

**REQUEST FOR STATEMENTS OF QUALIFICATIONS
FOR
AMMONIA REMOVAL PLAN FOR TOLLESON WWTP**

City of Tolleson
9555 W. Van Buren
Tolleson, AZ 85353

SOLICITATION INFORMATION AND SELECTION SCHEDULE

Solicitation Number: _____

Solicitation Title: **Ammonia Removal Plan Project**

Release Date: **JANUARY 20, 2011**

NON-MANDATORY
Pre-Submittal Conference: **FEBRUARY 10, 2011**
10:00 AM (local time, Phoenix, Arizona)
Tolleson Wastewater Treatment Plant
Conference Room
9501 W. Pima St. (1/4 mile South 91st Ave. &
Buckeye Rd)
Tolleson, AZ 85353

Final Date for Inquiries **FEBRUARY 17, 2011**

SOQ Due Date and Time: **MARCH 3, 2011**
10:00 AM (local time, Phoenix, Arizona)

Letters to Final Listed Firms: **MARCH 11, 2011**

Oral Interviews: **(if conducted) MARCH 22, 2011**

Target City Council Award Date: **APRIL 12, 2011**

City Representatives: **Mark Berrelez** **mberrelez@tollesonaz.org**
623-936-3381

* The City of Tolleson reserves the right to amend the solicitation schedule as necessary.

Notice Given By: Chris Hagen
City Clerk
Thursday, January 20, 2011

Published in the: Arizona Business Gazette
Thursday, January 27, 2011
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I. RFQ PROCESS; AWARD OF AGREEMENT

1. Purpose; Scope of Work. The City of Tolleson (the “City”) is issuing this Request for Statements of Qualifications (this “RFQ”) from qualified engineering consultants (“Vendors”) interested in providing professional consulting services to assist the City in evaluating alternatives and developing a plan to meet future effluent ammonia standards for the Tolleson Wastewater Treatment Plant, as more particularly described in the Scope of Work attached to the sample Professional Services Agreement as Exhibit C (the “Services”), and incorporated herein by reference. Alternatives may include treatment plant modifications and additions, and non-treatment options such as alternative effluent disposal. The purpose of the evaluation is to identify the most cost effective alternative to meet future standards. The plan will define the implementation of the selected alternative. The proposed budget for the Services is \$60,000.00 (*Sixty Thousand Dollars*).

2. Preparation/Submission of SOQ. Vendors are invited to participate in the competitive selection process for the Services outlined in this RFQ. Responding parties shall review their SOQ submissions to ensure the following requirements are met.

2.1 Irregular or Non-responsive SOQs. The City shall consider as “irregular” or “non-responsive” and reject any SOQ not prepared and submitted in accordance with this RFQ, or any SOQ lacking sufficient information to enable the City to make a reasonable determination of compliance to the minimum qualifications. Unauthorized conditions, limitations, or provisions shall be cause for rejection. SOQs may be deemed non-responsive at any time during the evaluation process if, in the sole opinion of the City:

- a. Vendor does not meet the minimum required skill, experience or requirements to perform or provide the Service.
- b. Vendor has a past record of failing to fully perform or fulfill contractual obligations.
- c. Vendor cannot demonstrate financial stability.
- d. Vendor’s SOQ contains false, inaccurate or misleading statements that, in the opinion of the City Manager or authorized designee, is intended to mislead the City in its evaluation of the SOQ.

2.2 Submittal Quantities. Interested Vendors must submit **one (1) original** and **four (4) copies (five (5) total submittals)** of the SOQ. In addition, interested parties must submit **one (1) original copy** of the SOQ on a CD-ROM (or electronic media approved by the City) in printable Adobe or Microsoft Word format (or other format approved by the City). Failure to adhere to the submittal quantity criteria shall result in the SOQ being considered non-responsive.

2.3 Required Submittal. The SOQ shall be submitted with a cover letter with an **original ink** signature by a person authorized to bind the Vendor. SOQs submitted without a cover letter with an **original ink signature** by a person authorized to bind the Vendor shall be considered non-responsive. The SOQ shall be a maximum of **twelve (12)** pages to address the SOQ criteria (excluding resumes, the Vendor Information Form, but including the materials

necessary to address Project understanding, general information, organizational chart, photos, tables, graphs, and diagrams). Each page side (maximum 8 1/2" x 11") with criteria information shall be counted. However, one page may be substituted with an 11" x 17" sheet of paper, folded to 8 1/2" x 11", showing a proposed Project schedule or organizational chart and only having information on one side. Cover, back, table of contents and tabs may be used and shall not be included in the page count, unless they include additional project-specific information or SOQ criteria responses. The minimum allowable font for the SOQ is **11 pt**. Failure to adhere to the page limit and size criteria and font size shall result in the SOQ being considered non-responsive. Telegraphic (facsimile), electronic (e-mail) or mailgram SOQs will not be considered.

