

TOWN OF PINETOP-LAKESIDE

RESOLUTION NO. 24-1704

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, APPROVING RESOLUTION NO. 24-1704 AWARDDING A CONTRACT WITH BURNS & MCDONNELL TO CONDUCT A SOLID WASTE FEASIBILITY STUDY AND APPROVING THE COOPERATIVE PURCHASE CONTRACT AGREEMENT BETWEEN THE TOWN OF PINETOP-LAKESIDE AND BURNS AND MCDONNELL, INC. BY UTILIZING THE CITY OF SCOTTSDALE'S SOLID WASTE RATE STUDY SOLICITATION; AND AUTHORIZE THE TOWN MANAGER TO EXECUTE ANY AND ALL DOCUMENTS IN CONNECTION WITH THE CONTRACTS.

WHEREAS, the Town of Pinetop-Lakeside (Town) Town Council requested a Solid Waste Feasibility Study; and

WHEREAS, the Town of Pinetop-Lakeside Public Works Director presented to the Town Council a Solid Waste Feasibility Study Proposal and Contract (Exhibit A) with Burns & McDonnell; and

WHEREAS, Town staff has reviewed the Proposal and Contract submitted and deems it prudent and cost-effective utilizing the City of Scottsdale's Solid Waste Rate Study Solicitation; and enter into Contract with Burns & McDonnell (Exhibit B); and

WHEREAS, Section 4.20 of the City of Scottsdale's Solid Waste Rate Study Solicitation includes the "CO-OP Use of Contract" language, Town staff has deems is necessary for approval of a Cooperative Purchase Contract Agreement between the Town of Pinetop-Lakeside and Burns and McDonnell, Inc. (Exhibit C).

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona, as follows:

1. Accepting and awarding a Contract with Burns & McDonnell to conduct a Solid Waste Feasibility Study; and
2. Utilizing the City of Scottsdale's Solid Waste Rate Study Solicitation.
3. Authorizing the Town Manager to execute any and all documents necessary in connection with this Contract.

PASSED AND ADOPTED by a majority vote of the Mayor and Town Council of the Town of Pinetop-Lakeside in an open meeting on this 21st day of March 2024.

TOWN OF PINETOP-LAKESIDE



Stephanie Irwin
Stephanie Irwin
Mayor



ATTEST:

Kristi Salskov
Kristi Salskov, CMC
Town Clerk

APPROVED AS TO FORM:

William Sims
William J. Sims, III
Town Attorney

EXHIBIT A

Solid Waste Feasibility Study Proposal and Contract

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

UNDERSTANDING OF THE SCOPE OF WORK

The Town of Pinetop-Lakeside is seeking to retain Burns & McDonnell to complete an operational and financial feasibility study for the provision of residential solid waste services. We understand that the Town presently operates a collection center and residents may individually contract for residential solid waste services and is interested in evaluating the feasibility of (1) continuing the current system; (2) having the Town provide these services directly; or (3) having the Town contract for these services on behalf of its residents.

SCOPE OF SERVICES

Phase 1: Project Initiation & Management

TASK 1A: INITIAL DATA REQUEST & REVIEW

Following receipt of the Notice to Proceed, Burns & McDonnell will provide the Town with a detailed preliminary data request that will encompass data needs for completing the study. The data request will itemize our needs for understanding the operational, contractual and financial considerations that must be addressed. This task also includes organization and preliminary analysis of all data received. We recognize that the Town may not have all information requested readily available or may track information differently than requested. We will work with the appointed Project Manager to arrive at reasonable substitutes for the key data, if needed.

TASK 1B: ESTABLISH A PROJECT TASK FORCE

To get the best information possible and increase buy-in for the outcomes of this project, we recommend that the Town establish a Project Task Force (PTF) to participate throughout the process. The PTF would ideally include 3 – 5 key representatives from diverse roles and levels of responsibility within the Town, including senior management. Based on experience applying this approach with other local governments, it is our general recommendation that participants include:

- ▶ Director of Public Works
- ▶ Collection Center Supervisor
- ▶ Town Manager (or designee)
- ▶ Finance Director (or designee)
- ▶ 1 – 2 additional key staff

The PTF will participate in the kick-off meeting, help facilitate data collection, provide feedback on preliminary findings and provide support to our Project Team throughout the project. By involving a variety of individuals with a wide range of skills and responsibilities, a complete picture of the solid waste and recycling system can be developed quicker. The diverse experience and concerns of the participants will help identify problem areas and contribute meaningful input to the solutions. Full participation from the PTF members should also be expected to increase buy-in and would speed implementation of the project findings.

TASK 1C: KICK-OFF MEETING & PROJECT MANAGEMENT

Prior to commencing the study, members of the Project Team will conduct a virtual kick-off call and then an on-site kick-off meeting with key Town staff. The purpose of the initial conference call is to plan for the kick-off meeting. At this kick-off meeting, we will discuss the project work plan, key issues to be addressed, key findings from previous engagements and confirm the timing associated with the various project tasks.

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

(continued)

We will discuss our initial data request (as previously described) that we provided to the Town staff 7 to 14 days prior to the kick-off meeting. Burns & McDonnell will provide the agenda and any handout materials at least two days in advance.

During the meeting, we will also identify primary contacts for our Project Team and the Town and establish protocol for the exchange of information and the resolution of issues that arise in the normal course of this engagement. To provide effective communication between Project Team members and the Town throughout the course of this project, it is proposed that Burns & McDonnell will:

- ▶ Schedule and participate in periodic conference calls as needed to discuss project matters
- ▶ Be available for other communication(s) as needed

Establish Criteria to Evaluate the Outcome of the Analysis: During the meeting, we will facilitate a discussion focused on assisting the PTF establish a set of criteria that would be applied during Task 4B when we collaborate with the PTF to develop recommendations on the preferred strategy. Subject to review and discussion with the PTF, the potential criteria may include but not be limited to the following:

- ▶ Cost per household
- ▶ Increase collection efficiencies
- ▶ Customer satisfaction
- ▶ Projected increase in diversion
- ▶ Rate stability
- ▶ Administrative burden
- ▶ Flexibility to address growth in Town, including facilities and maintenance capabilities

By understanding this criteria at the start of the project, we can tailor our analysis to address these issues during the course of the engagement. During the meeting, we will also seek input from the PTF regarding the prioritization of the criteria (understanding that the priorities could be updated later in the project).

PHASE 1 DELIVERABLES

- ▶ Preliminary data request
- ▶ Electronic copies of the kick-off meeting agenda, handouts and follow-up summary
- ▶ Participation of Burns & McDonnell Project Manager and key staff in virtual and on-site kick-off meeting



The kick-off meeting will provide a forum for establishing clear communication for the project.

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

(continued)

Phase 2: Review of Current System and Potential Contracted Services

TASK 2A: REVIEW CURRENT COLLECTION CENTER AND PRIVATE COLLECTION SERVICES

We need to gain an understanding of the Town's collection center operations and costs, as well as private contractor's solid waste operations to assist in completing the operational and financial feasibility, as described in Phase 3. For this task, Burns & McDonnell will conduct facility and field observations and analyze the information collected, from Phase 1, to evaluate the costs and service levels provided by the Town's collection center. The evaluation of the collection center will include:

- ▶ Financial analysis: Total annual costs, cost per visit and estimated annual cost per household
- ▶ Types and quantities of materials collected
- ▶ Staffing levels
- ▶ Hours of operation
- ▶ Disposal and recycling processing facilities and costs

We will also request information to determine the cost for residents to contract directly for collection services with up to three private haulers. We would also plan to meet with representatives from up to three private haulers to understand whether there are factors that would affect their pricing levels should the Town decide to contract out for services.

