Tommie C. Martin, District I
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GILA COUNTY
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1400 E. Ash Street
Globe, AZ 85501

PROFESSIONAL SERVICES CONTRACT NO. 121215-3

GILA COUNTY COURTHOUSE 1ST AND 2ND FLOOR AIRFLOW TESTING, ANALYSIS, AND HVAC DESIGN SERVICES

THIS AGREEMENT, made and entered into this 13TH day of JANUARY, **2016,** by and between Gila County, a political subdivision of the State of Arizona hereinafter designated the County, and Hanlon Engineering Architecture, Inc., of the City of Tucson, State of Arizona, hereinafter designated the Contractor.

WITNESSETH: The Contractor, 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 agreement's herein contained, hereby agrees, for himself, his heirs, administrators, successors, and assigns as follows:

ARTICLE 1 – SCOPE OF SERVICES: The Contractor shall provide the services and products listed in the Scope of Work below and shall do so in a good, workmanlike and substantial manner and to the satisfaction of the County under the direction of the **Facilities Department** or designee.

All work performed by the Contractor shall be completed to local codes and regulation per Gila County and the State of Arizona and consistent with all Gila County guidelines.

Scope of Work: Refer to attached Attachment "A" to **Professional Services Contract No. 121215-3,** by mention made a binding part of this agreement as set forth herein. Deadlines per Attachment "A", HEA Proposal No. 14194:P4, dated November 25, 2015, Section 5.0 – Schedule, prevail over the contract expiration date.

Contractor Fee's: Refer to Attachment "A" to **Professional Services Contract No. 121215-3,** by mention made a binding part of this agreement as set forth herein. To the extent that the terms and conditions of this Service Agreement conflict with the Terms and Conditions of Attachment "A" to **Professional Services Contract No. 121215-3**, the terms and conditions of this service agreement will prevail and govern the contractual relationship between the parties.

ARTICLE 2 – TERMINATION: The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interest of the County, without penalty or recourse. Upon receipt of the written notice, the Contractor shall stop all work as directed in the notice. If the contract is terminated, the County shall be liable only for the services rendered under this contract and accepted material received by the County before the effective date of termination.

ARTICLE 3 - INDEMNIFICATION: Contractor 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 Contractor 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 contractor 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 Contractor from and against any and all claims. It is agreed that Contractor 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 Contractor 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 Contractor for the County.

ARTICLE 4 – INSURANCE REQUIREMENTS: Contractor 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 Contractor, 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 Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor 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 Contractor".**

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. **Automobile Liability**

Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	$1,000,000

a. The policy shall be endorsed to include the following additional insured language:
The County of Gila shall be named as additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

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

Each Claim	$1,000,000
Annual Aggregate	$2,000,000

a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor 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 Contractor even if those limits of liability are in excess of those required by this Contract.
2 The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
3. Coverage provided by the Contractor 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 **Gila County Purchasing Department, 1400 E. Ash St., Globe, AZ, 85501** or 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 Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor 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 **Gila County Purchasing Department, 1400 E. Ash St., Globe, AZ, 85501** or email to jsgroi@gilacountyaz.gov. 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:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies **or** Contractor 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 5 – LEGAL ARIZONA WORKERS ACT COMPLIANCE: Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor shall further ensure that each subcontractor who performs any work for Contractor 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 Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor'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 Contractor 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, Contractor 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 as soon as possible so as not to delay project completion.

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

ARTICLE 6 – WARRANTY: Contractor expressly warrants that all goods or services furnished under this agreement shall conform to all specifications and appropriate standards, will be new, and will be free from defects in material or workmanship. Contractor warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Contractor warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used. If Contractor knows or has reason to know the particular purpose for which County intends to use the goods or services, Contractor warrants that such goods or services will be fit for such particular purpose. Contractor warrants that goods or services furnished will conform in all respects to samples. Inspection, test, acceptance of use of the goods or services furnished hereunder shall not affect the Contractor's obligation under this warranty, and such warranties shall survive inspection, test, acceptance and use. Contractor's warranty shall run to County, its successors, and assigns. Contractor agrees to replace or correct, at Contractor's sole cost and expense, defects of any goods or services not conforming to the foregoing warranty, or improperly installed, as well as guarantee to the County and to the Owner, against liability, losses or damage to any or all parts of the work arising from said installation during a period of two (2) years from date of completion. All guarantees will inure to the benefit of the County and the Owner, their successors or assigns, including equipment warranties, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of failure of Contractor to correct defects in or replace nonconforming goods or services promptly, County, after reasonable notice to Contractor, may make such corrections or replace such goods and services and charge Contractor for the cost incurred by the County in doing so. Contractor recognizes that County's requirements may require immediate repairs in reworking of defective goods, without notice to the Contractor. In such event, Contractor shall reimburse County for those costs, delays, or other damages which County has incurred.