2.4 Vendor Responsibilities. All Vendors shall (a) examine the entire RFQ, (b) seek clarification of any item or requirement that may not be clear, (c) check all responses for accuracy before submitting an SOQ and (d) submit the entire SOQ by the SOQ Due Date and Time. Late SOQs will not be considered. A Vendor submitting a late SOQ shall be so notified. Negligence in preparing an SOQ confers no right of withdrawal after the SOQ Due Date and Time.

2.5 Sealed Submittals. All SOQs shall be sealed and clearly marked with the RFQ number and title, **Tolleson WWTP – Ammonia Removal Plan Project**, on the lower left hand corner of the mailing envelope. A return address must also appear on the outside of the sealed SOQ. The City is not responsible for the pre-opening of, post-opening of, or the failure to open, any SOQs not properly addressed or identified.

2.6 Address. All SOQs shall be directed to the following address: City Clerk, 9555 West Van Buren Street, Tolleson, Arizona 85353, or hand-delivered to the City Clerk's office by the SOQ Due Date and Time indicated on the cover page of this RFQ.

2.7 Amendment/Withdrawal of SOQ. At any time prior to the specified SOQ Due Date and Time, a Vendor (or designated representative) may amend or withdraw its SOQ. Any erasures, interlineations, or other modifications in the SOQ shall be initialed in **original ink** by the authorized person signing the SOQ. Facsimile, electronic (e-mail) or mailgram SOQ amendments or withdrawals will not be considered. No SOQ shall be altered, amended or withdrawn after the specified SOQ Due Date and Time.

3. Cost of SOQ Preparation. The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. SOQs submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Vendor is responsible for all costs incurred in responding to this RFQ. All materials and documents submitted in response to this RFQ become the property of the City and will not be returned.

4. Inquiries.

4.1 Written/Verbal Inquiries. Any question related to the RFQ shall be directed to the City Representative whose name appears on the cover page of this RFQ. Questions shall be submitted in writing or via e-mail by the close of business on the Final Date for Inquiries indicated on the cover page of this RFQ or submitted verbally (A) at the Pre-Submittal Conference on the date indicated on the cover page of this RFQ (if such Pre-Submittal

Conference is held) or (B) after the Pre- Submittal Conference but before the Final Date for Inquiries indicated on the cover page of this RFQ. In the event the City is closed on the Final Date for Inquiries, the Vendor shall submit the question(s) to one of the City Representatives via e-mail or voicemail. Any inquiries related to this RFQ shall refer to the number and title, page and paragraph. However, the Vendor shall not place the RFQ number and title on the outside of any envelope containing questions, because such an envelope may be identified as a sealed SOQ and may not be opened until after the SOQ Due Date and Time.

4.2 Inquiries Answered. Written questions will be read and answered at the Pre-Submittal Conference on the date indicated on the cover page of this RFQ. Verbal or telephone inquiries directed to City staff **will not be answered**. Within two (2) business days following the Pre-Submittal Conference, answers to all questions received in writing or via e-mail or verbally at the Pre-Submittal Conference will be mailed, sent via facsimile and/or e-mailed to all parties who obtained an RFQ package from the City and who legibly provided their mailing address, facsimile and/or e-mail address to the City. No questions, submitted in any form, will be answered after the final date for inquiries listed on the cover of this RFQ.

5. Pre-Submittal Conference. A Pre-Submittal Conference may be held. If scheduled, the date and time of this conference will be indicated on the cover page of this RFQ. This conference may be designated as mandatory or non-mandatory on the cover page of this RFQ. Additionally, if the Pre-Submittal Conference is designated as mandatory, failure to attend shall render that Vendor's SOQ non-responsive. Vendors are strongly encouraged to attend those Pre-Submittal Conferences designated as non-mandatory. The purpose of this conference will be to clarify the contents of this RFQ in order to prevent any misunderstanding of the City's requirements. Any doubt as to the requirements of this RFQ or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine if any action is necessary and may issue a written amendment or addendum to the RFQ. Oral statements or instructions will not constitute an amendment or addendum to this RFQ. Any addendum issued as a result of any change in this RFQ shall become part of the RFQ and must be acknowledged in the SOQ submittal. Failure to indicate receipt of the addendum shall result in the SOQ being rejected as non-responsive.

6. Public Record. All SOQs shall become the property of the City and shall become a matter of public record available for review, subsequent to the award notification, in accordance with the City's Procurement Code.

7. Confidential Information. If a Vendor believes that an SOQ or protest contains information that should be withheld from the public record, a statement advising the City Representative of this fact shall accompany the submission and the information shall be identified. The information identified by the Vendor as confidential shall not be disclosed until the City Representative makes a written determination. The City Representative shall review the statement and information and shall determine in writing whether the information shall be withheld. If the City Representative determines to disclose the information, the City Representative shall inform the Vendor in writing of such determination.

8. Vendor Licensing and Registration. Prior to the award of the Agreement, the successful Vendor shall (a) be licensed with the Arizona Corporation Commission to do business in Arizona and (b) have a completed Request for Vendor Number on file with the City Financial Services Department. The Vendor shall provide licensure information with the SOQ.

