

# City of Prescott

## Notice Inviting Bids For

### Crushing of Concrete-Inert Waste Mix and Asphalt Millings Stockpiles

#### Standard Specifications and Contract Documents



**BID OPENING:** December 20, 2018 at 2:00 PM  
City of Prescott  
Council Chambers  
201 S. Cortez Street  
Prescott, Arizona

**PREPARED BY:** City of Prescott Public Works  
433 N. Virginia Street  
Prescott, Arizona

**Due Date:** December 20, 2018

Notice Inviting Bids

**Crushing of Concrete-Inert Waste Mix and Asphalt Millings Stockpiles**

**Description:** The City of Prescott's Solid Waste and Street Maintenance Divisions desire to retain a service provider that can screen both the existing concrete-inert mix and asphalt millings stockpiles into ¾ inch minus.

**MANDATORY PRE-BID MEETING AND JOB WALK:** Tuesday, December 11, 2018 at 1:00 p.m., City of Prescott Transfer Station, 2800 Sundog Ranch Rd., Prescott, AZ 86301 Location

Sealed bids will be received office of the City Clerk, City of Prescott, 201 South Cortez Street, Prescott, AZ, 86301, until 2:00 P.M., Thursday, December 20, 2018, for the Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles. Any bid received after 2:00 pm on the above stated date and time will be returned unopened. The City of Prescott reserves the right to accept or reject any or all bids, and/or some or all of the alternates bid, and waive any informality deemed in the best interest of the City and to reject the bids of any persons who have been delinquent or unfaithful to any contract with the City of Prescott. The bid documents may be obtained from the City's website at <http://www.prescott-az.gov/business/bids>. The outside of the bid envelope shall be marked: "Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles" and shall indicate the Company name and address of the bidder, the closing date and time, and shall be addressed to the Public Works Director, City of Prescott, 433 N. Virginia Street, Prescott, AZ, 86301.

A handwritten signature in blue ink that reads "Erika Laster". The signature is written in a cursive style and is positioned above a horizontal line.

Erika Laster, Contract Specialist

PUBLISHED: TC November 25 & December 2, 2018

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

**Bid**  
**Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles**

The City of Prescott is soliciting bids for the Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles. Sealed bids shall be opened on Thursday, December 20, 2018 at 2:00 P.M. at the time and place indicated in Section 2.2.

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## 1.0 Bid Specifications/Scope of Work

1.1 The City of Prescott Solid Waste Division manages the daily operations at the City-owned Transfer Station located at 2800 Sundog Ranch Road, Prescott, AZ 86301. The Transfer Station receives all household waste from both residents and businesses for disposal or recycling as well as accepts dedicated loads of concrete-inert mix material that is diverted from disposal for crushing into a reusable product. The City's Street Maintenance Division receives asphalt millings from capital improvement projects as well as generates asphalt rubble as a result of street maintenance and improvement projects.

The concrete-mix material and asphalt millings-rubble are placed into two separate stockpiles and located at 2800 Sundog Ranch Road.

1.2 The City of Prescott's Solid Waste and Street Maintenance Divisions desire to retain a service provider that can screen both the existing concrete-inert mix and asphalt millings stockpiles into  $\frac{3}{4}$  inch minus as noted in the project scope and specifications. Estimated tons of materials that require crushing are:

- i) Concrete-inert mix: 20,000 tons
- ii) Asphalt millings and rubble: 18,000 tons

### 1.3 Scope of Services

The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities required to perform all work for the project described as the Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles in a good and workmanlike and substantial manner and to the satisfaction of the City through its Contractors and under the direction and supervision of the Solid Waste and Street Maintenance Superintendents, or authorized delegates.

Set up of equipment and the processing/crushing operation shall be coordinated with the Solid Waste Superintendent or delegate. The project shall be set up or operated in a designated location which will not interfere with daily operations of the Transfer Station or Street Maintenance Division.

Contractor shall provide a per-ton rate which includes the price to mobilize, set up and demobilize appropriate equipment to crush the separate stockpiles of concrete-inert material and asphalt millings and rubble. Total tons produced shall be documented by the contractor.

