



Request for Statements of Qualifications

Engineering Design Services

For

GRANITE CREEK DAM VALVES REPLACEMENT PROJECT

Public Works Department

Telephone: (928) 777-1130

Fax: (928) 771-5929

Due Date: March 27, 2014

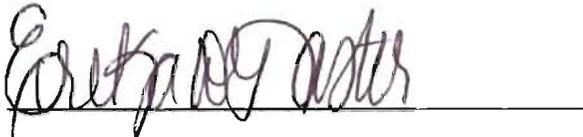
REQUEST FOR STATEMENTS OF QUALIFICATIONS
GRANITE CREEK DAM VALVES REPLACEMENT PROJECT

The City of Prescott, Arizona, requests Statements of Qualifications from qualified (environmental) engineering firms to provide environmental services for Prescott, Arizona. Statements of qualifications will be received before 2:00 PM on March 27, 2014, City Clerk's Office, 201 South Cortez Street, Prescott Arizona 86303, at which time all statements of qualifications will be publicly opened.

Any statements received at or after 2:00 PM on the above stated date will be returned unopened. Statements must conform to a prepared scope of work available from the office of the Public Works Director at (928) 777-1130 voice; (928) 777-1100 TDD. The City of Prescott reserves the right to reject any and all statements and the City assumes no liability for the cost of preparing a response to this request.

The outside of the statement envelope shall indicate the name and address of the respondent, shall be addressed to the City Clerk, City of Prescott, at the above address and shall be marked: Granite Creek Dam Valves replacement Project.

A **mandatory** pre-proposal conference will be held at the Public Works conference room, 433 N. Virginia Street, Prescott, AZ 86301 at 2:00 PM on Wednesday, March 12, 2014. An optional site visit will be held immediately after the meeting to the base of the dam. A hike of approximately 2/3 mile of moderate terrain will be required to reach this location and view the existing valves.



Erika Laster, Contract Specialist

Published: 2TC February 23 & March 2, 2014

Description of Work

The City of Prescott will be reviewing the qualifications of engineering firms for the purpose of entering into contracts for the following services:

Engineering Design Services

This Project generally consists of the replacement of two inoperable original large diameter valves (36", 48") at Granite Creek Dam constructed in 1919, and provide for operations of the valves from the dam crest via flexible operators. The proposed 36" replacement valve is to include a 12" bypass. The project also includes the replacement of existing upstream trash racks and installation of new slide gates.

Consultant will be required to:

- Generate a comprehensive set of plans, specifications, Construction Quality Assurance (CQA) plan and construction estimate to accomplish the desired goals of the project.
- Acquire all ADWR permits, including the Approval to Construct, Engineer's Certification of Final Cost and Completion Report.
- Obtain an AzPDES permit. Proper erosion control BMPs will need to be incorporated into the plans and construction methods.
- Dust Control measures will need to be incorporated into the construction methods and a City construction permit will be required.
- Consultant to identify any other permits that may be required through design and construction.

Project access is limited to water access or minimal foot traffic via, hiking trail, no vehicle access is available. It is highly recommended that candidate firms visit the project site.

Additional information is included in the attached scoping report.

EVALUATION AND RANKING OF STATEMENTS OF QUALIFICATIONS; INTERVIEWS, CONTRACT NEGOTIATION AND AWARD

SUBMISSION

Sealed Statements of Qualifications will be received before 2:00 PM on Thursday, March 27, 2014, at the City Clerk's Office, 201 South Cortez Street, Prescott Arizona 86303, at which time all Statements of Qualifications will be publicly opened. Any submittals received at or after 2:00 PM on the above-stated date will be returned unopened.

Statements shall be submitted in seven (7 copies), and must conform to the scope of work available from the office of the Public Works Director at (928) 777-1130 voice; (928) 777-1100 TDD. The City of Prescott reserves the right to reject any and all statements and the City assumes no liability for the cost of preparing a response to this request.

The outside of the statement envelope shall indicate the name and address of the respondent, shall be addressed to the City Clerk, City of Prescott at the above address and shall be marked: Statement of Qualifications: Granite Creek Dam Valves Replacement Project.