Corporations and partnerships shall be able to provide a Certificate of Good Standing from the Arizona Corporation Commission.

9. Certification. By submitting an SOQ, the Vendor certifies:

9.1 No Collusion. The submission of the SOQ did not involve collusion or other anti-competitive practices.

9.2 No Discrimination. It shall not discriminate against any employee or applicant for employment in violation of Federal Executive Order 11456.

9.3 No Gratuity. Vendor has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip favor or service to a City employee, officer or agent in connection with the submitted SOQ. It (including the Vendor's employees, representatives, agents, lobbyists, attorneys, and subcontractors) has refrained, under penalty of disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process, including the Selection Committee, elected officials, the City Manager, Assistant City Managers, Department Heads, and other City staff. All contact must be addressed to the City's Procurement Agent, except for questions submitted as set forth in Section 4, Inquiries, above. Any attempt to influence the selection process by any means shall void the submitted SOQ and any resulting Agreement.

9.4 Financial Stability. It is financially stable, solvent and has adequate cash reserves to meet all financial obligations including any potential costs resulting from an award of the Agreement.

9.5 No Signature; False or Misleading Statement. Failure to sign the SOQ, or signing it with a false or misleading statement, shall void the submitted SOQ and any resulting Agreement.

9.6 Professional Services Agreement. In addition to reviewing and understanding the submittal requirements, it has reviewed the attached sample Professional Service Agreement including the Scope of Work and other Exhibits.

10. Ranking of Vendors.

10.1 Selection. A Selection Committee composed of representatives from the City will conduct the selection process according to the schedule listed on the cover page of this RFQ. The Selection Committee will create a final ranking of the Vendors based upon its evaluation of (i) the SOQ, (ii) information provided by references and (iii) criteria outlined in this RFQ, including the criteria for interview screening, if interviews are conducted. The Selection Committee may select three, but no more than five finalists that may be invited for oral interviews with the Selection Committee. If interviews are conducted, the City will conduct the oral interviews with the selected Vendors and upon completion of the final tabulation of points for scored components, will create a final list, in order of preference, of the three most qualified Vendors. The Selection Committee will enter into negotiations with the highest scoring Vendor from the final list, for entry into the single contract for this Project.

10.2 Form of Agreement. The selected Vendor will be required to execute the City's standard Professional Services Agreement in a form acceptable to the City Attorney. A sample of the standard agreement is included with this RFQ. If the City is unsuccessful in negotiating an Agreement with the highest-scoring Vendor, the City may then negotiate with the second, then third, highest-scoring Vendor until an Agreement is executed. City Council approval will be required. The City reserves the right to terminate the selection process at any time.

10.3 Waiver; Rejection; Reissuance. Notwithstanding any other provision of this RFQ, the City expressly reserves the right to: (i) waive any immaterial defect or informality, (ii) reject any or all SOQs or portions thereof and (iii) reissue an RFQ.

10.4 Protests. Any Vendor may protest this RFQ issued by the City, the ranking of the Vendors and proposed award of an Agreement, or the actual proposed approval of an Agreement. All protests will be considered in accordance with the City Procurement Code, and the protest policy and procedures of the Arizona Department of Administration, pursuant to ARIZ. REV. STAT. § 34-603(J). The City's Procurement Code is available from the City Clerk's office.

11. Offer. An SOQ submittal is an offer to contract with the City based upon the terms, conditions and specifications contained in this RFQ and the Vendor's responsive SOQ, unless any of the terms, conditions, or specifications is modified by a written addendum or agreement amendment. Provided, however, that no contractual relationship shall be established until the Vendor has signed, and the City has approved, a professional services agreement between the City and the Vendor in the form acceptable to the City Attorney. A sample Professional Services Agreement is included herein.

II. STATEMENT OF QUALIFICATIONS FORMAT; SCORING

Upon receipt of an SOQ, each submittal will be reviewed for compliance with the SOQ requirements by the Selection Committee. SOQs shall be organized and submitted in the format as outlined below. Failure to conform to the designated format, standards and minimum requirements shall result in a determination that the SOQ is non-responsive. Additionally, the Selection Committee will evaluate and award points to each SOQ based upon the scoring criteria as outlined in this document. Points listed below are the maximum number of points possible for each criteria and not the minimum number that the Selection Committee may award. The Selection Committee may conduct oral interviews with at least three, but not more than five, of the highest ranked Vendors based upon the identified scoring.

Section 1: General Information

5 pts

- A. One page cover letter as described in Section I, 2.3.
- B. Explain the legal organization of the Vendor. Provide identification information of the Vendor. Include the legal name, address, identification number and legal form of the Vendor (e.g., partnership, corporation, joint venture, sole proprietorship). If a joint venture, identify the members of the joint venture and provide all of the information required under this section for each member. If the Vendor is a wholly owned subsidiary of another company, identify the parent company. Provide the name, address and telephone number of the person to contact concerning the SOQ.
- C. Identify the location of the Vendor's principal office and the local work office, if different.
- D. Provide a general description of the Vendor that is proposing to provide the Services, including number of years in business.

