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CONTRACT

THIS CONTRACT is entered into as of June 15, 2020 between **Contract Wastewater Operations, LLC, 2199 Liough Drive, Clarkdale, AZ 86324 ("CONTRACTOR")** and the **Town of Jerome, Arizona, P.O. Box 335, Jerome, AZ 86331 ("TOWN")**,

WITNESSETH

Whereas, TOWN requires the services of a contractor qualified and duly licensed in the Town of Jerome and the State of Arizona and qualified to provide wastewater treatment system and water system consulting, operation and maintenance; and

Whereas, CONTRACTOR is qualified and willing to provide such services; and

Whereas, CONTRACTOR submitted a proposal/bid to the Town dated May 18, 2020 and the Town has determined that entering into this Contract with the Contractor is advantageous to the Town.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter provided, it is agreed between the Town and the Contractor as follows:

1. EFFECTIVE DATE; TERM; RENEWAL.

- a. This Contract shall commence upon its execution by both parties and shall terminate on December 31, 2021, unless sooner terminated or further extended pursuant to the provisions of this Contract.
- b. Any modification or extension to this Contract shall be by formal written amendment executed by the parties hereto.

2. SCOPE OF WORK.

- a. The work to be performed under this Contract is that work which is set forth on Contractor's proposal dated May 18, 2020, attached hereto and incorporated herein by this reference. This Contract is not intended to cover services rendered by Contractor for Town pursuant to any other agreement.
- b. Contractor agrees to maintain books, records, reports, research notes, charts, graphs, comments, computations, analyses, recordings, photographs, computer programs and documentation thereof, and other graphic or written data generated in connection with the work performed. All said information and documentation shall become the property of Town, and upon expiration or termination of this Contract for any reason whatsoever, shall be promptly delivered to Town.
- c. Contractor warrants that it has all personnel and professional capacity required in performing the services pursuant to this Contract.

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3. PAYMENT.

- a. In consideration of the services specified in this Contract, the Town agrees to pay the Contractor as set forth on Contractor's proposal dated May 18, 2020 attached hereto and incorporated herein by this reference.

4. STATUS OF CONTRACTOR.

- a. The status of the Contractor shall be that of an independent contractor and Contractor shall not be considered an employee of the Town of Jerome and shall not be entitled to receive any of the fringe benefits associated with regular employment. Contractor will be responsible for payment of all federal, state and local taxes associated with the compensation received by Contractor from Town.
- b. Town will not provide any insurance coverage to Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes or social security payments shall not be withheld from a Town payment issued hereunder, and that Contractor should make arrangements to directly pay such expenses, if any.

5. SUBCONTRACTORS. Contractor will be fully responsible for all acts and omissions of its subcontractor(s) and of persons directly or indirectly employed by subcontractors, and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract shall create any obligation on the part of Town to pay or see to the payment of any money due any subcontractor except as may be required by law.

6. LICENSES. Contractor shall maintain in current status all federal, state, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

7. CONFLICT OF INTEREST. This Contract is subject to the provisions of A.R.S. § 38-511, which provides in pertinent part:

The state, its political subdivisions or any department of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time, while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract.

8. NON-DISCRIMINATION. Contractor will not discriminate against any Town employee, client or any other individual in any way involved with the Town, because of race, age, creed, color, religion, sex, sexual preference, gender identity, disability or national origin in the course of carrying out Contractor duties pursuant to this Contract. Contractor agrees to comply with the provisions of Arizona Executive Order 75-5, as amended by Executive Order 99-4, which is hereby incorporated into this Contract by reference, as if set forth in full.

9. **HOLD HARMLESS AND INDEMNIFICATION.** CONTRACTOR shall defend, indemnify and hold the Town harmless from and indemnify it against all liability, including reasonable attorney's fees, which may arise from and accrue directly from the performance of the work or any obligation of CONTRACTOR or failure of CONTRACTOR to perform any work or obligation provided for in this Contract.
10. **COMPREHENSIVE GENERAL LIABILITY INSURANCE.** CONTRACTOR shall secure and maintain in force throughout the duration of the Contract public liability and property damage insurance, with carriers acceptable to the TOWN, with a minimum coverage of one hundred thousand dollars (\$100,000) for property damage, five hundred thousand dollars (\$500,000) public liability for each person, and one million dollars (\$1,000,000) public liability for each occurrence. The TOWN shall be named as an additional insured and the insurance policy shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to the local government. Copies of said insurance policies shall be deposited with the Town Manager's office within 30 days of execution of this Contract. Contractor shall cause each insurer providing insurance hereunder to waive all rights of subrogation against the TOWN, its officials, employees and volunteers for losses arising from work performed by CONTRACTOR for the TOWN.
11. **SUBCONTRACTORS.** It shall be the responsibility of CONTRACTOR to insure that all subcontractors comply with the same insurance requirements that the prime contractor is required to meet.
12. **COMPLIANCE WITH FEDERAL AND STATE LAWS.** The Contractor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989.
13. **IMMIGRATION COMPLIANCE WARRANTY.** As required by A.R.S. § 41-4401, CONTRACTOR hereby warrants its and each of its subcontractors' compliance and contractual obligations with all federal immigration laws and regulations that relate to its and subcontractors' employees and A.R.S. § 23-214(A). CONTRACTOR further warrants that, after hiring an employee, CONTRACTOR verifies the employment eligibility of the employee through the E-Verify program. If CONTRACTOR uses any subcontractors in performance of the Work, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. CONTRACTOR shall not be deemed in material breach of this Contract if the CONTRACTOR and/or subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the E-Verify requirements contained in A.R.S. § 23-214(A). Town retains the legal right to random inspections of the papers of any CONTRACTOR or subcontractor employee who works on the Contract to ensure that the CONTRACTOR or subcontractor is complying with the warranty. If state law is amended, the parties may modify this paragraph consistent with state law. The provisions of this Section 13 must be included in any contract the Contractor enters into with any and all its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include, but not exhaustively, construction or maintenance of any structure, building or transportation facility or improvement to real property, transportation of persons, wasted, supplies or equipment, maintenance or cleaning of any system, personal or real property, equipment or machinery.

