



REQUEST FOR STATEMENT OF QUALIFICATIONS

For

Public Works On-Call Professional Services

Public Works Department

Telephone: (928) 777-1130

Fax: (928) 771-5929

Due Date: November 5, 2015

REQUEST FOR STATEMENTS OF QUALIFICATIONS (RSOQ)

Public Works On-Call Professional Services

The City of Prescott, Arizona, requests Statements of Qualifications (SOQ) from professional consulting/engineering firms to be considered for Public Works On-Call Professional Services. Only Vendors capable of providing the requested discipline category of professional services will receive consideration. All vendors do not have to submit in all categories. The category(ies) that the Vendor wishes to be considered for must be clearly identified in the cover letter to the Statement of Qualifications. Statements must be received before 2:00 PM on Thursday **November 5, 2015**, City Clerk's Office, 201 South Cortez Street, Prescott Arizona 86303, at which time all statements will be publicly opened.

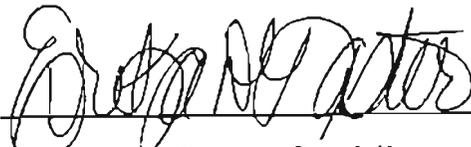
Any statements received at or after 2:00 PM on the above stated date will be returned unopened. Statements must conform to this RSOQ. The City of Prescott reserves the right to reject any and all statements and the City assumes no liability for the cost of preparing a response to this request.

Copies of the Request for Statements of Qualifications are available for public inspection in the office of the Public Works Director, 433 N. Virginia Street, Prescott, Arizona, 86301, (Voice: (928) 777-1130; TDD: 777-1100) and on the City's website: <http://www.prescott-az.gov/business/bids/>.

The outside of the submittal 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:

Request for Statements of Qualifications Submittal

Public Works On-Call Professional Services



Erika Laster, Contract Specialist

Published: 2TC October 4 and October 11, 2015

A. DESCRIPTION OF WORK

The City of Prescott will be reviewing the statements of qualifications of firms for the purpose of entering into various on-call contracts. The Public Works On-Call Professional Services discipline categories include:

A. CADD Services – Provide exhibits, conceptual and/or final detailed drawings utilizing computer-aided drafting (Auto-CAD). Provide 3-D modeling e.g. Civil 3D for site layout, roadway design, and utility design. These services include both CAD and design services on a project by project basis. This may include preparation of preliminary or final construction bid documents for various capital improvement projects or other public works projects.

B. Inspection Services – Provide construction inspection services for the development of public or private facilities; conduct inspections of sewer, water and storm drain lines and laterals; schedule inspections, testing, walk through, and sequence of work with outside contractors and City of Prescott staff. Inspects grading activities, asphalt, curb and gutter, sidewalk and bike trails, landscaping; inspects all backfill operations; inspects signage and pavement markings; measures construction quantities and verifies contractor applications for payment, issues field reports; works with field personnel to address construction issues/concerns and review as-built drawings for accuracy. Provides written daily reports of inspections performed.

C. Engineering Plan Review Services – Provide a professional to perform engineering plan review services under the supervision of the Program Development Manager. Services to include review of subdivision plats, residential and commercial developments, technical reports and civil plans, construction plans for water, sewer, paving, grading, drainage, street and traffic lights using applicable City and industry codes that have been adopted by the City. A workstation may be provided at the City. Plan reviews may include both private development and capital improvement program projects.

D. Environmental Engineering Services – Provide services for environmental impact assessment and permitting, natural resources management, Brownfield's Grants, Phase 1 and Phase 2 investigations, remediation management regulatory permit application and negotiation, cultural resources management, environmental compliance, and aquatic sciences. Assist the City with standard environmental audits, permits, and compliance as well as, more specialized requests, including lake and watershed modeling, GIS, risk assessment, and expert witness and litigation support.

E. Foundation and Structural Design – Services to include conceptual designs, structural alternatives and estimates, structural assessment of existing walls, buildings, bridges and other structures. Final designs, plans and estimates, final structural reports, load calculations and recommendations for construction of retaining walls, steel reinforced concrete structures, small buildings and vehicular and pedestrian bridges.

