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GILA COUNTY

www.gilacountyaz.gov

PROFESSIONAL SERVICES CONTRACT NO. 1005.221/8-2011

TOWN OF STAR VALLEY G.P.S. SURVEY

THIS AGREEMENT, made and entered into this 21st day of September, **2010**, by and between the Gila County Board of Supervisors, a political subdivision of the State of Arizona, hereinafter designated the County, and Northstar Surveying, Inc., of the City of Payson, County of Gila State of Arizona, hereinafter designated the Surveyor.

WITNESSETH: That the Surveyor, for and in consideration of the sum to be paid him by the County, in the manner and at the time hereinafter provided, and of the other covenants and agreements herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE I – SCOPE OF SERVICES: Surveyor will perform G.P.S. survey of a portion of the Town of Star Valley per the drawing label Star Valley Northstar Planning and the Results of Survey of the Payson-Show Low Highway Lions Springs Section, S-260-b-800, performed by URS company, using the control data provided by the County.

Task I

The survey will consist of locating all existing monuments at the section, quarter (1/4) section corners and Homestead Entry Surveys corner positions. Surveyor will provide G.P.S. Data files for the County to use. All available Federal government survey plats and field notes will be researched and used in the field survey.

Task II

Surveyor will prepare four (4) to six (6), 24"x36" Results of Survey plats showing Section, H.E.S. and State Route 260 R-O-W lines available for client's use along with a seamless base drawing.

ARTICLE II – FEE SCHEDULE: Surveyor's fees for performing the above scope of services for this contract shall be:

Task I = Sixteen Thousand Six Hundred Dollars (\$16,600.00)
Task II = Three Thousand Dollars (\$3,000.00)

ARTICLE II – INDEMNIFICATION CLAUSE: Surveyor shall indemnify, defend, save and hold harmless the County of Gila and its officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Surveyor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Surveyor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Surveyor from and against any and all claims. It is agreed that the Surveyor will be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Surveyor agrees to waive all rights of subrogation against the County, its officers, officials, agents and employees for losses arising from the work performed by the Surveyor for the County.

ARTICLE IV - INSURANCE REQUIREMENTS: Surveyor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Surveyor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The County in no way warrants that the minimum limits contained herein are sufficient to protect the Surveyor from liabilities that might arise out of the performance of the work under this contract by the Surveyor, his agents,

representatives, employees or subcontractors and Surveyor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Surveyor shall provide coverage with limits of liability not less than those stated below.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$1,000,000

a. The policy shall be endorsed to include the following additional insured language: "**The County of Gila shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Surveyor**".

2. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

a. Policy shall contain a **waiver of subrogation** against the County of Gila.

3. **Professional Liability (Errors and Omissions Liability)**

Each Claim	\$500,000
Annual Aggregate	\$1,000,000

a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Surveyor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the County of Gila is named as an additional insured, the County of Gila shall be an additional insured to the full limits of liability purchased by the Surveyor even if those limits of liability are in excess of those required by this Contract.

- 2 The Surveyor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
 3. Coverage provided by the Surveyor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
- C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, reduced in coverage or endorsed to lower limits except after thirty (30) days prior written notice has been given to the County. Such notice shall be sent directly to Hazel Dillon, 1400 E. Ash St., Globe, AZ 85501 and shall be sent by certified mail, return receipt requested.
- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or approved unlicensed companies in the state of Arizona and with an "A.M. Best" rating of not less than B+ VI. The County in no way warrants that the above-required minimum insurer rating is sufficient to protect the Surveyor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Surveyor shall furnish the County with certificates of insurance (ACORD form or equivalent approved by the County) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the County before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to Hazel Dillon, 1400 E. Ash St., Globe, AZ 85501. The County project/contract number and project description shall be noted on the certificate of insurance. The County reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time

- F. **SUBCONTRACTORS:** Surveyors' certificate(s) shall include all subcontractors as additional insured's under its policies or Surveyor shall furnish to the County separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to the minimum requirements identified above.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the County Attorney, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

ARTICLE V – LEGAL ARIZONA WORKERS ACT COMPLIANCE: Surveyor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Surveyor’s employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the “State and Federal Immigration Laws”). Surveyor shall further ensure that each subcontractor who performs any work for Surveyor under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Surveyor and any subcontractor in order to verify such party’s compliance with the State and Federal Immigration Laws.