ARTICLE 7 – LAWS AND ORDINANCES: This agreement shall be enforced under the laws of the State of Arizona. Contractor shall maintain in current status all Federal, State and Local licenses and permits required for the operation of the business conducted by the Contractor. The Contractor 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 8 – CANCELLATION: This agreement is subject to cancellation pursuant to A.R.S. §38-511. If the 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.

ARTICLE 9 – RELATIONSHIP OF THE PARTIES: Contractor is an independent contractor of the County. Contractor represents that he has or will secure, at his own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the County. All personnel engaged in work under this contract shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. Contractor warrants that he has obtained or will obtain Worker's Compensation Insurance for his employees working on this contract and that any subcontractors will likewise obtain Worker's Compensation Insurance for of their employees working on this contract. It is further agreed by Contractor that he shall obey all state and federal statutes, rules, and regulations which are applicable to provisions of the services called for herein. Neither Contractor nor any employee of the Contractor shall be deemed an officer, employee, or agent of the County.

ARTICLE 10 – NON-APPROPRIATIONS CLAUSE: Contractor acknowledges that the County is a governmental entity, and the contract validity is based upon the availability of public funding under its authority. In the event that public funds are unavailable and not appropriated for the performance of County's obligations under this contract, then this contract shall automatically expire without penalty to County after written notice to Contractor of the unavailability and non-appropriation of public funds. It is expressly agreed that the County shall only activate this non-appropriation provision as an emergency fiscal measure. The County shall not activate this non-appropriation provision for its convenience, to circumvent the requirements of this contract, or to enable the County to contract with another Contractor for the same supplies or services covered under this Addendum.

ARTICLE 11 – ENTIRE CONTRACT CLAUSE: The Contractor and the County have read this Contract and agree to be bound by all of its terms, and further agree that it constitutes the entire contract between the two parties and may only be modified by a written mutual contract signed by the parties. No oral agreement or oral provision outside this Contract shall have any force or effect.

ARTICLE 12 – NON-WAIVER OF ENFORCEABILITY: Failure of the County to enforce, at any time, any of the provisions of this Contract, or to request at any time performance by Contractor of any of the provisions hereof, shall in no way be construed to be a waiver of such provisions, nor in any way affect the validity of this contract or any part thereof, or the right of the County to enforce each and every provision

ARTICLE 13 – GOVERNING LAW: Both parties agree that this Contract shall be governed by the laws of the state of Arizona. The parties further agree that the jurisdiction for any legal disputes arising out of this Contract shall be the Superior Court of the State of Arizona. The parties agree that even if this Contract does not specifically reference any provision required by state or federal law, those state and federally required provisions are incorporated into this Contract by this reference as though they were specifically listed herein.

ARTICLE 14– TERM: The Contract commences on the date it is signed by the County Manager and remains in effect through February 29, 2016.

ARTICLE 15 – PAYMENT/BILLING: Contractor shall be paid an amount not to exceed **$26,372.00** for completion of the projects as outlined in the Scope of Services and **Attachment "A" to Professional Services Contract No. 121215-3**, by mention made a binding part of this agreement as set forth herein.

All invoices shall be submitted to Gila County Accounts Payable, 1400 E. Ash St, Globe, Arizona and include the following information:

- Purchase Order Number
- Contract Number
- Invoice Number
- Service Location
- Vendor Name and Address
- Description of Service

Any alterations to the scope of work resulting in a change in cost must have prior written approval by the County. Any unauthorized work may result in non-payment to the vendor.

Gila County employs a "Net 15" payment term for services meaning the payment will be issued fifteen (15) days from the date the County receives the invoice from the Contractor. Purchase orders sent to the Contractor reflect these terms and conditions.

The Contractor shall have a current I.R.S. W-9 form on file with the County unless not required by law. The County shall not remit payment if the Contractor does not have a current W-9.

IN WITNESS WHEREOF, Professional Services Contract No. 121215-3 has been duly executed by the parties hereinabove named, on the date and year first above written.

GILA COUNTY

Don E. McDaniel Jr., County Manager

Date: 1/13/16

HANLON ENGINEERING ARCHITECTURE, INC.

R Bruce Woodruff for RH

Signature

R Bruce Woodruff

Print Name

www.HanlonEngineering.com

Hanlon Engineering & Architecture, inc.

Design • Planning • Development • Management
Tucson...Phoenix... Elko

Wednesday, November 25, 2015

Robert Hickman, Facilities Manager
Gila County Public Works Division
745 Rose Mofford Way
Globe, AZ 85501

Subject: Gila County Courthouse; Floors 1 & 2; Airflow Testing, Analysis and HVAC Design Services
Engineering Services Proposal
HEA Proposal No.: 14194:P4

Dear Mr. Hickman,

We would like to thank you for the opportunity to support you with our engineering services to perform air balance testing of floors 1 and 2 of the Gila County Courthouse and provide documentation of corrective actions recommended.