TASK 2B: EVALUATE POTENTIAL COSTS OF CONTRACTED SERVICES

Burns & McDonnell will compare the costs of the current open system to the costs that other communities have historically paid to private contractors for similar services. We will use our experience managing collection procurement processes for public sector clients, including data from cities and towns in Arizona. As part of this task, Burns & McDonnell will also contact three private haulers and facility operators (same interviews as described in Task 2A) that work in the region or state to gauge their interest in providing collection services for the Town should Pinetop-Lakeside decide to procure a private contractor for collection services. We will also ask these companies about their potential interest to provide solid waste services should the Town decide to provide collection services (to assist with analysis in Phase 3), as well as cart maintenance. Based on this collective research, we will provide the Town with an understanding of how costs for collection services may change with a Town contract.

PHASE 2 DELIVERABLES

- ▶ PowerPoint slides summarizing the current operations and contracted service options

Phase 3: Operational and Financial Feasibility for Town Provided Collection Services

For Phase 3 Burns & McDonnell will evaluate the operational and financial requirements for the Town to directly provide cart-based solid waste collection services (the analysis will exclude the following collection services: recycling collection and processing, bulky collection and disposal and green waste collection and processing).

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

(continued)

TASK 3A: ESTIMATE OPERATIONAL REQUIREMENTS

For this task, Burns & McDonnell will evaluate the operational requirements for the Town to provide the services being evaluated.

Data Review and Analysis

Burns & McDonnell will summarize data received from the Town.

Determine Population Scenarios

Using the population projections that the Town will provide, we will develop the analysis for the cost of collection programs based on the current population, as well as on 1-2 scenarios based on projected population increases. This will assist the Town in understanding whether there could be a point in the future when it would be most beneficial to consider having the Town provide services.

Field Observations, Interviews and Focus Groups

Field observations allow us to obtain a true feel for the challenges faced, productivity levels achieved, successes and areas needing improvement. As part of this task, Burns & McDonnell will perform field observations (as an extension of the field observations discussed in Task 2A) of the various operations. We will also conduct interviews and focus group discussions with representative Town staff to better understand operational requirements. This will also include interviewing fleet maintenance staff to understand whether the Town could reasonably provide fleet and fueling services for solid waste and recycling vehicles.

Computer Modeling

Burns & McDonnell has developed several proprietary computer models to evaluate collection systems, which provide an understanding of the number of people and equipment needed to provide the various collection services. Burns & McDonnell will use our collection model to determine the number of collection routes needed for residential refuse collection services. During this analysis, we will also identify potential facility locations for refuse disposal (building from the interviews conducted during Task 2B). Burns & McDonnell's Collection System Model, which will be tailored to the specific needs of the Town, allows a collection system to be modeled based on operating and cost parameters and compared with a variety of alternative "what if" scenarios. We will develop up to three scenarios for each collection operation based on the population scenarios.

TASK 3B: ESTIMATE COSTS OF TOWN-PROVIDED SERVICES

Based on the number of routes needed, Burns & McDonnell will develop an annual revenue requirement for the Town to provide refuse collection services, as well as cart maintenance services. Costs to be included in the analysis will include but not be limited to:

- ▶ Administration and supervision
- ▶ Direct personnel salaries and benefits (includes additional staff needed to provide various solid waste and recycling services, including positions such as managers, supervisors, drivers)
- ▶ Vehicle operating, maintenance and fuel
- ▶ Vehicle capital

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

(continued)

- ▶ Facility capital (may include office space, vehicle maintenance facility, cart storage, vehicle parking)¹
- ▶ Cart replacement and repair
- ▶ Transfers to support general fund functions
- ▶ Compliance
- ▶ One-time implementation costs
- ▶ Public education
- ▶ Disposal
- ▶ Other operating and maintenance costs
- ▶ Invoicing

Burns & McDonnell will develop up to three scenarios based on varied population projections. All costs will be communicated in current dollar values to facilitate comparisons.

PHASE 3 DELIVERABLES

- ▶ Cost of service analysis for solid waste and cart maintenance services based on up to three population scenarios
- ▶ Operational and financial feasibility PowerPoint slides

Phase 4: Develop Business Strategy and Recommendations

Based on the analysis completed during the preceding tasks, we will provide the Town with an understanding whether the Town should either:

1. Continue the status quo (combination of Town operating the Collection Center and residents contracting on their own for solid waste collection)
2. Have the Town contract for residential solid waste collection services;
3. Bring all aspects of residential solid waste and recycling services in-house; or
4. Provide some combination of contracted and in-house services.

TASK 4A: DEVELOP COMPARISON OF OPTIONS

Burns & McDonnell will compare the prior analysis to provide the Town a comparison of the potential cost impact as identified in the list described above in the introduction for Phase 4. Based on this comparison, Burns & McDonnell will develop summary financial PowerPoint slides.

¹ Facility capital costs will be based on planning level estimates based on prior Town construction projects for facilities such as offices, parking lots and fleet maintenance buildings. Burns & McDonnell will provide a planning level estimate based on the prior costs that will be provided by the Town. We will estimate how many square feet would be needed and apply the costs on a square footage basis to estimate the facility costs.

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

(continued)

TASK 4B: EVALUATE OPTIONS BASED ON ESTABLISHED CRITERIA AND DEVELOP RECOMMENDATIONS

Understanding that cost will only be a part of the evaluation criteria, we will also evaluate each of the options being considered based on the criteria established by the PTF during the kick-off meeting. We will summarize each option and criteria in a matrix format to facilitate comparison between the options. Prior to providing the matrix, we will revisit with the PTF to discuss reevaluating the priority of the criteria. Based on the preferred option, we will provide key findings and recommendations regarding a path forward for the Town. The recommendations will specifically include details regarding the best use of Town resources in the future and will provide guidance regarding our recommendations on how the Town should provide services going forward. For example, this could include recommendations on the timing (based on population projections) of when the Town would be best served to establish a municipal operation. In addition, the recommendations could include the Town providing some services while contracting out for others.

PHASE 4 DELIVERABLES

- ▶ Key findings and recommendations PowerPoint slides

Phase 5: PowerPoint Report and Presentation

TASK 5A: DRAFT POWERPOINT REPORT

Upon completion of the analyses outlined above, Burns & McDonnell will develop a Draft PowerPoint Report outlining preliminary recommendations and conclusions. A PowerPoint Report will provide the Town with an overall understanding of the key issues being addressed but is not as detailed as a formal, written report. Burns & McDonnell is committed to making sure the Town thoroughly understands the recommendations in the draft presentation. Burns & McDonnell will provide the findings to the Town staff and allow these individuals sufficient time to have their concerns and/or questions addressed. Burns & McDonnell will have a conference call with Town staff to discuss the content. Burns & McDonnell requests that written comments be provided as one submittal from Town staff to encourage consensus regarding staff comments.

TASK 5B: FINAL POWERPOINT REPORT

Upon receipt of Town staff recommendations and comments, Burns & McDonnell will make appropriate changes and provide the Town with a Final PowerPoint Report. We will issue the Final PowerPoint Report within three weeks of receiving comments from the Town.

TASK 5C: PRESENT FINDINGS TO THE TOWN COUNCIL

Burns & McDonnell's Project Manager will coordinate with Town staff to develop PowerPoint slides that are consistent with the Town Management and Council's expectations for these types of presentations. Our budget assumes that we will conduct one presentation to Town staff and/or the Town Council.

PHASE 5 DELIVERABLES

- ▶ Electronic version of the Draft PowerPoint Report
- ▶ One virtual meeting to discuss the Draft PowerPoint Report
- ▶ Electronic version of the Final PowerPoint Report

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

(continued)

- ▶ Participation in Town Council meeting

SCHEDULE

We have estimated a project schedule of 4 – 6 months. We will provide the Town with a more detailed schedule prior to the kick-off meeting.

FEES

Burns & McDonnell will invoice based on a percent complete basis for each of these tasks identified in the following table. The following table includes professional fees and direct expenses, including travel.

