



City of Prescott
 Purchasing Services
 201 S. Cortez St.
 Prescott, AZ 86303

Proposal 10CMO0047
 Marketing and Advertising Services

The City of Prescott is soliciting proposals from qualified firms to provide marketing and advertising services related to tourism. Sealed proposals (one (1) original and two (2) copies) shall be received before 2:00 pm on Thursday, November 18, 2010 at the time and place indicated in Section 2.2.

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1.0 Solicitation Specifications/Scope of Work/Proposal Evaluation

Background

The City of Prescott is seeking an established firm primarily engaged in marketing and advertising relating to tourism to provide said services. The current budget for this project has been established at \$75,000.00.

ABOUT THE CITY OF PRESCOTT

Community Profile

Just 90 miles north of metro Phoenix and 90 miles south of Flagstaff, Prescott sits amid the largest stand of Ponderosa Pine in the world. At an elevation of 5,300 feet, the four seasons offer a temperate climate year round with highs in the 90's and lows in the 20's. Prescott offers a low relative humidity and an average precipitation of over 19 inches annually. Established in 1864 and incorporated in 1883, Prescott is the Yavapai County Seat. It was named for William Hickling Prescott, a noted historian. Being established well over 100 years ago makes Prescott one of the richest historical towns in Arizona with a Courthouse plaza that echoes a downtown of another era. Neighborhoods of stately Victorian homes stand lovingly preserved.

Basic Facts

Population: 43,217

Area: Approximately 42 square miles

Elevation: 5,300 feet

Transportation

Prescott is located at the intersections of two major state highways, and is home to Ernest A. Love Field, which serves the region with flights to and from Ontario, California and Denver, Colorado.

Recreation

Prescott National Forest, area lakes and established trail and park systems provide numerous outdoor activities for residents and visitors.

City Parks (17)

Ball Fields (4)

Soccer, Softball, Multi Fields (13)

City Trails (28 miles)

Prescott National Forest Trails (450+ miles)

Medical Services

Yavapai Regional Medical Center has two campuses with 185 inpatient beds and all the high-tech diagnostic equipment typical of a large medical center, as well as two emergency departments. The Heart Center at YRMC – a state-of-the-art cardiac surgery program – is now open and fully operational at Yavapai Regional Medical Center's West Campus.

Commerce

Travel, tourism and retail services are important to Prescott's economy.

Arts and Culture

Downtown Prescott's arts community is vibrant with cultural events, live theater, musical performances, art galleries and museums. Tim's Toyota Events Center offers minor league hockey, arena football and live concerts.

PRESCOTT TOURISM

During 2008 and 2009 the Arizona Office of Tourism commissioned a survey of Prescott area visitors which was conducted by the Arizona Hospitality Research & Resource Center at Northern Arizona University. The results of this visitor survey are summarized below:

Executive Summary

This survey of visitors to the Prescott, Arizona area was undertaken in an effort to gather more reliable regional data than is available from statewide or national panel surveys which often contain too few cases to reliably represent area visitation. This survey process collected a total of 1,243 surveys from Prescott and Prescott Valley over a 12-month period from October 2008 through September 2009 – a more than sufficient sample size to produce high confidence in these results. This information will assist the Prescott area tourism community with targeted marketing, product development, and advocacy for an industry that is critical to the health of the local and regional economies. Generally, the Prescott area is a primary destination for affluent older couples on leisure vacations, who stay overnight, visit museums, dine out, hike and shop. A summary of the specific findings of the Prescott visitor survey follows:

- Data for the tourism survey were collected in the communities of Prescott (99.4%) and Prescott Valley (0.6%).
- Three locations – the Prescott Chamber of Commerce, Springhill Suites by Marriott, and Sharlot Hall Museum – contributed almost all of the surveys (91%), with smaller numbers from additional locations and attractions.
- More females (56.8%) than males (43.2%) appeared in the survey sample.
- The average age of visitors was 54.3 years (median age 57.0 years), with males (54.8 years) slightly older than female visitors (53.0 years).
- The average party size was 3.3 people (1.6 men, 1.7 women). Less than 12 percent of parties traveled with children under the age of 18 years.
- The great majority of visitors (57.1%) traveled in family groups, while a further 15.5 percent traveled in groups of family and friends. Friends only parties (13.5%), and those traveling alone (9.0%) accounted for most of the remaining travel party types.
- Travelers to the Prescott area had high average annual household incomes, \$82,000 on average (\$95,000 median), which is higher than visitors to Arizona overall (\$74,200).
- More visitors (46.5%) heard about Prescott through word-of-mouth than by any other means, followed by “Other” (39.4%), which included hearing from friends and relatives, previous visits, and various travel guides.
- Impressively, about two-thirds of visitors (65.4%) indicated that the Prescott area was their primary destination, while one-third (34.6%) were bound for another destination.
- The most notable primary destinations other than Prescott were Arizona overall, northern Arizona specifically, or multi-state trips.
- Indicative of larger trips within the region, travelers visited many area communities, led by Prescott (76.1%), Sedona (42.2%), and Jerome (35.7%).
- Most visitors to the Prescott area were traveling for Vacation-leisure purposes (38.3%), followed by Visiting friends and relatives (26.1%), Day trips (16.6%), “Other” purposes (11.7%), and Weekend visits (10.8%). Trip purposes such as Just passing through, Business, and Climate relief accounted for smaller percentages.
- Almost all visitors to the Prescott area (91.1%) traveled in an automobile – 63.7% in a private car and 27.4% in a rental car; in addition, 4.2% traveled by air, and 3.5% in a RV/Camper.
- Day visitors spent an average of five hours in the Prescott area while overnight visitors spent an average of 3.9 days.

