

REQUEST FOR PROPOSALS
FOR
PRESCOTT NORTH AND GRANITE CREEK CORRIDOR AREA
PLANS

Due Date: October 8, 2020

City Manager's Office
201 S. Cortez Street, Prescott, AZ 86303
Phone: (928) 777-1248 | TDD: (928) 777-1100 | Fax: (928) 777-1255

REQUEST FOR PROPOSALS (RFP)

PRESCOTT NORTH AND GRANITE CREEK CORRIDOR AREA PLANS

The City of Prescott is soliciting proposals from qualified persons or firms to provide services related to planning for the Prescott North and Granite Creek Corridor Area Plans.

Proposals must be received **before 2:00 PM on Thursday, October 8, 2020**, at the City Clerk's Office, 201 S. Cortez Street, Prescott, AZ 86303, at which time all proposals will be publicly opened. Any proposals received at or after 2:00 PM on the above stated date will be returned unopened. Proposals must conform to this RFP. The City reserves the right to reject any and all proposals and assumes no liability for the cost of preparing a response to this request.

Request packets are available for public inspection at the City Manager's Office, 201 S. Cortez Street, Prescott, AZ 86303 (Phone: (928) 777-1248; TDD: (928) 777-1100), or may be downloaded free of charge on the City's website at <http://www.prescott-az.gov/business/bids/>.

Erika Laster, Contract and Purchasing Administrator
PUBLISHED: 2TC September 13 & 20, 2020

REQUEST FOR PROPOSALS (RFP)
PRESCOTT NORTH AND GRANITE CREEK CORRIDOR AREA PLANS

TABLE OF CONTENTS

I.	GENERAL INFORMATION	4
	A. DESCRIPTION OF WORK.....	4
	B. SCOPE OF SERVICES.....	4
	C. PROPOSED PROJECT SCHEDULE.....	5
	D. REQUESTS FOR INFORMATION.....	5
II.	SUBMITTAL REQUIREMENTS	6
	A. PROPOSAL REQUIREMENTS.....	6
	B. FEE PROPOSAL	7
	C. DISCLOSURE	7
	D. PROPRIETARY INFORMATION	8
	E. DELIVERY OF SUBMITTALS	8
III.	STATEMENT OF QUALIFICATIONS EVALUATION CRITERIA.....	8
IV.	FINAL EVALUATION AND RANKING OF STATEMENTS OF QUALIFICATIONS; INTERVIEWS, CONTRACT NEGOTIATION AND AWARD.....	9
	A. OVERVIEW.....	9
	B. SHORTLIST AND INTERVIEWS	9
	C. FINAL RANKING AND CONTRACT NEGOTIATION	9
	D. AWARD OF CONTRACT	10
	E. BASIC INSURANCE REQUIREMENTS.....	10
	F. TERM OF CONTRACT	11
	G. TERMINATION OF CONTRACT.....	12
	H. PROTEST POLICY	12
V.	ATTACHMENTS	12
	A. PROFESSIONAL SERVICE AGREEMENT EXAMPLE	12
	B. PRESCOTT NORTH AREA MAP.....	12
	C. GRANITE CREEK CORRIDOR AREA MAP	12
	D. FUTURE PARK AREA AED SOUTH.....	12

I. GENERAL INFORMATION

The City of Prescott is seeking planning services to assist with developing two area plans – Prescott North and Granite Creek Corridor. The goal is to create strategies for general and economic development, land use, infrastructure and capital investment in Prescott North and to expand on possible enhancements to public and private property near the Granite Creek Corridor.

Prescott North has the potential to be a self-sustaining city within a city over the next several decades. An area plan would benefit the city, landowners, and developers in collaborating on policy, planning, and development decisions. This area includes land around the Prescott Regional Airport and generally among the SR89 and SR89A corridors (see attached map). Currently, Deep Well Ranch, Whispering Rock (to include a new Banner Hospital), Walden Ranch, and Granite Dells Estates are annexed into the city. AED North and South are in the annexation process. In addition to these developments, there are also large land sections held by Arizona State Land. The annexations and developments include a limited number of land owners with whom the city would like to work closely in the process, as well as the ASLD representatives.