- i) Location of staging and crushing operations: 2800 Sundog Ranch Road, Prescott, AZ
- ii) Hours of Operation available: 6:00 a.m. – 6:00 p.m. Monday through Saturday, unless otherwise agreed upon by both parties.
- iii) Crush stockpile of concrete-inert material into  $\frac{3}{4}$  inch minus product
- iv) Crush stockpiles of asphalt millings and rubble into  $\frac{3}{4}$  inch minus product

The quantities of work to be done and materials to be furnished under this Contract are to be considered as approximate only and are to be used solely for the comparison of Bids received. The City does not expressly or by implication represent that the actual quantities involved will correspond exactly therewith; nor shall the Bidder plead misunderstanding or deception because of such estimate or quantities of work performed or material furnished in accordance with the Specifications and other bid documents, and it is understood that the quantities may be increased or diminished as provided herein without in any way invalidating any of the unit or lump sum prices bid.

OPTION to BID: The Contractor may choose to reduce the price per ton in exchange for receivership of the processed material. The Contractor will be responsible to remove material from the site in an agreed upon timeframe after project is complete.

## 2.0 Bid Process Requirements

### 2.1 Communications with the City:

All communications regarding this bid must be directed in writing to the City of Prescott Public Works Department. Unless authorized by the Public Works Director, no other City official or employee is empowered to speak for the City with respect to this bid. Bidders are advised that the City shall not be bound by information, clarifications, or interpretations from other City officials or employees. Bidders are cautioned against contacting any City official or employee other than the Buyer for this bid. Failure to observe this requirement may be grounds for rejection of Bidder's bid. The City's Contact for this bid is:

Mollie Mangerich, Solid Waste Superintendent  
City of Prescott  
Public Works Department  
E-mail: [mollie.mangerich@prescott-az.gov](mailto:mollie.mangerich@prescott-az.gov)

2.2 Schedule

2.2.1 Bid Advertisement  
Sunday, November 25 & December 2, 2018

2.2.2 Bid Opening  
Thursday, December 20, 2018 at 2:00 P.M.  
City of Prescott  
Council Chambers  
201 S. Cortez Street  
Prescott, Arizona

2.3 Questions and Requests for Addenda

Bidders who have questions about or suggestions for changes to this bid may direct them to the City's Contact in writing by fax or email. Failure by a Bidder to request clarification of any inadequacy, omission or conflict shall not relieve the Bidder of the responsibility of being in compliance with the bid.

2.4 City Answers and Addenda

Changes to this bid will be made only by addenda issued by the CITY'S Contact. It is the bidder's responsibility to check for any addenda prior to submitting a bid. All addenda issued by the City shall become a part of the specifications of this bid, and will be made part of the resulting agreement.

2.5 Delivery of Bids

Sealed bids must be received at the City Clerk's office no later than the date and time listed in Section 2.2.2. The bids will be opened and read publicly in the Council Chambers at that time.

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

City of Prescott  
Council Chambers  
201 S. Cortez Street  
Prescott, Arizona

Bidder shall enclose bid in a sealed envelope. The envelope should identify the Bidder's name, mailing address, Title (Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles), and the time and date of opening. The City shall not consider late bids, telegraphic (fax) or telephone bids. Bidder is solely responsible for ensuring that bids 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 bids. Bids received after the deadline will be returned unopened.

2.6 Cost of Bids

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

2.7 Errors in Bids

Bidder is responsible for all errors or omissions in their bids, and any such errors or omissions will not serve to diminish their obligations to the City.

2.8 Withdrawal of Bids

A bid may be withdrawn by written request of the Bidder prior to the bid due date and time listed in Section 2.2. No bid may be withdrawn for a period of 120 calendar days after the bid due date and time.

2.9 Changes in Bids

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

#### 2.10 Rejection of Bids

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

#### 2.11 Disposition of Bids

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

#### 2.12 Incorporation of bid and Response in Agreement

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

#### 2.13 Protests

Any protest of a notice that a bid is non-responsive must be filed by 5:00 p.m. on the third business day after such notification. All such protests shall be in writing, contain a complete statement of the grounds for protest, and be filed with the Public Works Department, 433 N. Virginia St, Prescott, AZ 86301. Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of this bid to resolve the basis of their protest during the bid 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 Bidder(s). The City will not consider any protest based on items which 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 bidder.