- Overnight visitors to the Prescott area stayed in a variety of accommodations: 77.1% stayed in a hotel or motel, 14.0% in the homes of friends and family, 4.5% in a campground or RV Park, 3.3% in a bed and breakfast, with smaller percentages in vacation rentals and second homes.
- More than half (57.8%) of all respondents who spent the night stayed in the Prescott area prior to taking the survey, while a similar percentage (56.0%) planned to stay in the Prescott area after taking the survey.
- In terms of domestic visitor origins, one third of all visitors to the Prescott area came from Arizona (34%), followed by California (18.1%). In all, visitors from 44 U.S. states and the District of Columbia were captured in the survey.
- Within Arizona, visitors from communities in the Greater Phoenix area accounted for 61.7 percent of all Prescott area visitors, while about one in 10 visitors (9.5%) were from Tucson. In all, 49 Arizona cities and towns appeared in the sample.
- Among foreign visitors, Canadians accounted for more than a third (37.1%) of all international visitors, while visitors from the United Kingdom totaled more than one fourth of all visitors (28.6%). In all, 21 countries were represented in the survey sample.
- Visitors had considerable expenditures in the Prescott area. Average per-party per-day expenditures by category included: lodging (\$217), restaurant and grocery (\$140), transportation including gas (\$100), shopping or arts and crafts purchases (\$139), recreation-tour-entrance fees or permits (\$56), and “other” (\$74).
- When sorted by visitor type and average length of stay, Weekend visitors, those just passing through, and day trip visitors had the highest per-party per-day expenditures.
- Visiting cultural and historic sites and visiting museums were the most popular visitor activities, followed by hiking, shopping and visiting forest service lands.
- By far, the most visited attraction in Prescott was Historic Downtown Prescott, visited by 80.1% of all visitors. Sharlot Hall Museum was a distant second (38.4%), followed by the Prescott National Forest (31.5%), Prescott Gateway Mall (28.2%), and Bucky’s Casino (17.7%).
- Visitors to the Prescott area evidenced a high degree of satisfaction with their trips. Overall satisfaction levels with visitor experiences in the Prescott area averaged 8.5 out of a possible 10, with the median at 9.0.
- Visitors to the Prescott area had an estimated \$196.7 million in direct expenditures, which resulted in an indirect economic impact of \$40 million, and induced impact of \$58 million for a total economic impact of \$295 million. Indirect business taxes based on direct expenditures produced an additional \$23 million and the total economic impact supported 3,693 direct jobs or 4,761 direct, indirect and induced jobs

Agency Qualifications

The City is seeking a marketing/advertising agency with extensive experience in various media and markets with an emphasis on the Phoenix metropolitan area. The agency should have expertise with print, broadcast and electronic media as well as experience in handling cooperative advertising and promotional programs. Direct marketing/direct response experience leveraging customer data, particularly with hospitality clients, is preferred. The agency should also demonstrate their ability to track response and measure ROI (return on investment).

The agency should be able to suggest specific strategies to expand the impact of the advertising campaign while allowing for the broadest possible exposure within the available budget. Such strategies would include maximizing the usage of cooperative advertising as well as identifying promotional and public relations opportunities.

The agency should have expertise marketing tourism destinations as well as hotels and resorts. Experience marketing tourism destinations and hospitality clients (preferably in Arizona) are preferred.

The agency should have experience in media buying, and may be responsible for implementation of the media plan.

