



COUNCIL DECISION REQUEST

SUBJECT: C. C. Cragin Treated Water Lines B, D, & E Construction Management

MEETING DATE: 8-2-12

SUBMITTED BY: LaRon Garrett, Asst. Town Mgr. 

SUBMITTAL TO AGENDA
APPROVED BY TOWN MANAGER

AMOUNT BUDGETED:

EXPENDITURE REQUIRED:



EXHIBITS (If Applicable, To Be Attached): Contract with Scope of Services

POSSIBLE MOTION

I move to approve the hourly rate contract with Tetra Tech, Inc. for Construction Management Services for C. C. Cragin Treated Water Lines B, D, & E with a Not To Exceed Maximum Fee of Two Hundred Forty Two Thousand, Nine Hundred Forty Three Dollars (\$242,943.00) and authorize the Mayor to sign all necessary contract documents.

SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

At the July 19th Council Meeting the construction contracts for the C. C. Cragin Treated Water Lines B, D, & E were awarded. These projects will begin construction this fall. When these construction projects begin it is anticipated that at least some of them will run concurrently. The Public Works Department does not have adequate staff to provide the necessary field representation needed on these new projects and still perform their normal duties. Therefore, Tetra Tech, Inc was requested to provide a proposal to perform these construction management functions. Tetra Tech was selected for this phase of the project because they are the firm that designed these water lines and are intimately familiar with how they need to be constructed. The same personnel that worked on the design will also be the ones in the field representing the Town with the contractors.

The proposed contract is at an hourly rate with a "Not to Exceed" maximum based on the anticipated time and effort to be expended by Tetra Tech for the maximum construction period of 180 days. However, we expect the actual construction time to be much shorter than the maximum 180 days which will reduce the Town's cost proportionately. The maximum allowable fee per the approved Scope of Services for all three water lines is \$242,943.00. A copy of the Contract, Scope of Services and Hourly Fee Schedule is attached.

PROS:

This will provide professional oversight of the contractors in the field to ensure an excellent construction product.

CONS:

None

AUG 02 2012 I. 3 *



COUNCIL DECISION REQUEST

FUNDING:

Acct: 662-5-5451-00-8600C11	Budget:	Available: 4,250,000	Expense: 242,943	Remaining: 4,007,057
Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:

FM: DAS Date: 7/25/12

**AGREEMENT
BETWEEN TETRA TECH, INC
AND THE TOWN OF PAYSON
FOR PROFESSIONAL SERVICES IN CONNECTION WITH
CONSTRUCTION MANAGEMENT SERVICES FOR THE C. C. CRAGIN TREATED
WATER LINE SEGMENTS B, D, & E**

THIS AGREEMENT entered into this ___ day of _____, 2012 by and between **Tetra Tech, Inc, 431 S. Beeline Highway, Payson, Arizona 85541**, (hereinafter referred to as the "Engineers and Architects" or "E/A") and the Town of Payson, a municipal corporation, located at 303 North Beeline Highway, Payson, Arizona 85541 (hereinafter referred to as "Client").

RECITALS

- A. Client desires to engage E/A to provide professional services; and
- B. Client finds that the proposed Scope of Services and terms of this Agreement are acceptable; and
- C. E/A desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth.

NOW, THEREFORE, based upon the mutual promises, covenants and conditions herein contained, the Parties do hereby agree to the following Terms and Conditions:

- 1. Employment of the E/A. Client hereby engages E/A and E/A hereby agrees to perform the professional services as set forth herein.
- 2. Scope of Services. E/A shall perform, in a proper and professional manner, the services set forth in the Scope of Services, marked Exhibit 'A', attached hereto, and by this reference incorporated herein as though set forth in full at this point. The work is generally described as:

Provide Construction Management Services for the construction of the C. C. Cragin Treated Water Line Segments B, D, & E.
- 3. Time for Completion. The professional engineering report for Construction Management Services for the C. C. Cragin Treated Water Line Segments B, D, & E as defined in Exhibit 'A', Scope of Services, is expected be completed within no more than One Hundred Eighty (180) calendar days from date of execution of this contract. The actual length of this contract will be determined by the actual construction time of Treated Water Lines B, D, & E.
- 4. Extra Services. E/A shall provide extra services, not specifically called for in Exhibit 'A', Scope of Services, upon request or authorization of the Client at a fee to be determined at the time of the request. However, it is the intent that the Scope of Services, with modifications by the E/A in the Special Provisions, if any, is complete and sufficient to accomplish the purposes of this Agreement.
- 5. Changes. If Client has requested modifications or changes in the extent of the Project, the time of performance of the services of E/A and the compensation

therefore shall be adjusted appropriately and shall be incorporated in written amendments to this Agreement. Notwithstanding the foregoing, E/A shall perform no modification, changes or additional work, except as and until authorized in writing by Client to do so.

6. Fees. Client shall pay E/A, for the services set forth in Exhibit 'A', Scope of Services, at an Hourly Rate per Exhibit 'B' with a Not to Exceed Fee of Nine Thousand, Nine Hundred Forty Two Dollars and 00/100 (\$9,942.00) per week or Two Hundred Forty Two Thousand, Nine Hundred Forty Three Dollars and 00/100, (\$242,943.00) for the entire project.
7. Payment. E/A will submit to Client monthly invoices based on a percentage of work completed along with all reimbursable expenses incurred. Client will be responsible for paying the invoice in full within thirty (30) days of receipt. If Client fails to make any payment due E/A for services performed as set forth in Attachment "A", Scope of Services, within thirty (30) days after receipt of E/A's bill therefore the amounts due E/A shall include a charge at the rate of 1.50% per month from said day; and in addition E/A may suspend services under this Agreement until it has been paid in full all amounts due it for services and expenses. E/A shall be entitled to actual costs for remobilizing on any work suspended for thirty (30) days or more on account of non-payment or a substantial portion of the fee within the time prescribed in this Agreement.
8. Reimbursables. Unless otherwise stated in Exhibit 'A', Scope of Services, charges for out-of-pocket expenses not directly furnished by E/A will be paid by Client at a rate of 1.10 times the cost of such expense, up to a maximum of Five Hundred Dollars, excluding subconsultants, in addition to the amount set forth in paragraph 2 (F) herein above. E/A shall not be entitled for payment for printing or copying that occurs during the normal course of work required to accomplish the Scope of Services, except as authorized by the Client. Printing, binding, copying and deliveries of inspection reports, field notes and record drawings for the Client shall not be considered reimbursable.
9. Ownership and Re-Use of Documents. All documents, including original drawings, estimates, specifications, field notes, inspection reports, testing results, record drawings and data are and shall be the property of the Client, and shall be provided to the Client upon request during the term of this Agreement, and without demand at the conclusion of this Agreement. Client will not reuse the documents for any other project unless E/A has given written authorization to do so.
10. Delays Beyond the Control of the E/A. It is agreed that events which are beyond the control of the E/A may occur which may delay the performance of the Scope of Services of this Agreement. In the event that the performance of the Scope of Services by the E/A is delayed beyond its control, the E/A shall notify, in writing, the Client of such delay and the reason therefore, and Client shall extend the time of performance appropriately.
11. Liability of E/A. E/A shall be liable only for damage caused by negligence of it, its employees, sub-consultants or subcontractors. E/A shall notify Client of the engagement of any and all subcontractors or consultants, and client shall have sufficient and adequate opportunity to review the qualifications of such subcontractors or consultants, and shall have the right to approve or disapprove their

engagement. Client requires subcontractors or consultants of the E/A shall provide appropriate certificates of insurance to the client prior to their performing of any work relating to this Agreement.

12. Problems. Any problems relating to the services provided herein are to be brought to the attention of E/A as soon as encountered and, if possible, before E/A incurs any obligations. E/A reserves the sole right to correct any errors it is responsible for, including, but not limited to, the selection of a subcontractor or sub-consultant and the negotiation of fees.
13. Indemnification. To the fullest extent permitted by law, the E/A shall defend, indemnify and hold harmless the Town of Payson, its agents, officers, officials and employees from and against all tortuous claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the negligent acts, errors, mistakes or omissions of the E/A, its agents, employees, or any tier of E/A's sub-consultants in the performance of this Contract. E/A's duty to defend, hold harmless and indemnify the Town of Payson, its agents, officers, officials and employees shall arise in connection with any tortuous claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any E/A's negligent acts errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the E/A, any tier of E/A's subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the E/A may be legally liable.