Section 2: Licenses; Governmental References

5 pts

- A. Provide current licenses and certifications for all employees proposed to provide the services.
- B. Provide the names, address and telephone numbers for at least three (3) municipal or other local government references. If more than one reference cannot be contacted, the submission may be disqualified.
- C. Vendor Information Form (may be attached as separate appendix).

Section 3: Experience and Qualifications of the Vendor

35 pts

- A. Provide a description of projects in which the Vendor has served as Design and Planning Consultants on similar successful projects for organizations or municipalities of the same size as, or larger than, the City, completed within in the last three years. For each project, provide, at a minimum, the following:

(i) Project description. Include details about how your project is similar to the one described in this SOQ.

- a. Name of the company or organization.
- b. Role of the firm.
- c. Name of Project Manager for the project (state if still with the Vendor).
- d. Organization name.
- e. Contact name.
- f. Contact address, telephone number, and e-mail address.

B. Identify any contract or subcontract held by the company or officers of the company that have been terminated within the last five years. Identify any claims arising from a contract which resulted in litigation or arbitration within the last five years. Briefly describe the circumstances and the outcomes.

C. Describe the firm's project experience in the following areas:

- (i) Experience with similar evaluations and facility plans for achieving effluent ammonia or nitrogen removal.
- (ii) Experience designing nitrogen removal processes and systems.
- (iii) Experience with alternative reclaimed water reuse and disposal.
- (iv) Experience with treatment process optimization related to nutrient removal.

Section 4: Key Personnel

20 pts

A. Provide an organizational chart showing key personnel to be involved in this Project and company affiliation. If a subcontractor will be used for all work of a certain type, include information on this subcontractor. A detailed plan for providing supervision must be included with the SOQ.

B. Identify each key personnel member that will render services to the City including title and relevant experience required.

C. Indicate the roles and responsibilities of each key position. Include senior members of the Vendor only from the perspective of what their role will be in providing services to the City. For each key personnel member identified, list at least two comparable contracts in which they have played a primary role. Provide:

- (i) Description of the contract.
- (ii) Role of the individual employee.
- (iii) Contract owner reference information.

D. Attach a brief résumé (two page maximum) and evidence of certification, if any, for each key personnel member and/or subcontractor to be involved in this Project. Résumés shall be attached together as a single appendix at the end of the SOQ and will not count toward the SOQ page limit.

- E. Describe the experience of the key project team members in the following areas:
- (i) Nutrient removal processes design and operation.
 - (ii) Effluent reuse and disposal alternatives.
 - (iii) Alternatives evaluation.
 - (iv) Facility planning.
 - (v) Nutrient process operation and optimization.
 - (vi) Project management.
 - (vii) Regulatory compliance and regulatory agency coordination.

Section 5: Project Understanding and Approach

35 pts

A. Provide a brief summary project indicating the Vendor's understanding of the Scope of Work described in the Professional Services Agreement in Exhibit C. Include a sample of the proposed schedule of Services.

B. Describe the Vendor's project approach, including the following processes:

- (i) Planning.
- (ii) Estimating.
- (iii) Scheduling.
- (iv) Cost controls.
- (v) Project management and team organization during design and construction phase services.
- (vi) Bid Package Management.
- (vii) Management of overhead costs.
- (viii) Managing subcontractors.
- (ix) Quality control.
- (x) Safety.

C. Describe any alternate approaches if it is believed that such an approach would best suit the needs of the City. Include rationale for alternate approaches, and indicate how the Vendor will ensure that all efforts are coordinated with the City's general representation.

D. Describe the firm's approach to completing the evaluation and developing the plan.

E. Provide a detailed scope of the work.

F. Provide recommended interaction and meetings with the City including interim deliverables and review.

G. Provide a project schedule with major task breakdown and project milestones.

H. Describe project management and project controls to be used to ensure timely completion of the plan.

Total Possible Points for SOQ:

100

III. ORAL INTERVIEWS; SCORING

If the City determines that interviews shall be conducted, Vendors selected for oral interviews will be invited to participate in discussions with the Selection Committee on the date indicated on the cover page of this RFQ and awarded points based upon the criteria as outlined below. Vendors may be given additional information for these oral interviews. These discussions will relate less to the past experience and qualifications already detailed in the SOQs and relate more to identification of the Vendor's program approach and to an appraisal of the people who would be directly involved in the Services for this RFQ.

Oral Interview

5	General Information
15	Experience and Qualifications of the Vendor
20	Key Personnel Experience
25	Project Understanding and Approach
10	Licenses; Governmental References
<u>25</u>	Questions and Answers
100	Total Possible Points for Oral Interview

IV. **VENDOR INFORMATION FORM**

By submitting an SOQ, the submitting Vendor certifies that it has reviewed the administrative information and draft of the Professional Services Agreement's terms and conditions and, if awarded the Agreement, agrees to be bound thereto.