The city maintains the right to use any materials generated by the agency in any other city material generated by city personnel and may do so without agency consent or approval. The city acknowledges certain legal constraints require universal releases unless cost considerations become prohibitive (such as model releases, music, photographs, etc.) and retains sole right to use materials created for the city as it sees fit.

Proposal Content

The response to this RFP should be specific and complete in detail, address each item by the order given in the RFP and be prepared in a straight-forward manner. One (1) original and two (2) copies of the proposal shall be submitted for purposes of evaluation.

1. Provide a cover letter identifying your qualifications as they pertain to these services.
2. Provide a 6-12 month marketing plan targeting the Southwest region.
3. Provide a detailed plan demonstrating how media tools (print, film, picture, social, etc.) will be used as well as a cost breakdown. Specifics strongly recommended.

A committee will review all proposals and rank them according to the criteria outlined above. The finalist may be invited to make a presentation before the Prescott City Council and senior staff. The Prescott City Council will have the final decision based on the written submittals and presentation.

2.0 Solicitation Process Requirements/Tentative Timeline

2.1 Communications with the City

All communications regarding this solicitation must be directed to the City's Buyer. The City's buyer for this solicitation is:

Dawn M. Foster, Purchasing Manager
City of Prescott
Purchasing Services
Fax: 928-777-1234
e-mail: dawn.foster@prescott-az.gov

Unless authorized by the City's Buyer, no other City official or employee is empowered to speak for the City with respect to this solicitation. Proposers are advised that the City shall not be bound by information, clarifications, or interpretations from other City officials or employees. Proposers are cautioned against contacting any City official or employee other than the City's Buyer. Failure to observe this requirement may be grounds for rejection of Proposer's proposal.

2.2 Schedule

Solicitation Advertisement		Sunday, October 17, 2010
Q & A Deadline (Proposers)		Thursday, November 4, 2010 COB
Q & A Response (City)		Friday, November 5, 2010 COB
Proposals Due	Time:	Thursday, November 18, 2010 at 2:00 pm
	Location:	City of Prescott – Purchasing Manager 201 S. Cortez St.

Prescott, AZ 86302

2.3 Questions and Requests for Addenda

Proposers who have questions about or suggestions for changes to this solicitation may direct them to the City's Buyer in writing by fax or email.

Questions and requests for addenda must be received by the City's Buyer no later than the date and time listed in Section 2.2. Questions received after this time will not be considered or answered.

Failure by a Proposer to request clarification of any inadequacy, omission or conflict shall not relieve the Proposer of the responsibility of being in compliance with the solicitation.

2.4 City Answers and Addenda

Changes to this solicitation will be made only by formal written addenda issued by the City's Buyer. Any such addenda and City answers to questions will be posted to the City website at www.cityofprescott.net/business/bids.

Changes to this solicitation may be made by the City if, in the sole judgment of the City, the changes will not compromise the City's objectives in this acquisition.

All addenda issued by the City shall become a part of the specifications of this solicitation, and will be made part of the resulting agreement.

2.5 Proprietary Material

A Proposer shall clearly mark any proprietary information contained in its proposal with the words "proprietary information." Proposer shall not mark any Solicitation Form as proprietary. Marking all or nearly all of a proposal as proprietary may result in rejection of the proposal.

Proposers should be aware that the City is required by law to make its records available for public inspection. The Proposer, by submission of materials marked proprietary, acknowledges and agrees that the City will have no obligation to advocate for non-disclosure in any forum or any liability to the Proposer in the event that the City must legally disclose these materials.

2.6 Multiple Proposals

A Proposer may submit multiple proposals for any solicitation however; each proposal must be submitted separately (in its own complete package) from the others.

2.7 Delivery of Proposals

Sealed proposals (one (1) original and two (2) copies) must be received at the Office of the City Clerk no later than the date and time listed in Section 2.2.

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

Dawn M. Foster, Purchasing Manager
City of Prescott
PO Box 2059
Prescott, AZ 86302

If the proposal is delivered by an entity other than the U.S. Postal Service, the proposal should be addressed to:

Dawn M. Foster, Purchasing Manager
City of Prescott
201 S. Cortez St.
Prescott, AZ 86303

Proposer shall enclose proposal (one (1) original and two (2) copies) in a sealed envelope. The envelope should identify the Proposer's name, mailing address, Solicitation and Title, and the time and date due.

The City shall not consider late proposals, telegraphic (fax) or telephone proposals.

Proposer is solely responsible for ensuring that proposal(s) are delivered on time. Delays caused by any delivery service, including the U.S. Postal Service, will not be grounds for an extension of the deadline for receipt of proposals. Proposals received after the deadline will be returned unopened.