The city recently completed a master plan for the 1.2 mile stretch of Granite Creek Corridor and Greenway Trail from Aubrey Street to Granite Creek Park. This directly ties in with the new Hilton Garden Inn hotel and a public park being built at the northern end of this corridor. Grant funding is being pursued to implement the \$1.7 million plan and the city would like to generate a complimentary plan to help envision potential improvements for the vicinity directly benefiting from the investments.

A. DESCRIPTION OF WORK

Prescott North: the city seeks to identify specific opportunities regarding land use, infrastructure, economic development, and other relevant considerations. A traffic circulation study of this region would also be beneficial. As part of the AED South annexation, there is planned to be a 21 acre public park (6 acres for parking, and 15 acres for the park). The city is seeking a preliminary plan for this park in regards to parking, restroom placement, amenity placement, etc.

Granite Creek Corridor: this plan would include beneficial information for adjacent and nearby land and building owners on how to enhance this area. Considerations will include land use and design, pedestrian circulation, commercial enhancements and themes for creek side access/exposure, parking/traffic considerations, and way-finding signage in downtown Prescott, which will be consistent with signage added to the Greenway Trail in the corridor.

The process for both plans would include input from and limited meetings with stakeholders, citizens, and an oversight/working group.

B. SCOPE OF SERVICES

- Assess the current situation/gather information from stakeholders and citizens

- Meetings to include approximately:
 - 8-10 (Prescott North) and 4-6 (Granite Creek Corridor) small group team meetings throughout the process
 - 3-4 (Granite Creek Corridor) working group meetings
 - 2-3 meetings with the landowner groups
 - 2 Planning and Zoning Commission updates
 - 2 Council updates
- Identify strategies, opportunities, and a vision for land use, infrastructure (with the aid of the city Public Works Department), economic development, traffic circulation (Prescott North and Granite Creek Corridor) and pedestrian circulation/parking (Granite Creek Corridor) and other relevant considerations as part of the planning process
- Generate information on findings and recommendations
 - Including visual aids such as mapping (with the aid of the city GIS mapping professionals), theme renderings, and/or other tools as recommended.

C. PROPOSED PROJECT SCHEDULE

Project milestones are estimated to be as follows:

- | | |
|-----------------------------------|--------------------------|
| ● Request for Proposal Advertised | September 13 & 20, 2020 |
| ● Proposal Due Date/Opening | October 8, 2020 |
| ● Interviews (Optional) | Week of October 12, 2020 |
| ● Award of Contract | October 27, 2020 |
| ● Notice to Proceed | Week of November 9, 2020 |

All milestones are the earliest dates for planning purposes only and shall not represent any contractual commitment whatsoever on the part of the City.

D. REQUESTS FOR INFORMATION

Firms who desire clarification of the procurement terms, selection criteria or submittal requirements shall restrict their inquiries to written communications only. All communications (other than delivery of the proposal as defined below) shall be addressed to the City project representative at the following:

Prescott North and Granite Creek Corridor Area Plans
 City Manager’s Office
 City of Prescott – City Manager’s Office
 201 S. Cortez Street, Prescott, Arizona 86303
 Phone: (928) 777-1248
 Fax: (928) 777-1255
citystaff@prescott-az.gov

Requests for information must be received by the project representative **prior to 5:00 PM on Thursday, October 1, 2020**. Responses, or addenda as required, will be issued no later than 12:00 PM on Monday, October 5, 2020. Receipt of addenda must be acknowledged on the required form in the firm’s submission. It is the submitter’s sole responsibility to check the City’s website for periodic updates or addenda.

II. SUBMITTAL REQUIREMENTS

Firms shall possess the qualifications and Arizona licenses as required by law, in addition to having all credentials required to conduct plan review and building inspection services under the International Codes. Responses to this Request must be in the form of a proposal, as outlined in this document. The City assumes no liability for the cost of preparing a response to this Request.