VENDOR SUBMITTING SOQ

FEDERAL TAX ID NUMBER

PRINTED NAME AND TITLE

AUTHORIZED SIGNATURE

ADDRESS

TELEPHONE

FAX #

CITY STATE ZIP

DATE

WEB SITE: _____

EMAIL ADDRESS: _____

SMALL, MINORITY, DISADVANTAGED AND WOMEN-OWNED BUSINESS ENTERPRISES (check appropriate item(s):

- _____ Small Business Enterprise (SBE)
- _____ Minority Business Enterprise (MBE)
- _____ Disadvantaged Business Enterprise (DBE)
- _____ Women-Owned Business Enterprise (WBE)

Has the Vendor been certified by any jurisdiction in Arizona as a minority or woman-owned business enterprise?

If yes, please provide details and documentation of the certification.

**SAMPLE PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of _____, 2011, between the City of Tolleson, an Arizona municipal corporation (the "City") and _____, a(n) _____ (the "Consultant").

RECITALS

A. The City issued a Request for Statements of Qualifications "Request for Statements of Qualifications for _____" (the "RFQ"), attached hereto as Exhibit A and incorporated herein by reference, seeking statements of qualifications from vendors for professional consulting services.

B. The Consultant submitted a statement of qualifications in response to the RFQ (the "SOQ"), attached hereto as Exhibit B and incorporated herein by reference, and the City desires to enter into an Agreement with the Consultant for design engineering and consulting services for the City's _____ (the "Services").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Consultant hereby agree as follows:

1. Term of Agreement. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until _____.

2. Scope of Work. Consultant shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit C and incorporated herein by reference.

3. Compensation. The City shall pay Consultant an amount not to exceed \$_____.00 for the Services at the rates as set forth in the Fee Proposal, attached hereto as Exhibit D and incorporated herein by reference.

4. Payments. The City shall pay the Consultant monthly, based upon work performed and completed to date, and upon submission and approval of invoices. All invoices shall document and itemize all work completed to date. The invoice statement shall include a record of time expended and work performed in sufficient detail to justify payment.

5. Documents. All documents prepared and submitted to the City pursuant to this Agreement and any intellectual property rights associated therewith, shall be the exclusive property of the City.

6. Consultant Personnel. Consultant shall provide adequate, experienced personnel, capable of and devoted to the successful completion of the Services to be performed under this Agreement. Consultant agrees to assign specific individuals to key positions. Consultant agrees that, upon commencement of the Services to be performed under this Agreement, key personnel shall not be removed or replaced without prior written notice to the City. If key personnel are not available to perform the Services for a continuous period exceeding 30 calendar days, or are expected to devote substantially less effort to the Services than initially anticipated, Consultant shall immediately notify the City of same and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

7. Inspection; Acceptance. All work shall be subject to inspection and acceptance by the City at reasonable times during Consultant's performance. The Consultant shall provide and maintain a self-inspection system that is acceptable to the City.

8. Licenses; Materials. Consultant shall maintain in current status all federal, state and local licenses and permits required for the operation of the business conducted by the Consultant. The City has no obligation to provide Consultant, its employees or subcontractors any business registrations or licenses required to perform the specific services set forth in this Agreement. The City has no obligation to provide tools, equipment or material to Consultant.

9. Performance Warranty. Consultant warrants that the Services rendered will conform to the requirements of this Agreement and to the highest professional standards in the field.

10. Indemnification. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold harmless the City and each council member, officer, employee or agent thereof (the City and any such person being herein called an "Indemnified Party"), for, from and against any and all losses, claims, damages, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees, court costs and the costs of appellate proceedings) to which any such Indemnified Party may become subject, under any theory of liability whatsoever ("Claims"), insofar as such Claims (or actions in respect thereof) relate to, arise out of, or are caused by or based upon the negligent acts, intentional misconduct, errors, mistakes or omissions, in connection with the work or services of the Consultant, its officers, employees, agents, or any tier of subcontractor in the performance of this Agreement. The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this Section.

11. Insurance.

11.1 General.

a. Insurer Qualifications. Without limiting any obligations or liabilities of Consultant, Consultant shall purchase and maintain, at its own expense, hereinafter stipulated minimum insurance with insurance companies authorized to do business in the State of Arizona pursuant to ARIZ. REV. STAT. § 20-206, as amended, with an AM Best, Inc. rating of A- or above with policies and forms satisfactory to the City. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option.

b. No Representation of Coverage Adequacy. By requiring insurance herein, the City does not represent that coverage and limits will be adequate to protect Consultant. The City reserves the right to review any and all of the insurance policies and/or endorsements cited in this Agreement but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Consultant from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

c. Additional Insured. All insurance coverage and self-insured retention or deductible portions, except Workers' Compensation insurance and Professional Liability insurance, if applicable, shall name, to the fullest extent permitted by law for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees as Additional Insured as specified under the respective coverage sections of this Agreement.