2.8 Cost of Proposals

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

2.9 Errors in Proposals

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

2.10 Withdrawal of Proposals

A proposal may be withdrawn by written request of the Proposer prior to the proposal due date and time listed in Section 2.2. No proposal may be withdrawn for a period of 90 calendar days after the proposal due date and time.

2.11 Changes in Proposals

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

2.12 Rejection of Proposals

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

2.13 Disposition of Proposals

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

2.14 Incorporation of Solicitation and Response in Agreement

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

2.15 Protests

Any protest of the solicitation process must be filed by 5:00 p.m. on the third business day after solicitations are opened. All such protests shall be in writing, contain a complete statement of the grounds for protest, and be filed with the Purchasing Manager, PO Box 2059, Prescott, AZ 86302, FAX 928-777-1234.

Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of this solicitation to resolve the basis or bases of their protest during the solicitation process, including asking questions, seeking clarifications, requesting addenda, and otherwise alerting the City to perceived problems so that corrective action could be taken prior to the selection of the Apparent Successful Proposer(s). The City will not consider any protest based on items that could have been or should have been raised prior to the deadline for submitting questions or requesting addenda. The filing of a protest shall not prevent the City from executing an agreement with any other proposer.

2.16 Proposal Submittal

Proposal (one (1) original and two (2) copies) must be sealed and the envelope must clearly indicate the information as described in Section 2.9. Proposer must fully complete and submit the following documents:

- 1) Proposal Form A – Solicitation Response Cover Sheet
- 2) Proposal Form B - Proposal Certification
- 3) Proposal Form C - Non-Collusion Certificate
- 4) Proposal Form D - Contractor Questionnaire
- 5) Proposal Form E – Certificate of Ownership
- 6) Proposal Form F – Proposer Qualifications, Representations and Warranties

3.0 General Contract Terms and Conditions

1. **Entire Agreement:** This contract, including all attachments referenced herein, constitutes the entire agreement between the City and the Contractor. The City's RFQ/RFP, all addenda to the RFQ/RFP, and the Contractor's response to the RFQ/RFP are explicitly included in this contract. Where there is any conflict among or between any of these documents, the controlling document shall be the first listed in the following sequence: the most recently issued Contract amendment; the Contract; the most recently issued addendum to the City's RFQ/RFP; the City's RFQ/RFP; and the Contractor's response to the RFQ/RFP.
2. **Term:** The term of this Contract shall commence on the date the City's Purchasing Agent signs the same and shall expire as stated within the Contract.
3. **Schedule:** Unless the City's Purchasing Agent requests a change in schedule, the Contractor shall deliver the items or render the services as stated in the Contract. At the City's option, the Contractor's failure to timely deliver or perform may require expedited shipping at the Contractor's expense, or may be cause for termination of the Contract and the return of all or part of the items at the Contractor's expense. If the Contractor anticipates difficulty in meeting the schedule, the Contractor shall promptly notify the City's Purchasing Agent of such difficulty and the length of the anticipated delay.
4. **Payment:** Invoices will be paid according to early payment discount terms, or if no early payment discount is offered, thirty (30) days after the City's receipt and acceptance of the goods or completion and acceptance of the services. Payment periods will be computed from either the date of delivery of all goods ordered, the completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract. No payment shall be due prior to the City's receipt and acceptance of the items identified in the invoice therefore.
5. **Unlawful Overcharges:** The Contractor assigns to the City all claims for anti-trust violations and overcharges relating to items purchased by the City.
6. **Price Warranty:** The Contractor warrants that the prices for the items sold to the City hereunder are not less favorable than those currently extended to any other customer for the same or similar items in similar quantities. The Contractor warrants that prices shown on this Contract are complete, and that no additional charge of any type shall be added without the City's express written consent.
7. **Equal Employment Opportunity:** During the term of this Contract, the Contractor agrees as follows: The Contractor will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification.
8. **Discrimination in Contracting:** The Contractor shall not create barriers to open and fair opportunities for subcontractors and suppliers in obtaining or competing for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

