

SAMPLE

CONTRACT FOR PROFESSIONAL ARCHITECT/ENGINEERING SERVICES

Contract No.: 2016-43

Critical Infrastructure Redevelopment Plan Cinder Lake Landfill Phase I

This Contract is entered into by and between the City of Flagstaff, a political subdivision of the state of Arizona ("City") and _____, an Arizona _____ ("Contractor"), this _____, day of _____, 2016.

WHEREAS, the City of Flagstaff desires to receive and Contractor is able to provide professional architect/engineering services for a public works project;

NOW, THEREFORE, in consideration for the mutual promises contained herein the City and Contractor ("the parties") agree as follows:

SERVICES

1. Scope of Work: Contractor shall provide professional services generally described as:

Critical Infrastructure Redevelopment Plan Phase I

as more specifically described in the Request for Statement of Qualifications ("RSOQ") and proposal attached hereto as Exhibit A.

2. Schedule of Services: Contractor shall perform all work per the schedule set forth in Exhibit A.
3. Standard Terms and Conditions (T34): The City's Standard Terms and Conditions for A/E Services - Public Works Projects (T34), attached hereto as Exhibit B are incorporated by reference and apply to performance of this Contract, except to the extent modified by Exhibit A.
4. Key Personnel/Subcontractors: Contractor's Key Personnel, Subcontractors (if any), and contact information are designated in Exhibit A. Key Personnel are those whose license number and signature will be placed on key documents and those employees who have significant responsibilities for completion of the services. The City Representative for this contract has the right to approve any proposed substitution of Key Personnel or Subcontractors. All subcontracts shall be required to state that subcontractor's performance shall be consistent with requirements of this Contract.

CITY RESPONSIBILITIES

5. City Representative: The City Representative is Eileen Brown, CPP., Senior Procurement Specialist or his/her designee. All communications to the City shall be through the City Representative. City Representative is responsible for bringing any request for a contract amendment or price adjustment to the attention of the City Buyer.
6. City Cooperation: City will cooperate with Contractor by placing at its disposal all available information concerning the City, City property, or the City project reasonably necessary for Contractor's performance of this Contract.

CONTRACT TERM

7. Contract Term: The Contract shall be effective as of the date signed by both parties. Performance shall commence within ten (10) days from the City's issuance of the Notice to

SAMPLE

Proceed, and shall be completed on or before _____, 20__ consistent with the Schedule of Services.

8. Termination: This Contract may be terminated pursuant to the Standard Terms and Conditions (T34) attached hereto.

PAYMENT

9. Compensation: Contractor shall be paid for satisfactory performance of the work, in accordance with the compensation schedule attached hereto as part of Exhibit A. The Contract amount shall not exceed \$_____, unless approved by written change order.

INSURANCE

10. Insurance: Contractor shall meet insurance requirements of City, set forth in Exhibit C.

NOTICE

11. Notice. Any notice concerning this Agreement shall be in writing and sent by certified or registered mail as follows:

To the City's Authorized Representative

Eileen Brown CPP.
Senior Procurement Specialist
Contract No. 2016-43
Critical Infrastructure Redevelopment Plan
Phase I
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001

To Contractor:

Plateau Engineering, Inc.
323 N. San Francisco St., Ste. 201
Flagstaff, AZ 86001

MISCELLANEOUS:

12. Cooperative Use: This Contract resulting from the RSOQ may be extended for use by the members of the Flagstaff Alliance for the Second Century. An Intergovernmental Agreement (IGA) has been executed between the City, Coconino County Community College District, Northern Arizona University, Coconino County and Flagstaff Unified School District. The Agreement may also be extended to other municipalities and government agencies of the state. Any such usage by other municipalities and government agencies must be in accordance with the ordinance, charter and/or rules and regulations of the respective political entity. Any public agencies not identified within this Contract who wish to cooperatively use the contract are subject to the approval of Contractor.

The City is also a member of S.A.V.E. (Strategic Alliance for Volume Expenditures), which consists of numerous municipalities, counties, universities, colleges, schools and other Arizona State agencies. These cooperatives are achieved through Intergovernmental Agreements (IGA) in accordance with provisions allowed by A.R.S. § 11-952 and § 41-2632. The IGAs permit purchases of material, equipment and services from contractors at the prices, terms and conditions contained in contracts originated between any and all of these agencies and the contract, as awarded.

S A M P L E

- 13. Successors and Assigns. No right or interest in the Agreement shall be assigned by Contractor without prior written permission of the City, and no delegation of any duty of Contractor shall be made without prior written permission of the City.

- 14. Authority. Each party warrants that it has authority to enter into this Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into this Contract.

CONTRACTOR

Print name: _____

Title: _____

CITY OF FLAGSTAFF

Print name: _____

Title: _____

Attest:

City Clerk

Approved as to form:

City Attorney's Office

Notice to Proceed issued: _____, 20____

Attachments:

- Exhibit A: Scope of Work, RSOQ, Pricing, Schedule, Key Personnel, Subcontractors
- Exhibit B: Standard Terms and Conditions (T34)
- Exhibit C: Insurance for A/E Professional Services requirements

S A M P L E

EXHIBIT A SCOPE OF WORK, PRICING, SCHEDULE

**Cinder Lake Landfill
Critical Infrastructure Development Plan.**

**Scope of Services
Plateau Engineering, Inc.**

Project:

This project consists of development of 30% plan documents with an accompanying Design Report (DR) to address proposed improvements to electric power and communications, water supply, and Landfill Road improvements to serve the City of Flagstaff's Cinder Lake Landfill.

It is our understanding that provision of three-phase power is critical to future landfill operations, as it will be needed to address regulatory requirements for collection and control of landfill gasses. Another key component of this project is to evaluate costs applicable to future landfill mining. It is our understanding that mining will be necessary in the future – under any scenario - in order to obtain airspace for continuing operations. An option exists to subsidize necessary landfill mining by excavating, crushing and selling construction aggregate. The mining and aggregate operation is envisioned to be performed by a commercial operator under contract with the City. It should be noted that roadway and infrastructure requirements may differ based upon whether or not the City elects to proceed with commercial aggregate sales.

The scope set forth below has been developed after considerable review and discussion with the City of Flagstaff. In some respects it differs materially from the tentative scope outlined in the City of Flagstaff's "Request for Statement of Qualifications: *Critical Infrastructure Redevelopment Plan – Cinder Lake Landfill Phase 1*" dated February 2016.

Plateau will be assisted by a number of qualified subconsultants as outlined in the firm's RSOQ response, and as denoted below. Plateau will provide one Design Report with three principal subsections encompassing those three elements set forth above.

Parties:

Client:

City of Flagstaff, Arizona (the City)
211 West Aspen Avenue
Flagstaff, AZ 86001
Contact:

Mat Morales, Senior Project Manager
(928) 213-2123
mmorales@flagstaffaz.gov

Consultant:

Plateau Engineering, Inc.
323 North San Francisco Street # 201
Flagstaff, AZ 86001
Contact:

James Hall, Principal Engineer
(928) 556-0311
jdhall@plateng.com

The following firms, together with Plateau Engineering, will comprise the Consultant Team. These firms will act as subconsultants to the Consultant, and will be responsible for the project components noted:

Electric Power and Telecommunications – DCR Section

Taylor RyMar Corporation
323 N Leroux Street, Suite 201
Flagstaff AZ 86001
Contact:
Joel De Haven, P.E.
(928) 255-0410
jdehaven@tr-corp.com

Water Development – DCR Section

Turner Engineering, Inc. (TEI)
528 West Aspen Avenue
Flagstaff, Arizona 86001
Contact:
Paul Turner, P.E., CFM
928 779-1814
pturner@teiaz.com

Landfill Road – DCR Section

SWI
110 West Dale Ave.
Flagstaff AZ 86001
Contact:
Guillermo Cortes, P.E.
(928) 773-0354
gcortes@swiaz.com

Environmental and Right of Way – Support for All Sections - ADDITIVE ALTERNATE

Tierra Right of Way Services
2001 W Camelback Road, Suite 285
Phoenix, AZ 85015
Contact:
Corey Long
(602) 682-0000
clong@tierra-row.com

As prime consultant, Plateau Engineering shall provide management, coordination and task support across all project and subconsultant tasks. This Scope does not create a contractual obligation between the City and the above subconsultants. Plateau Engineering retains responsibility for all subconsultant scope items, and reserves the right to allocate subconsultant tasks as appropriate, and, if necessary, either self-perform or replace one subconsultant with a similar subconsultant not listed. Any such replacement shall be subject to the review and concurrence of the City.