Any deviations from the provisions of this Request which are desired by the Offeror shall be specifically noted in the proposal submitted.

A. PROPOSAL REQUIREMENTS

Proposals shall be submitted as one (1) original with four (4) additional copies, and must conform to this Request. The proposal shall be limited to no more than ten (10) pages, and include the following:

- Location of the firm
 - Identity, including legal name, address, type (i.e. partnership, corporation, joint venture, sole proprietorship) and date of establishment. If a corporation, identify the state of incorporation. If a joint venture, identify the members of the joint venture and provide all the information required under this section for each member. If your firm is a wholly owned subsidiary of a “parent company”, identify the “parent company”.
- Names of the team members proposed for the contract
 - For each key team member proposed to perform professional services for this contract, include full name, title, professional registration/certification, address, telephone number, and relevant experience.
 - Identify primary contract liaison
- List of similar contracts in which the team has participated and contact information
 - Describe the firm’s/team’s experience in providing comparable services to similar municipalities, agencies, and other government entities. List recent experience of at least two (2) similar contracts completed or underway by the firm and team members within the past three (3) years.
- Contract Approach
 - Describe how the contract is proposed to be organized, including identifying how the principal components of the required Scope of Work are to be accomplished.
 - Provide method for detailed reporting/statistical analysis that reflects conformance with the performance criteria and related timelines
- Summary of the current workload of key team members and list of their notable projects

- List of all sub-consultants proposed to be utilized on the project and a description of their roles
- Tentative schedule for implementation of the contract
 - Summarize staffing accommodations and/or deployment, and progress milestones. Further include a brief description of other current workload of the firm which will be ongoing within life of the contract described herein.
- Statement of the firm's understanding of the contract purpose and scope, and a description of how the firm would approach and manage the contract. Candidate firms are encouraged to describe any innovative approaches they envision might help to expedite permit issuance, or make processes more effective..

Five (5) additional pages of appendices are allowed and may include graphs, charts, photos, or resumes. The letter of transmittal shall not exceed two (2) pages and is exclusive of the other page limitations for the proposal. With exception to charts, maps and graphs, **all text shall be a minimum of single spaced, uncondensed, 12-point font.**

B. FEE PROPOSAL

Fees should be identified for each item in the scope of service identified above.

Fees should reflect all costs associated with the work, inclusive of all personnel, benefits, time (including travel expenses), materials and other reimbursable expenses, to perform all work as described in the Scope of Services herein.

The fee proposal shall also include costs for expediting projects upon request of the City and cost for any equipment, hardware, or software purchases necessary to fulfill this contract.

The fee proposal shall indicate the company name, date and signature of an officer authorized to contract for the work. The fee proposal submitted shall remain valid for a period of 120 calendar days from the opening date of the RFP.

The fee proposal **shall be submitted in a separate sealed envelope** with the Offeror's proposal. The outside of the fee proposal envelope shall indicate the name and address of the Offeror and shall be clearly marked "**Fee Proposal**".

The selection is to be based primarily upon a qualifications-based procedure in general conformance to the evaluation criteria. The fee proposal will receive points for pricing to be added on to the other criteria as noted in Section III (C).

C. DISCLOSURE

Offerors shall disclose any professional or personal. Identify any public or private disciplinary actions against your firm or individuals within your firm that occurred within the past five (5) years and would be relevant to this contract. This includes action by professional organizations or oversight committees.

Report any significant material litigation information that would be relevant to this contract.

Disclose any investigation (involving your firm or individuals) conducted in the past five (5) years any federal or state regulatory agency that might impact this contract.

D. PROPRIETARY INFORMATION

All materials submitted in response to the solicitation, including samples, shall become the property of the City and are therefore subject to public release, upon request, after the Contract award. Firms shall clearly mark any proprietary information contained in its submittal with the words "Proprietary Information". Firms shall not mark any Solicitation Form as proprietary. Marking all or nearly all of a submittal as proprietary may result in rejection of the submittal.