EVALUATION

Statements of Qualifications will be evaluated by a Review Committee appointed by the City for this project according to the following criteria, with weighting as indicated:

- 1) Specific experience of the firm with comparable engineering design capability in valve replacement on dams or similar structures, - 30%
- 2) Experience of the proposed project team and availability, within current and anticipated workload, for this project - 20%
- 3) Proposed project approach, to include a detailed discussion and identification of areas that will require special attention - 20%
- 4) Overall quality of the SOQ, evidencing interest in the project - 15%
- 5) Knowledge and experience with State of Arizona Department of Water Resources (ADWR) Dam Safety Division, City of Prescott rules, regulations, procedures and local / regional construction conditions - 15%

STATEMENTS OF QUALIFICATIONS

FORMAT

The statement shall be limited to no more than 5 pages, and include the following:

- Location of the firm
- Names of the team members proposed for the project
- A list of similar projects in which the team has participated, and contact information
- A brief resume of each of the team members describing their experience and background
- A summary of the current workload of key team members and list of their notable projects
- A list of all sub-consultants proposed to be utilized on the project and a description of their roles
- A tentative schedule for accomplishment of the project

- A statement of the submitting firm's understands of the project purpose and scope, and a description of how the firm would approach, manage, and complete the project.

Five (5) additional pages of appendices are allowed and may include graphs, charts, photos, or additional resumes. The letter of transmittal shall not exceed two pages and is exclusive of the 5/5 page limitation for the statement.

SHORTLIST AND INTERVIEWS

Following evaluation of the Statements of Qualifications, a shortlist of three to five (3-5) firms will be determined based upon the composite score of Review Committee members. A presentation-interview session with each of the three to five (3-5) firms will comprise the second half of the evaluation/selection process. In the presentation-interviews, candidate firms will be required to demonstrate their understanding and familiarity with the scope, location, and other aspects of this project. Criteria and weighting for evaluation of the presentation-interviews are as follows:

- 1) Observation of existing conditions and grasp of key project information - 25%
- 2) Identification of issues or problems that will need to be considered - 25%
- 3) Approach to project reports, information gathering and analysis, report formatting, including innovative ideas - 35%
- 4) Experience and capabilities with retrofit and/or repair design challenges and problem resolution of existing dam infrastructure - 15%

The interview segment of the presentation-interview session will follow the presentation, and consist of questions arising from the SOQ and/or presentation.

The City reserves the right to proceed to Final Ranking based on the Statements of Qualifications without conducting Interviews.

FINAL RANKING AND CONTRACT NEGOTIATION

The Review Committee members will individually evaluate the presentation-interviews of each of the candidate firms and rate them according to the aforementioned criteria. The Review Committee may also consider information from the Statements of Qualifications. The Review Committee will then formulate a consensus ranking, notify each of the candidate firms of the final rankings and meet with the top-ranked firm for the purpose of initiating contract negotiations. If negotiations are unsuccessful, the City will terminate negotiation efforts and open negotiations with the 2nd ranked firm. This process will continue until negotiation efforts are successful. The final list will remain in effect for a period of twelve months from the date of issuance by the City.

Approval of the City Council will be required for award of a contract for performance of the services described herein.



**Project Scoping Report
2/14/14**

Project Description

Project Name: Granite Creek Dam Valves Replacement Project
Project Type: Recharge System-Dams
Project Account No.(s) 7007810-89410-09532

Funding Sources: Water Rates

Project Budget \$647,000.00

Phase Schedule:

	Begin	End
PS&E	FY14	FY15
ROW	n/a	n/a
Construction	FY15	FY15

Project Team

Project Review Team:
Project Manager – George Henderson
Program Manager- Tim Burkeen
City Engineer– Scott Tkach
Utilities Engineering- Bruce Canavan
Drainage Engineering- Marc DuBroy
Utilities Operations – Joel Berman, Craig Dotseth

Goal Statement

The project goal is to deliver a quality project on time that provides for efficient operations of City facilities to deliver water to meet resource requirements, downstream customer commitments and Emergency Action Plan requirements.

Project Description

This Project generally consists of the replacement of two inoperable original large diameter valves (36", 48") at Granite Creek Dam constructed in 1919, and provide for operations of the valves from the dam crest via flexible operators. The proposed 36" replacement valve is to include a 12" bypass. This project also includes the replacement of existing upstream trash racks and installation of new slide gates.

