

**TASK ORDER NO. 2019-15
PAYSON CITY
CONSTRUCTION SUPPORT**

This AGREEMENT is made and entered into this 1st day of July 2019, between Payson City (hereinafter referred to as PAYSON), and the Central Utah Water Conservancy District (hereinafter known as CUWCD). All work under this AGREEMENT will be completed on or before June 30, 2020 unless modified in writing by the District.

I. BACKGROUND

The CUWCD is designing and constructing features of the Utah Lake System (ULS). A reach of the Spanish Fork Santaquin Pipeline will run through streets in the city of Payson, resulting in impacts to Payson City staff and resources related to design review, coordination, assistance, utility relocation and other incidental impacts.

II. SCOPE OF MOA

A. The CUWCD agrees to do the following:

1. Reimburse PAYSON up to **\$50,000** of monies from the District's July 1, 2019, through June 30, 2020, budget for performances of work, and cost of other incidental impacts. Expenses shall be reimbursed within 30 days following receipt of certified invoices documenting the cost of resource demands and work accomplished.

B. PAYSON agrees as follows:

1. Provide design review, coordination, assistance and utility relocation related construction of the Spanish Fork Santaquin Pipeline Project.

2. Provide certified copies of invoices for District approval and payment covering the cost of approved work.

III. METHOD OF PAYMENT

1. PAYSON will invoice the CUWCD at the end of each month for costs associated with work completed that month. Each bill for collection shall reference this agreement and shall contain a detailed listing of the hours expended, and mileage used, and itemized accounting of related incidentals.
2. PAYSON shall document all costs included in the bill to the District.
3. PAYSON will provide final billing under this work agreement to CUWCD by July 15, 2020 with all relevant documentation.
4. PAYSON will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by the CUWCD during PAYSON's normal business hours for a period of 3 years after PAYSON's final invoice to the extent required to verify the costs incurred hereunder.
5. PAYSON agrees that at any time before, or after, final payment, the District may have PAYSON's, subconsultants, or suppliers invoices and statements of cost audited. Any payment may be reduced by amounts found by the District not to constitute allowable costs as defined by Part 31 - Contract Cost Principles and procedures of the Code of Federal Regulations (CFR) - Title 48 - Federal Acquisition Regulations.

OTHER PROVISIONS

Subconsultants

Any proposed or existing subconsultants (including lower tier subconsultants) who will perform a portion of the Scope of Services hereunder exceeding \$10,000 in payments must be approved by the CUWCD in writing. Approval will be prior to any billable work being done. PAYSON will bind all subconsultants (who must agree to bind all lower tier subconsultants) to the Provisions of this task order AGREEMENT.

Neither this AGREEMENT nor any subconsultant agreement will create any contractual relationship between any subconsultant and the CUWCD, nor any liability of the CUWCD to any subconsultant.

Privileged and Confidential Information

PAYSON acknowledges that in performing the services related to this agreement they may have access to privileged and confidential material(s) of the CUWCD. PAYSON agrees to respect the privilege and confidentiality of said information and to not disclose information of this nature without the expressed prior written consent of the CUWCD.

Key Personnel

PAYSON will provide qualified personnel to perform its Scope of Services. PAYSON hereby designates the following persons as key personnel to the PROJECT and agrees that they will not be removed from the PROJECT without the expressed written consent of the CUWCD. The CUWCD and PAYSON each designate the persons whose names appear below to act as authorized representatives of CUWCD or PAYSON respectively:

CUWCD

Name: Bart Leeftang, P.E.
Title: CUPCA Program Support Manager
Address: Central Utah Water Conservancy District
1426 E. 750 N., Suite 400
Orem UT 84097
Phone: (801) 226-7141
Fax: (801) 226-7150
email: bart@cuwcd.com

PAYSON

Name: Travis Jockumsen, P.E.
Title: City Engineer
Address: Payson City Public Works
439 West Utah Ave.
Payson, UT 84651
Phone: (801) 465-5235
Fax: (801) 465-5228
email: travisj@Payson.org

Access to Records

PAYSON will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by the CUWCD during PAYSON's normal business hours for a period of 3 years after PAYSON's final invoice to the extent required to verify the costs incurred hereunder.

Equal Opportunity

To the extent applicable hereto, PAYSON will in the performance of this AGREEMENT comply with The Fair Labor Standards Act of 1939 (29 U.S.C. 201-219); the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45); the Contract Work Hours Standards Act—Overtime Compensation (40 U.S.C. 327-330); laws restraining the use of convict labor; Utilization of Small Business and Small

Disadvantaged Business Concerns (Public Law 95-507); all other federal, state, and local laws; and all regulations and orders issued under any applicable law, including but not limited to, Title 41, Code of Federal Regulations, Part 60, Subsections 1.7 and 1.8 and shall, if applicable, submit a Certificate of Non-Segregated Facilities conforming to Title 48, CFR, Part 52, Subsection 222-21 before execution of this AGREEMENT.

