.0 REQUEST FOR QUALIFICATIONS

The City of Williams invites qualified engineering firms to submit a Statement of Qualifications (SOQ) to provide City Engineering services to the City. The City may select more than one service provider, or select only one service provider, each in Williams' sole discretion.

2.0 INSTRUCTIONS

Sealed Statements of Qualifications will be received at the City Clerk's Office, 113 South 1st Street, Williams, AZ 86046 until 12:00 p.m. a.m./p.m. MST, December 29, 2016. One (1) original and six (6) copies of the SOQ must be submitted in a sealed envelope clearly marked: "SOQ for City Engineer Services". **Any Statement of Qualifications received at the wrong location, unsealed or after the time specified will not be accepted and shall be returned without being opened.** It is the firm's responsibility to assure Statements of Qualifications are received at the above location on or before the specified time.

The SOQ shall include a one-page cover letter plus a maximum of twelve (12) pages to address the SOQ criteria specified (including organization chart), plus Appendix A.

Please be advised that failure to comply with the following criteria will result in disqualification:

- Receipt of submittal by the cut-off date and time specified.
- Receipt of submittal at the proper location.
- Receipt of a sealed submittal package.
- The number of originals and/or copies of the submittal specified.
- Adherence to maximum page requirements.
- Acknowledgement of all addenda in the cover letter.
- Supplemental resumes are not allowed.

Adherence to the maximum page criteria is critical; each page side (maximum 8-1/2" x 11") with criteria information will be counted. Pages and tabs that have photos, charts, graphs or criteria information will be counted towards the maximum number of pages. The minimum allowable font size shall be 11.

3.0 GENERAL DESCRIPTION OF THE SERVICES

Provide City Engineering services to the City of Williams, Arizona on an on-call, contract basis. Services generally include preparation of plans and specifications, overseeing construction, plan review, project inspections. Williams intends to enter into a contract for ___ years, with the possibility of extensions. It is the City's intent to select at least one (1) and no more than three (3) engineering firms (or teams) to provide professional services for engineering services and other related services directly related to activities identified under the Scope of Work on a contractual basis, as determined to best serve the interest of the City, in its sole discretion. There will be one finalist list of at least three (3) firms but no more than five (5).

4.0 SCOPE OF WORK

- A. The City of Williams is seeking submissions of qualifications from qualified civil engineering firms to provide continuing, on-call, open-ended engineering services for consultation, design work, and other professional services in the categories described below.
1. Roadway Engineering to include streets, sidewalk, curb, gutter, drainage, associated traffic control devices, striping, lighting, speed reduction devices and incidental landscaping. Designing/managing technical aspects of projects funded by federal and/or state money (e.g. USDA, CDBG, etc.).
 2. Drainage Design includes the necessary analysis needed to implement proposed drainage improvements, preparation of paving and drainage plan for municipal building and facilities. Designing/managing technical aspects of projects funded by federal and/or state money (e.g. USDA, CDBG, etc.).
 3. Water and Wastewater Infrastructure Engineering (distribution, collection and treatment) evaluation, planning, design and services during construction. Designing/managing technical aspects of projects funded by federal and/or state money (e.g. USDA, CDBG, etc.).
 4. Traffic Engineering services will include daily volume counts, data analysis, preparation of conceptual improvement plans, present reports and recommendations to stakeholders and preparation of final traffic engineering report. Designing/managing technical aspects of projects funded by federal and/or state money (e.g. USDA, CDBG, etc.).
 5. Environmental Engineering includes site investigation and design needed to prepare remediation plant to mitigate underground storage tanks, hazardous waste materials and asbestos materials. Designing/managing technical aspects of projects funded by federal and/or state money (e.g. USDA, CDBG, etc.).