Project Limits - Existing Conditions:

- Watson Lake/Granite Creek Dam

Associated Project Studies:

- Dam Safety Analysis, URS 2008 (provided to selected design engineer)
- Emergency Action Plan (provided to selected design engineer)
- Original Hassayampa Farms Design Plans, 1919 (available on request)
- 36" Emergency Repair Plug Design
- FEMA Granite Creek Floodplain Study

Adjacent Public CIP Projects:

- City of Prescott Concrete Repair Project, Completed 2012 (available on request)

Adjacent Private Development Projects: N/A

Related Documents:

- Underwater video/photos (available on request)
- Existing Condition Photo's
- Lake Level Spreadsheet

Public Involvement:

- Notification to Park's Department and Trail Users during construction activities.

Primary Technical / Administrative Issues

- Existing upstream silt levels
- Leak at 48" and 36" valves between valve flange and concrete dam face
- Valve security, tamper/vandalism and freeze protection
- Project access is limited to water access or minimal foot traffic via, hiking trail, no vehicle access is available

Existing Utilities:

- Existing Yavapai County weather/lake level sensors & radio equipment; Notify and coordinate with county prior to any construction and protect in place.

Utility Relocation Issues:

- N/A

Design:

Roadway Design

- N/A

Drainage Design

- N/A

Sewer Design

- N/A

Project Design

- As noted above, this Project will replace two inoperable original large diameter valves at Granite Creek Dam (36", 48") and provide for operations of the valves from the dam crest via flexible operators. The existing 36" valve discharge has been reduced with a flange and 12" valve limiting emergency discharge flow. The proposed 36" replacement valve is to include a 12" bypass for smaller flows associated with surface water recharge and downstream irrigation commitments. The 48" valve will also provide emergency drawdown and discharge. Options contemplated could include a cone valve to dissipate energy and reduce downstream scour. Replacement of the existing upstream trash racks is envisioned, with installation of upstream slide gates proposed for future valve maintenance requirements. Project access is limited to water access or minimal foot traffic via hiking trail, no vehicle access is available.

Geotechnical Design and Recommendations

- N/A.

Private Development Partners:

- N/A

Right-of-Way (R.O.W.) and Easements:

- N/A

Environmental Constraints – Required Permits:

100-Year Floodplain –

- N/A

Railroad –

- N/A

ADOT –

- N/A

ADWR/ADEQ –

- **Consultant will acquire all ADWR permits, including the CQA plan, Approval to Construct, engineer's Certification of Final Cost and Completion Report.**
- **It is anticipated that the project will need to obtain an AzPDES permit and proper sediment control BMPs will need to be incorporated into the plans, specifications and construction methods.**
- **Consultant to identify any other permits that may be required through design and construction.**

Yavapai County –

- N/A

Other Municipalities

- N/A

Archaeological/Cultural Issues –

- N/A

Endangered Species Act (ESA) –

- A pre-determination for any listed endangered species that may be impacted within the project vicinity, along with an evaluation, if deemed necessary from the pre-determination.

Required Environmental Permits/Approvals -

- AZDOT Permit – N/A
- AzPDES Permit – SWPPP and NOI
- FEMA – N/A
- ADWR

Construction Issues:

- Project access is limited to water access or minimal foot traffic via, hiking trail, no vehicle access is available.
- Sedimentation buildup and debris on the upstream face of the dam.
- Material and equipment delivery
- Potential runoff surges from winter/summer storms
- Removal of any large concrete debris produced

City Liability and Risk Assessment

- Potential disruption of surface water delivery.
- Risk to downstream properties due to valve failure.
- Coordination of construction sequence required to maintain downstream water delivery commitments.
- Security during and after construction.

Design Deliverables

1. ***Project Kick-Off Meeting.*** The Engineer will be required to attend a kick-off meeting with City staff at a time and on a date amenable to both parties. At that meeting, the Engineer will be required to provide a detailed design schedule, a list of the team members who will be involved in the project, along with their phone numbers and e-mail addresses, an org. chart showing

the relationship of all of the team members and any submittals required contractually.

2. **Design Schedule.** The Engineer will be required to submit a detailed schedule depicting all major tasks and primary submittal dates for approval by the City. Thereafter, the Engineer shall submit monthly project schedule updates in the same format and shall highlight and provide justification for any changes to the approved schedule. The Engineer shall include 3 weeks for each of the City review periods.