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14. **SEVERABILITY.** Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.

15. **APPLICABLE LAW.** This Contract shall be governed by the law of the State of Arizona, and suits pertaining to this Contract shall be brought only in Yavapai County, State of Arizona. The parties agree to service and jurisdiction in Yavapai County.

16. **ENTIRE AGREEMENT.** This document constitutes the entire Contract between the parties and shall not be modified, amended, altered or changed except through a written amendment signed by the parties.

Each Party agrees to bear their own attorney fees and court costs arising out of any dispute or breach regarding this Contract.

Signed this 15th day of June, 20 20.

CONTRACT WASTEWATER OPERATIONS, LLC

By *Shay L. Mendenhall*

Title Officer

TOWN OF JEROME

By *Candace B. Saenger*

Title Town Manager/Clerk

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Town of Jerome

Proposal for
Wastewater Treatment System &
Water System
Consulting, Operation and Maintenance

May 18, 2020

Prepared by:

Contract Wastewater Operations, LLC
2199 Liough Dr.
Clarkdale, Arizona 86324
Tel: (928) 301-1076

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This proposal is for the **Consulting/Operation and Maintenance** of the Town of Jerome (Town) Wastewater Treatment System & Water System. It is Contract Wastewater Operations' proposal that our company assists the Town to maintain compliance with all Federal, State, County and local requirements by providing services setting up, implementing, managing and coordinating all wastewater treatment plant operations and reporting as well as managing all water system compliance monitoring and assisting with water system source (springs) management.

Responsibilities of Contract Wastewater Operations (CWO):

- Provide routine inspection, preventive maintenance and maintenance on the Town's wastewater treatment system equipment and processes as per the May 2002 Operations and Maintenance Manual to ensure proper operation with some noted exclusions listed as "Responsibilities of the Town of Jerome" below.
- Take wastewater samples at the Town's wastewater treatment plant during various stages of treatment to determine process effectiveness. Make process control changes to manipulate the biological activity to achieve the best possible treatment.
- Read gauges and meters and maintain logs according to schedule developed using the O&M Manual and permit requirements.
- Perform required compliance sampling, arrange for transportation of those samples to a certified laboratory, and submit the required reports to ADEQ for the Town's wastewater treatment facility as well as the Town's water system.
- 24-Hour, 365 days per year emergency on-call assistance via cell phone service with a 2-hour maximum response time.
- All other duties normally associated with the operation and maintenance of a trickling filter/wetlands wastewater treatment system.

Spring Services:

- CWO will assist in the management of the Town's drinking water source (springs).
- CWO personnel will provide service/inspections to the 8 springs along Allen Springs Rd. And the 5 springs in the Walnut area on a monthly basis.
- Records of observations and routes into each spring will be maintained. Collection boxes will be cleared of debris routinely. Spring screens will be changed/cleared regularly.
- Flows will be logged where possible and abnormalities noted. Valves along Allen Springs Rd. will be exercised regularly. Photos and notes will document work performed.

- CWO will maintain business automobile liability insurance for our employees with a minimum single limit of \$1,000,000. This will include bodily injury and property damage with respect to any vehicles used by CWO in the performance of their work.
- CWO will maintain Commercial general liability insurance with a minimum single limit of \$1,000,000. This will include bodily injury and property damage liability, contractual liability, products and completed operations coverage.
- CWO will maintain compliance with all applicable Worker's Compensation and Employer's Liability Acts in the State of Arizona.

Responsibilities of Town of Jerome (Town):

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- To provide all materials necessary to properly operate and maintain water system and wastewater treatment facilities in accordance with the May 2002 Operations and Maintenance Manual.
- To provide for all costs of required sample analysis fees incurred from a state licensed laboratory.
- To provide all materials necessary to properly operate and maintain wastewater treatment facility and water system in accordance with all federal, state, county and local laws.
- Maintain all components of wastewater collection system and water distribution system.
- Maintain berms, drainage ditches, open areas and roadway for the wastewater treatment plant in good repair as per page 9 of the O&M manual.
- Remove and dispose of sludge accumulations as needed in the reed beds as per page 6 of the O&M.

Purchasing:

- All purchases made on behalf of the Town by CWO shall be billed to the Town at actual cost. All expenditures outside of approved budgets will be submitted to the Town for prior approval.
- Whenever possible, the Town will be billed directly by material/service providers.

Monthly Contract Price: \$ 4100.00 per month

Term:


The term of this agreement will be for the period of June 1, 2020 to December 31, 2021, with the intent to extend/renege if agreed upon by both parties at the end of the term.

Services provided during emergency situations (spring turn-outs / repairs etc.) will be billed at \$65.00 per hour. All other services requested by the Town outside of this formal agreement will be billed at \$65.00 per hour.

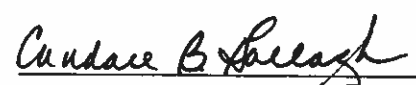
The compensation for services outlined in this formal agreement shall be billed to the Town monthly with submittals, beginning on the first day of every month for the prior month's services.

This agreement shall supersede all prior agreements between CWO and the Town of Jerome.

Accepted by:
Contract Wastewater Operations, LLC


Henry R. MacVittie, Officer 6/11/20 Date

Accepted by:
Town of Jerome Representative


Candace B. Ballagh 6/15/20 Date