



# COUNCIL DECISION REQUEST

SUBJECT: C. C. Cragin Treated Water Line 'A'

MEETING DATE: 11-20-14

SUBMITTED BY: LaRon Garrett, Asst. Town Mgr 

SUBMITTAL TO AGENDA  
APPROVED BY TOWN MANAGER

AMOUNT BUDGETED: \$12,100,000

EXPENDITURE REQUIRED: \$38,425.00

  
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EXHIBITS (If Applicable, To Be Attached): Proposed Contract

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### POSSIBLE MOTION

I move to award the engineering contract for updating the design, providing the bid documents and bidding services of C. C. Cragin Treated Water Line 'A' to Tetra Tech, Inc. for a fee of \$38,425.00 and authorize the Town Manager to sign all necessary contract documents substantially in the form attached.

### SUMMARY OF THE BASIS FOR POSSIBLE MOTION:

The Town is moving forward with the C. C. Cragin Water Line project. This project includes installing new treated water lines within the Town to distribute the water. Some of the in-town lines were constructed in 2013 and 2014. This construction segment, known as Line 'A', includes the new 18" diameter water line along Beeline Highway between Zurich Drive and Tyler Parkway. The line also connects into some of the lines that were constructed previously.

This contract is to update the Line 'A' design to incorporate data from the previously installed lines at the connection points, coordinate with ADOT for issues along the highway, preparation of the bid documents and coordinate the bidding process.

### PROS:

This will allow us to continue with the C. C. Cragin water line installation.

### CONS:

None

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### FUNDING:

Acct: 661-5-5451-20-8600	Budget: \$12,100,000	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:
Acct:	Budget:	Available:	Expense:	Remaining:

FM: \_\_\_\_\_ Date: \_\_\_\_\_

NOV 20 2014 *IL\**

**C. C. CRAGIN LINE 'A' FINAL DESIGN AND BIDDING  
CONTRACT BETWEEN  
TETRA TECH, INC.  
AND THE TOWN OF PAYSON**

1. **Parties.** The parties to this Contract are Tetra Tech, Inc., a Delaware Corporation authorized to do business within the State of Arizona ("Consultant"), and the Town of Payson, an Arizona municipal corporation, (Town) (collectively, the "Parties"). The Town and the Consultant agree as follows:
  
2. **Scope of Services**
  - 2.1 See attached Exhibit 'A' – Scope of Services
  
  - 2.2 Extra Services. Consultant shall provide extra services, not specifically called for in the Scope of Services, upon request or authorization of the Town 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 Consultant in the Special Provisions, if any, is complete and sufficient to accomplish the purposes of this Contract.
  
  - 2.4 Changes. If the Town has requested modifications or changes in the extent of the Project, the time of performance of the services of Consultant and the compensation shall be adjusted appropriately and shall be incorporated in written amendments to this Contract. Consultant shall perform no modification, changes or additional work, except as and until authorized in writing by the Town to do so.
  
  - 2.3 Supplementary Conditions. Supplementary Conditions, if any, are set forth in Attachment "B."
  
3. **Effective Date and Term.**
  - 3.1 This Contract shall be effect on the date of the last signature of the Parties and shall terminate on completion of the project.
  
  - 3.2 The project shall be completed on or before April 1, 2015.
  
  - 3.3 Delays Beyond the Control of the Consultant. Events beyond the control of the Consultant may occur which may delay the performance of the Scope of Services. In the event of such delay, the Consultant shall notify the Town in writing of the delay and Town shall extend the time of performance appropriately.
  
4. **Professional Fees and Payment.**
  - 4.1 Fees. Town shall pay Consultant, for the services set forth in Section 2 above,

Scope of Services, on an hourly basis with a not to exceed maximum of Thirty Eight Thousand, Four Hundred Twenty Five dollars and No/100 (\$38,725.00).