Public Meetings. None anticipated.

3. **Preliminary Design Report and Preliminary Construction Cost Estimate.** Within 60 days of entering into a contract with the City of Prescott, the Engineer will be required to provide a set of concept plans, a preliminary design report with major infrastructure components sized and a preliminary cost estimate. An analysis of alternate design considerations shall be included in this submittal.
4. **Utility Review.** N/A
5. **Utility Potholing.** N/A
6. **Geotechnical Investigation and Recommendations.** N/A
7. **Preparation of Preliminary (30%) Design.** The conceptual design shall identify existing conditions including: ; topography; benchmarks; ; proposed plan and profile valve alignments; and all utilities (Yavapai County weather and telemetry station)) located within the project limits. The conceptual design shall further identify any proposed water valves, and any other utility fixture or potential utility conflict, and any other efforts required to design and construct a quality product. The design submittal shall include a detailed preliminary construction cost estimate.

In generating the specifications, the Engineer shall adhere to the City's boilerplate for Technical Specifications unless conditions require Special Provisions. ALL bid items SHALL be addressed in the Technical Specifications or Special Provisions. Items NOT required for the project SHALL be deleted from the text. Any deviation(s) from the boilerplate shall be brought to the City's attention.

8. **Preparation of Preliminary (60%) Design.** Review comments shall be solicited, received and addressed by the Engineer. Design or construction conflicts that were identified from the previous Review shall be addressed with a detailed approach for mitigation of these conflicts and coordination with the City. The engineer shall submit a preliminary CQA plan and updated preliminary construction cost estimate.
9. **Preparation of Pre-Final (90%) Plans, Specifications, and Estimate for Submittal to City and Utility Companies.** Final review comments shall be

solicited, received, and addressed by the Engineer. The engineer shall submit a final CQA plan and updated preliminary construction cost estimate.

10. **Regulatory Agency Review.** It shall be the responsibility of the Engineer to prepare the application, plans, specifications, and design report for submittal by the City to ADWR for review, respond to comments and obtain the "Approval to Construct". Any review fees assessed by the regulatory agency will be paid by the City. It will be the responsibility of the Engineer to include estimated time frames for the reviewing agency in the schedule.

11. N/A

12. **Pre-Final (90%) Design Meeting.** A meeting will be held between the Engineer and the City to discuss any revisions or additional work required for generation of final (100%) plans and specifications.

13. N/A

14. **Preparation of Final (100%) Plans, Specifications, Design Report, Bid Schedule and Engineers Estimate.** The final plans shall be prepared incorporating any adjustments or corrections made during the review of the pre-final plans. A set of final reproducible plans shall be provided on 3 mil Mylar and on disk (AUTOCAD *.DXF). A hard copy and disk of specifications, bid schedule, and engineers estimate, shall be submitted (compatible with Microsoft Word). Plans shall not be considered final until ADWR "Approval to Construct" is acquired. The Engineer will only be responsible for the technical provisions portion of the specifications, bidding schedule, and engineer's estimate. The City will prepare the formal contract documents.

15. **Construction Pre-Bid Meeting.** The Engineer shall attend the construction pre-bid meeting held by the City of Prescott to answer questions from prospective bidders. In the event an addendum is required, the Engineer shall prepare the necessary changes to the plans and specifications. The City shall issue the addendum.

16. **Pre-Construction Meeting.** The Engineer shall attend the pre-construction meeting held by the City of Prescott to answer questions from the construction contractor. The Engineer shall be prepared to address any design questions presented by the contractor.

17. **Monthly Design Progress Meetings.** In addition to those meetings indicated above, the Engineer shall meet weekly with the City to discuss the project status and any pertinent issues.

18. **Benchmarks.** N/A

19. **Provision of Post-Design Consultation Services.** The Engineer will be retained to provide consultation assistance during construction, relative to questions pertaining to their design. Construction meeting attendance, technical submittals, RFI's, as-built coordination and preparation, quality

assurance/control, project closeout, certification, and other construction phase engineering services shall be anticipated functions of the engineer of record.

20. Meeting Minutes. The Engineer shall be responsible for recording and preparing accurate minutes from all meetings involved with the project. A hard copy and disk of the minutes shall be submitted to the Public Works Department. The disk must be compatible with Microsoft Word.