Scope of Work:

The City of Flagstaff has provided certain design direction and assumptions in the document: *Flagstaff Landfill Critical Infrastructure Rev A SOW.docx* dated June 6, 2016. Unless noted otherwise, this Scope of Services is based upon the provided assumptions.

The Consultant team will perform the following services:

Project Start-Up:

The consultant team will attend and conduct a project kickoff meeting. For this meeting, will invite interested project stakeholders, including representatives from: ADOT, Coconino County, Doney Park

Water, Arizona Public Service, Kinder Morgan (El Paso Gas), Johnson Ranch, and the U.S. Forest Service. We will also invite City stakeholders, including representatives from Streets, Traffic, Real Estate and Utilities. It is anticipated that the City will provide the venue at City Hall.

Existing Facilities and Data:

It is anticipated that improvements will be concentrated along the 2.1 mile Landfill Road corridor from US 89 to the landfill entrance. Based upon permit information, right of way appears to be 60 feet in width, which may be wider than the currently fenced area. Existing embankment slopes appear to encroach beyond the fenced limits in several locations, and there are little or no drainage facilities. Landfill Road is situated on Forest Service land, and the Special Use Permit to the City for the roadway appears to be issued in perpetuity. It would appear that current operations within the right of way are permitted. It is our understanding that Coconino County currently provides roadway maintenance under an agreement with the City.

The project team will obtain existing available records from the City, County, ADOT and utility agencies. These may include as built drawings of roadways, pipelines and other utilities. The City real estate program will obtain existing available records from the Forest Service.

The Consultant Team will furnish and produce an initial Design Report and 30% plans consisting of the following components:

Landfill Road Improvements:

Geotechnical: It is understood that the City will furnish an appropriate geotechnical report by Speedie and Associates as a part of an existing on-call agreement which the City has with Speedie. The City will be responsible for Speedie's procurement and project direction.

The report will address potential improvements to Landfill Road. It is assumed that Landfill Road will require total reconstruction, due to the current poor condition as well as the proposed installation of underground utilities. The report will consider a build-out scenario, with an initial pavement section prior to mining and aggregate sales, and an upgraded overlay section after possible aggregate operations commence. The geotechnical report shall be included as a part of the DR.

Survey: SWI will perform a right of way survey for Landfill Road based upon the City Special Use Permit documents as well as field measurements. SWI will establish photo control for aerial topography and will engage the services of Cooper Aerial Survey to provide aerial mapping of the roadway corridor as well as adjacent areas. Cooper will provide 1"=40' nominal, 1' contour interval topographic mapping of the roadway corridor. Cooper will provide 2D and 3D AutoCAD files of contours and planimetrics, plus a 3D AutoCAD file and ASCII files of the Digital Terrain Model. Cooper will also provide a digital ortho-rectified image file in SID format. All work will conform to National Map Accuracy Standards.

Traffic: SWI will meet with ADOT's North Central Region traffic engineer, City of Flagstaff traffic engineer and Coconino County to discuss the project and scope a Traffic Study. This study will make

recommendations regarding required alignment and cross-sections for the roadway and for the Highway 89 intersection; with intersection geometry for initial improvements, and potential aggregate mining at a later date. For the purpose of this scope of services, it is assumed that traffic counts conducted by SWI in 2015 for another project are valid and acceptable, and that a full Traffic Impact Analysis is not required. SWI will discuss the results of the Traffic Study with the City, County and ADOT, with the intent of achieving buy-in from all parties.

Roadway Improvements: SWI will prepare preliminary designs, and cost estimates for roadway improvements extending from Highway 89A to the landfill entry. Emergency access will be provided to the adjoining Johnson Ranch development. It is anticipated that the concepts to be examined will include:

- Full roadway reconstruction to accommodate landfill operations only, without aggregate sales.
- Full roadway reconstruction to accommodate landfill operations, and future aggregate sales.

It is assumed that the roadway cross sections for both options above will be identical, and that the difference between aggregate/non aggregate mining designs will be the thickness of the asphalt structural section – with non-mining structural section receiving a thickness overlay in the future to accommodate increased traffic.

In support of the concept designs, a preliminary drainage analysis for Landfill Road will be conducted. It is anticipated that there are 10 to 12 drainage crossings to be examined. The analysis will establish preliminary culvert locations, elevations and sizing. This scope does not include preparation of a Drainage Report.

This scope assumes that the Consultant team will discuss the results of the concept analysis and preliminary costs with landfill staff, and that this discussion will result in a Preferred Alternative. Preliminary plans at a 30% level of the Preferred Alternative will be prepared for inclusion within the Design Report. The DR will include narrative addressing all concepts together with preliminary estimated costs of each concept. The DCR will also address any potential right of way requirements, as well as “triggers” for Landfill Road and intersection improvements.

Water Delivery Improvements:

Turner Engineering (TEI) will prepare preliminary design, 30% plans and cost estimates for water system improvements, using existing and forecast water demands and durations furnished by Landfill staff. Design demands and demand durations need to be as accurate as possible in order to ensure an appropriate and cost-effective design. Dust abatement currently required for future operations requires approximately 10,000 gallons of water per day. Future operations will require additional water for dust control as well as for the landfill mining required for headspace. The water analysis will be based upon a future development scenario approved by the City.

This scope assumes that water in sufficient volume is available at a dedicated tap to Doney Park Water at Johnson Ranch. A water main will extend from the tap location to the Cinder Lane Landfill. A storage

Cinder Lake Landfill

Critical Infrastructure Redevelopment Plan

July 29, 2016

tank and pumping facilities will likely be required at the landfill. Additional pumping may be required at the point of connection, and/or at intermediate locations.

TEI will confer with Doney Park Water (DPW) in order to determine available pressure and flow at the specified connection location. It is assumed that all facilities beyond the point of connection to the Landfill proper will be operated and maintained by DPW. TEI will confer with DPW regarding to any comments, concerns and specific design requirements that they may have. TEI will also confer with Summit Fire District regarding fire protection requirements.

TEI will develop an initial WaterCad model based upon supplied information to determine pumping and storage needs. TEI will develop a preliminary alignment for water main improvements. TEI will also determine preliminary locations for pumps, control valves and storage. Storage requirements will be based upon City provided demands coupled with available water supply obtainable from DPW.

30% plans and exhibits will be prepared, superimposed upon the preliminary roadway design. A preliminary cost estimate and project narrative of the proposed system, together with supporting calculations, will be prepared for the planned improvements.

Electric Power and Telecommunications:

Taylor RyMar Corporation will develop a preliminary plan and design concept report addressing improvements to electrical and communications systems. Work will be coordinated with stake holders, including the City and associated utility companies, to provide power and communications infrastructure as required for the landfill. Landfill gas collection and control requires 3-phase power. Work shall be based upon power demand requirements furnished by the City. It is assumed that power and communications will be located within the Landfill Road corridor.