- 4.2 Payment. Consultant will submit to the Town monthly invoices based on a percentage of work completed along with all reimbursable expenses incurred. The Town will pay the invoice within thirty (30) days of receipt. If the Town fails to pay any invoice within thirty (30) days after receipt, the amount due shall include a charge at the rate of 1.50% per month. In addition, Consultant may suspend services until it has been paid in full all amounts due it for services and expenses. Consultant 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 Contract.
- 4.3 Reimbursables. Unless otherwise stated in the Scope of Services, charges for out-of-pocket expenses not directly furnished by Consultant will be paid by Town at a rate of 1.10 times the cost of such expense, up to a maximum of Five Hundred Dollars. Costs of printing, binding, copying and deliveries of documents, inspection reports, field notes and record drawings are not reimbursable.
5. **Insurance.** Consultant shall provide and maintain the minimum insurance coverage as follows:
  - 5.1 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).
  - 5.2 Comprehensive General Liability insurance with a minimum combined single limit of TWO MILLION DOLLARS (\$2,000,000) 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.
  - 5.3 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 Consultant's vehicles whether owned, hired, or non-owned, assigned to be used in the performance of the services.
  - 5.4 Professional Liability insurance with a minimum limit of ONE MILLION DOLLARS (\$1,000,000.00) per claim.
  - 5.5 The policies required by Sections 5.2, 5.3, and 5.4 shall be endorsed to include Town, its officers 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 or employees shall be excess and not contributory insurance.

- 5.6 Consultant and its insurers providing the required coverages shall waive all rights of subrogation against Town and its officers, employees, and agents.
- 5.7 Prior to commencing Services, Consultant shall furnish Town with Certificates of Insurance 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 alteration shall be sent directly to Town's representative as identified in Paragraph 15.2.
- 5.8 Town reserves the right to request and receive certified copies of any or all of the above insurance policies and/or endorsements.

**6. Indemnity.**

- 6.1 Consultant shall indemnify, hold harmless and defend the Town of Payson and its agents and employees from all suits and actions, including reasonable attorneys' fees and all costs of litigation and judgment of every name and description against the Town as a result of loss, damage, or injury to person or property by reason of any action or omission by Consultant, its agents, or employees on account of loss of or damage to any property and for injuries to or death of any person by reason of or arising out of any act or omission by Consultant, its employees and agents, or arising out of any defects in the methods, equipment or tools used, or in the manner of carrying on the Services itself, or arising out of workmen's compensation claims, unemployment compensation claims, or unemployment disability compensation claims of employees of Consultant or out of claims under similar such laws.
  - 6.2 Consultant shall further indemnify, hold harmless, and defend the Town and all of its employees and agents from any and all suits and actions, including costs of investigation and apprehension of persons involved, attorney's fees and/or litigation expenses, which may be brought or made against or incurred by Town arising out of any dishonest act on the part of Consultant, its employees, agents, representatives, or subcontractors.
7. **Modification.** This Contract may only be amended or modified by a written instrument executed by the Town and the Consultant.
  8. **Termination.** This Contract may be terminated by either Party upon thirty (30) days prior written notice. Upon termination, (a) the Town shall pay Consultant all monies owed under this Contract for all work performed up to the effective date of termination; and (b) all work performed by Consultant 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 Town.

9. **Taxes.** Consultant shall have exclusive liability for and shall pay all taxes and fees imposed in connection with any part of the Services. Consultant shall hold the Town harmless for these taxes and fees.
10. **Laws and Regulations.** Consultant and its employees shall comply with all applicable laws, ordinances, statutes, rules and regulations, of the United States, State of Arizona, and local governments, including but not limited to those relating to wages, hours, discrimination, and safety (including OSHA).
11. **Dispute Resolution.**
  - 11.1 This Contract shall be governed and construed in accordance with the laws of the State of Arizona.
  - 11.2 With the written consent of the Parties, any dispute, controversy, claim, or cause of action arising out of or related to this Contract may 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.
  - 11.3 The venue for any such dispute shall be Gila County, Arizona. 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.
  - 11.4 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. Each party shall bear its own attorneys' fees without contribution from the other party.
12. **Cancellation (A.R.S. §38-511).** This Contract is subject to the provisions of A.R.S. § 38-511 which provides for cancellation of contracts by the municipality for certain conflicts of interest.
13. **Town Business License.** The Consultant shall obtain a Town business license. If the Consultant 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.
14. **Authorized Presence Requirements/Government Procurement (A.R.S. §41-4401).**
  - 14.1 Consultant and any Subconsultant 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).
  - 14.2 A breach of the warranty under Section 14.1 above shall be deemed a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract.

14.3 The Town retains the legal right to inspect the papers of the Consultant or Subconsultant who works on this Contract to ensure that the Consultant or Subconsultant is complying with Section 14.1.

15. **Other Provisions.**

15.1 **Assignment.** Consultant shall not assign or subcontract the Contract or any part without the written consent of Town. The Town may withhold its consent for any or no reason. Any attempted assignment or subcontracting in violation of this Paragraph shall render this Contract void and of no effect.