Miscellaneous Other Deliverables

- Technical Design Reports (Structural Reports, valve analysis, hydraulic drawdown (variable Q with 36", 48" and spillway vs 100-year inflow), pipe and concrete design)
- SWPPP Plan
- Other as may be required

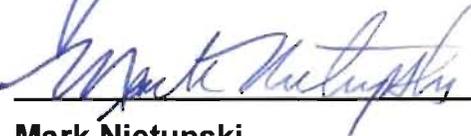
Post-Design Construction Services

- Submittal / RFI reviews
- As-Built surveying and final mylar preparation; As-built certification
- Attending construction meetings
- Construction to be managed and inspected by City and Engineer's personnel. Consultant to be retained as Engineer Of Record during construction phase.
- ADWR construction completion report and documentation.

Approvals

Program Manager  Date 2/18/14
Tim Burkeen

Operations Manager  Date 2/18/14
Joel Berman, PE

Public Works Dir.  Date 2/18/14
Mark Nietupski

City of Prescott
CIP Design Submittal Requirements

In order to maintain a consistent and effective review of the plans, it is important for the necessary information to be provided as follows:

30% Submittal

1. Preliminary water design report
2. Preliminary drainage design report
3. Preliminary geotechnical report
4. Preliminary pavement recommendations
5. Aerial photograph with catch points & preliminary right-of-way superimposed (1:50) scale
6. Preliminary plan & profile for all required facilities – road, water, storm sewer
7. Preliminary catch points
8. Alternative drainage analysis, conceptual drainage layout
9. Conceptual wall locations
10. Conceptual storm water control facility location
11. Preliminary land acquisition estimate
12. Preliminary utility conflicts and relocations (dry & wet utilities)
13. Preliminary typical sections
14. Preliminary erosion control sheets
15. Total Estimated Quantities and Engineer's Estimate
16. Value Engineering Study (projects > 1 million or State or Federal funding)

60% Submittal

1. Draft final water design report
2. Draft final drainage design report
3. Draft final geotechnical report
4. Preliminary structural design report
5. Final pavement recommendations
6. Preliminary pavement mix design
7. Final plan & profile for all required facilities – road, water, storm sewer
8. Final Intersection horizontal layout (including curb return and curb ramp info.)
9. Draft final wall locations – Plan & Profile
10. Catch points
11. Draft final drainage layout including pipe profiles
12. Updated utility locations/relocations
13. RW purchase plans, contact summary – including property owners for water, sanitary,
14. Roadway typical sections
15. Preliminary detail sheets
16. Draft construction notes
17. Erosion control plan sheets
18. Cross Section sheets
19. Draft Specifications, Special Provisions, including landscape requirements and slope stabilization
20. Total Estimated Quantities and Engineer's Estimate
21. Variance modification requests (as required)

90% Submittal

1. Final water design report
2. Final drainage design report
3. Final geotechnical report
4. Final structural design report
5. Final pavement recommendations
6. Final pavement mix design
7. Final plan & profile for all required facilities – road, water, storm sewer
8. Final Intersection horizontal layout (including curb return and curb ramp info.)
9. Final wall locations – Plan & Profile
10. Catch points
11. Final drainage layout including pipe profiles
12. Final utility locations/relocations
13. Roadway typical sections
14. Final detail sheets
15. Final construction notes
16. Final Erosion control plan sheets
17. Final Cross Section sheets
18. Final Specifications and Special Provisions
19. Total Estimated Quantities and Engineer's Estimate
20. Submit plans to all agencies required for permitting

Final P.S. & E

1. Final Civil plans (Mylar & Digital)
2. Submittal of all final Technical reports
3. Final Technical Specifications and Special Provisions
4. Final Total Estimates Quantities and Engineer's Estimate
5. Approved permits (DEQ, COE, etc.)

Definitions

Conceptual: General design idea or plan based upon experience and judgment from other comparable work. Cursory plan view illustrations; calculations not required.

Preliminary: Introductory, but reasonably accurate, design element or feature. General consistency with design standards. Plan view illustration. Rough calculations and notes. First run models.

Final: Complete and ultimate design element or feature. Full consistency with design standards (or road modifications). Complete plan, profile and section views, as applicable. Thorough and complete engineering calculations and notes. Finished run models.