The amount and type of insurance coverage requirements set forth in Paragraph N herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

14. Insurance. Without limiting any liabilities or any other obligations of E/A, E/A shall provide and maintain, with forms and insurers acceptable to the Town until all the obligations under this Contract are satisfied. Failure to do so may, at the sole discretion of the Town of Payson, constitute a material breach of this Contract. The minimum required insurance coverage is as follows:

14.1 Comprehensive General Liability insurance with a minimum combined single limit of ONE MILLION DOLLARS (\$1,000,000) each occurrence. The policy shall include coverage for bodily injury liability, property damage liability, personal injury liability (including coverage for contractual and employee acts), and blanket contractual. The policy shall contain a severability of interests provision.

14.2 Comprehensive Automobile Liability insurance with a combined single limit for bodily injury and property damage of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each occurrence with respect to E/A's vehicles whether owned, hired, or non-owned, assigned to be used in the performance of services.

14.3 Workers Compensation Insurance to cover obligations imposed by Federal and State Statutes having jurisdiction of its employees engaged in the

performance of the Services, and Employer's Liability insurance with a minimum limit of ONE HUNDRED THOUSAND DOLLARS (\$100,000).

14.4 Professional Liability Insurance to cover all errors and omissions by the A/E, its employees, and subconsultants with a minimum limit of ONE MILLION DOLLARS (\$1,000,000) per claim.

The policies required by this section shall be endorsed to include Town, its officers, attorneys, and employees as additional insureds, and shall stipulate that the insurance afforded for Town, its officers and employees shall be primary insurance and that any insurance carried by Town, its officers, attorneys, or employees shall be excess and not contributory insurance.

E/A and its insurers providing the required coverages shall waive all rights of subrogation against Town and its directors, officers, attorneys, employees, and agents.

The insurance policies may provide coverage which contain deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the Town of Payson under such policies. The E/A shall be solely responsible for the deductible and/or self insured retention and the Town of Payson, at its option, may require the E/A to secure payment of such deductibles or self-insured retentions by a Surety Bond or an irrevocable and unconditional letter of credit.

Prior to commencing any work under this contract, E/A shall furnish Town with Certificates of Insurance and Endorsements naming the Town of Payson, its agents, officers, attorneys, and employees as Additional Insureds as evidence that policies providing the required coverages, conditions, and limits are in full force and effect. Such certificates shall provide that not less than thirty days advance notice of cancellation, termination, or alternation shall be sent directly to the Town Clerk.

In the event any insurance policy(ies) required by this Contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the E/A's work or services as evidenced by annual Certificates of Insurance.

Town reserves the right to request and receive certified copies of any or all of the above policies and/or endorsements.

15. Termination of Contract. This Agreement may be terminated by either Party at any time upon thirty (30) days prior written notice to the other Party. Upon such termination, Client shall pay E/A all monies owed under this Agreement for all work performed up to the effective date of termination. Unless sooner terminated, this Agreement shall terminate fourteen (14) calendar days after completion of construction. In the event of such cancellation, all work performed by E/A up to that time, including but not limited to field information, studies and rough or final drafts of working papers, shall be delivered to the Client by E/A.
16. Publicity. No information relative to the Project shall be released by E/A for publication, advertising, or for any other purpose without the prior written approval of the Client.