5.0 SOQ FORMAT AND SCORING

The selection criteria and relative weights for determining the order of firms on the final list are as follows:

MANAGEMENT	MAXIMUM SCORE
Understanding and Approach to the Services	25
Schedule and Cost Control Ability	10
Quality Control Ability	5
EXPERIENCE	
Firm Experience and Capability for Work	10
Proposed Project Manager	25
Proposed Project Staff	10
REFERENCES	
References (Past Performance Verification Form)	<u>15</u>
Total Maximum Points	100

6.0 SELECTION PROCESS

- 6.1 Selection Committee:** A Selection Committee will review the Statements of Qualifications and develop a final list with a minimum of three (3) firms based on the included “Evaluation Criteria”. The criteria to be used to determine the order of firms on the final list are set forth in Section 5.0. The firms appearing on the final list will be invited to participate in an interview with the Selection Committee. Final selection will be based upon ordinal scores from the interviews alone. Each firm will then be ranked accordingly. In the event of a tie, total points from the interviews will be utilized as a tie-breaker.
- 6.2 Contract Negotiation:** Upon completion of the final rankings, Williams will enter into negotiations with one or more applicants as the highest ranked firm for a City Engineering services contract in each category under Section 4.0. If a contract cannot be successfully negotiated with the highest ranked firm, then negotiations will be terminated with that firm and Williams will enter into negotiations with the next highest ranked firm until an agreement is reached or an impasse is declared.
- 6.3 Key Personnel:** The Firm shall ensure that Key Personnel identified in its SOQ shall be the Key Personnel assigned to the project. Such Key Personnel shall not be replaced without prior written acceptance of Williams. Unauthorized replacements will result in disqualification of the proposal or breach of the contract.

7.0 CONTENTS OF SOQ

Statements of qualifications shall be scored in accordance with Section 5.0 and contain the following information:

7.1 Understanding and Approach to the Services: Response must demonstrate your comprehension of the objectives and services for the proposed contract. Do not merely duplicate the Anticipated Scope of Work described in this Request for Qualifications (RFQ).

- Describe and demonstrate your firm's/team's comprehension of the goals and objectives of this project.
- Describe your proposed team's approach to managing the design of this project.
- Discuss whether the statement of services is sufficiently explicit for the proposed work.
- Discuss the major issues your team has identified on this project and how you intend to address those issues.
- Define any assumptions made in formulating criteria response.

7.2 Schedule and Cost Control Ability: Response must demonstrate firm's ability to meet Williams' schedule for projects. Describe the method(s) your proposed team will employ for the services.

7.3 Quality Control Ability: Response must demonstrate firm's ability to provide quality control oversight of the firm's activities throughout all phases of the Contract. Describe the method(s) your proposed team will employ for the services.

7.4 Firm Experience and Capability for Work: The SOQ shall list similar agencies for which similar services have been provided.

Provide an organization chart showing key personnel identified in 7.5 and 7.6 below. The chart shall indicate lines of authority, points of contact, and percentage of weekly times that each individual will be committed to the services.

7.5 Proposed Project Manager: Response must name the Project Manager directly responsible and engaged in the services and his qualifications.

7.6 Proposed Project Staff: Response shall name the key staff from the firm, and its sub-consultants, who will perform the functions deemed necessary to accomplish the services. Describe the services to be performed by each key staff member and detail their specific qualifications and experience directly related to the proposed services contract.

8.0 PAST PERFORMANCE VERIFICATION FORM (PPVF)

Williams desires to receive feedback on past performance of your projects. Mail or fax a copy of the attached Past Performance Verification form to Public/Private Agencies, for which you have **substantially completed similar work**, to fill out a copy of the PPVF for three (3) similar projects. Provide this form to the Owner, or Owner's representative, **directly responsible for oversight of the project** to complete and submit via mail or fax

prior to the date and time listed on the form. If your firm has completed previous **similar** work for the City of Williams it is recommended that you utilize this experience. If your firm has not completed prior projects with Williams you will not be penalized.

Please list the agency or firm name, address, phone number and contact information for the Agency that will be providing the Past Performance Verification Form on attached **Exhibit A and include as an appendix to the SOQ**. Past Performance Verification Forms will only be accepted from the Agencies listed on Exhibit A.

Zero points will be awarded for projects:

- If Exhibit A is not included in the SOQ.
- If a PPVF is received after the date and time specified on the form.
- If a project is not listed on Exhibit A.
- If a project submitted is not substantially complete.
- If the firm submitting was not the **prime architect/engineer**.
- If the person responding was not directly responsible for project oversight.

It is the **responsibility of the firm** submitting the SOQ to ensure that Williams receives **all** of the Past Performance Verification Forms prior to the deadline.

9.0 CITY OF WILLIAMS CONTACT

Questions may be directed in writing to Skylor R. Miller, City Manager, 113 South 1st Street, Williams, AZ 86046. All questions must be received in writing no less than five (5) working days prior to SOQ due date so that response may be posted as an addendum to the RFQ.