15.2 **Notices.** All notices, filings, consents, approvals, and other communications under this Contract shall be made, delivered, or served, to:

Town:  
Town of Payson  
303 North Beeline Highway  
Payson, Arizona 85541  
Attention: Town Manager

Consultant:  
Tetra Tech, Inc.  
405 W. Main Street, Ste. B  
Payson, Arizona 85541  
Attention: Forrest Switzer

or to such other addresses as either Party may from time to time designate in writing and deliver in a like manner. Communication delivered by certified mail shall be deemed delivered forty-eight (48) hours following deposit in the U.S. mail, postage prepaid. Notices delivered personally shall be deemed delivered upon delivery.

15.3 **No Partnership.** Consultant is an independent contractor. This Contract shall not create any employment relationship, partnership, joint venture, or other arrangement between the Parties.

15.4 **No Third Party Beneficiaries.** No term or provision of this Contract is intended to be for the benefit of any person or entity not a party, and no other person or entity shall have any right or cause of action hereunder.

15.5 **Counterparts.** This Contract may be executed in counterparts.

15.6 **No Waiver.** No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the Town of a breach of any of the covenants of this Contract shall be construed as a waiver of any proceeding or succeeding breach of the same or any other covenant or condition of this Contract.

15.7 **Non-Appropriation/Non-Receipt.** The Town shall not have any liability for any future payments of money or expenditures, except for those amounts appropriated, authorized, and administratively allocated for this work. The Town shall not have any liability for payments for which it does not have sufficient revenues for such payments.

- 15.8 **Construction of Contract.** This Contract shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of or against the party drafting this Contract. The parties acknowledge that each has had the opportunity to seek legal counsel in the entry of this Contract.
- 15.9 **Further Documentation.** Each Party agrees in good faith to execute such further documents as may be necessary to carry out the intent of this Contract.
- 15.10 **Time of Essence.** Time is of the essence in this Contract.
- 15.11 **Time Periods.** Except as expressly provided for herein, the time for performance of any obligation or taking any action under this Contract shall be deemed to expire at 5:00 p.m. (Payson time) on the last day of the applicable time period provided. If the time for the performance of any obligation expires on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.
- 15.12 **Severability.** If any portion of this Contract is found to be invalid, such finding will not affect the validity of the remainder of this Contract.
- 15.13 **Authority.** The Parties represent that each is fully authorized to execute this Contract by the individual(s) executing below.
- 15.14 **Entire Contract.** This Contract contains the entire agreement between the Parties pertaining to the subject matter. All prior or contemporaneous oral or written agreements concerning the subject matter of this Contract shall have no effect.
- 15.15 **Publicity.** No information relative to the Project shall be released by the Consultant for publication, advertising, or any other purpose without the prior written consent of the Town.
- 15.16 **Ownership and Re-Use of Documents.** All documents prepared during the Scope of Services are the property of the Town, shall be provided to the Town upon request during the Contract, and without request at the conclusion of the Contract. Town will not reuse the documents for any other project without Consultant's written authorization. Pursuant to Arizona's Public Records Act, all documents may be subject to public disclosure.
- 15.17 **Scrutinized Business Operations.** Pursuant to A.R.S. §§35-391.06 and 35-393.06 the Parties hereby represent that they do not have, nor any of their subcontractors have, and during the term of this Contract will not have a scrutinized business operation in either Sudan or Iran.

WHEREFORE, the parties have caused this Contract to be executed by their duly authorized representatives.

**Tetra Tech, Inc.**

a Delaware Corporation authorized to do business within the State of Arizona

By \_\_\_\_\_  
its \_\_\_\_\_

\_\_\_\_\_  
Dated

**TOWN OF PAYSON,**  
an Arizona municipal corporation

By \_\_\_\_\_  
its Town Manager

\_\_\_\_\_  
Dated

ATTEST:

\_\_\_\_\_  
Silvia Smith, Town Clerk

APPROVAL AS TO FORM

By \_\_\_\_\_  
Timothy M. Wright, Town Attorney

\_\_\_\_\_  
Dated



EXHIBIT "A"
SCOPE OF SERVICES

C.C. CRAGIN WATER LINES
TREATED WATER LINE "A" AND
CONNECTION PORTIONS OF LINES "B", "D", AND "G"
COORDINATION OF PLANS AND BIDDING SERVICES

A. PLAN SET REVISIONS AND ADDITIONS

Tetra Tech will prepare a comprehensive set of plans from the original plan set "A" adding needed connections to sets "B", "D" and "G" that were omitted in their previous construction. Tetra Tech will prepare 11" x 17" review sets for plan check by the Town and make recommended corrections. Tetra Tech will prepare a suggested bid calendar and coordinate bid activity with the Town of Payson. Tetra Tech will assist the Town of Payson with coordination and changes as needed with any easements and legal descriptions as requested by the Town. Tetra Tech will coordinate any boundary or "blue stake" field survey as a reimbursable cost and provide drafting of survey as an extra service at the then current rate schedule.