Alternative analysis: Study of all (at least two) viable options which satisfies a given transportation plan or design need. Analysis to include, but not limited to, comparisons of: safety, scope, cost, functionality, efficiency, compliance to standards and environmental effects.



Professional Services Agreement

Granite Creek Dam Valves Replacement Project

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

WHEREAS, the City has solicited Requests for Qualifications in accordance with State Law; and

WHEREAS, ** (hereinafter referred to as "Professional"), has expertise in the design of dam valves.

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 Professional shall provide the services to the City in relation to Granite Creek Dam Valves Replacement Project as indicated in Exhibit "A" (Request for Statements of Qualifications and Scope of Work, Task and Fee Estimate, and Project Schedule) and as requested by the City of Prescott Public Works Director.
2. In addition to those services identified in Paragraph 1 above, the Professional shall also perform all subordinate tasks not specifically referenced in Paragraph 1, but necessary to the full and effective performance of the tasks specifically referenced.
3. The Professional shall provide sufficient qualified personnel to perform any and all services as required herein, including but not limited to inspections and preparation of reports, as reasonably requested by representatives of the City.
4. All services identified in Paragraphs 1 and 2 above shall be completed to the satisfaction of the City and shall be performed in compliance with the Professional's project schedule identified in the attached Exhibit "A".
5. The term of this Agreement shall be _____ to _____.
6. Notwithstanding the foregoing, this Agreement may be terminated by either party upon ten (10) days written notice, with or without cause or upon completion of services. If this Agreement is terminated, the Professional shall be paid for authorized services satisfactorily performed to the date of the Professional's receipt of such termination notice.
7. It is agreed by and between the parties that this Agreement incorporates the attached Exhibit "A" thereto as a part of this Agreement, and that the terms thereof shall be binding between the parties.
8. 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 Professional 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.

15. All work products of the Professional for this Project are instruments of service for this Project only and shall remain the property of the City whether the Project is completed or not. All plans, drawings, specifications, data maps, studies and other information, including all copies thereof, furnished by the City shall remain the property of the City. They are not to be used on other work, and, with the exception of this Agreement, are to be returned to the City on request or at the completion of the work.
16. 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 Professional further agrees that this provision shall be contained in all sub-contracts related to the project, which is the subject of this Agreement.
17. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney fees, either pursuant to the Agreement, pursuant to A.R.S. Section 12-341.01(A) and (B), or pursuant to any other state or federal statute, court rule, case law or common law. The Professional further agrees that this provision shall be contained in all sub-contracts related to the project, which is the subject of this Agreement.
18. This Agreement represents the entire and integrated Agreement between the City and the Professional and supersedes 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 Professional. 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.
19. 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 provision, 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.
20. The Professional 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 Professional's negligent acts, errors, or omissions, pursuant to this Agreement, except to the extent said claims, liabilities, expenses or lawsuits arise by the negligent acts or omissions of the City or his/her agents. The Professional 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 Professional has or may have against the City, its agents or employees, arising out of or in any way connected with the Professional's activities as set forth below, other than those acts which occur due to the negligence of the City, its employees or agents.
21. 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 modification shall be introduced in any proceeding.
22. (A) Changes in Work: The City, without invalidating the Contract, may order extra work, make changes by altering, or delete any portion of the work as specified herein, or as deemed necessary or desirable by the Public Works Director. All such work shall be executed under the conditions of the

original Contract except that any claim for extension of time and additional cost caused thereby shall be made at the time of ordering such change or extra work.

(B) Extra work shall be that work not indicated or detailed on the Scope of Work and not specified. Such work shall be governed by all applicable provisions on the Contract Document.

(C) In giving instructions, the Public Works Director shall have authority to make minor changes in the work, not involving extra cost, and not inconsistent with the purposes of the work. No extra work or change shall be made unless in pursuance of a written order by the Public Works Director and no claim for an addition to the total amount of the Contract shall be valid unless so ordered.

(D) Payment for any change ordered by the Public Works Director which involves work essential to complete the Contract, but for which no basis of payment is provided for herein, shall be subject to agreement prior to said work being performed.

(E) Adjustments to price and/or Contract Time which are agreed upon shall be incorporated in the written order issued by the Public Works Director, which shall be written so as to indicate acceptance on the part of the Professional as evidenced by its signature. In the event prices cannot be agreed upon, the City reserves the right to terminate the Contract as it applies to the items in question and make such arrangements as it may deem necessary to complete the work, or it may direct the Professional to proceed with the items in question to be reimbursed pursuant to the unit prices in the Professional fee proposal.

