INDIAN WELLS
CALIFORNIA

CITY OF INDIAN WELLS
SHORT-FORM SERVICES AGREEMENT
($25,000 OR LESS)

1. **PARTIES AND DATE.** This Agreement is made and entered into this **27th** day of **February, 2015**, ("Effective Date") by and between the **City of Indian Wells**, a Municipal Corporation and Charter City organized under the Constitution and laws of the State of California with its principal place of business at 44-950 Eldorado Drive, Indian Wells, California 92210-7497 ("City") and **EsGil**, a **Corporation** with its principal place of business at **9320 Chesapeake Drive, Suite 208, San Diego, CA 92123** ("Vendor"). City and Vendor are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

2. **TERMS AND CONDITIONS.** The Parties shall comply with the terms and conditions in the attached Exhibit "A".

3. **SCOPE AND SCHEDULE OF SERVICES.** Vendor shall provide to City **Indian Wells Tennis Garden Stadium 3 Plan Check** services described in accordance with the schedule set forth in Exhibit "B".

4. **TERM.** The term of this Agreement shall be from **February 27, 2015** to **December 31, 2015**, unless earlier terminated as set forth in the attached Terms and Conditions. This Agreement may not extend beyond a period of five (5) years, unless under the City's Fiscal Policies and Procedures this Agreement is exempt from the five (5) year limitation.

5. **COMPENSATION.** Vendor shall receive compensation for services rendered under this Agreement at the rates and schedule set forth in the attached Exhibit "C" but in no event shall Vendor's compensation exceed **Twenty Five Thousand Dollars ($25,000)** per fiscal year (July 1 to June 30) without written amendment.

6. **INSURANCE.** In accordance with Section 4 of Exhibit "A", Vendor shall, at its expense, procure and maintain for the duration of the Agreement such insurance policies as checked below and provide proof of such insurance policies to the City. **Vendor shall obtain policy endorsements on Commercial General Liability Insurance that name Additional Insureds as follows: The City of Indian Wells, its officers, officials, employees and agents.**

Commercial General Liability Insurance:

☒ $1,000,000 per occurrence/$2,000,000 aggregate **OR**

☐ $2,000,000 per occurrence/$4,000,000 aggregate.

Automobile Liability:

☒ $1,000,000 per occurrence for bodily injury and property damage.

Workers' Compensation:

☒ $1,000,000 per occurrence.

Professional Liability (Errors and Omissions):

☒ Errors and Omissions liability insurance with a limit of not less than $1,000,000 per occurrence.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on the day and year first above written.

CITY OF INDIAN WELLS

By: _____

Warren Morelion, AICP
Community Development Director

VENDOR NAME

By: _____

Kurt Culver
President

Required for over $5,000:

By: _____

Wade G. McKinney
City Manager

By: _____ Kurt Culver, CEO

OWNER/OFFICER NAME
OWNER/OFFICER TITLE

EXHIBIT "A"
TERMS AND CONDITIONS

1. Compensation. Vendor shall be paid on a time and materials or lump sum basis, as may be set forth in Exhibit "C", within 30 days of completion of the Work and approval by the City.

2. Compliance with Law. Vendor shall comply with all applicable laws and regulations of the federal, state and local government. Vendor shall assist the City, as requested, in obtaining and maintaining all permits required of Vendor by Federal, State and local regulatory agencies. Vendor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of his or her Work.

3. Standard of Care. The Vendor shall perform the Work in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession practicing under similar conditions.

4. Insurance. The Vendor shall take out and maintain, during the performance of all work under this Agreement: A. Commercial General Liability Insurance in the amounts specified in Section 6 of the Agreement for bodily injury, personal injury and property damage, at least as broad as Insurance Work Office Commercial General Liability coverage (Occurrence Form CG 0001), and if no amount is selected in Section 6 of the Agreement, the amounts shall be $1,000,000 per occurrence/$2,000,000 aggregate; B. Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, of at least $1,000,000 per occurrence for bodily injury and property damage, at least as broad as Insurance Work Office Form Number CA 0001 (ed. 6/92) covering automobile liability, Code 1 (any auto); C. Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage of at least $1,000,000 per occurrence and D. Professional Liability (Errors and Omissions) coverage, if checked in section 6 of the Agreement, with a limit not less than $1,000,000 per claim and which shall be endorsed to include contractual liability. Insurance carriers shall be authorized by the Department of Insurance, State of California, to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A"; "Class VII" according to the latest Best Key Rating unless otherwise approved by the City.

5. Indemnification. The Vendor shall indemnify and hold harmless the City, its Council, members of the Council, agents and employees of the City, against any and all claims, liabilities, expenses or damages, including responsible attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, or any claim of the Vendor or subcontractor for wages or benefits which arise in connection with the performance of this Agreement, except to the extent caused or resulting from the negligence or misconduct of the City, its Council, members of the Council, agents and employees of the City. The foregoing indemnity includes, but is not limited to, the cost of prosecuting or defending such action with legal counsel acceptable to the City and the City's attorneys' fees incurred in such an action.

6. Laws and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Riverside, State of California.

7. Termination. The City may terminate or abandon any portion or all of the Work by giving 10 calendar days written notice to Vendor. In such event, the City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for the Work. The City shall pay Vendor the reasonable value of any portion of the Work completed prior to termination. The City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Vendor shall not be entitled to payment for unperformed Work, and shall not be entitled to damages or compensation for termination of work. Vendor may terminate its obligation to provide further Work under this Agreement upon 30 calendar days' written notice to the City only in the event of City's failure to perform in accordance with the terms of this Agreement through no fault of Vendor.

8. Agreement Terms. Nothing herein shall be construed to give any rights or benefits to anyone other than the City and the Vendor. The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid or illegal. Notice may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the parties to the addresses set forth in the Agreement. Vendor shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Vendor is retained as an independent contractor and is not an employee of the City. No employee or agent of Vendor shall become an employee of the City. The individuals signing this Agreement represent that they have the authority to sign on behalf of the Parties and bind the Parties to this Agreement. This is an integrated Agreement representing the entire understanding of the parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding or representations with respect to matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties hereto.

EXHIBIT "B"
SCOPE AND SCHEDULE OF SERVICES

Provide professional plan check services for the Indian Wells Tennis Garden Stadium 3

EXHIBIT "C"
COMPENSATION FOR SERVICES

Work for Services to be billed on a time and materials basis unless otherwise set forth below.

All work shall be billed based on the following Rate Schedule:

We propose to provide the plan review for this project on an hourly basis, with a not-to exceed amount of $25,000.00. Please see the table below for our hourly rates.

EsGil Corporation Hourly Rates

Supervising Structural Engineer	$135.00
Structural Engineer	$120.00
CASp / LEED Plans Examiner	$120.00
Civil Engineer	$105.00
Electrical Engineer	$105.00
Mechanical Engineer	$105.00
I.C.C. Plans Examiner	$90.00