17. Supplementary Conditions. Supplementary Conditions, if any, shall apply to this Agreement, as set forth in Attachment "B" - Supplementary Conditions, which is attached hereto and incorporated herein by this reference as though set forth in full at this point.
18. Entire Agreement. This Agreement, with attachments, represents the entire understanding between Client and E/A in respect to the Project, all prior understanding and agreements are merged herein and this Agreement may only be modified by an instrument in writing executed with the same formalities as this instrument.
19. Successors and Assigns. Client and E/A each binds himself and his partners, successors, executors, administrators and assigns to the other party to this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither Client nor E/A shall assign, sublet or transfer its interest in this Agreement without the written consent of the other; however, E/A may employ others to assist him in carrying out its duties under this Agreement. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than Client and E/A.
20. Non-Appropriation/Non-Receipt. Nothing herein shall be construed as obligating the Town to expend, or as involving the Town in any contract or other obligation for the future payment of money in excess of appropriations authorized by law and administratively allocated for this work. Nor shall anything herein be construed as obligating the Town to expend, or as involving the Town in any contract or other obligation for the future payment of money if the Town does not have sufficient revenues for this expenditure.
21. Business License. The E/A shall provide the Town with a copy of its Town of Payson business license. If the E/A is exempt from the Town's business licensing requirements, it shall still provide the Town with the items required under Section 110.03(C)-(D) of the Town Code.
22. Scrutinized Business Operations. Pursuant to A.R.S. §35-391.06, the Parties hereby warrant and represent that they do not have, nor any of their subcontractors have, and during the term of the Contract will not have a scrutinized business operation in either Sudan or Iran.
23. Authorized Presence Requirements/Government Procurement (A.R.S. §41-4401).
 - 23.1 Consultant and any Sub-consultant employed by Consultant warrants their compliance with all Federal immigration laws and regulations that relate to their employees and Arizona Revised Statutes Section 23-214(A).
 - 23.2 A breach of the warranty under Section 23.1 above shall be deemed a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract.
 - 23.3 The Town retains the legal right to inspect the papers of the Consultant or Sub-consultant who works on this Contract to ensure that the Consultant or Sub-consultant is complying with Section 23.1.

24. Dispute Resolution. This Agreement shall be governed and construed in accordance with the internal laws of the State of Arizona. In particular, this Agreement is subject to the provisions of A.R.S. § 38-511, the terms of which are incorporated herein, and which provides for cancellation of contracts by the municipality for certain conflicts of interest. With the written consent of both Parties, any dispute, controversy, claim, or cause of action arising out of or related to this Agreement may, but in no event need, be settled by submission to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, et seq. Judgment upon any award rendered by the arbitrator(s), if filed in Arizona Superior Court, shall be filed in the Superior Court of Gila County, Arizona; or any such dispute, controversy, claim, or cause of action may be litigated in the Superior Court of Gila County, Arizona. The venue for any such dispute shall be Gila County, Arizona, and both Parties consent in advance to such venue and jurisdiction and waive any right to object that Gila County is an inconvenient or improper forum based upon lack of venue. Neither Party shall be entitled to recover from the other party any of its attorneys' fees, costs, or expert witness fees incurred in any such dispute, controversy, claim, or cause of action, but each party shall bear its own attorneys' fees without contribution from the other party, whether the same is resolved through arbitration, litigation in a court, or otherwise.

WITNESS WHEREOF, E/A and Client have executed this Agreement on the day and year first above written.

Town of Payson
303 N. Beeline Highway
Payson, AZ 85541
Telephone: (928) 474-5242
FAX: (928) 474-7052

By: _____
Mayor

Attest: _____
Town Clerk

Tetra Tech, Inc.
431 S. Beeline Highway
Payson, AZ 85541
Telephone: 928-474-5242
FAX: 928-474-4867

By: _____

Title: _____

APPROVAL AS TO FORM

The Town of Payson Legal Department has reviewed this contract and approved it as to form. When reviewing this contract for form, the Legal Department considers whether the following situations have been addressed:

- I. Identification of parties;
- II. Offer and acceptance;
- III. Existence of contract consideration (we do not review to determine if consideration is adequate);
- IV. That certain provisions specifically required by statute are included (i.e., provisions concerning non-availability of funds and conflict of interest, A.R.S. § 38-511).

We have not reviewed the contract for other issues. Therefore, approval as to form should not be considered as approval of the appropriateness of the terms or conditions of the contract or the underlying transaction. In addition, approval as to the form should not be considered approval of the underlying policy considerations addressed by the contract.

Dated this _____ day of _____, 2012.

By _____
Timothy Wright, Town Attorney



SCOPE OF SERVICES

C.C. CRAGIN TREATED WATER LINES LINES "B", "D", and "E" CONSTRUCTION SERVICES

Task 1 – Construction Management Services

Tetra Tech Inc. will provide construction management services for C.C. Cragin Treated Water Lines "B", "D", and "E" with the following project objective:

Coordinate for and confirm to the Town of Payson that construction performed by the Contractor conforms to the approved Construction Drawings and Specifications.