Task	Estimated Fee
Phase 1: Project Initiation and Management	
Task 1A: Initial Data Request and Review	\$2,000
Task 1B: Establish a Project Task Force	\$0
Task 1C: Kick-off Meeting and Project Management	\$6,300
Phase 2: Review of Current System and Potential Contracted Services	
Task 2A: Review Current Collection Center and Private Collection Services	\$12,000
Task 2B: Evaluate Potential Costs of Contracted Services	\$4,900
Phase 3: Operational and Financial Feasibility for Town Provided Collection Services	
Task 3A: Estimate Operational Requirements	\$8,500
Task 3B: Estimate Costs of Town-Provided Services	\$5,800
Phase 4: Develop Business Strategy and Recommendations	
Task 4A: Develop Comparison of Options	\$7,100
Task 4B: Evaluate Options Based on Established Criteria and Develop Recommendations	\$7,100
Phase 5: PowerPoint Report and Presentation	
Task 5A: Draft PowerPoint Report	\$6,500
Task 5B: Final PowerPoint Report	\$2,900
Task 5C: Present Findings to the Town Council	\$4,000
Total	\$66,900

PROJECT ASSUMPTIONS

For this assignment, Burns & McDonnell notes that our proposal is based on the understanding that:

TOWN OF PINETOP-LAKESIDE - SOLID WASTE FEASIBILITY STUDY

(continued)

- ▶ Burns & McDonnell will exercise reasonable skill, care, and diligence in the performance of its services and will carry out its responsibilities in accordance with customarily accepted professional practices. If Burns & McDonnell fails to meet the foregoing standard, Burns & McDonnell will perform at its own cost, the professional services necessary to correct errors and omissions reported to Contractor in writing within one year from the completion of the Burns & McDonnell's services. No warranty, express or implied, is included as part of the services to be provided.
- ▶ Estimates and projections prepared by Burns & McDonnell relating to construction costs and schedules, operation and maintenance costs, inflation, equipment characteristics and performance, and operating results are based on Burns & McDonnell's experience, qualifications, and judgment as a design and consulting professional. Since Burns & McDonnell has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction contractors' procedures and methods, unavoidable delays, construction contractors' methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, Burns & McDonnell does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost estimates and projections prepared by Consultant.
- ▶ In no event will Burns & McDonnell be liable for any special, indirect, or consequential damages including, without limitation, damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of Client, and/or governmental fines or penalties. aggregate liability for all damages connected with its services for the Project not excluded by the preceding subparagraph, whether or not covered by Burns & McDonnell's insurance, will not exceed \$100,000.
- ▶ The schedule is contingent on the timing receipt of requested data and review of draft deliverables.
- ▶ The Town understands that Burns & McDonnell has an existing multi-year contract with the City of Scottsdale for solid waste consulting services. The agreement between the City of Scottsdale and Burns & McDonnell includes a cooperative purchasing provision that allows other local governments to make use of the contract. Burns & McDonnell agrees to the use of this contract for cooperative purchasing purposes.



TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

Table with 2 columns and 2 rows. Row 1: Project: Solid Waste Feasibility Study | Date of Letter, Proposal, or Agreement: February 2, 2024. Row 2: Client: Town of Pinetop-Lakeside, Arizona | Client Signature:

1. SCOPE OF SERVICES

For the above-referenced Project, Burns & McDonnell Engineering Company, Inc. (BMcD) will perform the services set forth in the above-referenced Letter, Proposal, or Agreement, in accordance with these Terms and Conditions. BMcD has relied upon the information provided by Client in the preparation of the Proposal, and shall rely on the information provided by or through Client during the execution of this Project as complete and accurate without independent verification.

2. PAYMENTS TO BMcD

A. Compensation will be as stated in the above-referenced Letter, Proposal, or Agreement. Statements will be in BMcD's standard format and are payable upon receipt. Time is of the essence in payment of statements, and timely payment is a material part of the consideration of this Agreement. A late payment charge will be added to all amounts not paid within 30 days of statement date and shall be calculated at 1.5 percent per month from statement date. Client shall reimburse any costs incurred by BMcD in collecting any delinquent amount, including reasonable attorney's fees. If a portion of BMcD's statement is disputed, Client shall pay the undisputed portion by the due date. Client shall advise BMcD in writing of the basis for any disputed portion of any statement.

B. Taxes as may be imposed on professional consulting services by state or local authorities shall be in addition to the payment stated in the above-referenced Letter, Proposal, or Agreement.

3. INSURANCE

A. During the course of performance of its services, BMcD will maintain Worker's Compensation insurance with limits as required by statute, Employer's Liability insurance with limits of \$1,000,000, Commercial General Liability with limits of \$1,000,000 per occurrence and \$2,000,000 general aggregate, and Automobile Liability insurance with combined single limit of \$1,000,000 per accident.

B. If the Project involves on-site construction, construction contractors shall be required to provide (or Client may provide) Owner's Protective Liability Insurance naming Client as a Named Insured and BMcD as an Additional Insured or to endorse Client and BMcD using ISO forms CG 20 10 0704 & CG 20 37 0704 endorsements or their equivalents as Additional Insureds on all construction contractor's liability insurance policies covering claims for personal injuries and property damage in at least the amounts required of BMcD in 3A above. Construction contractors shall be required to provide certificates evidencing such insurance to Client and BMcD. Contractor's compensation shall include the cost of such insurance including coverage for contractual and indemnification obligations herein.

C. Client and BMcD release each other and waive all rights of subrogation against each other and their officers, directors, agents, or employees for damage covered by property insurance and self-insurance during and after the completion of BMcD's services. A provision similar to this shall be incorporated into all construction contracts entered into by Client, and all construction contractors shall be required to provide additional insured coverage and waivers of subrogation in favor of Client and BMcD for damage covered by any construction contractor's policies of insurance.

4. INDEMNIFICATION

A. To the extent allowed by law, Client will require all construction contractors to indemnify, defend, and hold harmless Client and BMcD from any and all loss where loss is caused or alleged to be caused in whole or in part by the construction contractors, their employees, agents, subcontractors or suppliers.

B. If this Project involves construction and BMcD does not provide consulting services during construction including, but not limited to, on-site monitoring, site visits, site observation, shop drawing review, and/or design clarifications, Client agrees to indemnify and hold harmless BMcD from any liability arising from this Project or Agreement, except to the extent caused by BMcD's negligence.

5. PROFESSIONAL RESPONSIBILITY- LIMITATION OF REMEDIES

A. BMcD will exercise reasonable skill, care, and diligence in the performance of its services and will carry out its responsibilities in accordance with customarily accepted professional practices. If BMcD fails to meet the foregoing standard, BMcD will perform at its own cost, the professional services necessary to correct errors and omissions reported to BMcD in writing within one year from the completion of BMcD's services for the Project. No warranty, express or implied, is included in this Agreement or regarding any drawing, specification, or other work product or instrument of service.

B. In no event will BMcD be liable for any special, indirect, or consequential damages including, without limitation, damages or losses in the nature of increased Project costs, loss of revenue or profit, lost production, claims by customers of Client, and/or governmental fines or penalties.

C. BMcD's aggregate liability for all damages connected with its services for the Project not excluded by the preceding subparagraph, whether or not covered by BMcD's insurance, will not exceed \$100,000.

D. These mutually negotiated obligations and remedies stated in this Paragraph 5, Professional Responsibility - Limitation of Remedies, are the sole and exclusive obligations of BMcD and remedies of Client, whether liability of BMcD is based on contract, warranty, strict liability, tort (including negligence), indemnity, or otherwise.

6. PERIOD OF SERVICE AND SCHEDULE

The provisions of this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion of the services stated in the Proposal. BMcD's obligation to render services hereunder will extend for a period that may reasonably be required for the completion of said services. BMcD shall make reasonable efforts to comply with deliverable schedules (if any) and consistent with BMcD's professional responsibility.

7. COMPUTER PROGRAMS OR MODELS

Any use, development, modification, or integration by BMcD of computer models or programs does not constitute ownership or a license to Client to use or modify such computer models or programs.