F. Landscape Architect – Design and review of master plans, conceptual planning, street tree master plans, tree inventory, trail design, river corridor and riparian studies, site designs, parks and public open spaces, streetscapes, bicycle and pedestrian pathway design, scenery planting and irrigation.

G. Stormwater – Analysis, calculations, reports, design, and plan preparation for a variety of stormwater drainage, flood control, and surface water quality related projects and infrastructure.

H. Streetlight Design – Photometric analysis, pedestrian and street lighting design and control, power distribution and emergency power systems for roadways, parking lots and developments.

I. Surveying – Services to include topographic, boundary, control, as-built, and ALTA surveys; aerial mapping survey ground control; construction staking, pot-hole survey services, right-of-way and easement investigation; and preparation of legal descriptions and exhibits.

J. Traffic Engineering – Studies and analysis could include speed, volume, classification, origin/destination, travel time, traffic signal warrant, traffic control, pedestrian and bicycle, crosswalk warrant, Safe Routes to School, crash/safety, and signal timing. Design could include Safe Routes to School, traffic signal, traffic calming, traffic control, signing and pavement marking and safety improvements. Tasks could also include Intelligent Transportation Systems design to include fiber network improvements, ITS equipment standards/specifications, and Traffic Management Center recommendations.

K. Transportation Engineering – Design could include roadway improvements, development infrastructure cost share calculations, master plan, transit, bicycle and pedestrian facilities and intersections, including roundabouts.

L. Wastewater Systems – Engineering evaluations, professional recommendations, and completed designs for: collection conveyance components, manholes, interceptors, gravity and force main piping, sewage lift stations, recharge and reuse conveyance, storage, and pumping stations, waste generation and disposal systems, treatment components, treatment equipment evaluation and recommendations, treatment process improvements, chemical treatment additions and other related components.

M. Water Production and Treatment System – Feasibility studies, well-treatment optimization studies, power studies, distribution systems, pump stations, water storage facilities and treatment design and process improvements.

N. Electrical Design and supervisory Control and Data Acquisition (SCADA) Programming – Provide design and inspection services for electric power supply, control systems and equipment specifications. Electrical evaluation and design, troubleshooting/testing and emergency call-out support for City facilities. Design and programming of local SCADA systems, PLC programming and telemetry, SCADA security

design/planning, auditing/testing and implementation services.

O. Hydro-geological Engineering – Provide aquifer impact and well feasibility studies. Ability to provide well abandonment services. Design of wells; provide construction inspection/observation services during the drilling of new replacement wells.

P. Public Relations – Provides media coordination, social media applications, mailings, brochures, and other graphics for Public Works projects. Coordinates/hosts public meeting venues and events. Provides website, email, phone and other communication links with the general public for a variety of public works applications and projects.

B. SUBMITTAL

Sealed Statements of Qualifications will be received before 2:00 PM on Thursday, **November 5, 2015**, at the City Clerk's Office, 201 South Cortez Street, Prescott Arizona 86303, at which time all submittals 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). 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: Public Works On-Call Professional Services**

C. EVALUATION AND FORMAT OF STATEMENTS OF QUALIFICATIONS;

C.1 EVALUATION

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

- 1) Specific experience of the firm within the State of Arizona
- 2) Experience and performance of the proposed project team and availability, within current and anticipated workload, for the project
- 3) Proposed project approach, if applicable, to include a detailed discussion and identification of areas that will require special attention
- 4) Overall quality of the Statement evidencing interest in the project
- 5) Knowledge and experience with City of Prescott rules, regulations, procedures

C.2 STATEMENTS OF QUALIFICATIONS

The statement shall be limited to no more than 5 pages for each area of interest, and include the following:

- Interest Area
- 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 list of their notable projects
- A list of all sub-consultants and a description of their roles
- A statement of the submitting firm's understanding of the purpose and scope, and a description of how the firm would approach, manage, and complete the projects.

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 of Qualifications.