- (1) The Equal Employment Opportunity clause in Section 202 of Executive Order (E.O.) 11246, as amended, and the implementing rules and regulations (41 CFR Part 60) are incorporated herein by reference, unless this order is exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of E.O. of provisions of any superseding E.O. As used in this clause, "Contractor" means PAYSON.
- (2) The Affirmative Action for Handicapped Worker clause in Title 48, Code of Federal Regulations, Part 52, Subsection 222-36 and the implementing rules and regulations of the Department of Labor associated therewith are incorporated herein by reference unless this order is under \$2,500,000. As used in said clause, "Contractor" means PAYSON.
- (3) The Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era clause of Title 48, Code of Federal Regulations, Part 52, Subsection 222-35 and the implementing rules and regulations of the Department of Labor associated therewith are incorporated herein by reference, unless this order is under \$10,000. As used in said clause, "Contractor" means PAYSON and "Contract" means this AGREEMENT.

Working Files

PAYSON will maintain files containing all work documentation including calculations, assumptions, interpretations or regulations, sources of information, and other raw data required in the performance of this AGREEMENT. PAYSON will provide copies of the information contained in its working files to the CUWCD upon request of the CUWCD.

Changes

The CUWCD may make changes, revisions, additions, or deletions (collectively hereinafter called "changes") in the Scope of Services contained in this task order.

Any changes, revisions, additions or deletions in the Scope of Services contained in this task order shall be mutually agreed to in writing by both parties.

PAYSON will immediately, upon knowledge of any potential changes (including actions, inactions, and written or oral communications) that do not conform to the authorized method of directing changes specified herein, notify the CUWCD of such changes and will request written disposition.

PAYSON will not proceed with any changes unless notified in writing to proceed by the CUWCD.

Nothing herein will be construed as relieving PAYSON of its obligations to perform, including without limitation, the failure of the parties to agree upon PAYSON entitlement to, or the amount of, any adjustment in time or compensation.

Any claim by PAYSON for an adjustment under this paragraph must be asserted in writing fully supported by factual information to the CUWCD, within 30 days from the date of receipt of

PAYSON of the written change authorization from the CUWCD or within such extension of that 30-day period as the CUWCD, in its sole discretion, may grant in writing at PAYSON's request prior to expiration of said period.

If the Scope of Services is reduced by changes, such action will not constitute a claim for damages based on loss of anticipated profits.

The CUWCD may reduce subsequent work efforts and monies in any task order upon thirty (30) days advance written notice from the CUPCA Program Manager and/or the CUWCD General Manager.

AUDIT

PAYSON agrees that at any time before, or after, final payment, the CUWCD may have PAYSON's, subconsultants, or suppliers invoices and statements of cost audited. Any payment may be reduced by amounts found by the CUWCD not to constitute allowable costs as defined by **Part 31 - Contract Cost Principles and Procedures** of the Code of Federal Regulations (CFR) - Title 48 - Federal Acquisition Regulations.

CONFLICT OF INTEREST

No member of Congress, Departmental employee, or District Board Member or employee shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom.

MISCELLANEOUS PROVISIONS

- A. Entire Agreement. This AGREEMENT constitutes the entire AGREEMENT and understanding of the parties with the respect to the subject matter of this AGREEMENT.
- B. Assignment. This AGREEMENT shall not be assignable by either party without the prior written consent of the other party. Subject to this limitation on assignment, this AGREEMENT shall be binding upon and shall inure to the benefit of the parties' respective successors, agents and assigns.
- C. Governing Law. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Utah.
- D. Arbitration. Any difference, dispute, claim or controversy arising out of or relating to this AGREEMENT shall be referred to and finally settled by arbitration in Salt Lake City, Utah pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The arbitration award shall be binding upon the parties and judgment on the award may be entered in any court of competent jurisdiction.
- E. Modification. No modification of this AGREEMENT shall be valid or binding, unless made in writing and signed by both parties.
- F. Waiver. Acceptance by either party of any performance less than that required by this AGREEMENT shall not be deemed to be a waiver of that party's rights under this AGREEMENT. No waiver of any provision of this AGREEMENT shall be deemed to

be a waiver of any other provision, nor shall any waiver constitute a continued waiver. Any waiver of any provision of this AGREEMENT shall be in writing and shall be signed by the party waiving the provision.

- G. No third-Party Beneficiaries. This AGREEMENT gives no rights or benefits to anyone other than the parties and has no third-party beneficiaries.
- H. Severability. The provisions of this AGREEMENT are severable, and the invalidity or unenforceability of any provision of this AGREEMENT, shall not affect the validity or enforceability of the remaining provisions.
- I. Attorney's Fees. In the event of a dispute over or relating to the terms of this AGREEMENT, or any party's performance under this AGREEMENT, the prevailing party in any proceeding brought in connection with the dispute shall be entitled to recover from the other party its costs, including reasonable attorneys' fees, whether incurred in arbitration or otherwise.

IN WITNESS THEREOF, the parties have thereto caused this AGREEMENT to be executed as of the 1st day of July 2019.

**CENTRAL UTAH WATER
CONSERVANCY DISTRICT**

PAYSON CITY

By: _____
Gene Shawcroft
General Manager

By: _____
William Wright
Mayor