- Email: smiller@williamsaz.gov
- Fax: (928) 635-4495

10.0 TERMS AND CONDITIONS

This RFQ does not commit Williams to award a contract, to defray any costs incurred in the preparation of a response to this request, or to procure or contract for services.

- 10.1 Williams reserves the right to extend the date by which the submittals are due.
- 10.2 Williams reserves the right to cancel, in part or in its entirety, this RFQ including but not limited to: selection schedule, submittal date, and submittal requirements. If Williams cancels or revises the RFQ all respondents of record will be notified in writing by Williams.
- 10.3 All submittals become the property of Williams. Except for the name of firms on the final list, no information contained in a Statement of Qualifications shall be made public until after award and execution of a contract with a firm.

10.4 Williams reserves the right to request additional information and/or clarifications from any or all Respondents to this RFQ.

11.0 EQUAL OPPORTUNITY

Williams is an equal opportunity employer. Minority and women's business enterprises are encouraged to submit Statements of Qualifications for the services.

12.0 PROTEST POLICY

The city manager shall have the authority to receive formal protests lodged in writing, specifically identifying the objection to the award of an invitation for bid (IFB), request for proposals (RFP) or request for qualifications (RFQ), pursuant to the formal purchase procedure. The protest must be submitted to the purchasing manager no later than 14 calendar days after notification of the intent to award. Untimely protests will not be considered.

Firms shall confirm receipt of all addenda issued to this RFQ in its cover letter submitted with its Statement of Qualifications. It is the Firm's sole responsibility to confirm receipt of all addenda issued to the RFQ. Failure to do so will result in the proposal being declared non-responsive. Firms will NOT be notified of addenda by fax. If addenda are issued they will be published on the City of Williams Website at:

<http://www.williamsaz.gov>

Attachments:

Exhibit A: Past Performance Verification Evaluation Submittals
Past Performance Verification Form
Pro forma City Engineer contract

PAST PERFORMANCE VERIFICATION FORM (PPVF)

Directions: Request Public/Private Agencies, for which you have **substantially completed** similar services, to fill out a copy of the PPVF for three (3) similar services. Provide this form to the Owner or Owner's representative **directly responsible** for oversight of the project to complete and submit via mail or fax prior to the date and time listed below. If the form is received after the date and time specified it will not be accepted. If your firm has completed previous similar work for the City of Williams it is recommended that you utilize this experience. If your firm has not completed prior projects with Williams you will not be penalized.

SOQ Due Date and Time: December 29, 2016 at 12:00 p.m.

PROJECT NAME:

NAME OF COMPANY TO BE EVALUATED: _____

NAME OF AGENCY OR FIRM SUBMITTING EVALUATION: _____

NAME/PHONE NUMBER OF PERSON SUBMITTING EVALUATION: _____

NAME OF PROJECT AND DATE SUBSTANTIALLY COMPLETED: _____

QUESTIONS:

What type of services did this firm provide on the project referenced?

1. On a scale of 1 to 10 (1 being lowest, 10 highest), rate this company's performance on the following:

- a. How would you rate work performed by this firm on your project? _____
- b. Was the project completed on time? _____
- c. Was the project completed within budget? _____
- d. What was the quality of the work performed? _____
- e. Was staff proactive in solving problems that may have occurred on your project? _____
- f. What was the extent of staff turnover? (10 = low staff turnover, 1 = high staff turnover) _____
- g. Would you be willing to contract with this firm again? (10 = Yes, 1 = No) _____

TOTAL POINTS _____

2. Any additional comments. _____

Please email to Skylor Miller, City Manager at smiller@williamsaz.gov by the date and time shown above.

EXHIBIT A

PAST PERFORMANCE VERIFICATION EVALUATION SUBMITTALS

LIST OF THOSE AGENCIES OR FIRMS WHO WILL BE SUBMITTING EVALUATIONS TO CITY

Please list the agency or firm name, address, phone number and contact information for the firms that will be providing the Past Performance Verification Form. It is the **responsibility of the firm** to ensure that Williams receives all of the Past Performance Verification Forms prior to the SOQ submittal deadline. Failure to provide evaluations by date and time specified will result in no score for that specific evaluation.

1. _____

2. _____

3. _____

CITY ENGINEER SERVICES CONTRACT

THIS CONTRACT is entered into as of this [REDACTED] day of [REDACTED], 20[REDACTED], by and between the City of Williams, Arizona, a municipal corporation, hereinafter referred to as "Williams" and [REDACTED], hereinafter referred to as the "Engineer."