#### 2.14 Bid Submittal

Bid must be sealed and the envelope must clearly indicate the information as described in Section 2.5. Bidder must fully complete and submit the following documents:

- Bid Form A – Bid Response Cover Sheet
- Bid Form B – Price Sheet
- Bid Form C – Bid Certification
- Bid Form D – Non-Collusion Certificate
- Bid Form E – Certificate of Ownership
- Bid Form F – Bidder Qualifications, Representations and Warranties

### 3.0 General Contract Terms and Conditions

- 3.1. Entire Agreement: This contract, including all attachments referenced herein, constitutes the entire agreement between the City and the Contractor. The City's Notice Inviting Bid (NIB), all addenda to the NIB, and the Contractor's response to the NIB 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 NIB; the City's NIB; and the Contractor's response to the NIB.
- 3.2. Term: The initial term of this Contract is for two (2) years. The contract may be extended for additional one (1) year periods up to a total of three (3) additional years, with the mutual consent of the City of Prescott and Contractor. The City's Public Works Director, or designee, will determine if it is in the City's best interest to exercise any or all option years and has the authority to exercise each option year. Price changes for succeeding years shall be adjusted in accordance with the West Urban Consumer Price Index (CPI), not to exceed upwards or downwards of the three (3) percent. Pursuant to the terms of this Paragraph, the City may extend the contract administratively, without the need for additional City Council action.
- 3.3. Schedule: Unless the Public Works Director 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 Public Works Director of such difficulty and the length of the anticipated delay.

- 3.4. **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.
- 3.5. **Unlawful Overcharges:** The Contractor assigns to the City all claims for anti-trust violations and overcharges relating to items purchased by the City.
- 3.6. **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.
- 3.7. **Warranties:** The Contractor warrants that it will comply with the City's latest drawings and specifications; and Contractor's work and services will meet the City's needs; performance under this Contract will comply with all applicable safety and health standards established for such services; and where necessary all appropriate instructions or warnings are supplied.
- 3.8. **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. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- 3.9. **Diversity:** The City encourages the Contractor to employ a workforce reflective of the region's diversity.
- 3.10. **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.
- 3.11. **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, bids, 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.
- 3.12. **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.
- 3.13. **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.
- 3.14. **Indemnification:** To the extent permitted by law, the Contractor shall protect, defend, 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.

- 3.14.1. 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 as identified in ARTICLE XIV MINIMUM INSURANCE REQUIREMENTS of the CONTRACT (attached hereto and incorporated herein).
- 3.15. 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.
- 3.16. 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.
- 3.17. 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.
- 3.18. 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.
- 3.19. Adjustments: The Public Works Director at any time may make reasonable changes in the place of the work being provided by the Contractor; without substantial additional expense to the City.
- 3.20. 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 Public Works Director shall be the City's authorized agent.
- 3.21. 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.
- 3.22. Binding Effect: The provisions, covenants and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.
- 3.23. 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.
- 3.24. 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.
- 3.25. 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.
- 3.26. 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.
- 3.27. 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.
- 3.28. Termination:
- 3.28.1. 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.
- 3.28.2. 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.

- 3.28.3. 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.
- 3.28.4. 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.

#### **4.0 Standard Bid Information**

- 4.1. Default by Bidder: In case of default by the bidder, 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 bidder 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 Public Works Director.
- 4.2. Cash Discounts: To the extent applicable, in connection with any cash discount specified on this bid, 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. Warranty: To the extent applicable with this type of work and end-product, any warranties that are standard in the industry shall remain in effect and such services and end-product will comply with all applicable federal, state and local regulations.
- 4.4. 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 state or federal statute, common law or court rule.
- 4.5. 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.
- 4.6. Brand Names: Brand names are only used for reference to indicate character or quality desired unless otherwise indicated.