d. Coverage Term. All insurance required herein shall be maintained in full force and effect until all work or services required to be performed under the terms of this Agreement are satisfactorily performed, completed and formally accepted by the City, unless specified otherwise in this Agreement.

e. Primary Insurance. Consultant's insurance shall be primary insurance with respect to performance of this Agreement and in the protection of the City as an Additional Insured.

f. Waiver. All policies, except for Professional Liability, including Workers' Compensation insurance, shall contain a waiver of rights of recovery (subrogation) against the City, its agents, representatives, officials, officers and employees for any claims arising out of the work or services of Consultant. Consultant shall arrange to have such subrogation waivers incorporated into each policy via formal written endorsement thereto.

g. Policy Deductibles and/or Self-Insured Retentions. The policies set forth in these requirements may provide coverage that contains deductibles or self-insured retention amounts. Such deductibles or self-insured retention shall not be applicable with respect to the policy limits provided to the City. Consultant shall be solely responsible for any such deductible or self-insured retention amount.

h. Use of Subcontractors. If any work under this Agreement is subcontracted in any way, Consultant shall execute written agreements with its subcontractors containing the indemnification provisions set forth in this Section and insurance requirements set forth herein protecting the City and Consultant. Consultant shall be responsible for executing any agreements with its subcontractors and obtaining certificates of insurance verifying the insurance requirements.

i. Evidence of Insurance. Prior to commencing any work or services under this Agreement, Consultant will provide the City with suitable evidence of insurance in the form of certificates of insurance and a copy of the declaration page(s) of the insurance policies as required by this Agreement, issued by Consultant's insurance insurer(s) as evidence that policies are placed with acceptable insurers as specified herein and provide the required coverages,

conditions and limits of coverage specified in this Agreement and that such coverage and provisions are in full force and effect. Confidential information such as the policy premium may be redacted from the declaration page(s) of each insurance policy, provided that such redactions do not alter any of the information required by this Agreement. The City shall reasonably rely upon the certificates of insurance and declaration page(s) of the insurance policies as evidence of coverage but such acceptance and reliance shall not waive or alter in any way the insurance requirements or obligations of this Agreement. In the event any insurance policy required by this Agreement is written on a “claims made” basis, coverage shall extend for two years past completion of the Services and the City’s acceptance of the Consultant’s work or services and as evidenced by annual certificates of insurance. If any of the policies required by this Agreement expire during the life of this Agreement, it shall be Consultant’s responsibility to forward renewal certificates and declaration page(s) to the City 30 days prior to the expiration date. All certificates of insurance and declarations required by this Agreement shall be identified by referencing the RFQ number and title or this Agreement. A \$25.00 administrative fee shall be assessed for all certificates or declarations received without the appropriate RFQ number and title or a reference to this Agreement, as applicable. Additionally, certificates of insurance and declaration page(s) of the insurance policies submitted without referencing the appropriate RFQ number and title or reference to this Agreement, as applicable, will be subject to rejection and may be returned or discarded. Certificates of insurance and declaration page(s) shall specifically include the following provisions:

(1) The City, its agents, representatives, officers, directors, officials and employees are Additional Insureds as follows:

(a) Commercial General Liability - Under Insurance Services Office, Inc., (“ISO”) Form CG 20 10 03 97 or equivalent.

(b) Auto Liability - Under ISO Form CA 20 48 or equivalent.

(c) Excess Liability - Follow Form to underlying insurance.

(2) Consultant’s insurance shall be primary insurance as respects performance of the Agreement.

(3) All policies, except for Professional Liability, including Workers’ Compensation, waive rights of recovery (subrogation) against City, its agents, representatives, officers, officials and employees for any claims arising out of work or services performed by Consultant under this Agreement.

(4) A 30-day advance notice cancellation provision. If ACORD certificate of insurance form is used, the phrases in the cancellation provision “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be deleted. Certificate forms other than ACORD form shall have similar restrictive language deleted.

11.2 Required Insurance Coverage.

a. Commercial General Liability. Consultant shall maintain “occurrence” form Commercial General Liability insurance with an unimpaired 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 shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury. Coverage under the policy will be at least as broad as ISO policy form CG 00 010 93 or equivalent thereof, including but not limited to, separation of insured’s clause. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, officials and employees shall be cited as an Additional Insured under ISO, Commercial General Liability Additional Insured Endorsement form CG 20 10 03 97, or equivalent, which shall read “Who is an Insured (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of “your work” for that insured by or for you.” If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

b. Vehicle Liability. Consultant shall maintain Business Automobile Liability insurance with a limit of \$1,000,000 each occurrence on Consultant’s owned, hired and non-owned vehicles assigned to or used in the performance of the Consultant’s work or services under this Agreement. Coverage will be at least as broad as ISO coverage code “1” “any auto” policy form CA 00 01 12 93 or equivalent thereof. To the fullest extent allowed by law, for claims arising out of the performance of this Agreement, the City, its agents, representatives, officers, directors, officials and employees shall be cited as an Additional Insured under ISO Business Auto policy Designated Insured Endorsement form CA 20 48 or equivalent. If any Excess insurance is utilized to fulfill the requirements of this subsection, such Excess insurance shall be “follow form” equal or broader in coverage scope than underlying insurance.