8. ELECTRONIC MEDIA AND DATA TRANSMISSIONS

A. Any electronic media (computer disks, tapes, etc.) or data transmissions furnished (including Project Web Sites or CAD file transmissions) are for Client information and convenience only. Such media or transmissions are not to be considered part of BMcD's instruments of service. BMcD, at its option, may remove all indicia of its ownership and involvement from each electronic display.

B. BMcD shall not be liable for loss or damage directly or indirectly, arising out of Client's use of electronic media or data transmissions.

9. DOCUMENTS

A. All documents prepared by BMcD pursuant to this Agreement are instruments of service in respect of the Project specified herein. They are not intended or represented to be suitable for reuse by Client or others in extensions of the Project beyond that now contemplated or on any other Project. Any reuse, extension, or completion by Client or

others without written verification, adaptation, and permission by BMcD for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to BMcD.

B. In the event that BMcD is to reuse, copy or adapt all or portions of reports, plans, or specifications prepared by others, Client represents that Client either possesses or will obtain permission and necessary rights in copyright, patents, or other proprietary rights and will be responsible for any infringement claims by others. Client warrants the completeness, accuracy, and efficacy of the information, data, and design provided by or through Client (including prepared for Client by others), for which BMcD shall rely on to perform and complete its services.

10. ESTIMATES, SCHEDULES, FORECASTS, AND PROJECTIONS

Estimates, schedules, forecasts, and projections prepared by BMcD relating to loads, interest rates and other financial analysis parameters, construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are opinions based on BMcD's experience, qualifications, and judgment as a professional. Since BMcD has no control over weather, cost and availability of labor, cost and availability of material and equipment, cost of fuel or other utilities, labor productivity, construction contractor's procedures and methods, unavoidable delays, construction contractor's methods of determining prices, economic conditions, government regulations and laws (including the interpretation thereof), competitive bidding or market conditions, and other factors affecting such estimates or projections, BMcD does not guarantee that actual rates, costs, quantities, performance, schedules, etc., will not vary significantly from estimates and projections prepared by BMcD.

11. POLLUTION

In view of the uncertainty involved in investigating and recommending solutions to environmental problems and the abnormal degree of risk of claims imposed upon BMcD in performing such services, notwithstanding the responsibility of BMcD set forth in Paragraph 5A to the maximum extent allowed by law, Client agrees to release, defend, indemnify and hold harmless BMcD and its officers, directors, employees, agents, consultants and subcontractors from all liability, claims, demands, damages, losses, and expenses including, but not limited to, claims of Client and other persons and organizations, reasonable fees and expenses of attorneys and consultants, and court costs, except where there has been a final adjudication that the damages were caused by BMcD's willful disregard of its obligations under this Agreement. Such indemnification includes claims arising out of, or in any way relating to, the actual, alleged, or threatened dispersal, escape, or release of, or failure to detect or contain, chemicals, wastes, liquids, gases, or any other material, irritant, contaminant, or pollutant.

12. ON-SITE SERVICES

A. Project site visits by BMcD during investigation, observation, construction or equipment installation, or the furnishing of Project representatives shall not make BMcD responsible for construction means, methods, techniques, sequences, or procedures; for construction safety precautions or programs; or for any construction contractor(s)' failure to perform its work in accordance with the contract documents.

B. Client shall disclose to BMcD the location and types of any known or suspected toxic, hazardous, or chemical materials or wastes existing on or near the premises upon which work is to be performed by BMcD's employees or subcontractors. If any hazardous wastes not identified by Client are discovered after a Project is undertaken, Client and BMcD agree that the scope of services, schedule, and compensation may be adjusted accordingly. Client agrees to release BMcD from all damages related to any pre-existing pollutant, contaminant, toxic, or hazardous substance at the site.

13. CHANGES

Client shall have the right to make changes within the general scope of BMcD's services, with an appropriate change in compensation and schedule, upon execution of a mutually acceptable amendment or change order signed by authorized representatives of Client and BMcD.

14. TERMINATION

Services may be terminated by Client or BMcD by seven (7) days' written notice in the event of substantial failure to perform in

accordance with the terms hereof by the other party through no fault of the terminating party. If so terminated, Client shall pay BMcD all amounts due BMcD for all services properly rendered and expenses incurred to the date of receipt of notice of termination, plus reasonable costs incurred by BMcD in terminating the services. In addition, Client may terminate the services for Client's convenience upon payment of twenty percent of the yet unearned and unpaid estimated, lump sum, or not-to-exceed fee, as applicable.

15. DISPUTES, NEGOTIATIONS, MEDIATION

A. If a dispute arises relating to the performance of the services to be provided and, should that dispute result in litigation, it is agreed that the substantially prevailing party (as determined in equity by the court) shall be entitled to recover all reasonable costs of litigation, including staff time, court costs, attorney's fees and other related expenses.

B. The parties shall participate in good faith negotiations to resolve any and all disputes. Should negotiations fail, the parties agree to submit to and participate in a third party-facilitated mediation as a condition precedent to resolution by litigation. Unless otherwise agreed to, mediation shall be conducted under the rules of the American Arbitration Association.

C. Causes of action between the parties shall accrue, and applicable statutes of limitation shall commence to run the date BMcD's services are substantially complete.

16. WITNESS FEES

A. BMcD's employees shall not be retained as expert witnesses, except by separate written agreement.

B. Client agrees to pay BMcD pursuant to BMcD's then current schedule of hourly labor billing rates for time spent by any employee of BMcD responding to any subpoena by any party in any dispute as an occurrence witness or to assemble and produce documents resulting from BMcD's services under this Agreement.

17. CONTROLLING LAW

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of Texas, without regard to any conflicts of law provisions. Parties agree to submit to the exclusive venue and jurisdiction of the State District Court, Harris County, Texas, or the United States District Court, Southern District of Texas.

18. RIGHTS AND BENEFITS – NO ASSIGNMENT

BMcD's services will be performed solely for the benefit of Client and not for the benefit of any other persons or entities. Neither Client nor BMcD shall assign or transfer interest in this Agreement without the written consent of the other.

19. ENTIRE CONTRACT

These Terms and Conditions and the above-referenced Letter, Proposal, or Agreement contain the entire agreement between BMcD and Client relative to BMcD's services for the Project herein. All previous or contemporaneous agreements, representations, promises, and conditions relating to BMcD's services for the Project are superseded. Since terms contained in purchase orders do not generally apply to professional services, in the event Client issues to BMcD a purchase order, no preprinted terms thereon shall become part of this Agreement. Said purchase order documents, whether or not signed by BMcD, shall be considered only as an internal document of Client to facilitate administrative requirements of Client's operations.

20. SEVERABILITY

Any unenforceable provision herein shall be amended to the extent necessary to make it enforceable; if not possible, it shall be deleted and all other provisions shall remain in full force and affect.

- END -

EXHIBIT B

City of Scottsdale's Solid Waste Rate Study Solicitation



**CITY OF SCOTTSDALE
CITY SERVICES CONTRACT**

THIS CONTRACT entered into this 18th day of April 2023, by and between the City of Scottsdale, an Arizona Municipal Corporation, the "City", and Burns & McDonnell Engineering Company, Inc., the "Contractor".

WITNESSETH

The City desires to contract for Solid Waste Rate Study Services. The Contractor is duly qualified to perform the requested non-professional services;

In consideration of the mutual promises and obligations, the parties agree as follows:

1.0 DESCRIPTION, ACCEPTANCE, DOCUMENTATION

Contractor will act under the authority and approval of the Contract Administrator for the City, named below, to provide the services required by this Contract.

1.1 SERVICE DESCRIPTION

Solid Waste Rate Study Analysis

Analyze and make recommendations for rates, fees, and charges for solid waste services to recover the following costs of the system including, but not limited to, the proposed budgets for administration, operations and maintenance, capital projects, and investments in infrastructure for solid waste and transfer station services for the current fiscal year and five subsequent fiscal years.

Develop a Microsoft Excel based model that can be used to analyze the effect of changes in the operating, maintenance, and capital plans under various conditions or "what-if" scenarios that may occur over the defined time period.

