

AGREEMENT FOR IN-KIND SERVICES WORK TO THE TOWN OF PRESCOTT VALLEY
WASTEWATER TREATMENT PLANT

TOWN OF PRESCOTT VALLEY

AND

BLACK & VEATCH CORPORATION

This Agreement for In-Kind Services Work to the Town of Prescott Valley Wastewater Treatment Plant (“Agreement”) is made as of this 14th day of February, 2013, by and between the Town of Prescott Valley, a municipal corporation of Arizona (“Town”), and Black & Veatch Corporation, a Delaware Corporation (“B&V”). Town and B&V are sometimes referred to herein collectively as “Parties” and individually as “Party.”

RECITALS

A. On June 23, 2011, the Town and B&V entered into an Agreement for Modification Work to the Town of Prescott Valley Wastewater Treatment Plant, whereby B&V agreed to provide construction services to modify the Town’s Wastewater Treatment Plant (“WWTP”) and to also provide *previously undefined* In-Kind Services to the Town. In exchange the Town provided labor (at no charge) and conducted additional sampling and laboratory tests at a cost of \$52,772.70. A true and correct copy of the Agreement for Modification Work (“Modification Agreement”) is provided at Exhibit A. Original attachments not provided.

B. On February 27, 2003, the Town and B&V entered into an Agreement for Engineering and Other Services whereby B&V agreed to design the Phase III expansion of the Town’s wastewater treatment plant (“WWTP”) and to also provide construction period services and operations and start-up assistance for the WWTP in exchange for certain Town payments as specified therein (“WWTP Agreement”).

C. During the course of construction, the WWTP Agreement was amended four times on March 11, 2004, September 23, 2004, May 26, 2005 and June 7, 2007 to further define the scope of engineering and other services to be provided by B&V in connection with the project.

D. In August 2007, the Town expressed concerns to B&V about the WWTP’s performance with respect to meeting design performance criteria and discharge limits for nitrogen and nitrates specified in *Black & Veatch - Wastewater Treatment Plant Upgrade and Expansion Phase III, Preliminary Design Report*, October 2003 (“Design Report”).

E. B&V responded by investigating various potential causes of the performance issues over a two-year period, culminating in a demonstration test lasting almost six (6) months. The Town assisted B&V during the investigation by providing labor (at no charge) and conducting additional sampling and laboratory tests at a cost of \$52,772.70.

F. Based on the results of the demonstration test, it was determined that with some modifications, the WWTP could meet the original design criteria for nitrogen removal. B&V obtained a quote from Fann Environmental, LLC in September 2009, for pipe removal to permanently implement hydraulic modifications at a cost of approximately \$40,000.00 (“Fann Quote”).

G. The Fann Quote is now over one (1) year old and is based on WWTP conditions existing at the time of the quote. The Town and B&V acknowledge that the WWTP conditions and/or the cost to perform the necessary modifications may have changed since the Fann Quote.

H. It is disputed as to whether the above-described WWTP performance issues are design related. However, in the interests of preserving a positive working relationship and without any admission of liability or wrongdoing by either Party, the Parties now wish to implement the aforementioned modifications to the WWTP.

NOW, THEREFORE, in consideration of the mutual promises, conditions, covenants and terms set forth herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Section 1. Incorporation by Reference. This Agreement is an extension of the “AGREEMENT FOR MODIFICATION WORK TO THE TOWN OF PRESCOTT VALLEY WASTEWATER TREATMENT PLANT” (Modification Agreement), dated June 23, 2011, which is incorporated by reference herein. All provision of the Modification Agreement shall apply to this agreement. This Agreement shall only serve to further define Section 5 – In-Kind Services, of the Modification Agreement attached as Exhibit A.

Section 2. In-Kind Services. In-Kind Services, as defined in Section 5 of the Modification Agreement, shall be further defined as a Local Limits Study with a scope of services and value as shown in the attached exhibits:

Exhibit B – Scope of Services

Exhibit C – Estimated Value of Services

Section 3. Cost to Town of Prescott Valley. The In-Kind services contemplated by this agreement shall be provided at no cost to the Town.

Section 4. Terms and Conditions. The In-Kind services shall be provided by B&V subject to the terms and conditions of the Modification Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by and through their authorized representatives effective on the day and year first-above written.