Taylor RyMar will:

- Gain an understanding of the City's project goals, budgets and design standards. Review project scope and attend kick off meeting.
- Coordinate with APS for available infrastructure interconnection point(s) for extension of three-phase utility power to the landfill site.
- Coordinate with Century Link and Suddenlink for available infrastructure interconnection point(s) for extension of fiber communications service to the landfill site.
- Coordinate with ADOT, if required, for power and communications crossings of Highway 89.
- Review possible upgrades required for the proposed Johnson Ranch addition if utilities are to be extended from that development. The extension of power to the landfill may require higher voltage than currently available in order to combat line losses.
- Prepare 30% plans showing schematic proposed routing(s) for power and communications infrastructure in AutoCAD format.
- Prepare design narrative and associated engineering opinion of probable construction costs.

Environmental and Right of Way:

Landfill representatives have expressed a strong desire to avoid any requirement for obtaining additional right of way from the Forest Service. The Consultant team will endeavor to meet this request. However there may be unavoidable requirements for additional right of way. These requirements could potentially arise from a need for temporary construction easements, additional roadway cross section, drainage issues, utility requirements, or other items that become apparent as a result of this Design Concept Report. It is critical that any issues regarding a need to acquire right of way be identified and addressed as early as possible so as not to impact the project at a future date.

The process for obtaining right of way and permitting from the Forest Service will be subject to environmental review as a part of the permitting process. If requested – as an ADDITIVE ALTERNATE - Tierra Right of Way will address the permitting process, discuss documentation requirements and determine approximate review timeframes. This information shall be included in the DR. It should be noted that Tierra cannot guarantee any permit and review timeframe for any agency or individual involved.

Environmental Approach:

Development of the DRs will require evaluation of potential environmental effects to provide context and information for evaluation of alternatives. To this end, Tierra will obtain existing data regarding resources and will prepare text for insertion into the DR that summarizes existing conditions and identifies environmental resource concerns in the project area. Examples of potential resource issues that will be addressed include water resources (100-year floodplains, potential Waters of the U.S. [CWA Section 404], etc.); Federal and State-listed Threatened & Endangered Species; Forest Service Sensitive and Management Indicator species; and known cultural resources. Tierra will format the text to allow Plateau to insert resource summaries directly into the applicable sections of the DR and alternatives matrices.

Prepare First Draft Design Report and 30% Plan Exhibits:

The project Team will prepare a draft Design Report, consisting of the three major components, plus an overall summary section which will tie the various component parts together. We will provide:

- Executive Summary (within the summary section).
- Discussion of the various project elements, including their interrelationships.
- 30% conceptual plans for all major elements.
- 30% cost estimates. Cost estimates represent a professional opinion and may or may not reflect the actual cost of the work.
- Traffic study (Landfill Road element)
- Geotechnical Investigation (provided by the City).
- List of design criteria, analysis and references to specifications as appropriate
- Design exceptions as may be appropriate

- Required easements and/or right-of-way if required. Easements and right of way shall be administered by the City real estate program.
- Permit requirements and environmental considerations if the Tierra Additive Alternate is selected.

The Draft Report will be submitted to the Cinder Lake Landfill Project Manager for review and comment.

Prepare Final Draft Design Report and Exhibits:

The project team will provide a final draft of the Design Report. The final draft will address all comments provided by the Cinder Lake Landfill Project Manager.

Project Meetings:

This Scope of Services assumes the following project meetings:

- Project kickoff meeting,
- Draft DR review meeting,
- Final DR review meeting.
- Five additional meetings approximately equally spaced throughout the project duration.

Project meetings will be attended by representatives of Plateau Engineering, SWI, Turner Engineering and Taylor RyMar. The City shall furnish a downtown meeting venue. Alternatively, meetings may be held at Plateau offices. If authorized, Tierra Right of Way will be available by teleconference where required for up to five of these meetings.

Deliverables:

- 5 copies of the Draft Design Report and exhibits. This draft report will also be presented in digital (pdf) format. 30% exhibit plan sheets will be provided in 11" x 17" format.
- 5 copies of the Final Design Report and exhibits. This final report will also be presented in digital (pdf and AutoCAD™) format, Exhibit plan sheets will be provided in 11" x 17" format.

Schedule:

It is anticipated that the Draft Design Report and 30% plans will be available on or before January 27, 2017. This anticipated date is based upon a Notice to Proceed date on or before September 19. It is anticipated that Final 30% plans and Design Report will be available 3 weeks after City approval of the Draft Report.

Provided by Client:

Client shall provide to Consultant the Client's utility service requirements for water and electric, as well as any available background data regarding existing and proposed operations to enable traffic projections under aggregate sales and non-aggregate sales scenarios.

The following items shall be considered reimbursable or contingent expenses:

- Permit fees if required. Including any fees required for exploration onto Forest Service lands.
- Fees for title reports, public document reproduction, and similar items.
- Additional printing and reproduction made at Client request.

Not in Scope:

- Design of any improvements beyond the 30% stage.
- Environmental investigations or permitting.
- Application or permit fees
- Cost-benefit analysis for any improvements.
- Propane vapor system improvements.
- Public meetings or meeting exhibits. Presentations.
- Potholing and location services. Measurement of pothole excavations by others.
- Consulting regarding right of way acquisition.

Client and Consultant may mutually agree to modify the Scope of Work, upon the execution of an appropriate Change to the Agreement, which may include an adjustment in fees.

Consultant's Compensation:

Consultant's compensation shall be on a time and material basis, not to exceed \$113,191.00. This cost includes a right of way and aerial topographic survey of the Landfill Road corridor. Please refer to the attached "EXHIBIT A" Cinder Lake Landfill" spreadsheet for information regarding how this fee has been derived. In addition, please refer to the backup documentation provided by the individual subconsultants on this project: TaylorRyMar, Turner Engineering, SWI, and Tierra, (Exhibits B through E, respectively). The actual allocation of hours, direct expenses and subconsultant fees is solely at the discretion of the Consultant.

In addition to the above figure, this Scope incorporates a project contingency of \$25,000.00 to be specifically authorized by the City should additional services beyond the contract scope become necessary. These may include additional design or analysis, permit fees, documentation, and/or other necessary items which may arise and which are not a part of the enumerated Scope of Services. Should the City authorize Tierra Right of Ways services to include an environmental component within the DR, the additional cost will be \$3,600.00, to be applied against the contingency. Total project authorization, including contingency, is \$138,191.00.

The project will be invoiced and paid monthly in accordance with current City requirements. Billings will also include short summary of project status and expenditures to date.

Closure:

Thank you for the opportunity to present this proposal. We appreciate the opportunity to work with the City of Flagstaff on this project.



July 25, 2016

Exhibit B

James Hall, P.E., R.L.S.
Plateau Engineering, Inc.
323 San Francisco Street, Suite 201
Flagstaff, AZ 86001

Re: Cinder Lake Landfill
Critical Infrastructure Redevelopment Plan - Electrical DCR
TRC Proposal B30047.01
REVISION 3

Dear Jim,

Taylor RyMar Corporation (TRC) is pleased to submit this proposal to Plateau Engineering, Inc. (PLATEAU) for engineering services described below. TRC developed our Scope of Services based on the information provided during our development of the RSOQ response and subsequent interview for this project.

Project Understanding

1. Development of an electrical and communications Design Concept Report (DCR) to address critical infrastructure needs of the landfill.
2. The DCR will address the need for three-phase power to the site to support current and future operations. Routing for three-phase power will be studied for alignment along the existing easement from the northwest side of the site and along a new easement following the landfill road. Assessment will be based on the Owner provided electrical service size of 2,000-amps, 480/277-volts.
3. The DCR will also address the possibility of adding fiber communications to the site, utilizing the same easement alignment as the power.
4. TRC will also support the Water Delivery DCR for the installation of booster pumps.
5. **30% design documents (schematic design) will be provided in addition to the DCR.**

Project Approach and Deliverables

1. Gain an understanding of the Owner's project goals, budgets, and design standards.
2. Review of Owner's project scope.
3. Attend project kick-off meeting.
4. Provide site investigation of existing conditions.
5. Coordinate with APS for available infrastructure interconnection point(s) for extension of three-phase utility power to the landfill site.
6. Coordinate with Century Link and Suddenlink for available infrastructure interconnection point(s) for extension of fiber communications service to the landfill site.
7. Coordinate with ADOT, if required, for power and communications crossings of Highway 89.
8. Review possible upgrades required for the proposed Johnson Ranch addition if utilities are to be extended from that development.