The entire Request for Proposal No. RFP 112022-032 identified as Solid Waste Rate Analysis is incorporated herein by this reference as fully as if written out below. Contractor's proposal submitted in response to Request for Proposal Number 112022-032 and dated January 10, 2023, is incorporated herein by this reference as fully as if written out below. If any provision incorporated by reference from the Request for Proposal conflicts with any provision of the Contractor's proposal, the provision of the Request for Proposal will control. If any provision of the Contractor's proposal, including but not limited to any limitation of liability or disclaimer of warranty language, conflicts or is in any way inconsistent with any provision of this Contract, this Contract will control.

1.2 ACCEPTANCE AND DOCUMENTATION

- A. Each task will be reviewed and approved by the Contract Administrator to determine acceptable completion.
- B. The City will provide all necessary information to the Contractor for timely completion of the tasks specified in Section 1.1 above.
- C. All documents, including but not limited to, data compilations, studies, and reports which are prepared in the performance of this Contract are to be and will remain the property of

the City and must be delivered to the Contract Administrator before final payment is made to the Contractor.

2.0 BILLING RECORDS, AUDIT, FEES

2.1 BILLING RECORDS, AUDIT

The time spent for each task must be recorded and submitted to the Contract Administrator. Contractor must maintain all books, papers, documents, accounting records and other evidence pertaining to time billed and to costs incurred and make these materials available for audit by the City in accordance with Section 4.7 of this Contract.

2.2 FEE SCHEDULE

The amount paid to Contractor inclusive of all expenses under this Contract will not exceed \$86,220.

Contractor will be paid according to the Pricing Proposal forms submitted in the Contractor's proposal dated January 10, 2023, attached as "Exhibit A" for reference.

Amounts indicated in this Section 2.2 represent the entire amounts payable under this Contract. Additional expenses will not be authorized.

2.3 PAYMENT APPROVAL

All charges must be approved by the Contract Administrator before payment.

2.3.1 PAYMENT TERMS

The City of Scottsdale's payment terms are payment within thirty (30) days after approval by Contract Administrator. In no event will payment be made prior to receipt of an original invoice containing invoice and proper reference numbers. The City is not liable for delays in payment caused by failure of the vendor or contractor to send invoice to the address specified below:

City of Scottsdale
Accounts Payable
7447 E. Indian School Road, Ste 210
Scottsdale, Arizona 85251-4468

2.4 PRICE ADJUSTMENT

Price increases may only be requested by the Contractor thirty (30) days prior to the anniversary date of the Agreement. Failure to do so may result in the denial of any increase requested.

A requested price increase will become effective only after approval by the Contract Administrator and the Purchasing Director. Once approved, the price increase will be adjusted into a new base price for the remainder of the contract period. Any future requested price increases to the base price will only be reviewed at annual renewal time and require the approval of the Contract Administrator and Purchasing Director.

The proposed increased rate shall be based upon presentation by the Contractor and reviewed by the Contract Administrator; however, the Contract Administrator shall evaluate the Contractor's performance, services and records documentation to determine the appropriateness of the increase requested.

The percentage increase in the unit pricing may not exceed the percent in the U.S. City Average "Consumer Price Index" (C.P.I.) All Items, 1982-84=100 for All Urban Consumers for the

Percentage Change from the previous twelve (12) months, as published by the U. S. Department of Labor Bureau of Labor Statistics;

OR,

The percentage increase in the unit pricing may not exceed the percent in the United States "Producer Price Index" (PPI). Series ID# WPU058102 (Not Seasonally Adjusted), Group: Fuels and related products and power, Item: Asphalt, Base Date: 198506, for all Consumers in the (PPI) U. S. City Average for the Percentage Change from the previous twelve (12) months, as published by the U. S. Department of Labor Bureau of Labor Statistics. Found at: www.bls.gov/ppi/

3.0 TERM, EXTENSION, TERMINATION

3.1 TERM AND EXTENSION

The term of this Contract shall be for a one (1) year period from the effective date of the contract award or until the tasks listed in 1.1 have been completed according to the following schedule: The City and Contractor may mutually agree to extend this Contract for four (4) additional one (1) year periods, upon the recommendation of the Contract Administrator, concurrence of the Purchasing Director and/or City Council, depending on the Contract.

Item/Deliverable	Tentative Date
Award of Contract	April 2023
Initial Data Request & Review	April 2023
Kick-Off Meeting	April 2023
Current Cost of Service Analysis	May 2023
Forecasted Cost of Service Analysis	June 2023
Financial Benchmarking	June 2023
Revenue Generation of Customer Classes	June 2023
Financial Analysis of TS Expansion	June/July 2023
Fee Structure & Rate Development	July/August 2023
Analysis of Miscellaneous Fees	July/August 2023
Evaluation of Industry Trends for Debt Financing/Reserves	July/August 2023
Draft Report	August 2023
Final Report	August 2023
Develop & Deliver Excel Based Model	August 2023
Final Model & Training	September 2023

3.2 TERMINATION

Termination for Convenience: City reserves the right to terminate this contract or any part of this contract for its sole convenience with 30 days' written notice. In the event of any termination, Contractor must immediately stop all work, and must immediately cause any of its suppliers and Subcontractors to cease all work. As compensation in full for services performed to the date of any termination, the Contractor will receive a fee for the percentage of services actually completed. This fee will be in the amount to be mutually agreed upon by the Contractor and the City, based on the agreed Scope of Work. If there is no mutual agreement, the Contract Administrator will determine the percentage of completion of each task detailed in the Scope of Work and the Contractor's compensation will be based upon this determination. The City will make this final payment within 60 days after the Contractor has delivered the last of the partially completed items. Contractor will not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Contractor's suppliers or Subcontractors, which Contractor could reasonably have avoided.

Cancellation for Cause: City may also cancel this contract or any part of this contract with 7 days' notice for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any of the terms and conditions of this contract. Unsatisfactory performance as judged by the Contract Administrator or failure to provide City, upon request, with adequate assurances of future performance are all causes allowing City to cancel this contract for cause. In the event of cancellation for cause, City will not be liable to Contractor for any amount, and Contractor will be liable to City for any and all damages sustained by reason of the default which gave rise to the cancellation.

3.3 FUNDS APPROPRIATION

If the City Council does not appropriate funds to continue this Contract and pay for charges under this contract, the City may terminate this Contract at the end of the current fiscal period. The City agrees to give written notice of termination to the Contractor at least 30 days prior to the end of its current fiscal period and will pay to the Contractor all approved charges incurred through the end of this period.

4.0 GENERAL TERMS

4.1 ENTIRE AGREEMENT

This Contract constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified. This Contract may not be modified or amended except by a written document, signed by authorized representatives of each party.

4.2 ARIZONA LAW

This Contract is governed and interpreted according to the laws of the State of Arizona.

4.3 MODIFICATIONS

Any amendment, modification or variation from the terms of this Contract must be in writing and will be effective only after approval of all parties signing the original Contract.

4.4 ASSIGNMENT

Services covered by this Contract may not be assigned or sublet in whole or in part without first obtaining the written consent of the Purchasing Director and Contract Administrator.

4.5 SUCCESSORS AND ASSIGNS

This Contract extends to and is binding upon Contractor, its successors and assigns, including any individual, company, partnership or other entity with or into which Contractor merges, consolidates or is liquidated, or any person, corporation, partnership or other entity to which Contractor sells its assets.

4.0 GENERAL TERMS – CONT'D

4.6 CONTRACT ADMINISTRATOR

The Contract Administrator for the City is (contract administrator) or designee. The Contract Administrator will oversee the execution of this Contract, assist the Contractor in accessing the organization, audit billings, approve payments, establish delivery schedules, approve addenda, and assure Certificates of Insurance are in City's possession and are current and conform to the contract requirements. The Contractor will channel reports and special requests through the Contract Administrator.