D. SHORTLIST AND INTERVIEWS

Following evaluation of the Statements of Qualifications, a shortlist of up to five (0-5) firms will be determined based upon the composite score of Review Committee members. A presentation-interview session with each of the top ranked firm(s) will comprise the second half of the evaluation/selection process, if deemed necessary by the City. The Review Committee will have the opportunity to discuss questions regarding the firms' submittal and presentation at that time. Criteria for evaluation of the presentation-interviews are as follows:

- 1) Observation of existing conditions and grasp of key information
- 2) Identification of issues or problems (solutions) that will need to be considered
- 3) Approach to reports, information gathering and analysis, report formatting, including innovative ideas
- 4) Experience and capabilities with public meeting's and community outreach

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

E. FINAL RANKING AND CONTRACT NEGOTIATION

The Review Committee members will individually evaluate the presentation-interviews of each of the candidate firm(s) and rank them according to the aforementioned criteria. The Review Committee will also consider information from the Statements of Qualifications in their final ranking of firm(s). The Review Committee will then formulate a consensus ranking, notify each of the candidate firms of the final rankings. The City, at its sole discretion, may elect to enter into agreements with multiple vendors who are qualified to provide the services. The final list will remain in effect for a period of five (5) years from the date of issuance by the City. The City also reserves the right to reject all submittals and

readvertise the project should the City not reach agreement on the terms of the contract with the selected firm(s).

Selected vendors will be required to execute the City's standard Professional Services Agreement in a form acceptable to the city Attorney. Approval of the City Council may be required for award of a contract for performance of the services described herein.

SAMPLE CONTRACT



Professional Services Agreement

Public Works On-Call Professional Services

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 CADD, Inspection, Engineering Plan Review, Environmental Engineering, Foundation & Structural Design, Landscape Architect, Stormwater, Streetlight design, Surveying, Traffic Engineering, Transportation Engineering, Wastewater Systems, Water Production & Treatment System, Electrical Design & Supervisory Control & Data Acquisition (SCADA) Programming, Hydrogeological Engineering and Public Relations 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 Professional shall provide the services to the City in relation to Public Works On-Call Professional Services 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.
9. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage, at the following addresses:

Public Works Director	**
City of Prescott	**
433 N. Virginia St.	**
Prescott, AZ 86301	

10. It is expressly agreed and understood by and between the parties that the Professional is an independent Contractor, and, as such, Professional 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 Contractor, Professional 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 Contractor, Professional 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, worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.
11. This Agreement is non-assignable by the Professional unless by sub-contract, as approved in advance by the City.
12. (A) The City shall pay to Professional a total sum of **dollars and no cents (\$.00) for all services specified in Sections 1 and 2 of this Agreement, as specified in Exhibit "A".
 (B) The foregoing sum includes payment for any and all services to be rendered Professional or sub-contractors, which the Professional may employ for this Contract. It is expressly agreed by and between the parties that the Professional is solely responsible for any and all payment to such any other Professionals or sub-contractors retained by the Professional.
 (C) Payment of the total amount provided for under Section 12 (A) shall not relieve Professional of its obligation to complete the performance of all those services specified in

Sections, 1, 2, and 3. Should the City request in writing additional services beyond that specified in Sections 1, 2, and 3, then Professional shall charge and City shall pay Professional in accordance with Exhibit "A".

(D) Prior to the final payment to the Professional, the City shall deduct therefrom any and all unpaid privilege, license and other taxes, fees and any and all other unpaid monies due the City from the Professional, and shall apply to those monies to the appropriate accounts. Professional shall provide to the City any information necessary to determine the total amount(s) due.

(E) The Professional shall bill the City monthly for the fee due the Professional, based upon an hourly rate for work completed for each itemized task pursuant to this Agreement and Exhibit "A" during the billing period. City shall pay such billings within thirty (30) days of the date of their receipt.

13. 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 negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.
14. This Agreement shall be construed under the laws of the State of Arizona.
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.”

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.

Dated this ____ day of _____, 2015.

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

Exhibit "A"