Firms should be aware that the City is required by law to make its records available for public inspection. All firms, by submission of materials marked proprietary, acknowledge and agree that the City will have no obligation to advocate for non-disclosure in any form nor will the City assume any liability to the firms in the event that the City must legally disclose these materials.

E. DELIVERY OF SUBMITTALS

Sealed proposals will be received **before 2:00 PM on Thursday, October 8, 2020**, at the City Clerk's Office, 201 S. 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. Firms are solely responsible for the delivery of their submittals to the above location by the time and date specified. The City is not responsible for lateness of mail, carrier, etc. The time and date stamp in the City Clerk's Office shall be the official time of receipt. Electronic or facsimile submittals will not be considered. Modifications to submittals will not be considered after the 2:00 PM deadline.

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 clearly marked:

**Request for Proposals:
Prescott North and Granite Creek Corridor Area Plans
Due before 2:00 PM on October 8, 2020**

III. STATEMENT OF QUALIFICATIONS EVALUATION CRITERIA

The proposal shall clearly and accurately display the capability, knowledge, and experience of the firm to meet the technical requirements of the Request. Qualifications shall be prepared simply and economically, providing a straightforward, concise description of the firm's ability to meet the requirements of this Request. Emphasis shall be on quality, completeness, clarity of content, responsiveness to the requirements, and understanding of the City's needs.

It is highly recommended that candidate firms visit the area to familiarize themselves with the City.

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:

- A. Proposed contract approach, to include a detailed discussion and identification of areas that will require special attention - 15%
- B. Experience of the proposed contract team and availability, within current and anticipated workload, for this contract - 25%
- C. Classification breakdown and overall price, including cost control ability - 50%
- D. Commitment to service delivery timelines and - 10%

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

To qualify for evaluation, the proposal must be submitted on time and materially satisfy all requirements identified in this Request. If, in the judgment of the City, a proposal does not conform to the format specified herein, or if any section is absent or significantly incomplete, the City reserves the right to reject the submittal.

A. OVERVIEW

The selection process will involve an evaluation and scoring of each firm's Statements of Qualifications and relevant experience, as indicated in its proposal. A Review Committee appointed by the City for this project will individually evaluate the proposals according to the criteria and weighting as indicated for each category above.

The Review Committee will then formulate a consensus ranking to create a final list and determine the highest ranked firm. The City will then notify each of the applicant firms of the final rankings.

B. 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 - 35%
- 2) Identification of issues or problems that will need to be considered - 15%
- 3) Approach to staffing for review and inspection, including innovative ideas - 10%
- 4) Experience and capabilities in services - 40%

C. 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 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 shortlist will remain in effect for a period of twelve (12) months from the date of issuance by the City. Should the City not reach agreement on the terms of the contract with any of the selected firms, the City reserves the right to reject all submittals and cancel the solicitation.

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

The City reserves the right to cancel this Request, reject in whole or in part any and all submittals, waive or decline to waive irregularities in any submittals, or determine not to enter into contract as specified if determined by the City to be in the City's best interests.

D. AWARD OF CONTRACT

The selected firm will be required to execute and meet the terms of the City's standard General Services Agreement, including insurance requirements, in a form acceptable to the City Attorney. Approval of the City Council will be required for award of a contract for performance of the services described herein and as may additionally be developed during negotiations. Any contract award submitted to the City Council for consideration is not binding on the City until after approval by the City Council and full execution of the contract documents by both parties.

E. BASIC INSURANCE REQUIREMENTS

1) 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:

- i) 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.”

ii) 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.

iii) 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
-----------------------------	--------------

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

F. TERM OF CONTRACT

The contract resulting from this Request shall commence upon the date of contract execution by both parties and extend for an initial period of one (1) year. The terms of the contract will be subject to an increase of not more than 3% annually and could be renewed automatically annually for up to 3 consecutive years. The decision to renew shall be solely the City's. Notice of intent to renew shall be made at least one (1) month prior to normal contract expiration. If renewal results in changes of the terms or conditions, such changes shall be in writing as an amendment to the contract and such amendment shall not become effective until fully executed by both parties. It is the desire of the City to receive results of these services by August 2021.