Any breach of Surveyor’s or any subcontractor’s warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Surveyor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Surveyor shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to Surveyor approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

Surveyor shall advise each subcontractor of County’s rights, and the subcontractor’s obligations, under this Article by including a provision in each subcontract substantially in the following form:

“Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor’s employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor’s books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract.”

Any additional costs attributable directly or indirectly to remedial action under this Article shall be the responsibility of Surveyor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Surveyor’s approved construction or critical milestones schedule, such period of delay shall be deemed excusable delay for which Surveyor shall be entitled to an extension of time, but not costs.

ARTICLE VI – SCHEDULE: Surveyor will begin work upon receipt of *Notice to Proceed* from the County and have project completed within ninety (90) days.

ARTICLE VII – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Surveyor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Surveyor. The Surveyor shall comply with the applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and applicable federal regulations under the Act.

ARTICLE IX – ANTI-TERRORISM WARRANTY: Pursuant to **A.R.S. §35-397** the Surveyor certifies that it does not have scrutinized business operations in Iran or Sudan and that they are in compliance with the Export Administration Act and not on the Excluded Parties List

ARTICLE VIII – CANCELLATION: This agreement is subject to cancellation pursuant to **A.R.S. § 38-511**. If this Agreement is terminated, the County shall be liable only for payment for services rendered and accepted material received by the County before the effective date of termination. The Surveyor shall be considered in default of this contract and such default will be considered as cause to terminate the contract for any of the following reasons if the Surveyor:

- a. Fails to perform the work under the contract within the time specified in the “Notice to Proceed”; or
- b. Fails to perform the work or fails to provide sufficient workers, equipment or data to assure completion of work in accordance with the terms of the contract; or
- c. Performs the work unsuitably or neglects or refuses to follow the Scope of Work; or
- d. Discontinues the prosecution of the work; or
- e. Fails to resume work which as been discontinued within a reasonable time after notice to do so; or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency; or
- g. Makes assignment for the benefit or creditors.
- h. If it is found that gratuities were offered or given by the Surveyor or any agent or representative of the Surveyor, to any officer or employee of the County.

ARTICLE IX – PAYMENT: The Scope of Services as outlined above will be performed on a lump sum basis with a not-to-exceed without written authorization budget of \$19,600.00. Additional work, as authorized, will be performed on a Time and Materials basis per a mutually agreed upon fee between the County and the Surveyor.

Compensation shall follow the guidelines of **A.R.S. §34-221**. Each invoice must include itemized task and dollar figure for each task completed. Each invoice must show a signature by the County representative confirming services rendered and authorizing payment.

IN WITNESS WHEREOF, three (3) identical counterparts of this contract, each which shall include original signatures and for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the date and year first above written.

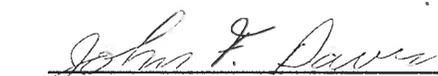
In return for the performance of the Contract by the Surveyor, the County agrees to pay the amount of not more than \$ 19,600.00 including all applicable taxes through a payment schedule as described in the Contract documents and as may be modified and executed by change orders.

**GILA COUNTY PROFESSIONAL SERVICES CONTRACT NO. 1005.221/8-2011
TOWN OF STAR VALLEY G.P.S. SURVEY**

GILA COUNTY:

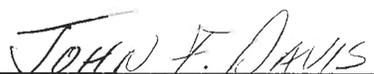
NORTHSTAR SURVEYING, INC:

GILA COUNTY BOARD OF SUPERVISORS



Signature of Surveyor

Michael A. Pastor, Chairman, Board of Supervisors



Print Name

ATTEST

Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

**Bryan B. Chambers, Chief Deputy County Attorney
for Daisy Flores, County Attorney**