c. Professional Liability. If this Agreement is the subject of any professional services or work, or if the Consultant engages in any professional services or work adjunct or residual to performing the work under this Agreement, the Consultant shall maintain Professional Liability insurance covering negligent errors and omissions arising out of the Services performed by the Consultant, or anyone employed by the Consultant, or anyone for whose negligent acts, mistakes, errors and omissions the Consultant is legally liable, with an unimpaired liability insurance limit of \$2,000,000 each claim and \$2,000,000 annual aggregate. In the event the Professional Liability insurance policy is written on a “claims made” basis, coverage shall extend for two years past completion and acceptance of the Services, and the Consultant shall be required to submit certificates of insurance and a copy of the declaration page(s) of the insurance policies evidencing proper coverage is in effect as required above.

d. Workers’ Compensation Insurance. Consultant shall maintain Workers’ Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Consultant’s employees engaged in the performance of work or services under this Agreement and shall also maintain Employers Liability Insurance of not less than \$500,000 for each accident, \$500,000 disease for each employee and \$1,000,000 disease policy limit.

11.3 Cancellation and Expiration Notice. Insurance required herein shall not expire, be canceled, or materially change without 30 days' prior written notice to the City.

12. Applicable Law; Venue. In the performance of this Agreement, Consultant shall abide by and conform to any and all laws of the United States, State of Arizona and City of Tolleson, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

13. Termination; Cancellation.

13.1 For City's Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause after receipt by Consultant of written notice by the City. Upon termination for convenience, Consultant shall be paid for all undisputed services performed to the termination date.

13.2 For Cause. This Agreement may be terminated by either party upon 30 days' written notice should the other party fail to substantially perform in accordance with this Agreement's terms, through no fault of the party initiating the termination. In the event of such termination for cause, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.3 Due to Work Stoppage. This Agreement may be terminated by the City upon 30 days' written notice to Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.

13.4 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the subject matter of the Agreement.

13.5 Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of economic opportunity, future employment, entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to 150% of the gratuity.

13.6 Agreement Subject to Appropriation. The provisions of this Agreement for payment of funds by the City shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The City shall be the sole judge and

authority in determining the availability of funds under this Agreement and the City shall keep the Consultant fully informed as to the availability of funds for the Agreement. The obligation of the City to make any payment pursuant to this Agreement is a current expense of the City, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the City. If the City Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this Agreement shall terminate at the end of then-current fiscal year and the City and the Consultant shall be relieved of any subsequent obligation under this Agreement.

14. Miscellaneous.

14.1 Independent Contractor. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as Consultant meets the requirements of its agreed Scope of Work as set forth in Section 2 above. Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere. City and Consultant do not intend to nor will they combine business operations under this Agreement.

14.2 Laws and Regulations. The Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (a) existing and future City and County ordinances and regulations, (b) existing and future state and federal laws and (c) existing and future Occupational Safety and Health Administration ("OSHA") standards.

14.3 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Consultant.

14.4 Provisions Required by Law. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.

14.5 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.

14.6 Relationship of the Parties. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. The Consultant is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and

Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

14.7 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

14.8 Assignment. No right or interest in this Agreement shall be assigned by Consultant without prior, written permission of the City signed by the City Manager and no delegation of any duty of Consultant shall be made without prior, written permission of the City signed by the City Manager. Any attempted assignment or delegation by Consultant in violation of this provision shall be a breach of this Agreement by Consultant.

14.9 Subcontracts. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used.

14.10 Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.

14.11 Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall 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 shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

14.12 Liens. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.

14.13 Offset.

a. Offset for Damages. In addition to all other remedies at law or equity, the City may offset from any money due to the Consultant any amounts Consultant owes

to the City for damages resulting from breach or deficiencies in performance or breach of any obligation under this Agreement.

b. Offset for Delinquent Fees or Taxes. The City may offset from any money due to the Consultant any amounts Consultant owes to the City for delinquent fees, transaction privilege taxes and property taxes, including any interest or penalties.

14.14 Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (a) delivered to the party at the address set forth below, (b) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below, (c) given to a recognized and reputable overnight delivery service, to the address set forth below or (d) delivered by facsimile transmission to the number set forth below:

If to the City: City of Tolleson
 9555 West Van Buren Street
 Tolleson, Arizona 85353
 Facsimile: (623) 907-2629
 Attn: Reyes Medrano Jr., City Manager

With copy to: GUST ROSENFELD, P.L.C.
 One East Washington Street, Suite 1600
 Phoenix, Arizona 85004-2553
 Facsimile: (602) 254-4878
 Attn: Scott W. Ruby, Esq.