FOR THE PURPOSE of providing professional engineering services for the City of Williams as City Engineer, Williams and Engineer do hereby mutually agree to the following:

1. SERVICES AND RESPONSIBILITIES

- 1.1 Retention of the Engineer: In consideration of the mutual promises contained in this Agreement, Williams engages the Engineer to render professional services on an "as needed" basis and generally described in Exhibit A, in accordance with all the terms and conditions contained in this Agreement.
- 1.2 Scope of Services: The Engineer shall do, perform and carry out in a satisfactory and proper manner, as determined by Williams, the Services set forth in individual Authorizations for Services ("Services"). A form of Authorization for Services is attached hereto as Exhibit B. Williams shall notify Engineer in writing of Services to be performed by execution of an Authorization for Services. Delivery of an Authorization for Services shall constitute Engineer's authorization to proceed with the Services described in such Authorization. Each Authorization for Services shall clearly describe the scope of services authorized pursuant to Such Authorization for Services.
- 1.3 Responsibility of the Engineer
 - 1.3.1 Engineer hereby agrees that the Services shall meet all applicable code requirements and shall comply with applicable laws and regulations. In addition, and not as a limitation on the foregoing, any specifications and contract documents and all other documents prepared by Engineer shall be prepared in accordance with professional engineering standards. Any review or approval of said specifications and Contract Documents does not diminish these requirements.
 - 1.3.2 Engineer shall procure and maintain during the course of this Agreement insurance coverage required by Paragraph 4 of this Agreement.
 - 1.3.3 Engineer shall designate [REDACTED] as its representative and all communications shall be directed to him. Key Engineer Personnel are set forth in Exhibit C. Prior to changing such designation Engineer shall first make a written request to and obtain the approval of the Williams City Manager.
 - 1.3.4 Engineer's subcontractors are set forth in Exhibit C attached hereto and made a part hereof. Any modification to the list of Subcontractors on Exhibit C, either by adding, deleting or changing subcontractors, shall require the written consent of Williams.
 - 1.3.5 Engineer shall obtain its own legal, insurance and financial advice regarding Engineer's legal, insurance and financial obligations under this Agreement.

1.3.6 Engineer shall provide required reports on the progress of the Services as requested by the City Manager. Engineer shall coordinate its activities with Williams' representative.

1.4 Responsibility of Williams

1.4.1 Williams shall cooperate with the Engineer by placing at his disposal all available information concerning the Services.

1.4.2 Williams designates the City Manager as its Representative. All communications from Williams to engineer shall be directed to Williams' Representative.

2. **CONTRACT TIME AND CONTRACT SUM**

2.1 Contract Time: The term of this contract shall be _____.

2.2 Contract Sum: Compensation to be paid to Engineer shall be as set forth on Exhibit D.

2.3 Method of Payment: Payment to be made by Williams to Engineer for the cost of providing Services will be based on monthly invoices which will set forth the hours actually worked during the billing period. Reimbursable expenses incurred during the billing period and during previous billing periods and not yet invoiced will be submitted for payment on the monthly invoice along with expense receipts and other acceptable back-up. All payment requests shall be certified by the Engineer's Representative. All invoices shall be for Services completed.

3. **CHANGES TO THE SCOPE OF SERVICES**

3.1 Change Orders: Williams may, at any time, by written change order, make changes in the Scope of Work by executing a change order. If Engineer believes a change in the Scope of Work has been ordered, Engineer shall submit a request for a change order in writing within ten (10) days from the date of receipt by Engineer of notice of the change. It is distinctly understood and agreed by the parties that no claim for extra services provided or materials furnished by Engineer will be allowed by Williams except as provided herein nor shall Engineer provide any services or furnish any materials not covered by this Agreement unless Williams first approves in writing.

4. **INSURANCE REPRESENTATIONS AND REQUIREMENTS**

4.1 General: Engineer agrees to comply with all Williams ordinances and state and federal laws and regulations. Without limiting any obligations or liabilities of Engineer, Engineer shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies duly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of A-7 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to Williams. Failure to maintain insurance as specified may result in termination of this Agreement at Williams' option.