#### **5.0 Instructions for Submittal Forms**

- 5.1. Form A - Bid Response Cover Sheet: Bidder shall complete, sign, and submit Form A as the first page of the bid package
- 5.2. Form B - Price Sheet: Bidder shall certify that its bid will be valid for \*\* days after submission. Bidder may be asked to extend this certification. Bidder shall complete, sign, and submit Form B.
- 5.3. Form C - Bid Certification: Bidder shall complete, sign, and submit Form C
- 5.4. Form D - Non-Collusion Certificate: Bidder shall complete, sign, and submit Form D.
- 5.5. Form E - Certificate of Ownership: Bidder 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 Bidder's business and the nature and extent of each such interest.
- 5.6. Form F - Bidder Qualifications, Representations and Warranties: Bidder shall complete and submit Bid Form F. Bidder shall provide additional information as required.

**6.0 *Review of Bid Submittals and Contractors***

- 6.1 The City reserves the right to inspect any of Bidder's facilities and equipment after the bid due date and time listed in Section 2.2. The Bidder 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 Bidder's facilities, equipment, personnel, and procedures. The Bidder shall supply such information within the time noted in the City's request.
- 6.2 The City shall consider awarding agreements only to responsible Bidders. Responsible Bidders 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.
- 6.3 In determination of responsibility, the City may consider all information available to the City, whether specifically provided by the Bidder in response to this bid or other information otherwise available to the City in evaluating the responsibility of the Bidder. Such information may include, but is not limited to, experience and history of the City with current and/or prior contracts held by the Bidder with the City or with other agencies, references provided by the Bidder to the City, information provided by the Bidder as part of the bid responses, and information not specifically provided by the Bidder 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 Bidder if any owner of such Bidder has been convicted within the past ten years of a crime involving dishonesty or false statements, or if the Bidder has unsatisfied tax or judgment liens.

## 7.0 Draft Contract

**CONTRACT****Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles****Contract #2019-xxx**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2018, by and between \*\*COMPANY NAME of \*\*CITY NAME, \*\*STATE NAME, hereinafter known as the CONTRACTOR, and the CITY OF PRESCOTT, a municipal corporation organized and existing under and by virtue of the laws of the State of Arizona, hereinafter known as the CITY.

FOR 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:

**ARTICLE I - SCOPE OF WORK**

The CONTRACTOR shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities, required for the delivery to the City, as requested by the CITY, in a good and workmanlike and substantial manner, and to the satisfaction of the CITY through its agents and under the direction and supervision of the Public Works Director or his properly authorized agents.

**ARTICLE II - CONTRACT DOCUMENTS**

Exhibit "A" (the City's Invitation for Bids) and Exhibit "B" (the Contractor's Bid) are by this reference made a part of this Contract to the same extent as if set forth herein in full.

**ARTICLE III - CONTRACT TERM**

The initial term of this Contract is for two (2) years. The contract may be extended for additional one (1) year periods up to a total of three (3) additional years, with the mutual consent of the City of Prescott and Contractor. The City's Public Works Director, or designee, will determine if it is in the City's best interest to exercise any or all option years and has the authority to exercise each option year. Price changes for succeeding years shall be adjusted in accordance with the West Urban Consumer Price Index (CPI), not to exceed upwards or downwards of the three (3) percent. Pursuant to the terms of this Article III, the City may extend the contract administratively, without the need of further City Council action.

CONTRACTOR shall have on hand sufficient quantities of material to meet the needs of the City; provided, however, that there are no guarantees by the City as to the minimum or maximum amount of material which may be purchased by the City during the term of this contract.

**ARTICLE IV - COMPENSATION**

A. For and in consideration of the faithful performance of the work herein embraced as set forth herein, the CITY agrees to pay the said CONTRACTOR as set forth in the attached bid Document, Form B not to exceed \*\*\_\_\_\_\_dollars and \_\_\_\_\_ cents (\$00.00) per unit ton of Concrete-Inert Mix and Asphalt Millings and Rubble.

B. Payment shall be made by the City within thirty (30) days after the City receiving an itemized billing from the CONTRACTOR.