If to Consultant: _____

 Facsimile: _____

 Attn: _____

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this subsection. Notices shall be deemed received (a) when delivered to the party, (b) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage, (c) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day, or (d) when received by facsimile transmission during the normal business hours of the recipient. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

14.15 Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform Consultant's duties under this Agreement. Persons

requesting such information should be referred to the City. Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Consultant as needed for the performance of duties under this Agreement.

14.16 Records and Audit Rights. Consultant's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating to this Agreement, including the papers of any Consultant and its subcontractors' employees who perform any work or Services pursuant to this Agreement to ensure that the Consultant and its subcontractors are complying with the warranty under subsection 14.17 below (all the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the City, to the extent necessary to adequately permit (a) evaluation and verification of any invoices, payments or claims based on Consultant's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (b) evaluation of the Consultant's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in subsection 14.17 below. To the extent necessary for the City to audit Records as set forth in this subsection, Consultant and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the City shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the City to Consultant pursuant to this Agreement. Consultant and its subcontractors shall provide the City with adequate and appropriate workspace so that the City can conduct audits in compliance with the provisions of this subsection. The City shall give Consultant or its subcontractors reasonable advance notice of intended audits. Consultant shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement.

14.17 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Consultant and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Consultant's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

14.18 Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Consultant certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the City determines that the Consultant submitted a false certification, the City may impose remedies as provided by law including terminating this Agreement pursuant to subsection 13.2 above.

14.19 Conflicting Terms. In the event of any inconsistency, conflict or ambiguity among the terms of the Agreement, the Scope of Work, the Fee Proposal, the RFQ and the Consultant's SOQ, the documents shall govern in the order listed herein.

14.20 Non-Exclusive Contract. This Agreement is entered into with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods and services from another source when necessary.

14.21 Cooperative Purchasing. This Agreement shall be for the use of the City. In addition, specific eligible political subdivisions and nonprofit educational or public health institutions may also participate, at their discretion and with the agreement of the awarded Consultant. In order to participate in this Agreement, a political subdivision or nonprofit educational or public health institution must agree to the terms and conditions in the solicitation and the Consultant must be in agreement with the cooperative transaction. Any orders placed to the successful Consultant will be placed by the specific agencies participating in this purchase. Payment for purchases made under this Agreement will be the sole responsibility of each participating agency. The City shall not be responsible for any disputes arising out of transactions made by others.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

“City”

CITY OF TOLLESON, an Arizona
municipal corporation

Reyes Medrano Jr., City Manager

ATTEST:

Chris Hagen, City Clerk

“Consultant”

_____,
a(n) _____

By: _____

Name: _____

Its: _____

EXHIBIT A
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND

[RFQ]

See following pages.

EXHIBIT B
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND

[Consultant's SOQ]

See following pages.

EXHIBIT C
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND

[Scope of Work]

See following pages.

SCOPE OF WORK

- I. Background: The Tolleson Wastewater Treatment Plant (WWTP) is a 17.5 mgd treatment plant currently operating at about 5.5 mgd. Processes consist of screening, grit removal, primary sedimentation, 2 stage trickling filters, solids contact (TFSC process), secondary clarification, anaerobic digestion, and belt press dewatering. Biosolids are land applied.

The treatment plant effluent is conveyed to the Arizona Nuclear Power Plant (ANPP) for reuse except for periods of shutdown of the power plant or pipeline to the ANPP. During these periods, the effluent must be discharged to the Gila River. The discharge is permitted by an Arizona Pollution Discharge Elimination System (AZPDES) permit. The AZPDES permit was recently renewed and includes a new ammonia limit for the effluent. The plant effluent is also permitted by an APP permit.

By February 14, 2015, the City must be in compliance with the ammonia effluent limits as set forth in Table 1.a, Part V Special Conditions, and Appendix D of the July 26, 2010 modified AZPDES Permit (with an effective date of February 15, 2010). A plan for meeting the ammonia effluent limits must be developed and approved by the City no later than August 15, 2011. Under the terms of the AZPDES Permit, the plan must be completed by January 10, 2012. It is the City's desire to submit the approved plan to ADEQ on or before January 10, 2012.

The City anticipates future increases in wastewater flow to the WWTP, but specific flows and timeframe are unknown.

- II. Scope of Services:

The proposed scope of services includes the following:

- Identification of feasible alternatives to meet or avoid the ammonia limit.
- Evaluation of feasible alternatives including capital and operating requirements, estimated costs, process evaluation, reliability, implementation issues and requirements, and other issues.
- Compare alternatives based on cost and other issues and recommend an alternative.
- Prepare a written report of the evaluation and present a summary of the findings and recommendations to the City.
- After approval of the recommended alternative by the City, develop an implementation plan that includes the major tasks, schedule, permitting, and estimated budget.

- As part of the implementation plan for proposed capital facilities, provide a basis of design including infrastructure, mechanical, electrical, structural and site improvements required, and construction sequence.
- Present and discuss the proposed plan with ADEQ, and respond to comments and requested changes, and prepare a final plan for approval.

EXHIBIT D
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF TOLLESON
AND

[Fee Proposal]

See following page(s).