4.7 RECORDS AND AUDIT RIGHTS

Contractor's records (hard copy, as well as computer readable data), and any other supporting evidence considered necessary by the City to substantiate charges and claims related to this contract are open to inspection and subject to audit and/or reproduction by City's authorized representative to the extent necessary to adequately permit evaluation and verification of the cost of the work, and any invoices, change orders, payments or claims submitted by the Contractor or any of his payees in accordance with the terms of the contract. The City's authorized representative must be given access, at reasonable times and places, to all of the Contractor's records and personnel in accordance with the provisions of this article throughout the term of this contract and for a period of 3 years after last or final payment.

Contractor must require all Subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this Section by insertion of these contract requirements in a written contract agreement between Contractor and payee. These requirements will also apply to any and all Subcontractors.

If an audit in accordance with this Section, discloses overcharges, of any nature, by the Contractor to the City in excess of 1% of the total contract billings, the actual cost of the City's audit will be reimbursed to the City by the Contractor. Any adjustments and/or payments which must be made as a result of any audit or inspection of the Contractor's invoices and/or records will be made within a reasonable amount of time (not to exceed 90 days) from presentation of City's findings to Contractor.

4.8 ATTORNEY'S FEES

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default, the prevailing party will be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which will be considered to have accrued on the commencement of the action and will be enforceable whether or not the action is prosecuted to judgment.

4.9 INELIGIBLE BIDDER

The preparer of specifications is not eligible to submit a bid or proposal on the solicitation for which they prepared the specification, nor is the preparer eligible to supply any product to a bidder or offeror on the solicitation for which they prepared the specification.

4.10 INDEPENDENT CONTRACTOR

The services Contractor provides under the terms of this Contract to the City are that of an Independent Contractor, not an employee, or agent of the City. The City may report the value paid for these services each year to the Internal Revenue Service (I.R.S.) using Form 1099.

City will not withhold income tax as a deduction from contractual payments unless required under federal or state law. As a result of this, Contractor may be subject to I.R.S. provisions for payment of estimated income tax. Contractor is responsible for consulting the local I.R.S. office for current information on estimated tax requirements.

4.11 CONFLICT OF INTEREST

The City may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City's departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party to the contract in any capacity or a Contractor to any other party to the contract with respect to the subject matter of the contract. The cancellation will be effective when written notice from the City is received by all other parties to the contract, unless the notice specifies a later time (A.R.S. §38-511).

4.12 NOTICES

All notices or demands required to be given in accordance with the terms of this Contract must be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses stated below, or to any other address the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of Contractor:

Burns & McDonnell
1850 N Central Avenue, Suite 800
Phoenix, AZ 85004

Scott Pasternak
Department Manager
Project Manager
spasternak@burnsmcd.com
512-589-3411

In the case of City:

City of Scottsdale
Solid Waste Services Department
9191 E San Salvador Dr.
Scottsdale, AZ 85258

Haley Bartosik
Management Analyst

hbartosik@scottsdaleaz.gov
480-312-5605

4.0 GENERAL TERMS – CONT'D

4.12 NOTICES – CONT'D

Notices will be considered received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

4.13 FORCE MAJEURE

Neither party will be responsible for delays or failures in performance resulting from acts beyond their control. These acts include, but are not limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, or power failures.

4.14 TAXES

Contractor will be solely responsible for any and all tax obligations which may result from the Contractor's performance of this contract. The City will have no obligation to pay any amounts for taxes, of any type, incurred by the Contractor.

4.15 ADVERTISING

No advertising or publicity concerning the City using the Contractor's services shall be undertaken without prior written approval of such advertising or publicity by the City of Scottsdale Contract Administrator and by the City Attorney.

4.16 COUNTERPARTS

This contract may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Contract will be considered to possess the full force and effect of the original.

4.17 CAPTIONS

The captions used in this Contract are solely for the convenience of the parties, do not constitute a part of this Contract and are not to be used to construe or interpret this Contract.

4.18 SUBCONTRACTORS

During the performance of the Contract, the Contractor may engage any additional Subcontractors as may be required for the timely completion of this Contract. The approval of the City must be obtained before the addition of any Subcontractors.

In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Contractor.

4.0 GENERAL TERMS – CONT'D

4.19 CHANGES IN THE WORK

The City may at any time, as the need arises, order changes within the scope of the work without invalidating the contract. If any changes increase or decrease the amount due under the contract documents, or in the time required for performance of the work, an equitable adjustment will be authorized by written Change Order.

The City will execute a formal Change Order based on detailed written quotations from the Contractor for work related changes and/or a time of completion variance. All Change Orders are subject to approval by the City.

Contract Change Orders are subject to the Rules and Procedures within the City's Procurement Code.

4.20 CO-OP USE OF CONTRACT

In addition to the City of Scottsdale, this Contract may be extended for use by other municipalities, government agencies and governing bodies, including the Arizona Board of Regents, and political subdivisions of the State. Any usage by other entities must be in accord with the ordinances, charter and/or rules and regulations of the respective entity and the approval of the Contractor.

4.21 COMPLIANCE WITH FEDERAL AND STATE LAWS

The Contractor understands and acknowledges the applicability of the Americans with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989 to it.

4.22 IMMIGRATION LAW COMPLIANCE

Under the provisions of A.R.S. §41-4401, the Contractor warrants to the City that the Contractor and all its subcontractors will comply with all Federal Immigration laws and regulations that relate to their employees and that the Contractor and all its subcontractors now comply with the E-Verify Program under A.R.S. §23-214(A).

A breach of this warranty by the Contractor or any of its subcontractors will be considered a material breach of this Contract and may subject the Contractor or Subcontractor to penalties up to and including termination of this Contract or any subcontract. The Contractor will take appropriate steps to assure that all subcontractors comply with the requirements of the E-Verify Program. The Contractor's failure to assure compliance by all its' subcontractors with the E-Verify Program may be considered a material breach of this Contract by the City.

4.0 GENERAL TERMS – CONT'D

4.22 IMMIGRATION LAW COMPLIANCE – CONT'D

The City retains the legal right to inspect the papers of any employee of the Contractor or any subcontractor who works on this Contract to ensure that the Contractor or any subcontractor is complying with the warranty given above.

The City may conduct random verification of the employment records of the Contractor and any of its subcontractors to ensure compliance with this warranty. The Contractor agrees to indemnify, defend and hold the City harmless for, from and against all losses and liabilities arising from any and all violations of these statutes.

4.23 LAWFUL PRESENCE IN THE UNITED STATES FOR PERSONS

Arizona State law A.R.S. §1-502 (H.B. 2008) requires that all PERSONS who will be awarded a contract and apply for public benefit must demonstrate through a signed affidavit and the presentation of a copy of documentation that they are lawfully present in the United States.

PERSONS is defined as all-NATURAL PERSONS / INDIVIDUALS / SOLE PROPRIETORSHIPS as indicated by your W9 Filing. (This law does not apply to LLP's, LLC's, PLLC's, Corporations Limited Partnerships or General Partnerships)

By submitting your quote, bid, proposal and/or indicating your desire to enter in a contract with the City you are agreeing that if you are selected as the awardee and meet the criteria as a PERSON you will abide by this law and sign and submit an AFFIDAVIT DEMONSTRATING LAWFUL PRESENCE IN THE UNITED STATES and attach the appropriate copy of your documentation in proof of that statement. Types of acceptable documentation copies are an Arizona Driver's License issued after 1996, Arizona nonoperating identification license, U.S. birth certificate, U.S. Passport, I-94 Form with photograph and several others that are all listed on the Affidavit form that the City will send to you for your completion before issuing any contract.

If you have previously done business with the City and already have filed the above Affidavit with copies of an acceptable documentation, please indicate date of submittal. If your acceptable Affidavit is already on file with the City, that filing satisfies this requirement.

If you fail to complete and provide a completed Affidavit and accompanying acceptable copy of your documentation, or not advise us of your prior filing within 10 calendar days of being requested by then you may be considered non-responsive and disqualified from that award consideration. You can obtain the complete Affidavit form from the Purchasing Department at (480) 312-5700 or the Purchasing web site at <http://www.scottsdaleaz.gov/Purchasing> on the lower right side of the page under Forms.