To achieve the above objective, Tetra Tech Inc. will perform the following construction management services for the Town of Payson:

- Review and coordinate Contractor Shop Drawing submittals.
- Review and respond to Contractor RFI's.
- Provide daily field observation, inspection, and coordination services, including the following:
 - Inspect construction each workday for compliance with the project Contract Documents.
 - Provide written documentation of daily inspections to the Town of Payson.
 - While on-site, interpret and clarify the intent of the Construction Plans and Specifications.
 - Verify and document materials on-hand and installed by the Contractor.
 - Coordinate with the Town of Payson for Water and Street Departments for required services (Existing water line hot-taps, street pavement milling, etc.).
 - Coordinate with the Town of Payson for Purchased Material Deliveries (Pre-purchased 18-inch Ductile Iron Pipe)
 - Document construction progress for use in Contractor Payment Request verification.
- Review draft payment requests submitted by the Contractor and provide recommendations to the Town of Payson.
- Review and maintain Davis-Bacon Wage documentation for the construction project.

Tetra Tech will provide the above services on a Time and Materials Basis according to the current Rate Schedule. Tetra Tech Inc. estimates the weekly effort required to provide the above services on the three construction projects operating simultaneously as follows:

Sr. Engineer II (Garrett Goldman) –	10 hours (Office and Field coordination of the project)
Project Manager II (Forrest Switzer) –	10 hours (Office coordination of Davis Bacon Wage Requirements and pay request processing)
Project Engineer I (Tanner Henry) –	25 hours (Field inspections and coordination)
Sr. Const. Project Rep. II (Gary Dashney) –	40 hours (Field inspections and coordination)
Sr. Project Administrator (Sandy Johan) –	4 hours (Office processing and coordination)

EXHIBIT 'A'
SCOPE OF SERVICES
2 of 2



TETRA TECH

The above effort equates to a projected weekly fee of \$9,942.00. Projected over a 180 calendar day construction period, the total projected fee is \$226,283.00.

Projected Weekly Time and Materials Fee \$9,942.00

Projected 180 Calendar Day Construction Period Time and Materials Fee \$226,283.00

Task 2 – Post Construction Services

Tetra Tech Inc. will prepare As-Built drawings of the project based upon survey information provided by the project surveyor. The As-Built drawings will be prepared in CAD format and provided to the Town of Payson in both hard copy and PDF format. Additionally, Tetra Tech Inc. will prepare, submit, and process the completed project through ADEQ for an approval of construction.

Time & Materials Fee \$16,660.00

EXHIBIT 'B'
HOURLY RATE SCHEDULE



Schedule of Hourly Rates

for CC Cragain Treated Water Line Project

Unit / Region: IMR AZ - Standard Rates

Rates Effective Starting: January 2, 2012

Personnel	Billing Rate
Engineering	
Engineering Intern	\$60.00
CAD Technician 1	\$70.00
CAD Technician 2	\$75.00
CAD Technician 3	\$95.00
Sr CAD Designer 2	\$130.00
Engineer 1	\$85.00
Engineer 2	\$97.50
Engineer 3	\$120.00
Project Engineer 1	\$136.00
Project Engineer 2	\$150.00
Project Manager 1	\$155.00
Project Manager 2	\$175.00
Sr Engineer 2	\$230.00
Survey	
Surveyor (RLS)	\$150.00
Survey Crew Chief	\$115.00
1-Person Survey Crew	\$115.00
2-Person Survey Crew	\$160.00
3-Person Survey Crew	\$188.00
Field Services	
Construction Project Rep 1	\$70.00
Sr Construction Project Rep 1	\$50.00
Project Support Services	
Project Assistant 1	\$55.00
Sr Project Administrator	\$110.00
Reimbursables	
Mileage Any direct cost, such as reproduction, special photography, postage, delivery services, overnight mail, out-of-area telephone calls, printing, and any services performed by subcontractor(s) will be billed at cost plus 10% for handling. <i>*or current GSA mileage rate in effect, if changed during effective period of this Schedule.</i>	0.65/Mile*