- 9. Record-Keeping:** The Contractor shall maintain, for at least 12 months after expiration or earlier termination of the term of this Contract, relevant records and information necessary to document the Contractor's utilization of other businesses as subcontractors and suppliers in this contract and in its overall public and private business activities. The Contractor shall also maintain all written quotes, proposals, estimates, or proposals submitted to the Contractor by all businesses seeking to participate as subcontractors or suppliers in the contract. The City shall have the right to inspect and copy such records. If this Contract involves federal funds, the Contractor shall comply with all record-keeping requirements set forth in every applicable federal rule, regulation and statute referenced in the contract documents.
- 10. Publicity:** The Contractor shall not advertise or publish the fact that the City has contracted to purchase items from the Contractor without the City's prior written approval.
- 11. Proprietary and Confidential Information:** The Contractor acknowledges that the City is required by law to make its records available for public inspection, with certain exceptions. City staff believes that this legal obligation would not require the disclosure of proprietary descriptive information that contains valuable designs, drawings or formulas. The Contractor, by submission of materials marked proprietary and confidential, nevertheless acknowledges and agrees that the City will have no obligation or any liability to the Contractor in the event that the City must disclose these materials by law.
- 12. Indemnification:** To the extent permitted by law, the Contractor shall defend, protect, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, arising out of the work performed or goods provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, except for damages resulting from the sole negligence of the City.
- 13. Insurance:** The Contractor shall secure and maintain, at all times during the term of this Contract, at its own expense, a policy or policies of insurance known as: **(1) Commercial General Liability** written on an insurance industry standard occurrence form (ISO form CG 00 01) or equivalent including premises/operations, products/completed operations, personal/advertising injury, contractual liability, and independent contractors liability; **(2)** if any vehicle is used in the performance of this Contract, a policy of **Business Automobile Liability** written on an insurance industry standard form (ISO form CA 00 01) or equivalent, including coverage for owned, non-owned, leased or hired vehicles; and **(3)** if any work under this Contract will be performed by a resident of the state of Arizona, **Worker's Compensation** ("Industrial Insurance") as required by the State of Arizona. The insurance as provided under items (1) and (2) above shall be endorsed to include The City of Prescott, its officers, elected officials, employees, agents and volunteers as an **Additional Insured** per ISO form CG2010 11/85 or CG2026 or equivalent, and to not permit reduction or cancellation by the insurer without forty-five (45) days prior written notice to the City. The Contractor's insurance shall be primary as respects the City, and any other insurance maintained by the City shall be excess and non-contributing with the Contractor's insurance.
- 14. Compliance with Law:** The Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Arizona; the Charter, Municipal Code, and ordinances of The City of Prescott; and rules, regulations, orders, and directives of their respective administrative agencies and officers.

- 15. Licenses and Similar Authorizations:** The Contractor, at no expense to the City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all related requirements.
- 16. Taxes:** The Contractor shall pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.
- 17. Americans with Disabilities Act:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Contractor is providing services, programs, or activities to City employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.
- 18. Adjustments:** The City's Purchasing Agent at any time may make reasonable changes in the place of delivery, installation or inspection; the method of shipment or packing; labeling and identification; and ancillary matters that Contractor may accommodate without substantial additional expense to the City.
- 19. Amendments:** Except for adjustments authorized above, modifications or amendments to the Contract may only be made by a change order or by written document signed by or for both parties. Unless Contractor is otherwise notified, the City's Purchasing Agent shall be the City's authorized agent.
- 20. Assignment:** Neither party shall assign any right or interest nor delegate any obligation owed without the written consent of the other, except Contractor may assign the proceeds of this Contract for the benefit of creditors upon 21 days advance written notice to the City.
- 21. Binding Effect:** The provisions, covenants and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.
- 22. Waiver:** The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.
- 23. Applicable Law:** This Contract shall be construed under the laws of the State of Arizona. The venue for any action relating to this Contract shall be in the Superior Court for Yavapai County, State of Arizona.
- 24. Remedies Cumulative:** Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
- 25. Severability:** Any invalidity, in whole or in part, of any provision of this Contract shall not affect the validity of any other of its provisions.

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

35. Termination:

35.1. For Cause: Either party may terminate this Contract in the event the other fails to perform its obligations as described herein, and such failure has not been corrected to the reasonable satisfaction of the other in a timely manner after notice of breach has been provided to such other party.

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

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

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

36. Major Emergencies or Disasters: The following provision shall be in effect only during major emergencies or disasters. The City is committed to preparing thoroughly for any major emergency or disaster situation. As part of its commitment, the City is contracting with the Contractor under the following terms and conditions: Contractor shall provide to the City, upon the City's request, such goods and/or services at such time as the City determines. In the event the Contractor is unable to meet the delivery date commitment due to circumstances beyond the reasonable control of the Contractor, the Contractor shall make such delivery as soon as practicable. If the Contractor is prevented from making such delivery to the requested delivery location due to circumstances beyond its reasonable control, the Contractor shall immediately assist the City in whatever manner is reasonable to gain access to such goods and/or services. In the event that the Contractor is unable to provide such goods and/or services as requested by the City, the Contractor may offer to the City limited substitutions for its consideration and shall provide such substitutions to the City as required above, provided the Contractor has obtained prior approval from the City for such substitution. The Contractor shall charge the City the price determined in this Contract for the goods and services provided, and if no price has been determined, it shall charge the City a price that is normally charged for such goods and/or services (such as listed prices for items in stock). In the event that the City's request results in the Contractor incurring unavoidable additional costs and causes the Contractor to increase prices in order to obtain a fair rate of return, the Contractor shall provide the City with appropriate documentation of the additional costs. The Contractor acknowledges that the City is procuring such goods and/or services for the benefit of the public. The Contractor, in support of public good purposes, shall consider the City as a customer of first priority and shall make its best effort to provide to the City the requested goods and/or services in a timely manner. For purposes of this Contract, a "major emergency" or "disaster" shall include, but is not limited to a storm, high wind,