4.24 ISRAEL BOYCOTT PROHIBITION

By executing this contract, [Contractor] certifies that it is not currently engaged in and will not for the duration of this contract engage in boycott activity proscribed by A.R.S. § 35-393 et seq.

4.0 GENERAL TERMS – CONT'D

4.25 FORCED LABOR OF ETHNIC UYGHURS

Contractor warrants and certifies that it does not currently, and agrees for the duration of the contract that it will not, use:

- 1) The forced labor of ethnic Uyghurs in the People's Republic of China.
- 2) Any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
- 3) Any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.

If Contractor becomes aware during the term of the Agreement that the Contractor is not in compliance with this paragraph, the Contractor shall notify the City within five business days after becoming aware of the noncompliance. Failure of Contractor to provide a written certification that the Contractor has remedied the noncompliance within one hundred eighty (180) days after notifying the public entity of its noncompliance, this Agreement shall terminate unless the Term of this Agreement shall end prior to said one hundred eighty (180) day period.

4.26 NO PREFERENTIAL TREATMENT OR DISCRIMINATION

In accordance with the provisions of Article II, Section 36 of the Arizona Constitution, the City will not grant preferential treatment to or discriminate against any individual or group on the basis of race, sex, color, ethnicity or national origin.

4.27 INDEMNIFICATION

To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, must defend, indemnify and hold harmless City of Scottsdale, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any act or omission, negligence, recklessness, or intentional wrongful conduct by Contractor in the performance of this Contract,

including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees.

Insurance provisions in this Contract are separate and independent from the indemnity provisions of this section and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions. The indemnity provisions of this section shall not be construed in any way to limit the scope and magnitude and applicability of the insurance provisions.

4.0 GENERAL TERMS – CONT'D

4.28 CONTRACTOR ON SITE SAFETY REPORTING REQUIREMENTS

For any non-construction City supplier whose service contract(s) (either singular or in aggregate) results in the contractor working 500 or more hours on site at a City of Scottsdale location(s) in any one calendar quarter, the following documentation must be provided by the contractor to the Contract Administrator (CA):

- the contractor's most recent OSHA 300A (if applicable);
- all accident reports for injuries that occurred in the city under the contract during the most recent review period;
- the contractor's current worker's compensation experience modifier;
- the above information is to be provided to the CA initially and every February thereafter as long as the contract is in force;
- the CA will provide this information to Risk Management when requested.

5.0 INSURANCE

A current standard Acord Certificate is acceptable.

Failure to provide an appropriate Certificate of Insurance will result in rejection of your certificate and delay in Contract execution.

Additionally, Certificates of Insurance submitted without referencing an RFP and Contract number may be subject to rejection and returned or discarded.

5.1 Insurance Representations and Requirements

5.1.1 General: Contractor agrees to comply with all applicable City ordinances and state and federal laws and regulations.

Without limiting any obligations or liabilities of Contractor, Contractor must purchase and maintain, at its own expense, this Contract's stipulated minimum insurance with insurance companies properly licensed by the State of Arizona (admitted insurer) with an AM Best, Inc. rating of B ++ 6 or above or an equivalent qualified unlicensed insurer by the State of Arizona (non-admitted insurer) with policies and forms satisfactory to City of Scottsdale. Failure to maintain insurance as specified may result in termination of this Contract at City of Scottsdale's option.

5.0 INSURANCE – CONT'D

- 5.1.2** No Representation of Coverage Adequacy: By requiring the insurance stated in this Contract, the City of Scottsdale does not represent that coverage and limits will be adequate to protect Contractor. City of Scottsdale reserves the right to review any and all of the insurance policies and/or endorsements required by in this Contract but has no obligation to do so. Failure to demand any evidence of full compliance with the insurance requirements stated in this Contract or failure to identify any insurance deficiency does not relieve Contractor from, nor may it be construed or considered a waiver of Contractor's obligation to maintain the required insurance at all times during the performance of this Contract.
- 5.1.3** Coverage Term: All insurance required by this Contract must be maintained in full force and effect until all work or services required to be performed under the terms of this contract are satisfactorily performed, completed and formally accepted by the City of Scottsdale, unless specified otherwise in this Contract.
- 5.1.4** Claims Made: In the event any insurance policies required by this Contract are written on a "claims made" basis, coverage shall continue uninterrupted throughout the term of this Contract by keeping coverage in force using the effective date of this Contract as the retroactive date on all "claims made" policies. The retroactive date for exclusion of claims must be on or before the effective date of this Contract and can never be after the effective date of this Contract. Upon completion or termination of this Contract, the "claims made" coverage shall be extended for an additional three (3) years using the original retroactive date, either through purchasing an extended reporting option; or by continued renewal of the original insurance policies. Submission of annual Certificates of Insurance, citing the applicable coverages and provisions specified herein, shall continue for three (3) years past the completion or termination of this Contract.
- 5.1** Insurance Representations and Requirements – Cont'd
- 5.1.5** Policy Deductibles and or Self-Insured Retentions: The policies stated in these requirements may provide coverage which contain deductibles or self-insured retention amounts. Any deductibles or self-insured retention are not applicable to the policy limits provided to City of Scottsdale. Contractor is solely responsible for any deductible or self-insured retention amount. City of Scottsdale, at its option, may require Contractor to secure payment of any deductible or self-insured retention by a surety bond or irrevocable and unconditional Letter of Credit.
- 5.1.6** Use of Subcontractors: If any work under this agreement is subcontracted in any way, Contractor must execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements stated in this Contract protecting City of Scottsdale and Contractor. Contractor will be responsible for executing the agreement with Subcontractor and obtaining Certificates of Insurance verifying the insurance requirements.

5.0 **INSURANCE – CONT'D**

5.1.7 Evidence of Insurance and Required Endorsements: Before beginning any work or services under this Contract, Contractor must furnish City of Scottsdale with Certificate(s) of Insurance, or formal endorsements as required by this Contract, issued by Contractor's insurer(s) as evidence that policies are placed with acceptable insurers as specified in this Contract and provide the required coverage, conditions, and limits of coverage and that any coverage and provisions are in full force and effect. If a Certificate of Insurance is submitted as verification of coverage, City of Scottsdale will reasonably rely upon the Certificate of Insurance as evidence of coverage, but any acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this agreement. If any of the above cited policies expire during the life of this Contract, it will be Contractor's responsibility to forward renewal Certificates within 10 days after the renewal date containing all the aforementioned insurance provisions. Certificates will specifically cite the following provisions endorsed to the Contractor's policy:

1. City of Scottsdale, its agents, representatives, officers, directors, officials and employees must be named an Additional Insured under the following policies:
 - a) Commercial General Liability
 - b) Auto Liability
 - c) Excess Liability - Follow Form to underlying insurance as required.
2. Contractor's insurance must be primary insurance as respects performance of subject contract.
3. All policies, except Professional Liability insurance, if applicable, waive rights of recovery (subrogation) against City of Scottsdale, its agents, representatives, officers, directors, officials and employees for any claims arising out of work or services performed by Contractor under this Contract.
4. If the Contractor receives notice that any of the required policies of insurance are materially reduced or cancelled, it will be Contractor's responsibility to provide prompt notice of same to the City, unless such coverage is immediately replaced with similar policies.

5.2 **Required Coverage**

5.2.1 Commercial General Liability: Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products and Completed Operations Annual Aggregate, and a \$2,000,000 General Aggregate Limit. The policy must cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying.

5.0 INSURANCE – CONT'D

5.2.2 Vehicle Liability: If any vehicle is used in the performance of the Scope of Work that is the subject of this Contract, the Contractor must maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Contractor's owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Contract. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying. If any hazardous material, as defined by any local, state or federal authority, is the subject, or transported, in the performance of this contract, an MCS 90 endorsement is required providing \$5,000,000 per occurrence limits of liability for bodily injury and property damage.