(F) If the Professional claims that any instructions involve extra cost under this Contract, it shall give the Public Works Director written notice thereof within forty-eight (48) hours after the receipt of such instructions, and in any event before proceeding to execute the work. No such claim shall be valid unless so made. The Professional shall do such extra work therefor upon receipt of an accepted Contract Amendment or other written order of the Public Works Director and in the absence of such Contract Amendment or other written order of the Public Works Director, the Professional shall not be entitled to payment for such extra work. In no case shall work be undertaken without written notice from the Public Works Director to proceed with the work. All Contract Amendments must be approved by the Public Works Director. Contract Amendments over \$10,000.00 must be approved by City Council.

23. (A) The Professional 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 the following coverage:

1) Commercial General Liability – Occurrence Form (if applicable)

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

General Aggregate	\$ 2,000,000
Products – Completed Operations Aggregate	\$ 2,000,000
Personal and Advertising Injury	\$ 1,000,000
Each Occurrence	\$ 1,000,000
Fire Legal Liability (Damage to Rented Premises)	\$ 100,000

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 Professional.”

Professional Services Agreement

2) Professional Liability (Errors and Omissions Liability)

Each Claim	\$ 1,000,000
Annual Aggregate	\$ 2,000,000

In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years at the time work under this contract is completed.

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

3) Business Automobile Liability (if applicable) Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$ 1,000,000
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(B) City and Professional waive all rights against each other and their directors, officers, partners, commissioners, officials, agents, sub-contractors and employees for damages covered by property insurance during and after completion of the Services.

(C) All insurance 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.

(D) Prior to commencing work under this Agreement, the Professional shall provide City with evidence that it is either a "self-insured employer" or a "carrier insured employer" for Workers' Compensation as required by ARS 23-901 et seq., or that it employs no persons subject to the requirement for such coverage.

(E) Notice of Cancellation. With the exception of a ten (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require a thirty (30) day written notice.

(F) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII, unless otherwise approved by the City of Prescott Risk Management Division. All insurance is to be placed with an insurer admitted in the state in which operations are taking place.

(G) Verification of Coverage: Professional shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Please note the contract number on the Certificate.

24. The Professional, 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 sub-contractors, including procurement of materials and leases of equipment. The Professional 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, the Americans With Disability Act

(Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, and Arizona Governor Executive Orders 99-4, 2000-4 and 2009-09 as amended.

25. Contractor Immigration Warranty

Professional understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. § 34-301, "Employment of Aliens on Public Works Prohibited", and A.R.S. § 34-302, as amended, "Residence Requirements for Employees".

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its sub-contractors ("Sub-contractors") will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach of the Professional Immigration Warranty shall constitute a material breach of this Contract and shall subject the Professional 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 Professional or Sub-contractors employee who works on this Contract to ensure that the Professional or Sub-contractor is complying with the Professional Immigration Warranty. Professional 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 Professional and any of sub-contractors to ensure compliance with Professional's Immigration Warranty. Professional agrees to assist the City in regard to any random verification performed.

Neither the Professional nor any Sub-contractor shall be deemed to have materially breached the Professional Immigration Warranty if the Professional or Sub-contractor establishes that it has complied with 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 Professional enters into with any and all of its sub-contractors who provide services under this Contract or any sub-contract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a Professional or sub-contractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

26. Professional shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily possessed and exercised by a professional under similar circumstances.
27. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and Professional.
28. In the event of a discrepancy between this Agreement and Exhibit "A", this Agreement shall control over Exhibit "A".
29. Non-Availability of Funds: Fulfillment of the obligation of the City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the performance of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the City at the end of the period for which the funds are available. No liability shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments as a result of termination under this paragraph.

Professional Services Agreement

Dated this _____ day of _____, 2014.

City of Prescott, a municipal corporation

PROFESSIONAL

Marlin D. Kuykendall, Mayor

**

By: _____

Title: _____

ATTEST:

APPROVED AS TO FORM:

Dana R. DeLong, City Clerk

Jon M. Paladini, City Attorney

SAMPLE

Exhibit "A"

SAMPLE