9. Prepare **30% (schematic design)** plans showing schematic proposed routing(s) for power and communications infrastructure **and preliminary single line diagram for power.**
10. Prepare design concept narrative and associated engineering opinion of probable construction costs.
11. ~~Prepare cost benefit analysis of power and communications infrastructure options.~~
12. All concept design plan documents shall be provided in 2015 AutoCAD format.
13. Provide coordination with Tierra ROW, civil engineers, owner representatives, utility companies, and code authority.
14. Attend (5) progress review meetings with the City.
15. Attend meetings to present the preliminary and final Design Concept Reports.

Assumptions

1. PLATEAU shall provide electronic files of the project site plans indicating all particulars affecting this project. These files shall be in AutoCAD 2015 compatible electronic format. The files shall be set-up for TRC direct use.
2. PLATEAU or Owner shall provide information pertaining to all proposed equipment. This includes, but is not limited to, equipment locations, electrical connection/power requirements, and data/communication locations.

Schedule

An estimated overall schedule is shown below, beginning after receipt of signed contract and information requested within this proposal.

Project Schedule	
Task	Duration
Preliminary DCR Draft	18 weeks
Final DCR Submittal	5 weeks

Note: Task shall be started upon review and written approval of prior task by Owner and Client.

Compensation

As consideration for the services, PLATEAU shall pay TRC the Not-to-Exceed amount of \$16,465.00 per the attached Exhibit 'A'.

Additional Compensation

Any services not in the above scope of work can be provided as a negotiated lump sum fee or on a time and expense basis per TRC hourly rates. Additional services performed outside regular business hours will be billed at a rate of 1.5 standard billing rates.

Standard hourly Billing Rates	
Principal	\$185.00
Senior Engineer	\$160.00
Engineer	\$135.00
Project Manager	\$150.00
Senior Designer	\$120.00
Designer	\$90.00
CAD Technician	\$85.00
Support Services	\$70.00

Deliverables

All deliverables in the below phases shall be delivered in electronic PDF format or as described below:

Design Concept Report

1. Provide one copy of the draft Electrical and Communications DCR with engineering opinion of probable costs.
2. Provide one copy of the final Electrical and Communications DCR with City and Client comments incorporated.

Exclusions

1. Additional meetings or site visits, other than previously listed.
2. Reproductions.
3. Engineering design or drawings for bidding or permitting.
4. Electrical load readings.
5. Branch electrical circuit tracing.
6. Evaluation of future landfill electrical loads or service sizing.

Acceptance

If this proposal and the enclosed Terms and Conditions (Version 01.03) are acceptable, please return a signed copy of this proposal to our office. TRC shall proceed with the above Scope of Service upon receiving the signed proposal.

Sincerely,

Taylor RyMar Corporation



Joel DeHaven, P.E.
Principal

Enclosures

This Proposal and the Terms and Conditions are accepted by:

Plateau Engineering, Inc.

Authorized Signature

Title

Date

TAYLOR RYMAR CORPORATION

Terms and Conditions

Taylor RyMar Corporation shall perform the services outlined in this agreement for the stated fee arrangement.

Billing and Payment

Invoices shall be submitted monthly based on progress. Fees billed are due immediately and shall bear 1.5% per month interest on amounts not paid within (30) calendar days. If fees are not paid within (30) calendar days, TRC may elect to suspend working on project until satisfactory agreement is reached. This shall include not releasing drawings for reproduction or submittal. If Client objects to any portion of an invoice, The Client shall notify TRC in writing within (15) calendar days of receipt of invoice. The Client shall identify the specific cause of disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated above shall be paid by Client on all disputed invoice amounts resolved in TRC's favor and unpaid for more than (30) calendar days after date of invoice.

Payment of any invoice by Client to TRC shall be taken to mean that Client is satisfied with TRC's services and is not aware of any deficiencies in those services.

Client agrees to pay TRC's cost of collection of all amounts due and unpaid 90 days after billing, including court costs and reasonable attorney's fees.

Documents

All Documents are instruments of professional service in respect to this Project and TRC shall retain an ownership and property interest therein (including the right of reuse at the discretion of TRC) whether or not the Project is completed.

Client may make and retain copies of Documents for information and reference in connection with use on the Project by Client. Such Documents are not intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by TRC, as appropriate for the specific purpose intended, will be at Client's sole risk and without liability or legal exposure to TRC, or to TRC's officer's, directors, employees, or to TRC's Sub-consultants.

Standard of Care

Services provided by TRC under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

Dispute Resolution

In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, Client and TRC agree that all disputes between them arising out of or related to this Agreement shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

Insurance

TRC shall procure and maintain such insurance as is required by law or regulation in effect as of the day of execution of this Agreement.

Termination

Either Client or TRC may terminate this Agreement at any time with or without cause upon giving the other party ten (10) calendar days prior written notice. Client shall within fifteen (15) calendar days of termination pay TRC for all services rendered and all costs incurred up to the date of termination in accordance with the compensation provisions of this agreement.

Delays

TRC is not responsible for delays caused by factors beyond TRC's reasonable control. When such delays beyond TRC's reasonable control occur, Client agrees TRC is not responsible for damages, nor shall TRC be deemed to be in default of this Agreement.

Limitation of Liability

TRC's liability to The Client for any cause, or combination of causes, is in the aggregate limited to an amount no greater than the fee earned under this agreement unless otherwise stated in this proposal.

To the extent damages are covered by property insurance during construction, The Client waives all rights against TRC, its officers, directors and employees, and further agrees to name Taylor RyMar Corporation as additional insured on all property and liability insurance policies to the greatest extent permitted by law.

Consequential Damages

Notwithstanding any other provisions of this Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or TRC, their employees, agents, sub-consultants or subcontractors. Consequential damages include, but are not limited to, loss of use and loss of profit.

Indemnification

To the fullest extent possible by law, Client agrees to defend, indemnify and hold harmless TRC, its officers, directors and employees from and against claims, actions, proceedings, liabilities, losses, damages, costs and expenses, including reasonable attorney's fees and defense costs, which TRC, its officers, directors and employees may sustain by reason of negligent performance of services by Client, its officers, agents, employees or Subcontractors arising out of Client's work.

Lien Rights

The Client hereby expressly agrees that this agreement constitutes a written agreement with The Owner of the property for the provision of professional service, and that TRC, together with persons acting at its direction and under its control, shall perform the services called for in this agreement. TRC shall also be authorized to claim and enforce the lien rights provided in applicable state statutes, as persons who have a written agreement with The Owner of the property for the provision of the services described in this agreement. In the event that lien rights need to be exercised TRC shall retain these rights. If the basic services covered in this proposal have not been completed within 12 months of the date hereof, fees are subject to review and re-negotiation.

Corporate Protection

It is intended by the parties to this Agreement that TRC's services in connection with the project shall not subject TRC's individual employees, officers, or directors to any personal legal exposure for the risks associated with this project. Therefore, and notwithstanding anything to the contrary contained herein, Client agrees that as Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Taylor RyMar Corporation, an Arizona corporation, and not against any of TRC's employees, officers or directors.

Use of Purchase Orders

If Client uses a Purchase Order, it shall be for administrative convenience only. The Terms and Conditions of the Purchase Order shall not apply to the Agreement for Professional Services.