G. TERMINATION OF CONTRACT

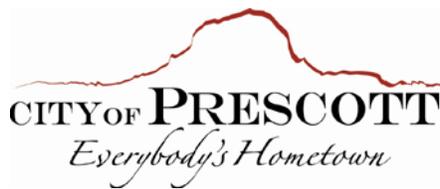
The City reserves the right to terminate any part of or the entirety of any contract that may result from this proposal, without cause and at any time with thirty (30) calendar days written notice. In such case, the consultant shall be paid for services rendered through the date of the termination notice, and the results of all such work through that date shall become the property of the City.

H. PROTEST POLICY

Any protest to the solicitation or award must be filed with the City Clerk's Office by 4:00 PM up to ten (10) days after award. All such protests shall be in writing and contain the following: 1) Name, address, email address and telephone number of the interested party; 2) Signature of the interested party or its representative; 3) Identification of the purchasing department and Project name; 4) Detailed statement of the legal and factual grounds for protest including copies of relevant documents; and 5) Form of relief requested. Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of this solicitation to resolve the basis or bases of their protest during the solicitation process, including asking questions, seeking clarifications, requesting addenda, and otherwise alerting the City to perceived problems so that corrective action could be taken prior to the selection of the successful firms. 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 proposer.

V. ATTACHMENTS

- A. PROFESSIONAL SERVICE AGREEMENT EXAMPLE**
- B. PRESCOTT NORTH AREA MAP**
- C. GRANITE CREEK CORRIDOR AREA MAP**
- D. FUTURE PARK AREA AED SOUTH**



Professional Services Agreement

Prescott North and Granite Creek Corridor Area Plans Project Contract No. 2021-XXX

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 local and State
Law; and

WHEREAS, ** (hereinafter referred to as “Professional”), has expertise in providing ** 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 the Prescott North and Granite Creek Corridor Area Plans Project as indicated in Exhibit “A” (Request for Statements of Qualifications, Statement/Proposal, and Detailed Scope of Work, Task and Fee Estimate, and Project Schedule as accepted by the Mayor and Council per the Council Minutes of **) and as requested by the City Manager’s Office (hereinafter referred to as “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. § 38-511, the City 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 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 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:

City Manager's Office	**
City of Prescott	**
201 S. Cortez St.	**
Prescott, Arizona 86303	**

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 ** cents (\$**) 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 by 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. § 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. Subject to the limitations of A.R.S. § 34-226, 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 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 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 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 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 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's fee proposal.

(F) If the Professional claims that any instructions involve extra cost under this Contract, it shall give the 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 therefore upon receipt of an accepted Contract Amendment or other written order of the Director and in the absence of such Contract Amendment or other written order of the 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 Director to proceed with the work. All Contract Amendments must be approved by the Director. Contract Amendments over \$25,000.00 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, Professional 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
-----------------------------	--------------

(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 A.R.S. § 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 A.R.S. § 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. Professional Immigration Warranty

Professional 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 Professional 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, Professional hereby warrants to the City that the Professional 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 "Professional 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 the Professional 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(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 the City and Professional.
- 28. Israel: Vendor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a “boycott”, as that term is defined in A.R.S. § 35-393, of Israel.
- 29. In the event of a discrepancy between this Agreement and Exhibit “A”, this Agreement shall control over Exhibit “A”.
- 30. 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 _____, 2020.

City of Prescott, a municipal corporation:

PROFESSIONAL:

Greg L. Mengarelli, Mayor

** (Signature)

By: _____
(Printed Name)

Title: _____

Email: _____

ATTEST:

APPROVED AS TO FORM:

Sarah Siep, City Clerk

Jon M. Paladini, City Attorney