earthquake, flood, hazardous material release, transportation mishap, loss of any utility service, fire, terrorist activity or any combination of the above.

4.0 Standard Proposal Information

4.1 Default by Proposer

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

4.2 Cash Discounts

In connection with any cash discount specified on this proposal, time will be computed from the date of complete delivery of the supplies, equipment or services as specified or from the date correct invoices are received in the City Finance office if the latter date is later than the date of delivery. For the purpose of earning the discount, payment is deemed to be made on the date of mailing of the City warrant or check.

4.3 Litigation

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

4.4 Cooperative Use of Contract

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

5.0 Instructions for Solicitation Forms

5.1 Form A - Solicitation Response Cover Sheet

Proposer shall complete, sign, and submit Form A as the first page of the proposal package.

5.2 Form B - Proposal Certification

Proposer shall complete, sign, and submit Form B

5.3 Form C - Non-Collusion Certificate

Proposer shall complete, sign, and submit Form C.

5.4 Form D - Contractor Questionnaire

Proposer shall complete, sign, and submit Form D.

5.5 Form E - Certificate of Ownership

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

5.6 Form F - Proposer Qualifications, Representations and Warranties,

5.6.1 Proposer shall complete and submit Solicitation Form F. Proposer shall provide additional information as required.

5.6.2 The City reserves the right to inspect any of Proposer's facilities and equipment after the proposal due date and time listed in Section 2.2. The Proposer shall make such facilities and equipment available for the City's inspection within eight business hours of the City's request. The City may require additional information concerning a Proposer's facilities, equipment, personnel, and procedures. The Proposer shall supply such information within the time noted in the City's request.

5.6.3 The City shall consider awarding agreements only to responsible Proposers. Responsible Proposers are those that have, in the sole judgment of the City, the financial ability, character, reputation, resources, skills, capability, reliability, and business integrity necessary to perform the requirements of the agreement.

5.6.4 In determination of responsibility, the City may consider all information available to the City, whether specifically provided by the Proposer in response to this solicitation or other information otherwise available to the City in evaluating the responsibility of the Proposer. Such information may include, but is not limited to, experience and history of the City with current and/or prior contracts held by the Proposer with the City or with other agencies, references provided by the Proposer to the City, information provided by the Proposer as part of the solicitation responses, and information not specifically provided by the Proposer but is otherwise available to the City and has merit in consideration of responsibility, in the opinion of the City. The evaluation of responsibility shall be determined by the City and shall be in the sole opinion of the City. Such evaluation by the City shall be final and not subject to appeal.

Furthermore, no agreement will be awarded to a Proposer if any owner of such Proposer has been convicted within the past ten years of a crime involving dishonesty or false statements, or if the Proposer has unsatisfied tax or judgment liens.

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

Form A – Solicitation Response Cover Sheet



City of Prescott
Solicitation Response

Solicitation Number: 10CMO0047

Description: Marketing and Advertising Services

Proposal checklist:

- Original Forms A through F completed and submitted
- (2) copies of proposal included

Business Name: _____

Business Address: _____

Business Phone: (_____) _____

Business Contact: _____

Form B – Proposal Certification

Proposer

Name: _____

The undersigned Proposer hereby certifies as follows:

B.1 That he/she has read The City of Prescott’s Solicitation, appendices, attachments and the following Addenda (if applicable) in their entirety and to the best of his/her knowledge has complied with the mandatory requirements stated therein.

Addendum	Issue Date
_____	_____
_____	_____

B.2 That he/she has had opportunity to ask questions regarding the solicitation, and that such questions having been asked, have been answered by the City.

B.3 That the Proposer’s proposal consists of the following:

1. Form A – Solicitation response cover sheet
2. Form B – Proposal Certification
3. Form C – Non-Collusion Certificate
4. Form D – Contractor Questionnaire
5. Form E – Certificate of Ownership
6. Form F – Proposer Qualifications, Representations and Warranties

B.4 That the Proposer’s proposal is valid for 90 days.