Exhibit C

Engineering fee Proposal for COF Landfill DCR - Potable Water Only 7/212016

TURNER ENGINEERING, INC.
ESTIMATED MANHOURS BY TASK

PROJECT PRINCIPAL PROJECT MANAGER PROFESS. ENGINEER ENGINEER/DESIGNER TECHNICIAN/DRAFTER SECRETARY/CLERICAL

<u>A. Contract Administration/Oversight</u>								
1. Contract Setup & Administration	TEI	2	0	0	0	2	4	
2. Contract Close-out	TEI	2	0	0	0	2	4	
		4	0	0	0	4	8	\$1,360.00
 <u>B. Project Kick-Off Meeting</u>	TEI	0	0	4	0	0	0	\$480.00
 <u>C. Utility Review & Meetings</u>								
1. Submit 15% design plans to all franchise utilities for comments and/or clearance	TEI	0	0	2	2	6	0	\$926.00
 <u>D. Work with Tierra ROW on Corridors if Needed</u>	TEI/TROW	0	1	2	4	4	0	\$1,104.00
 <u>E. DCR Items related to Potable Water (PW)</u>								
<u>The following items apply to current & future needs:</u>								
1. Receive Current & Future Water Demands Peak gpm and Average Daily use from COF	TEI/COF	0	0	1	1	2	0	
2. Determine DPW Location (Assume at Johnson Ranch near roadway)	TEI	0	0	0	1	2	0	
3. Determine PW Alignment & Pipe Length from DPW to Cinder Lake Landfill (CLL) site	TEI	0	0	1	4	8	0	
		0	0	2	6	12	0	\$1,818.00
 <u>F. DCR Items related to Reclaimed Water (RW) None Included</u>								
 <u>G. DCR Items for Potable Water from Doney Park Only:</u>								
1. Compile and Process Existing LiDAR Data as available	TEI	0	0	0	4	8	0	
2. Preliminary Pump & Tank Needs (Run a Very Preliminary WaterCad w/Assuptions)	TEI	0	0	8	30	24	0	
3. Generate Conceptual PW Alignment From SWI Base Sheets	TEI	0	0	0	4	6	0	
4. Conceptually Identify Additional Easements/right-of-way, if needed	TEI	0	0	0	2	2	0	
5. Identify Potential Utility Conflicts and Relocations	TEI	0	0	0	4	8	0	
6. Design Exceptions	TEI	0	0	1	2	4	0	
7. Environmental Considerations	TEI/TROW	0	0	1	2	4	0	
		0	0	10	48	56	0	\$10,624.00
 <u>H. Design Team Coordination, Meetings</u>	TEI/Team							
1. Site Visit	TEI	0	0	4	0	0	0	
2. Meeting to Present and Discuss Preliminary DCR's	TEI	0	0	3	0	0	0	
3. Meeting to Present and Discuss Final DCR's	TEI	0	0	3	0	0	0	
4. Bi-weekly meetings (Expect 5 meetings)	TEI	0	0	10	0	0	0	
		0	0	20	0	0	0	\$2,400.00

<u>I. Prepare & Submit 1st Draft of DCR (PW related work)</u>	TEI	0	1	2	4	12	2	\$1,844.00
<u>J. Address 1st Draft Submittal Comments (PW related work)</u>	Team	0	1	2	4	12	0	\$1,744.00
<u>K. Prepare & Submit Final DCR (PW related work)</u>	Team	1	1	1	2	8	1	\$1,308.00

TEI ESTIMATED FEES						Cross Foot	\$23,608.00
TITLE	HOURS	RATE	SUBTOTAL				
PROJECT PRINCIPAL	5	\$160.00	\$800.00				
PROJECT MANAGER	4	\$132.00	\$528.00				
PROFESSIONAL ENGINEER	45	\$120.00	\$5,400.00				
DESIGN ENGINEER	70	\$103.00	\$7,210.00				
TECHNICIAN/DRAFTER	114	\$80.00	\$9,120.00				
SECRETARY/CLERICAL	11	\$50.00	\$550.00				
TOTAL HOURLY WAGES	TEI SUBTOTAL =		\$23,608.00				
ESTIMATE OF DIRECT EXPENSE (printing, copying, etc.)	TEI DIRECT EXPENSE =		\$0.00				
TEI ESTIMATED TOTAL	TEI ESTIMATED TOTAL FOR DCR =		\$23,608.00				
	ESTIMATED TOTAL =		\$23,608.00				
CONTINGENCY @ 0%	CONTINGENCY @ 0% =		\$0.00				
	ESTIMATED TOTAL W/O CONTINGENCY=		\$23,608.00				

THE ABOVE FEE ESTIMATE IS BASED UPON CURRENT KNOWN INFORMATION
THIS IS CONSIDERED AS A NOT TO EXCEED PROPOSAL IN SCOPE AND FEE

ALLOCATION OF HOURS, DIRECT EXPENSE AND SUBCONSULTANT FEES IS SOLELY AT TEI'S DISCRETION.

Based upon discussions and meetings the following items for the Scope of Work have been removed as they were related to alternate potable water and a well:

1. Determine current monthly demand and projected future use increases
2. Determine costs of delivery per month (i.e. trucking, fuel, labor, maintenance, etc.)
3. Determine Future PW demands (Solely Provided by City)
4. Evaluate Alternate Sources for PW (City)
5. Evaluate Length Cost(s) Associated with New Pipeline to CLL (Other than down Road)
6. Evaluate Cost(s) associated with drilling new well
7. Evaluate Well to serve as source of PW elsewhere (i.e. DPW)
8. DPW interest in participation in well
9. Inflation for delivery, fuel, labor, O&M, etc.
10. Forecast for 7 year pay back, present value and cost comparison
11. Identify All Alternatives for PW supply, eliminate the most unreasonable and justify
12. PW Cost Matrix
13. Identify Existing Conditions (i.e. r.o.w., topography, property lines, utilities, etc.)
14. Meeting/Charrette to Pair Down Alternatives
15. Legal Descriptions or Exhibits

**SCHEDULE OF MANPOWER REQUIREMENTS FOR
CINDER LAKE LANDFILL DCR**

Exhibit D

SHEPHARD-WESNITZER, INC.
Consulting Engineers

CINDER LAKE LANDFILL
7/22/2016

Sedona, Flagstaff, Cottonwood & Prescott

Task Code	TASK DESCRIPTION	E-3	Survey Manager	Survey Technician	Project Engineer	Subconsultant Fees	Task Fee
		\$135	\$130	\$85	\$120	1	
1	SURVEY						\$13,020.00
	Aerial Survey Control		8	20			
	Aerial Survey (Outside Services)					\$6,500.00	
	Right-of-Way Survey		16	20			
2	ROADWAY DESIGN						\$19,695.00
	Analyze Geometric Improvement for mining operation	12			36		
	Cost Estimate	3			12		
	Utility and Pipeline coordination and Drafting. SWI will coordinate with other team members to include utilities in base files.	4			8		
	30% Plans for preferred Alternative	6			80		
3	TRAFFIC IMPACT STUDY						\$6,150.00
	Traffic Counts (N/A)						
	Trip Generation & Scoping Letter	2			16		
	Scoping Meeting With ADOT	2			4		
	Scoping Meeting With County and City of Flagstaff	2			4		
	Traffic Impact Study (Limited to SR 89 intersection analysis)	4			16		
4	DRAINAGE ANALYSIS						\$3,690.00
	15% Drainage Analysis of single Alternative (10 to 12 crossings anticipated)	6			24		
5	DESIGN CONCEPT REPORT						\$6,900.00
	Traffic Study and Roadway Geometry Write-Up	8			32		
	Final Write-Up to Incorporate Comments	4			12		
6	MEETINGS/COORDINATION						\$2,700
	Kickoff Meeting	4					
	Review Draft DCR	3					
	Review Final DCR	3					
	Team Coordination including 5 team meetings @ 2 hours per meeting	10					
7	REIMBURSIBLE EXPENSES (PRINTING, MILEAGE)						\$500.00
	TOTAL ESTIMATE NOT TO EXCEED	73	24	40	244		\$52,655

ASSUMPTIONS

- 1 Topographic Survey will be performed at 1" = 40'
- 2 Roadway analysis will be based on single alternative assuming mining operations
- 3 2015 SWI traffic counts are still valid
- 4 Drainage Report will not be produced
- 5 Full Traffic Impact Analysis is not required
- 6 Existing fence is assumed to be Right of Way / USFS Easement boundary

Tierra Scope of Work:

EXHIBIT E

Project Meetings

Tierra will provide one senior staff member to attend up to 5, one-hour long project meetings via teleconference.