**ARTICLE V - CONFLICT OF INTEREST**

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

in initiating, negotiating, securing, drafting or creating the Contract on behalf of the CITY from any other party to the Contract, arising as a result of the Contract.

#### ARTICLE VI - CANCELLATION

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 Contractor shall be paid for services performed to the date of Contractor's receipt of such termination notice.

#### ARTICLE VII - CHOICE OF LAW

This agreement shall be governed by and construed and interpreted in accordance with the laws of Arizona without reference to principles of conflict of laws.

#### ARTICLE VIII - VENUE AND JURISDICTION

The Parties agree that the venue of any legal action to enforce this contract or arising out of the contract shall be Yavapai County, Arizona, and that the U.S. District Courts or State Courts of Arizona shall have jurisdiction of any such matter, according to applicable law, and the parties waive any other jurisdiction.

#### ARTICLE IX - INDEPENDENT CONTRACTOR STATUS

It is expressly agreed and understood by and between the parties that the CONTRACTOR is being retained by the CITY as an independent contractor, and as such the CONTRACTOR 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 other than that compensation as set forth in the Compensation Section of the Contract. As an independent contractor, the CONTRACTOR further acknowledges that he 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 Contract. As an independent contractor, the CONTRACTOR further agrees that he 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.

#### ARTICLE X - NONDISCRIMINATION

The CONTRACTOR, with regard to the work performed by it after award and during its performance of the Contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of contractors, subcontractors, including procurement of materials and leases of equipment. The CONTRACTOR 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 Disabilities Act, Executive Order 99-4,2000-4, and 2009-09, as amended. .

#### ARTICLE XI - CONTRACTOR IMMIGRATION WARRANTY

The Contractor 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 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 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 "Contractor Immigration Warranty").

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

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

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

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by 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 Contractor 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 contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

**ARTICLE XII - COMPLIANCE WITH FEDERAL AND STATE LAWS**

The Contractor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.

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

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

The City retains the legal right to inspect the papers of any Contractor Subcontractor's employee who works on this Contract to ensure that the Consultant or Subcontractor is complying with the Contractor Immigration Warranty. Contractor 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 Contractor Consultant and any subcontractors to ensure compliance with Contractor's Immigration Warranty. Contractor Consultant agrees to assist the City in regard to any random verification performed.

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with the employment verification provisions prescribed by 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 Contractor 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 contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

**ARTICLE XIII - DOCUMENT CONTROL**

In the event of a discrepancy between this Agreement and the Bid Documents, this Agreement shall control over the Bid Documents.

**ARTICLE XIV – MINIMUM INSURANCE REQUIREMENTS**

The Contractor shall secure and maintain, at all times during the term of this Contract, at its own expense, a policy or policies or insurance known as: 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, with the following minimum coverage:

Commercial General Liability – Occurrence Form:

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

- General Aggregate \$ 2,000,000
- Products – Completed Operations Aggregate \$ 1,000,000
- 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 Contractor ".

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 overage for owned, non-owned, leased or hired vehicles, with the following minimum coverage:

Business Automobile Liability: 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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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 ".

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 and Employer's Liability coverage with the following minimums:

Workers' Compensation and Employer's Liability:

Workers' Compensation Employer's Liability	Statutory
Each Accident -	\$1,000,000
Disease – each employee -	\$1,000,000
Disease – policy limit -	\$1,000,000

In addition to the aforementioned requirements, Policies shall contain a waiver of subrogation against the City of Prescott for losses arising from work performed by or on behalf of the Contractor.

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.

Prior to commencing work under this Agreement, the Contractor 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.

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.

**ARTICLE XIV - INDEMNIFICATION**

The Contractor 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 Contractor'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 Contractor 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 Contractor has or may have against the City, its agents or employees, arising out of or in any way connected with the Contractor's activities as set forth below, other than those acts which occur due to the negligence of the City, its employees or agents

**ARTICLE XV - MISCELLANEOUS**

(A) 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.

(B) 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's 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.

ARTICLE XVI - AMBIGUITY

This Contract 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 Contract is not to be construed against either party.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018.