4.2 No Representation of Coverage Adequacy: By requiring insurance herein, Williams does not represent that coverage and limits will be adequate to protect Engineer. Williams reserves the right to review any and all of the insurance policies and/or endorsements cited in this

Agreement, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Engineer from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

- 4.3 Additional Insured: All insurance coverage and self-insured retention or deductible portions, except Workers Compensation insurance and Professional Liability insurance if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, Williams, its agents, representative, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.
- 4.4 Coverage Term: All insurance required herein shall be maintained in full force and effect until all Services required to be performed under the terms of this Agreement is satisfactorily performed, completed and formally accepted by Williams, unless specified otherwise in this Agreement.
- 4.5 Primary Insurance: Engineer's insurance shall be primary insurance. All insurance, except Workers' Compensation and Professional Liability, shall provide protection of Williams as an Additional Insured.
- 4.6 Claims Made: In the event any insurance policies required by this Agreement are written on a "claims made" basis, coverage shall extend, either by keeping coverage in force or purchasing an extended reporting option, for three (3) years past completion and acceptance of the Services evidenced by submission of annual Certificates of Insurance citing applicable coverage is in force and contains the provisions as required herein for the three year period.
- 4.7 Waiver: All policies, except Workers' Compensation Insurance and Professional Liability, shall contain a waiver of rights of recovery (subrogation) against Williams, its agents, representative, officials, directors, officers, and employees for any claims arising out of the Services of Engineer. Engineer shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.
- 4.8 Policy Deductibles and or Self Insured Retentions: 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 Williams. Engineer shall be solely responsible for any such deductible or self-insured retention amount. Williams, at its option, may require Engineer to secure payment of such deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.
- 4.9 Use of Subcontractors: If any Services under this Agreement are subcontracted in any way, Engineer shall execute written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements set forth herein protecting Williams and Engineer. Engineer shall be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

4.10 Evidence of Insurance: Prior to commencing any Services under this Agreement, Engineer shall furnish Williams with Certificate(s) of Insurance, or formal endorsements as required by this Agreement, issued by Engineer's Insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages, conditions, and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Acceptance of and reliance by Williams on a Certificate of Insurance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. Such Certificate(s) shall identify the Agreement and be sent to the City Risk Manager. If any of the above cited policies expire during the life of this Agreement, it shall be Engineer's responsibility to forward renewal Certificates within ten (10) days after the renewal date containing all the aforementioned insurance provisions. Certificates shall specifically cite the following provisions:

4.10.1 Williams, its agents, representatives, officers, directors, officials and employees is an Additional Insured as follows:

- A. Commercial General Liability-Under ISO Form CG 20 10 11 85 or equivalent
- B. Auto Liability-Under ISO Form CA 20 48 or equivalent
- C. Excess Liability-Follow Form to underlying insurance

4.10.2 Engineer's insurance shall be primary insurance as respects performance of this Agreement.

4.10.3 All policies, except Workers' Compensation and Professional Liability, waive rights of recovery (subrogation) against Williams, its agents, representatives, officers, directors, officials and employees for any claims arising out of Services performed by Engineer under this Agreement.

4.10.4 Certificate shall cite a thirty (30) day advance notice cancellation provision. If ACORD Certificate of Insurance form is used, the phrases in the cancellation provision "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

4.11 Required Coverage

4.11.1 Commercial General Liability: Engineer shall maintain "occurrence" form Commercial Liability Insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as Insurance Services Office, Inc. policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, Williams, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured Endorsement form CG 20 10 11 85 or equivalent, which shall read

“Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you”. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

- 4.11.2 Professional Liability: Engineer shall maintain Professional Liability insurance covering errors and admissions arising out of the Services performed by Engineer, or anyone employed by Engineer, or anyone for whose acts, mistakes, errors and omissions Engineer is legally liable, with an unimpaired liability insurance limit of \$1,000,000 each claims and \$2,000,000 all claims. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for three (3) years past completion and acceptance of the Services, and Engineer shall be required to submit Certificates of Insurance evidencing proper coverage is in effect as required above.
- 4.11.3 Vehicle Liability: Engineer shall maintain Business Automobile Liability Insurance with a limit of \$1,000,000 each occurrence on Engineer’s owned, hired, and non-owned vehicles assigned to or used in the performance of the Engineer’s Services under this Agreement. Coverage will be at least as broad as Insurance Services Office, Inc. coverage code “1” any auto policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of performance of this Agreement, Williams, its agents, representative, officers, directors, officials and employees shall be cited as an Additional Insured under the Insurance Service Offices, Inc. Business Auto Policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this paragraph, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.
- 4.11.4 Workers’ Compensation Insurance: Engineer shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Engineer’s employees engaged in the performance Services under this Agreement and shall also maintain Employer Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