Environmental and Right of Way:

Landfill representatives have expressed a strong desire to avoid any requirement for obtaining additional right of way from the Forest Service. The Consultant team will endeavor to meet this request. However there may be unavoidable requirements for additional right of way. These requirements could potentially arise from a need for temporary construction easements, additional roadway cross section, drainage issues, utility requirements, or other items that become apparent as a result of this Design Concept Report. It is critical that any issues regarding a need to acquire right of way be identified and addressed as early as possible so as not to impact the project at a future date.

The process for obtaining right of way and permitting from the Forest Service will be subject to environmental review as a part of the permitting process. If required, as a part of the DCR Tierra Right of Way will address the permitting process, discuss documentation requirements and determine approximate review timeframes. It should be noted that Tierra cannot guarantee any permit and review timeframe for any agency or individual involved.

DCR Environmental Approach:

Development of the DCRs will require evaluation of potential environmental effects to provide context and information for evaluation of alternatives. To this end, Tierra will obtain existing data regarding resources and will prepare text for insertion into the DCR that summarizes existing conditions and identifies environmental resource concerns in the project area. Examples of potential resource issues that will be addressed include water resources (100-year floodplains, potential Waters of the U.S. [CWA Section 404], etc.); Federal and State-listed Threatened & Endangered Species; Forest Service Sensitive and Management Indicator species; and known cultural resources. Tierra will format the text to allow Plateau to insert resource summaries directly into the applicable sections of the DCR and alternatives matrices.

Assumptions

- Necessary Local, State, and Federal databases will be available at no cost.
- Necessary Local records will be available at no cost.
- No fieldwork will be conducted
- This Scope of Work does not include preparation and submittal of any permit applications

<i>Personnel</i>	Rate	Total Hrs	Cost	Total
Division Director				
PM	\$135.00	2	\$270.00	\$270.00
Project Manager				
Project Management	\$105.00	4	\$420.00	
Agency coordination	\$105.00	2	\$210.00	
Meetings	\$105.00	5	\$525.00	\$1,155.00

Bio III	Review DCR text	\$90.00	2	\$180.00	\$180.00
Biologist II		\$80.00		\$0.00	
	research	\$80.00	4	\$320.00	
	DCR write up	\$80.00	8	\$640.00	\$960.00
GIS	maps	\$80.00	2	\$160.00	
					\$160.00
Archaeologist	conduct Class I	\$70.00	1	\$70.00	
	Prepare write up	\$70.00	6	\$420.00	
PI	QA/QC	\$95.00	2	\$190.00	\$680.00
Editor	Production	\$65.00	1	\$65.00	
	Editing	\$65.00	2	\$130.00	\$195.00

TOTAL PERSONNEL COST **\$3,600.00**

\$3,600.00

Theresa L. Knoblock
 Biologist/Environmental Compliance Lead
 Tierra Right of Way Services
 (800) 887-0847 | www.tierra-row.com
 (520) 780-1284 cell

SAMPLE

EXHIBIT B STANDARD TERMS AND CONDITIONS (T34)

CITY OF FLAGSTAFF STANDARD TERMS AND CONDITIONS FOR A/E SERVICES - PUBLIC WORKS (T34) PROJECTS

IN GENERAL

1. **NOTICE TO PROCEED:** Contractor shall not commence performance until after City has issued a Notice to Proceed.
2. **LICENSES AND PERMITS:** Contractor its expense shall maintain current federal, state, and local licenses, permits and approvals required for performance of the Contract, and provide copies to City upon request.
3. **COMPLIANCE WITH LAWS:** Contractor shall comply with all applicable federal, state and local laws, regulations, standards, codes and ordinances in performance of this Contract.
4. **NON-EXCLUSIVE:** Unless expressly provided otherwise in the Contract, this Contract is non-exclusive and the City reserves the right to contract with others for materials or services.

PAYMENT

5. **INVOICES:** Invoices shall include the Contract and/or Purchase Order number and dates when work was performed. Invoices shall be sent within 30 days following performance. Payment will only be made for satisfactory materials and/or services received and accepted by City.
6. **OFAC:** No City payments may be made to any person in violation of Office of Foreign Assets Control regulations, 31 C.F.R. Part 501.

CONTRACTOR RESPONSIBLE FOR CONTROL OF WORK

7. **INDEPENDENT CONTRACTOR:** Contractor shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.
8. **CONTROL:** Contractor shall be responsible for the control of the work. Contractor shall furnish qualified personnel, materials, equipment and other items necessary to carry out the terms of the Contract.
9. **WORK SITE:** Contractor shall inspect the work site and notify the City in writing of any deficiencies or needs prior to commencing work.

QUALITY OF WORK

10. **QUALITY:** All work shall be of good quality and free of defects, performed in a diligent and professional manner.

S A M P L E

11. **COMPLETENESS AND ACCURACY:** Contractor shall be responsible for the completeness and accuracy of its work, plans, supporting data, and special provisions prepared for or compiled under its obligation for the Contract, and shall correct, at its own expense, all errors or omissions therein.
12. **PROFESSIONAL SEAL:** All documents prepared by a design professional shall bear the stamp or seal of the design professional.
13. **STANDARD OF CARE:** All preparation of technical and related documents shall be completed in accordance with applicable law and performed in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
14. **CORRECTION OF ERRORS OR OMISSIONS, COSTS:** Contractor at its own expense shall correct errors or omissions in the documents created pursuant this Contract which are discovered, disclosed and determined by City to exist either during or following completion of the documents, including but not limited to errors or omissions discovered during construction. The costs incurred and necessary to correct errors or omissions attributable to Contractor and any expense incurred by City as a result of additional construction costs caused by such errors shall be chargeable to Contractor.
15. **CONSTRUCTION INSPECTIONS:** If Contractor is performing construction inspection of a City project, Contractor shall be responsible for Contractor errors and omissions which are discovered, disclosed and determined by City to exist during and subsequent to construction of the project. Contractor's duty in the construction in section phase is to assure City that the project is constructed in conformity with detailed plans and specifications and the cost of design necessary to correct errors and omissions in inspection attributable to Contractor and any expense incurred by City as a result of additional construction costs caused by such errors shall be chargeable to Contractor. City acceptance or approval of Contractor's work shall not relieve Contractor of inspection responsibilities or professional liability.
16. **ACCEPTANCE:** The fact that City has accepted or approved Contractor's work shall not relieve Contractor of its responsibilities or professional liability. If work is rejected by the City due to noncompliance with the Contract, the City, after notifying Contractor in writing, may require Contractor to correct the deficiencies at Contractor's expense, or cancel the work order and pay Contractor only for work properly performed.
17. **WARRANTY:** Contractor warrants that the design will accomplish any performance standards or results required in the scope of work. City's review, acceptance, receipt or inspection of the materials or services specified shall not alter or affect Contractor's obligations to meet Contract specifications or this warranty.
18. **SAMPLES:** Any sample submitted to the City by the Contractor and relied upon by City as representative of quality and conformity, shall constitute an express warranty that all materials and/or service to be provided to City shall be of the same quality and conformity.