Dated this _____ **day of** _____ **2010.**

Signature

Title

Form C – Non-Collusion Certificate

Proposer

Name: _____

The undersigned Proposer hereby certifies as follows:

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

Dated this _____ day of _____ 2010.

Signature

Title

Form D – Proposer Questionnaire

Yes - No

- 1. Has the City of Prescott or other governmental entity incurred costs as a result of contested change order (s) from the undersigned company?
- 2. Has the City of Prescott or other governmental entity been involved in litigation relative to contract performance with the undersigned company?
- 3. Has the undersigned company failed to meet proposal specifications or time limits on other contracts?
- 4. Has the undersigned company abandoned a contract or refused to perform without legal cause after submitting a proposal?
- 5. Has the undersigned company had proposalding errors or omissions in two or more proposal submissions within a thirty-six month period?
- 6. Has the undersigned company failed to perform or performed unsatisfactory of two or more contracts within a thirty-six month period.
- 7. Does the undersigned company have adequate equipment, personnel and expertise to complete the proposed contract?
- 8. Does the undersigned company have a record of safety violations in two or more contracts within a thirty-six month period?
- 9. Does the undersigned have a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract or subcontract within a ten-year period?
- 10. Has the undersigned company been convicted of a criminal offense within a ten-year period of embezzlement, theft, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which might affect responsibility as a municipal contractor?
- 11. Has the undersigned company been convicted of state or federal antitrust statues within a ten-year period arising out of submission of proposals or proposals?
- 12. Has the undersigned company been disbarred or a similar proceeding by another governmental entity?

If you answered “yes” to Items 1-6 or 8-12 or answered “no” to Item 7, please attach a full explanation to this questionnaire.

Company: _____

Address: _____

Name: _____ Title: _____
(please print) (please print)

Signature: _____ Date: _____

Form E – Certificate of Ownership

Proposer

Name: _____

The undersigned Proposer hereby certifies as follows:

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

Dated this _____ day of _____ 2010.

Signature

Title

Form F – Proposer Qualifications, Representations and Warranties

Proposer Name: _____

The undersigned Proposer hereby certifies as follows:

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

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

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

Reference #1

Firm Name: _____
Address: _____
Contact Person: _____
Phone Number: _____

Reference #2

Firm Name: _____
Address: _____
Contact Person: _____
Phone Number: _____

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

- F4 Proposer’s Examination** - Proposer has made its own examination, investigation and research regarding the requirements of the solicitation including but not limited to the work to be done, services to be performed, any conditions affecting the work and services, the type and quantity of labor, equipment and facilities necessary to perform. Proposer fully understands the character of the work and services, the manner in which payment is to be made, the City of Prescott standard terms and conditions, and the solicitation. Proposer acknowledges and agrees that it has satisfied itself by its own examination, investigation and research, and that it will make no claim against the City because of erroneous estimates, statements, or interpretations made by City. Proposer hereby proposes to furnish all materials, equipment, and facilities and to perform all labor which may be

required to do the work within the time required and upon the terms and conditions provided in the draft agreement and the solicitation, and at the prices as proposed.

Dated this _____ day of _____ 2010.

Signature

Title

SAMPLE SERVICE AGREEMENT

WHEREAS the City of Prescott (hereinafter referred to as "City") is in need of certain services; and

WHEREAS _____ (hereinafter referred to as "Agency") has expertise in providing marketing and advertising services;

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS HEREIN CONTAINED, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

1. That Agency shall provide those services to the City as identified in the attached Exhibit "A" (proposal request) and Exhibit 'B' (agency submittal), and as requested by the Tourism Director, hereinafter referred to as the Project Director or his designee.

2. In addition to those services identified in the attached Exhibits "A" and "B", the Agency shall also perform all subordinate tasks not specifically referenced but necessary to the full and effective performance of those tasks specifically referenced. In the event of a discrepancy between this Agreement and Exhibits "A" and "B", this Agreement shall control over Exhibits "A" and "B"; and in the event of a discrepancy between Exhibits "A" and "B", Exhibit "A" shall control over Exhibit "B".

3. Agency shall provide sufficient qualified personnel, upon reasonable notice to perform any and all services as required herein, including but not limited to preparation of reports, as reasonably requested by representatives of the City.

4. (A) The term of this agreement shall be from START DATE through END DATE. All services identified in Paragraphs 1 and 2 above shall be completed to the satisfaction of the City no later than mutually agreed upon dates.

(B) The parties may, by mutual consent, extend this contract under the same terms and conditions as contained herein.