5. INDEMNIFICATION

- 5.1 To the fullest extent permitted by law, Engineer, its successors and assigns shall indemnify and hold harmless Williams, its officers and employees from and against all liabilities, damages, losses and costs (including reasonable attorney fees and court costs) to the extent caused by the negligence, recklessness or intentional wrongful conduct of Engineer or other persons employed or used by the Engineer in the performance of this Agreement. Engineer’s duty to indemnify and hold harmless Williams, its officers and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use of resulting there from, caused by Engineer’s negligence, recklessness or intentional wrongful conduct in the performance of this Agreement and the negligence, recklessness or intentional wrongful conduct of any person employed by Engineer or used by Engineer in the performance of this Agreement.

5.2 Insurance provisions set forth in this Agreement 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.

6. TERMINATION OF THIS AGREEMENT

6.1 Termination: Williams may, by written notice to the Engineer, terminate this Agreement in whole or in part with seven (7) days' notice, either for Williams' convenience or because of the failure of the Engineer to fulfill his contract obligations. Upon receipt of such notice, the Engineer shall: (1) immediately discontinue all Services affected (unless the notice directs otherwise), and (2) deliver to Williams copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Engineer in performing this Agreement, whether completed or in process. This Agreement may be terminated in whole or in part by the Engineer in the event of substantial failure by Williams to fulfill its obligations.

6.2 Payment to Engineer Upon Termination: If the Agreement is terminated, Williams shall pay the Engineer for the Services rendered prior thereto in accordance with percent completion at the time work is suspended minus previous payments.

7. ASSURANCES

7.1 Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for Services to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this Agreement and any Regulations relative to nondiscrimination on the grounds of race, color or national origin.

7.2 Examination of Records: The Engineer agrees that duly authorized representatives of Williams shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Engineer involving transactions related to this Agreement.

7.3 Ownership of Document and Other Data: Original documents, such as tracings, plans, specifications, maps, basic survey notices and sketches, charts, computations, and other data prepared or obtained under the terms of this Agreement or any change order are and will remain the property of Williams unless otherwise agreed to by both parties. Williams may use such documents for other purposes without further compensation to the Engineer; however, any reuse without written verification or adaptation by Engineer for the specific purpose intended will be at Williams' sole risk and without liability or legal exposure to Engineer. Any verification or adaptation of the documents by Engineer for other purposes than contemplated herein will entitle Engineer to further compensation as agreed upon between the parties.

- 7.4 Litigation: Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any damages claimed or portion of the amount payable under this Agreement, that all litigation and collection expenses, witness fees, court costs, and reasonable attorneys' fees incurred shall be paid to the prevailing party.
- 7.5 Independent Contractor: Engineer shall be an independent contractor and not an agent of Williams and shall direct and supervise the Services required by this Agreement and shall be responsible for all means, methods, techniques, sequences and proceedings associated with the Services and shall be responsible for the acts and omissions of its employees, agents and other persons performing any of the Services under a contract with the Engineer.
- 7.6 Exclusive Use of Services: The services agreed to be provided by Engineer within this Agreement are for the exclusive use of Williams and Engineer shall not engage in conflict of interest nor appropriate Williams work product or information for the benefit of any third parties without Williams consent.
- 7.7 Sole Agreement: There are no understandings or agreements except as herein expressly stated.
- 7.8 Caption: Paragraph captions are for convenience only and are not to be construed as a part of this Agreement; and in no way do they define or limit the Agreement.
- 7.9 Time is of the Essence: The timely completion of the Services is of critical importance to the economic circumstances of Williams.
- 7.10 Controlling Law: This Agreement is to be governed by the laws of the State of Arizona.
- 7.11 Immigration Law Compliance Warranty:
- 7.11.1 As required by A.R.S. § 41-4401, Engineer hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Engineer further warrants that after hiring an employee, Engineer verifies the employment eligibility of the employee through the E-Verify program.
- 7.11.2 If Engineer uses any subcontractors in performance of the Services, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program.
- 7.11.3 A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Engineer is subject to a penalty of \$100 per day for the first violation, \$500 per day for the second violation, and \$1,000 per day for the third violation. Williams at its option may terminate the Contract after the third violation. Engineer shall not be deemed in material breach of this Contract if the Engineer and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A).