REPORTS AND DATA

19. **CITY OWNERSHIP OF DOCUMENTS AND DATA:** Any original documents prepared or collected by Contractor in performance of this Contract such as models, samples, reports, test plans, survey results, graphics, tables, charts, plans, maps, specifications, surveys, computer program elements, computations and other data shall be the property of City ("City's work product"), unless otherwise agreed by the parties in writing. Contractor agrees that all materials prepared under this Contract are "works for hire" within the meaning of copyright laws of the United States and hereby assigns to City all rights and interests Contractor may have in the materials it prepares under this Contract, including any derivative use of the material.

S A M P L E

- 20. RE-USE:** City may use City's work product without further compensation to Contractor; provided, however, City's reuse without written verification or adoption by Contractor for purposes other than contemplated herein is at City's sole risk and without liability to Contractor. Contractor shall not engage in any conflict of interest nor appropriate any portion of City's work product for the benefit of Contractor or any third parties without City's prior written consent.
- 21. DELIVERY OF DOCUMENTS AND DATA:** Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Contractor shall immediately deliver to City copies of all of City's work product and any other documents and data accumulated by Contractor in performance of this Contract, whether complete or in progress.

INSPECTION, RECORDS

- 22. RECORDS:** The City shall have the right to inspect and audit all Contractor books and records related to the Contract for up to five (5) years after completion of the Contract.
- 23. RIGHT TO INSPECT BUSINESS:** The City shall have the right to inspect the place of business of the Contractor or its subcontractor during regular business hours at reasonable times, to the extent necessary to confirm Contract performance.
- 24. PUBLIC RECORDS:** This Contract and any related materials are a matter of public record and subject to disclosure pursuant to Arizona Public Records Law, A.R.S. § 39-121 et seq. If Contractor has clearly marked its proprietary information as "confidential", the City will endeavor to notify Contractor prior to release of such information.

INDEMNIFICATION, INSURANCE

- 25. INDEMNIFICATION:** To the fullest extent permitted by law. Contractor shall indemnify, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (herein after Indemnitee") from and against all liabilities, damages, losses and court costs, including reasonable attorney fees, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of the Contractor, subcontractor, design professional or other persons employed or used by contractor, subcontractor or design professional in the performance of the Contract. The amount and type of insurance coverage required under the Contract shall in no way be construed as limiting the scope of this indemnification provision. This indemnification provision shall survive termination or expiration of the Contract.
- 26. INSURANCE:** Contractor shall maintain all insurance coverage required by the City, including professional liability, public liability and worker's compensation.

CONTRACT CHANGES

- 27. CHANGE ORDERS:** The City reserves the right at any time to make changes in the scope of work in writing. Whenever the scope of work will be materially increasing or decreasing the cost of performance, a contract change order shall be approved and executed by the parties prior to the change. Contractor shall not do any work or furnish any materials which are not covered by the written Contract or approved change orders. If Contractor disregards this provision, Contractor does so at its own risk, cost and expense.
- 28. COMPLETE AGREEMENT:** The Contract is intended to be the complete and final agreement of the parties.

SAMPLE

29. **AMENDMENTS:** This Contract may be amended by written agreement of the parties.
30. **SEVERABILITY:** If any term or provision of this Contract is found by a court of competent jurisdiction to be illegal or unenforceable, then such term or provision is deemed deleted, and the remainder of this Contract shall remain in full force and effect.
31. **NO WAIVER:** Each party has the right insist upon strict performance of the Contract, and the prior failure of a party to insist upon strict performance, or a delay in any exercise of any right or remedy, or acceptance of materials or services, shall not be deemed a waiver of any right to insist upon strict performance.
32. **ASSIGNMENT:** This Contract may be assigned by Contractor with prior written consent of the City, which will not be unreasonably withheld. Any assignment without such consent shall be null and void. Unless expressly provided for in a separately executed Consent to Assignment, no assignment shall relieve Contractor (Assignor) from any of its obligations and liabilities under the Contract with respect to City. The Purchasing Director shall have authority to consent to an assignment on behalf of City.
33. **BINDING EFFECT:** This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns.

EMPLOYEES AND SUBCONTRACTORS

34. **SUBCONTRACTING:** Contractor may subcontract work in whole or in part with the City's advance written consent. City reserves the right to withhold consent if subcontractor is deemed irresponsible and/or subcontracting may negatively affect performance. All subcontracts shall comply with the underlying Contract. Contractor is responsible for Contract performance whether or not subcontractors are used.
35. **NONDISCRIMINATION:** Contractor shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, familial status and represents and warrants that it complies with all applicable federal, state and local laws and executive orders regarding employment. In addition any Contractor located within City of Flagstaff limits shall comply with the City Code, Chapter 14-02 Civil Rights which also prohibits discrimination based on sexual orientation, gender identity or expression.
36. **DRUG FREE WORKPLACE:** The City has adopted a Drug Free Workplace policy for itself and those doing business with the City to ensure the safety and health of all persons working on City contracts and projects. Contractor personnel shall abstain from use or possession of illegal drugs while engaged in performance of this Contract.
37. **IMMIGRATION LAWS:** Pursuant to 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 State and Federal Immigration laws and regulations that relate to its 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 employee who works on this Contract to ensure compliance 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 subcontractors to ensure compliance with Contractor's Immigration

SAMPLE

Warranty. Contractor agrees to assist the City in regard to any random verification performed. Neither Contractor nor any subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if Contractor or subcontractor if 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(A).

DEFAULT AND TERMINATION

- 38. TERMINATION FOR CONVENIENCE:** Unless expressly provided for otherwise in the Contract, this Contract may be terminated in whole or part by the City for convenience upon thirty (30) days written notice, without further penalty or liability to Contractor. If this Contract is terminated, City shall be liable only for payment for satisfactory materials and/or services received and accepted by City before the effective date of termination.
- 39. TERMINATION FOR DEFAULT:** Prior to terminating this Contract for a material breach, the non-defaulting party shall give the defaulting party written notice and reasonable opportunity to cure the default, not to exceed ten (10) days unless a longer period of time is granted by the non-defaulting party in writing. In the event the breach is not timely cured, or in the event of a series of repeated breaches the non-defaulting party may elect to terminate Contract by written notice to Contractor, which shall be effective upon receipt. In the event of default, the parties may execute all remedies available at law in addition Contract remedies provided for herein.
- 40. EVENTS OF CONTRACTOR DEFAULT DEFINED:** Contractor defaults include the following:
- a. Any material misrepresentation made by Contractor to the City;
 - b. Failure to commence work at the time(s) specified due to a reason or circumstance within Contractor's reasonable control;
 - c. Failure to perform the work with sufficient personnel and equipment or with sufficient equipment to ensure completion of the work within the specified time due to a reason or circumstance within Contractor's reasonable control;
 - d. Failure to perform the work in a manner reasonably satisfactory to the City;
 - e. Failure to promptly correct or re-perform within a reasonable time work that was rejected by the City as unsatisfactory or erroneous;
 - f. Discontinuance of the work for reasons not beyond Contractor's reasonable control;
 - g. Unsatisfactory performance as judged by the Contract Administrator;
 - h. Failure to provide the City, upon request, with adequate assurance of future performance;
 - i. Failure to comply with a material term of this Contract, including, but not limited to, the provision of insurance; and
 - j. Any other material breach.
- 41. CITY REMEDIES:** Upon the occurrence of any Event of Contractor Default, the City may declare Contractor in default under this Agreement. The City shall provide written notification of the Event of Default. If such Event of Default is not cured within ten (10) days of receipt of the notification, the City may invoke any or all of the following remedies:
- a. The right to terminate/cancel this Contract as to any or all of the services yet to be performed;
 - b. The right of specific performance, an injunction or any other appropriate equitable remedy;
 - c. The right to monetary damages;
 - d. The right to withhold all or any part of Contractor's compensation under this Contract;
 - e. The right to deem Contractor non-responsive in future contracts to be awarded by the City;

SAMPLE

- f. The right to seek recoupment of public funds spent for impermissible purposes.
- g. The City may elect not to declare an Event of Contractor Default or default. The parties acknowledge that this provision is solely for the benefit of the City, and that if the City allows Contractor to continue to provide the Services despite the occurrence of one or more Events of Default, Contractor shall in no way be relieved of any of its responsibilities or obligations under this Contract, nor shall the City be deemed to waive or relinquish any of its rights under this Contract.
- h. City may obtain required materials and/or services from a substitute contractor, and Contractor shall be liable to the City to pay for the costs of such substitute service.
- i. City may deduct or offset the cost of substitute service from any balance due to Contractor, and/or seek recovery of the costs of substitute service against any performance security, and/or collect any liquidated damages provided for in the Contract. Remedies herein are not exclusive.