(C) Notwithstanding the foregoing, this Agreement may be terminated by the City upon ten (10) days written notice, with or without cause. It may also be terminated by the City in the event that funding for the City's payments hereunder is dependent on grants or other commitments of funds from another governmental agency and those funds are terminated or substantially reduced for any reason. If this Agreement is terminated, the Agency shall be paid for services performed to the date of Agency's receipt of such termination notice.

5. Pursuant to A.R.S. Section 38-511, the City of Prescott may cancel this agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the City is, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to the agreement in any capacity or a agency to any other party of the agreement with respect to the subject matter of the agreement. In the foregoing event, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City of Prescott from any other party to the agreement arising as a result of this agreement.

6. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage and certified mail, at the following addresses:

City of Prescott
Tourism Director
PO Box 2059
Prescott, AZ 86302

With copies to:

City of Prescott
Purchasing Manager
PO Box 2059
Prescott, AZ 86302

Agency:

AGENCY

7. It is expressly agreed and understood by and between the parties that Agency is an independent agency, and as such Agency shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe

benefits to which other City employees are entitled. As an independent agency, Agency further acknowledges that it is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent agency, Agency further agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out nor claim to be an officer or employee of the City by reason thereof, and that it will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

8. This Agreement is non-assignable by the Agency.

9. (A) The City shall pay to the agency a total sum not to exceed \$_____ for the complete performance of all services specified in Sections 1, 2 and 3 of this Agreement.

(B) Should the City request in writing additional services beyond that specified in Sections 1, 2 and 3, then Agency shall charge and City shall pay a mutually agreed fee.

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

11. This agreement shall be construed under the laws of the State of Arizona.

12. This Agreement and Exhibit "A" represent the entire and integrated Agreement between the City and the Agency and supersede all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Agency. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

13. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provisions, term, condition, or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.

14. The Agency shall, within ten (10) calendar days after the execution of the Agreement and before awarding any subcontract, furnish the City with a list of proposed subcontractors, and shall not employ any that the City may object to as incompetent or unfit.

15. The Agency hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of the Agency's participation pursuant to this Agreement, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the undersigned or his/her agents. The Agency further releases and discharges the City, its departments and divisions, its agents and employees, and any and all persons legally responsible for the acts or omissions of the City, from any and all claims which the Agency has or may have against the City, its agents or employees, arising out of or in any way connected with the Agency's activities as set forth below, other than those acts which occur due to the negligence of the City, its employees or agents.

16. No oral order, objection, claim, or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver, or modifications shall be introduced in any proceeding.

17. (A) The Agency shall obtain and maintain in effect during the term of, and until final acceptance of all work under, this Agreement a policy or policies of liability insurance with limits not less than \$1,000,000.00. Liability insurance shall provide the following coverages:

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate
\$2,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor "**.

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: **"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor"**.

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a **waiver of subrogation** against the City of Prescott.

(B) All insurance and bonds required pursuant to this Agreement must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS Section 20-217, a copy of which certificate is to be attached to each applicable bond or binder.

(C) Prior to commencing work under this Agreement, the Agency shall provide the City with evidence that he/she is either a "self-insured employer" or a "carrier insured employer" for Workers' Compensation as required by A.R.S. 23-901 et seq., or that he/she employs no persons subject to the requirement for such coverage.

18. The Agency, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Agency will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, and Executive Order 99-4.

19. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The Agency further agrees that this provision shall be contained in all subcontracts related to the project which is the subject of this Agreement. The parties hereto further expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute. The Agency further agrees that this provision shall be contained in all subcontracts related to the project that is the subject of this Agreement.

20. The Agency understands and acknowledges the applicability to it of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Agency must also comply with A.R.S. §34-301, "Employment of Aliens on Public Works Prohibited," and A.R.S. §34-302, as amended, "Residence Requirements for Employees." Under the provisions of A.R.S. §41-4401, Agency hereby warrants to the City that the Agency and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. §23-214(A) (hereinafter "Agency Immigration Warranty").

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

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

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

Neither the Agency nor any Subcontractor shall be deemed to have materially breached the Agency Immigration Warranty if the Agency or Subcontractor establishes that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. §23-214 Subsection A.

The provisions of this Article must be included in any contract the Agency enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a agency or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

DATED this _____ day of _____, 2010.

MARLIN KUYKENDALL
Mayor

ATTEST:

APPROVED AS TO FORM:

ELIZABETH BURKE
City Clerk

GARY D. KIDD
City Attorney

AGENCY

By: _____

Printed Name: _____

Title: _____

EXHIBIT 'A'

(proposal documents)