5.2.3 Workers Compensation Insurance: Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes applicable to Contractor's employees engaged in the performance of work or services under this Contract and must also maintain Employers' Liability Insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee and \$500,000 disease policy limit. If the Contractor is a sole proprietor or a single member limited liability company with no employees and has elected not to purchase Workers' Compensation Insurance; a completed and signed Workers' Compensation Waiver Form will substitute for the insurance requirement.

6.0 SEVERABILITY AND AUTHORITY**6.1 SEVERABILITY**

If any term or provision of this Contract is found to be illegal or unenforceable, then despite this illegality or unenforceability, this Contract will remain in full force and effect and that term or provision will be considered deleted.

6.2 AUTHORITY

Each party warrants and represents that it has full power and authority to enter into and perform this Contract, and that the person signing on behalf of each has been properly authorized and empowered to enter this Contract. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

7.0 REQUEST FOR TAXPAYER I.D. NUMBER & CERTIFICATION I.R.S. W-9 FORM

Upon request, the Contractor shall provide the required I.R.S. W-9 Form which is available from the IRS website at www.irs.gov under their forms section.

8.0 DONATIONS

No donations allowed. To avoid the appearance of impropriety, Contractor shall not make any donation to the City, of any goods or services during the term of this Agreement, unless it has specifically been approved by the City Manager or designee.

CITY OF SCOTTSDALE

CONTRACTOR:

Company Name

By: _____
Signature
Mark R. Knaack

Printed Name

Title

Company Address

CITY CONTRACT ADMINISTRATOR:

By: _____
Haley Bartosik, Contractor Administrator

CITY OF SCOTTSDALE REVIEW:

By: _____
Kathleen Shipman
Bid & Contract Analyst

By: _____
George Woods
Risk Management Director

APPROVED AS TO FORM:

By: _____
Sherry R. Scott, City Attorney
Eric C. Anderson
Senior Assistant City Attorney

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

CONTACT NAME:

PHONE

(A/C. No. Ext):

Fax

(A/C. No):

E-MAIL ADDRESS:

PRODUCER

CUSTOMER ID#:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A:

INSURER B:

INSURER C:

INSURER D:

INSURER E:

INSURER F:

SAMPLE — Use Most Current Form from Acord

INSURED

THIS MUST MATCH EXACTLY TO THE CONTRACTOR NAME AND INFORMATION AS LISTED IN THE CONTRACT OR SCOPE OF WORK.

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INS LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	GENERAL LIABILITY						EACH OCCURENCE	\$
	COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea Occurrence)	\$
	<input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR	<input type="checkbox"/>	<input type="checkbox"/>				MEDICAL EXP (Any One Person)	\$
							PERSONAL & ADV INSURY	\$
							GENERAL AGGREGATE	\$
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COM/PO/ AGG	\$
	<input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC							
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$
	<input type="checkbox"/> ANY AUTO	<input type="checkbox"/>	<input type="checkbox"/>				BODILY INJURY (Per person)	\$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident)	\$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per Accident)	\$
	<input type="checkbox"/> HIRED AUTOS							
	<input type="checkbox"/> NON-OWNED AUTOS							
	Umbrella Liab <input type="checkbox"/> OCC						EACH OCCURENCE	\$
	Excess Liab <input type="checkbox"/> CLAIMS MADE	<input type="checkbox"/>	<input type="checkbox"/>				AGGREGATE	\$
	DEDUCTIBLE							\$
	RETENTION \$							\$
	WORKERS COMPENSATION AND EMPLOYER'S LIABILITY						WC STATU-TORY LIMITS	OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?						EL EACH ACCIDENT	\$
	Y/N <input type="checkbox"/>	N/A	<input type="checkbox"/>				EL DISEASE . POLICY LIMIT	\$
	(Mandatory in NH) If yes, describe under SPECIAL PROVISIONS BELOW:						EL DISEASE . EA EMPLOYEE	\$
		<input type="checkbox"/>	<input type="checkbox"/>					

Description of Operations/Locations/Vehicles (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 City of Scottsdale, its representatives, agents and employees, is an Additional Insured under Commercial General Liability and Auto Liability. All cited insurance shall be primary coverage and waive rights of recovery (subrogation), including Workers Compensation, against City of Scottsdale. Insert Contract # or Purchase Order #

CERTIFICATE HOLDER
 City of Scottsdale
 Attn: (City of Scottsdale Buyer or Bid & Contract Staff Name)
 9191 E. San Salvador Drive
 Scottsdale, AZ 85258
 ACORD 25(2009/09)

CANCELLATION
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
 AUTHORIZED REPRESENTATIVE

EXHIBIT C

Cooperative Purchase Contract Agreement between the Parties of the Town of Pinetop-Lakeside, the City of Scottsdale and Buns and McDonnel, Inc.



CONTRACT AGREEMENT PW-24-002

Contract Name: Burns & McDonnell Solid Waste Rate Study

Contract No.: PW-24-002

Statement of Mutual Consent and Intent

The parties, the Town of Pinetop-Lakeside agree to utilize the CONTRACT, by and between the City of Scottsdale, an Arizona Municipal Corporation, the "City", and Burns & McDonnell Engineering Company, Inc., the "Contractor" entitled "City of Scottsdale's Solid Waste Analysis, Solicitation Number - 1542RFP23. Section 4.20 of such CONTRACT included, the "CO-OP" Use of Contract," pursuant to which the Town of Pinetop-Lakeside will enter into a contract with Burns & McDonnell, dated April 18, 2023, to provide assistance in reviewing the current methodology used for determining solid waste rates and in identifying any desirable enhancements to the existing rate and financial model, and herein referred to as Exhibit "A" to this Contract Agreement PW-24-002. The current contract term between the City of Scottsdale and Burns & McDonnell Engineering Company, Inc, ends on April 3, 2025. All documents executed by the City of Scottsdale, Solicitation Number - 1542RFP23, apply to this procurement between the Town of Pinetop-Lakeside and Burns & McDonnell Engineering Company, Inc.

Burns & McDonnell will invoice based on a percent complete basis for each of these tasks identified in the Town of Pinetop-Lakeside Solid Waste Feasibility Study-Scope of Work, and herein referred to as Exhibit "B" to this Contract Agreement PW-24-002; which includes professional fees and direct expenses, including travel.

The Contract between the Town of Pinetop-Lakeside and Contractor shall consist of the following items, all of which are incorporated by reference, and listed in order of priority: City of Scottsdale City Services Contract - 1542RFP23; Exhibit A; and Town of Pinetop-Lakeside Solid Waste Feasibility Study-Scope of Work; Exhibit B.

Contract End Date: TBD (a project schedule of 4 - 6 months. We will provide the Town with a more detailed schedule prior to the kick-off meeting.)

Renewal Option: [X] Yes [] No

Maximum Dollar Limit: \$66,900

Contract Information

Firm Name: Burns & McDonnell Contact Person: Scott Pasternak/Department Manager-Associate
Address: 6200 Bridge Point Pkwy, Suite 400 Phone No: O 512-872-7141 / M 512-589-3411
City: Austin State: TX 78730 Fax: Email: spasternak@burnsmcd.com

Special Notes:

The Town of Pinetop-Lakeside has a cooperative agreement with the City of Scottsdale's Solid Waste Rate Study. By using the City of Scottsdale's Solid Waste Rate Study Solicitation, Section 4.20, it will save the Town in both time and money for a rate that has already been established in the Burns & McDonnell bidding process.

Authorization to use a Cooperative Purchasing Agreement with the State of Arizona approved this ___ day of ___, 2024.

Town of Pinetop-Lakeside

Burns & McDonnell Engineering Company, Inc

Keith Jonson, Town Manager

Scott Pasternak, Department Manager/Associate

ATTEST:

APPROVED AS TO FORM:

Kristi Salskov, CMC
Town Clerk

William J. Sims, III
Town Attorney