- 42. CONTRACTOR REMEDIES:** In the event of City's default, Contractor may pursue all remedies available at law, except as provided for herein.
- 43. SPECIAL DAMAGES:** In the event of default, neither party shall be liable for incidental, special, or consequential damages.
- 44. TERMINATION DUE TO INSOLVENCY:** If Contractor becomes a debtor in a bankruptcy proceeding or a reorganization, dissolution or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of Contractor under federal bankruptcy law or any state insolvency law, Contractor shall immediately provide the City with a written notice thereof. The City may terminate this Contract, and Contractor is deemed in default, at any time if the Contractor becomes insolvent, or is a party to any voluntary bankruptcy or receivership proceeding; makes an assignment for a creditor; or there is any similar action that affects Contractor's ability to perform under the Contract.
- 45. PAYMENT UPON TERMINATION:** Upon termination of this Contract, City will pay Contractor for satisfactory performance up until the effective date of termination. City shall make final payment within thirty (30) days from receipt of the Contractor's final invoice.
- 46. CANCELLATION FOR GRATUITIES:** The City may cancel this Contract at any time, without penalty or further liability to Contractor, if City determines that Contractor has given or offered to give any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant ("Gratuities") in connection with award or performance of the Contract.
- 47. CANCELLATION FOR CONFLICT OF INTEREST (A.R.S. § 38-511):** The City may cancel this Contract within three (3) years after its execution, without penalty or further liability to Contractor.

DELAYS

- 48. FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Agreement is prevented by reason of force majeure. The term "force majeure" means an occurrence that is unforeseeable and beyond the control of the party affected, which occurs without its fault or negligence, and which it is unable to prevent by exercising reasonable diligence.

MISCELLANEOUS

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49. **ADVERTISING:** Contractor shall not advertise or publish information concerning its Contract with City, without the prior written consent of the City.
50. **NOTICES:** All notices given pursuant to this Contract shall be delivered at the addresses as specified in the Contract, or updated by Notice to the other party. Notices may be: (a) personally delivered, with receipt effective upon personal delivery; (b) sent via certified mail, postage prepaid, with receipt deemed effective four (4) days after being sent; (c) or sent by overnight courier, with receipt deemed effective two (2) days after being sent. Notice may be sent by email as a secondary form of notice.
51. **THIRD PARTY BENEFICIARIES:** This Contract is intended for the exclusive benefit of the parties. Nothing herein is intended to create any rights or responsibilities to third parties.
52. **GOVERNING LAW:** This Contract shall be construed in accordance with the laws of Arizona.
53. **FORUM:** In the event of litigation relating to this Contract, any action at law or in equity shall be filed in Coconino County, Arizona.
54. **ATTORNEYS FEES:** If any action at law or in equity is necessary to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs, professional fees and expenses.

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EXHIBIT C INSURANCE FOR A/E PROFESSIONAL SERVICES

1. In General. Contractor shall maintain insurance against claims for injury to persons or damage to property, arising from performance of or in connection with this Contract by the Contractor, its agents, representatives, employees or contractors.
2. Requirement to Procure and Maintain. Each insurance policy required by this Contract shall be in effect at, or before, commencement of work under this Contract and shall remain in effect until all Contractor's obligations under this Contract have been met, including any warranty periods. The Contractor's failure to maintain the insurance policies as required by this Contract or to provide timely evidence of renewal will be considered a material breach of this Contract.
3. Minimum Scope and Limits of Insurance. The following insurance requirements are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The City does not represent or warrant that the minimum limits set forth in this Contract are sufficient to protect the Contractor from liabilities that might arise out of this Contract, and Contractor is free to purchase such additional insurance as Contractor may determine is necessary.

Contractor shall provide coverage at least as broad and with limits not less than those stated below.

a. Commercial General Liability - Occurrence Form

General Aggregate	\$2,000,000
Products/Completed Operations	\$1,000,000
Each Occurrence	\$1,000,000

b. Umbrella Coverage \$2,000,000

c. Automobile Liability –
Any Automobile or Owned, Hired
and Non-owned Vehicles
Combined Single Limit Per Accident
for Bodily Injury & Property Damage \$1,000,000

d. Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$500,000
Disease - Each Employee	\$500,000
Disease - Policy Limit	\$500,000

e. Professional Liability \$2,000,000

4. Self-Insured Retention. Any self-insured retentions must be declared to and approved by the City. If not approved, the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers. Contractor shall be solely responsible for any self-insured retention amounts. City at its option may require Contractor to secure payment of such self insured retention by a surety bond or irrevocable and unconditional letter of credit.

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5. Other Insurance Requirements. The policies shall contain, or be endorsed to contain, the following provisions:
- a. Additional Insured. In Commercial General Liability and Automobile Liability Coverages, the City of Flagstaff, its officers, officials, agents and employees shall be named and endorsed as additional insureds with respect to liability arising out of this Contract and activities performed by or on behalf of the Contractor, including products and completed operations of the Contractor, and automobiles owned, leased, hired or borrowed by the Contractor.
 - b. Broad Form. The Contractor's insurance shall contain broad form contractual liability coverage.
 - c. Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, agents and employees, shall be in excess of the coverage of the Contractor's insurance and shall not contribute to it.
 - d. Each Insured. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Not Limited. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
 - f. Waiver of Subrogation. The policies shall contain a waiver of subrogation against the City, its officers, officials, agents and employees for losses arising from work performed by Contractor for the City.
6. Notice of Cancellation. Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, cancelled, reduced in coverage or in limits unless prior written notice has been given to the City. Notices required by this section shall be sent directly to the Buyer listed in the original Solicitation and shall reference the Contract Number:
- Attention: _____, Buyer
Contract No. and Name: _____
Purchasing Department
City of Flagstaff,
211 W. Aspen Avenue
Flagstaff, Arizona 86001.
7. Acceptability of Insurers. Contractor shall place insurance hereunder with insurers duly licensed or approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: VII. The City does not represent or warrant that the above required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
8. Certificates of Insurance. The Contractor shall furnish the City with certificates of insurance (ACORD form) as required by this Contract. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the certificate of insurance. The City project/contract number and project description shall be noted on the certificates of insurance. The City must receive and approve all certificates of insurance and endorsements before the Contractor commences work.

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All certificates of insurance shall be sent directly to the Buyer in the same manner as notice of cancellations (see above). The City project/contract number and project description shall be noted on the certificates of insurance.

9. Policies. The City reserves the right to require, and receive within ten (10) days, complete, certified copies of all insurance policies and endorsements required by this Contract at any time. The City shall not be obligated, however, to review any insurance policies or to advise Contractor of any deficiencies in such policies and endorsements. The City's receipt of Contractor's policies or endorsements shall not relieve Contractor from, or be deemed a waiver of, the City's right to insist on strict fulfillment of Contractor's obligations under this Contract.
10. Modifications. Any modification or variation from the insurance requirements in this Contract must have the prior approval of the City's Attorney's Office in consultation with the City's Risk Manager, whose decision shall be final. Such action will not require a formal Contract amendment but may be made by their handwritten revision and notation to the foregoing insurance requirements.
11. Subcontractors. Contractor's certificate(s) shall include all subcontractors as additional insureds under its policies, or Contractor shall furnish to the City Separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.