7.11.4 Williams retains the legal right to inspect the papers of any Engineer or subcontractor employee who works on the Contract to ensure that the Engineer or subcontractor is complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times.

7.11.5 If state law is amended, the parties may modify this paragraph consistent with state law.

7.12 Equal Treatment of Workers: Engineer shall keep fully informed of all federal and state laws, county and local ordinances, regulations, codes and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any way affect the conduct of the Services. Engineer shall at all times observe and comply with all such laws, ordinances, regulations, codes, orders and decrees; this includes, but is not limited to laws and regulations ensuring equal treatment for all employees and against unfair employment practices, including the Occupational Safety and Health Administration (“OSHA”) and the Fair Labor Standards Act (“FLSA”). Engineer shall protect and indemnify Williams and its representatives against any claim or liability arising from or based on the violation of such, whether by Engineer or its employees.

7.13 Notices: Any notice to be given under this Agreement shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

Williams:

Engineer:

City Manager
City of Williams
113 South 1st Street
Williams, Arizona 86046

The address may be changed from time to time by either party by serving notices as provided above.

8. SUSPENSION OF WORK

8.1 Order to Suspend: Williams may order the Engineer, in writing, to suspend all or any part of the Services for such period of time as he may determine to be appropriate for the convenience of Williams.

8.2 Adjustment to Contract Sum: If the performance of all or any part of the Services is, for any unreasonable period of time, suspended or delayed by an act of Williams in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Agreement necessarily caused by such unreasonable suspension or modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension or delay to the extent (1) that performance was suspended or delayed for any other cause, including the fault or negligence of the Engineer, or (2) for which a change order is executed.

9. INTERESTS AND BENEFITS

- 9.1 Conflict of Interest of Engineer: The Engineer covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services required to be performed under this Agreement. The Engineer further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- 9.2 Interest of Williams Members and Others: No officer, member or employee of Williams and no member of its governing body, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the Services to be performed under this Agreement, shall participate in any decision relating to this Agreement which affects his personal interest or have any personal or pecuniary interest, direct or indirect, in this Agreement or the process thereof.
- 9.3 Non-Solicitation: Engineer agrees that it has not employed or retained any company or person, other than a bona fide employee working for Engineer, to solicit or secure this Agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this clause, Williams may terminate this Agreement without liability, or, in its discretion, deduct from the Contract Sum, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingency fee.
- 9.4 Notice Regarding A.R.S. § 38-511: Under Section 38-511, Arizona Revised Statutes, as amended, Williams may cancel any Agreement it is a party to within three (3) years after its execution and without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of Williams is, at any time while the Agreement or any extension thereof is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement. In the event Williams elects to exercise its rights under Section 38-511, Arizona Revised Statutes, as amended, Williams agrees to immediately give notice thereof to the Engineer.

10. ASSIGNABILITY

The Engineer shall not assign any interest in this Agreement, and shall not transfer any interest in the same without the prior written consent of Williams thereto; provided, however, that claims for money due or to become due to the Engineer from Williams under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to Williams.

IN WITNESS WHEREOF, Williams and the Engineer have executed this Agreement as of the date first written.

CITY OF WILLIAMS

By: _____
John Moore, Mayor

ATTEST:

Pamela Galvan, City Clerk

APPROVED AS TO FORM:

Mangum, Wall, Stoops & Warden, PLLC
City Attorneys

ENGINEER

By: _____

Title: _____

EXHIBIT A
GENERAL SCOPE OF WORK

Engineer shall serve as the City Engineer for the City of Williams and as such will perform engineering and consulting services required by law or ordinance for City Engineers, including but not limited to preparation of engineering designs as required by Williams, overseeing design services performed by other engineers retained by Williams, plan review, and inspection work. Specific tasks shall be set forth in individual Authorizations for Services.

EXHIBIT B

AUTHORIZATION FOR SERVICES NO. _____

RE: City Engineer Services Contract between the City of Williams, Arizona and
_____.

DATE: _____

SCOPE OF WORK:

COMPLETION DATE:

EXHIBIT C
KEY PERSONNEL AND SUBCONTRACTORS

EXHIBIT D
COMPENSATION