CONTRACTOR

CITY OF PRESCOTT

By: \_\_\_\_\_

\_\_\_\_\_  
GREG L. MANGERELLI, Mayor

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
MAUREEN SCOTT, City Clerk

\_\_\_\_\_  
JON M. PALADINI, City Attorney

*Form A – Bid Response Cover Sheet*

Project: Crushing of Concrete-Inert Mix and Asphalt Millings Stockpiles

Please note all that apply:

- Enter Total Bid Price from Form B – Price Sheet \$ \_\_\_\_\_
- Delivery Lead Time Upon Receipt of Order:..... \_\_\_\_\_
- Addenda Number(s) Received (if any) ..... \_\_\_\_\_
- Original Forms A through F

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_

Business Phone: (\_\_\_\_\_) \_\_\_\_\_

Business Contact: \_\_\_\_\_

Supplier Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



<b>Form B - Price Sheet</b>					
<b>Item No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total Cost</b>
1	Price per ton of concrete-inert mix	1	ton		\$
2	Price per ton of asphalt millings	1	ton		\$
OPTION TO BID	With the exception of material placed aside for use by the City of Prescott, the Contractor may take ownership of end product for their own commercial use/sale and must remove remaining product from the site in a time period agreed upon by all parties. The Contractor shall provide a revised price identifying offset/reduction per ton unit rate.	Yes/No			
	Comment: Contractor shall provide a per ton unit rate which includes the price of all labor, materials, equipment, transportation, utilities, services and facilities required to perform all work to mobilize, set up, and demobilize appropriate equipment to crush the separate stockpiles of concrete-inert material and asphalt millings and rubble into ¾" minus product.			Subtotal:	\$
<b>Sales Tax Rate</b>					%
<b>Total Bid Price:</b>					\$

Dollars

\_\_\_\_\_  
(Written Words)

\_\_\_\_\_  
Signature of Company Official

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
City/State

\_\_\_\_\_  
Zip Code

**Form C – Bid Certification**

Bidder Name: \_\_\_\_\_

The undersigned Bidder hereby certifies as follows:

C.1 That he/she has read The City of Prescott’s bid documents, its appendices and attachments, and the following Addenda, and to the best of his/her knowledge, has complied with the mandatory requirements stated therein.

Addendum	Issue Date
_____	_____
_____	_____

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

C.3 That the Bidder’s bid consists of the following:

1. Form A – Bid Response Cover Sheet
2. Form B – Price Sheet
3. Form C – Bid Certification
4. Form D – Non-Collusion Certificate
5. Form E – Certificate of Ownership
6. Form F – Bidder Qualifications, Representations and Warranties; Bidder to provide attachment: Attachment – Subcontractor’s List

C.4 That the Bidder’s bid is valid for 120 days.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2018

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Form D – Non-Collusion Certificate**

Bidder Name: \_\_\_\_\_

The undersigned Bidder 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 bid to The City of Prescott for consideration in the award of this bid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Form E – Certificate of Ownership**

Bidder Name: \_\_\_\_\_

The undersigned Bidder 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 Bidder'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 \_\_\_\_\_ 2018

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Form F – Bidder Qualifications, Representations and Warranties**

Bidder Name: \_\_\_\_\_

The undersigned Bidder hereby certifies as follows:

- F1 Taxes and Liens – Bidder has no unsatisfied tax or judgment lien on record.
- F2 Subcontractors – Bidder submits as Attachment #4 to this Bid Form A, a list of all subcontractors it will use in performing the requirements of the agreement resulting from this bid. 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. Bidder 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 Bidder(s) having a reputation of satisfactory performance. The Bidder’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. Bidder provides information for three clients, other than the City of Prescott, that presently contract with Bidder for similar goods or services:

Reference #1

Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reference #2

Firm Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Reference #3

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

F4 Bidder's Examination – Bidder has made its own examination, investigation and research regarding the requirements of the bid 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. Bidder fully understands the character of the work and services, the manner in which payment is to be made, the terms and conditions of the draft agreement (see Appendix C), and the bid. Bidder 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. Bidder 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 bid, and at the prices as bid.

Dated this \_\_\_\_ day of \_\_\_\_\_ 2018

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title