In accordance with your request, we are submitting the following Engineering Proposal for your consideration.

We have developed the scope of work based on our previous recommendations and reports and discussions with you. We believe it meets the requirements for this project.

We appreciate the opportunity to support you and look forward continuing to working with you. If you should have any questions, please contact myself or Robert Hanlon at (520) 326-0062.

Sincerely yours,
Hanlon Engineering & Architecture, Inc.

R. Bruce Woodruff

R. Bruce Woodruff, AIA; LEED A P
bwoodruff@hanlonengineering.com
Project Manager

cc: Robert Hanlon; Dustin Mandeville; Jeanne Sgroi; Shannon Coons

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1.0 INTRODUCTION

Hanlon Engineering & Architecture, Inc. ("HEA") is a full service, multi-disciplined engineering and architecture company with offices located in Tucson, Arizona; Phoenix, Arizona; and Elko, Nevada. HEA offers a complete engineering and design team which executes projects from conception, through permitting, engineering, procurement, construction and commissioning.

The firm was founded in 1999 in Tucson, Arizona and is now comprised of over 60 engineers and other technical staff company wide. Within the last 2 years, HEA has completed over 400 projects with a combined constructed value of over $600 million dollars for our clients.

HEA will team an experienced Test and Balance engineer, mechanical engineer and architect for this project to complete this project on time and within the budget established herein.

2.0 PROJECT OVERVIEW

Discomfort issues are present in the Heating Ventilation and Air Conditioning system at the the First and Second Floors of the Gila County courthouse.

Prior reports (14194-RPT-001 & 14194-RPT-002) have detailed the current issues and conditions of the control locations, HVAC distribution, and system equipment capacities. Investigations show there is ample capacity for heating and cooling in the existing equipment. Issues may be the result of airflow distribution, or equipment performance.

Information about the actual equipment performance and actual airflow to each space in the First and Second floors is unavailable. Airflow testing and equipment survey has been recommended by HEA. Gila County as requested a proposal for this recommendation.

Upon receipt of the empirical testing information, each unit will be analyzed and calculated to provide corrective actions for implementation. This proposal is to provide airflow testing, analyze and calculate each unit to provide corrective designs in the form of Plans and Specifications.

HEA will be available to answer questions or provide additional information as needed during the Bidding / Negotiations phase and during Construction phase, but does not anticipate managing these phases. If Gila County desires these services, we will provide a proposal.

3.0 SCOPE OF WORK

3.1 ENGAGE AN AABC CERTIFIED TEST AND BALANCE ENGINEER

- Survey all roof top AC units and fan coils.
- Test all units for motor amperage and RPM, fan RPM, component static pressures and drive information.
    - Document all unit nameplate information.
- Read airflow measurements for all supply and return grills on both floor. Provide Report.

3.2 ANALYZE INFORMATION; DESIGN CORRECTIVE MEASURES

- Analyze report information, apply, and model calculations for each unit, design corrections to existing ductwork, controls and equipment to correct comfort issues.
- Create Plans, Specifications and schedules for corrective work

4.0 DELIVERABLES

- Deliverables will follow 2012 IBC; 2011 NEC; 2012 IMC; and the Gila County Building Code Ordinance No 2014-03. Analysis will conform to ASHRAE 62.1
- Draft Designs for Owner review and comment with a preliminary opinion of probable costs to implement recommendations.

- Final Plans and Specifications for bidding by Gila County, incorporating any Owner direction, requirements, comments or preferences.
- Final Engineers Opinion of Probable Cost.

5.0 SCHEDULE

HEA will schedule testing work within 1 week upon receipt of Notice To Proceed and provide 1 week notice to Gila County of site activities.
HEA anticipates report to be completed within 2 weeks of site visit.
Analysis of the report, analyzing all units, designing corrective actions and creating a Draft for Owner review should occur 4 - 6 weeks from receipt of the testing report.
Final Designs and Specifications estimated to be provided to Gila County is 2 weeks after Owner response to Draft Designs.

6.0 CLARIFICATIONS

- Air Flow Testing Report will be made available to Owner upon request.
  - Air Flow Testing does not include: duct leak testing, commissioning, life safety testing, purchase or installation of sheaves, pulleys or belts.
- Does not include conducting bidding or performing negotiations with Contractors.
- Does not include Construction Management or Administration.
  - These services are available upon request.

7.0 COMMERCIAL TERMS

In accordance with your request for quote, Hanlon Engineering proposes the following price for work defined herein as a Change Order to the existing agreement.

Description	Itemized Value
Air Flow Testing Report: Floors 1 & 2; GENERAL AIR CONTROL INC.	$ 9,322.50
Report Analysis, Mechanical Calculations for each unit and ductwork	$ 3,800.00
Mechanical Design, 20 mechanical units, 2 floors	$ 4275.00
Drafting/Detailing/Specifications Draft and Final	$ 8,975.00
TOTAL PROPOSED	$26,372.00