Forrest Switzer 28.0 hrs. @ \$183.00 = \$5,124.00
David Lower 48.0 hrs. @ \$120.00 = \$5,760.00

Time & Materials Not-to-Exceed Fee . . . \$10,884.00

Budget Items

Easements

Forrest Switzer 8.0 hrs. @ \$183.00 = \$1,464.00
Jake Burdick 8.0 hrs. @ \$95.00 = \$760.00

Field Survey

Surveyor \$2,000.00 = \$2,000.00
Jake Burdick 8.0 hrs. @ \$95.00 = \$750.00

Budget Time & Materials Fee . . . \$4,984.00

B. ADOT APPROVALS

Tetra Tech had previously coordinated approval of plans through Bruce Cooper. Tetra Tech will submit the revised set to Mr. Cooper with a request that the plans meet ADOT requirements so that the selected Contractor can make the submittal for his Encroachment Permit. Tetra Tech will make additions and corrections as needed.

Forrest Switzer 10.0 hrs. @ \$183.00 = \$1,830.00
David Lower 16.0 hrs. @ \$120.00 = \$1,920.00

Time & Materials Not-to-Exceed Fee . . . \$ 3,750.00



C. PREPARATION OF BID DOCUMENTS

Tetra Tech will review and edit the Line "H" specifications and special conditions and provide them in form as requested for Town of Payson review. Tetra Tech will make requested revisions, prepare a Bid Schedule and an Engineer's Estimate of Probable Costs. Tetra Tech will print 25 sets of Plans and Specifications.

Forrest Switzer	12.0 hrs. @ \$183.00 = \$2,196.00
Jake Burdick	8.0 hrs. @ \$95.00 = \$760.00
Sandy Johan	12.0 hrs. @ \$103.00 = \$1,236.00

Time & Materials Not-to-Exceed Fee ... \$ 4,192.00

D. BIDDING PROCESS

Tetra Tech will submit Bid Announcement to Sylvia Smith for advertisement in the Payson Roundup. Tetra Tech will manage submittals to Plan Rooms and issue numbered sets of Plans and Specifications (Bid Docs) to all Contractors. Tetra Tech will prepare an Agenda and run the Mandatory Pre-Bid Meeting in the Council Chamber. Tetra Tech will then issue all Addenda, answer all Bid Period Questions and run the Bid Opening in the Council Chamber. Tetra Tech will prepare a Bid Spread Sheet and distribute it to Town of Payson and others requesting copies. Tetra Tech will review bids and the lowest three Contractors for acceptable qualifications and make a recommendation for Bid Award to the Town. Tetra Tech will run a Contractor & Town interview meeting to discuss required Contractor submittals and calendar constraints. Tetra Tech will notify bidders of Contract award, return Bid Bonds, run the Pre-Construction Meeting, and will make the request to the Department of Labor of any needed Labor Classifications not included in the Wage Rate Table.

Forrest Switzer	38.0 hrs. @ \$183.00 = \$6,954.00
David Lower	8.0 hrs. @ \$120.00 = \$960.00
Construction Mgr.	34.0 hrs. @ \$85.00 = \$2,890.00
Sandy Johan	37.0 hrs. @ \$103.00 = \$3,811.00

Time & Materials Not-to-Exceed Fee ... \$14,615.00

TIME & MATERIALS NOT-TO-EXCEED FEE ... \$33,441.00

BUDGET TIME & MATERIALS FEE ... \$ 4,984.00

TOTAL FEE ..... \$38,425.00

Note: Budget T&M items are as requested or as approved by Town of Payson

\*Construction Manager Rate not yet negotiated



**EXCLUSIONS:**

- Agency Fees to be paid by Town of Payson.
- Addenda and other delivery fees to be billed as reimbursable.
- Easement negotiations will be responsibility of Town of Payson.
- Title Company fees if required to be billed as reimbursables.