



# CITY OF FLAGSTAFF

- CONFIRMING CHANGE ORDER NO.
- DESIGN CONTRACT CHANGE ORDER NO.
- CONSTRUCTION CONTRACT CHANGE ORDER NO.
- CONTRACT ALLOWANCE UPDATE NO.

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2 \_\_\_\_\_

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**PROJECT NO.** 3570 **PROJECT NAME:** The Wedge Phase 3

**FILE NO.** 03-23015 **PROJECT MANAGER:** Trevor Henry

**FIRM NAME:** Eagle Mountain Construction

Purchase Order Number: 25-002650 | Line Number: 1 | Amount \$ 8,063,896.61

Change Order originated by:  CITY OF FLAGSTAFF  CONTRACTOR  DESIGN FIRM  OTHER: \_\_\_\_\_

**DETAILED DESCRIPTION:**

This change order is for a cost increase related to the "Buy American" grant provision on The Wedge Phase 3 project.

The Wedge Phase 3 project is part of the Spruce Wash suite of projects to address post-wildfire flood mitigation. The project includes construction of a detention basin on a City-owned parcel in the northwest corner of West Street and Cedar Avenue. The Wedge Phase 3 project is funded by a \$7.0M USFS grant with a one to one City match.

Council approved GMP #5 which includes The Wedge Phase 3 in the amount of \$8,063,896.61. After award, it was determined that a few key components of the project must meet the Buy American clause of the grant agreement. These components include the steel slide gate which controls flow into the basin, the steel fencing for basin safety and the electrical gear components.

The attached change order proposal from Eagle Mountain Construction shows the original and revised cost amounts for these components.

**JUSTIFICATION:**

To comply with the USFS grant agreement, materials must meet the Buy American preference. The requirement to source material within the United States increases the cost, specifically steel.

**TIME ANALYSIS:**

No additional time is requested.

**COST ANALYSIS:**

Change Order No. 2 will be funded from the Spruce Wash, The Wedge project, fund 410, account no. 410-08-385-3570-3-4442. The approved FY25 budget is \$3,079,618 and FY26 programmed budget is \$5,201,585. Please see the attached proposal from Eagle Mountain Construction dated February 27, 2025.

<b>CITY OF FLAGSTAFF</b>		<b>PROJECT STATUS FORM</b>		
PROJECT NAME: The Wedge Phase 3		<input type="checkbox"/> Design <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Other		
PROJECT NO. 3570		FILE NO. 03-23015		
ACCT. NO. <u>410-08-385-3570-3-4442</u>		100.00	%	
ACCT. NO. _____			%	
COUNCIL APPROVAL DATE: 12/3/2024		ORIGINAL CONTRACT AMOUNT: \$ 8,063,896.61		
PROJECT BUDGET ( FY <u>25</u> ) \$ 3,079,618.00		PROJECT BUDGET ( FY <u>26</u> ) \$ 5,201,585.00		
NOTICE TO PROCEED DATE: 03/21/2024		ORIGINAL CONTRACT PERIOD (calendar days): 1025		
ORIGINAL COMPLETION DATE: 01/10/2027		ORIGINAL CONTRACT ALLOWANCE: \$ 75,000.00		
DESIGN FIRM: WSP				
Change Orders	C.O. Amount	C.O. Days	Start Date	REASON FOR CHANGE
Revision Date	New Total	New Total	New Comp. Date	
1	\$ 95,338.00	0	03/21/2024	Additional pavement repair on the Linda Vista slip lane.
	\$ 8,159,234.61	1025	01/10/2027	
2	\$ 439,009.00	0	03/21/2024	Material cost increases to meet the Buy America requirement of the grant.
	\$ 8,598,243.61	1025	01/10/2027	
3				
4				
5				

COMMENTS: The allocations shown above are inclusive of all Change Orders shown. If there are more than 5 Change Orders, please request a separate form from Purchasing that includes additional spaces. Thank you!

	END DATES		
ORIGINAL CONTRACT PERIOD	<u>1025</u> Days	( <u>01/10/2027</u> )	ORIGINAL CONTRACT \$ <u>\$ 8,063,896.61</u>
PRIOR TIME CHANGES	<u>0</u> Days	( <u>01/10/2027</u> )	TOTAL PRIOR VALUE CHANGES \$ <u>\$ 95,338.00</u>
THIS TIME CHANGE	<u>0</u> Days	( <u>01/10/2027</u> )	VALUE OF THIS CHANGE \$ <u>\$ 439,009.00</u>
NEW CONTRACT PERIOD	<u>1025</u> Days	( <u>01/10/2027</u> )	NEW CONTRACT \$ <u>\$ 8,598,243.61</u>



# CITY OF FLAGSTAFF


- CONFIRMING CHANGE ORDER NO. \_\_\_\_\_
- DESIGN CONTRACT CHANGE ORDER NO. \_\_\_\_\_
- CONSTRUCTION CONTRACT CHANGE ORDER NO. 2
- CONTRACT ALLOWANCE UPDATE NO. \_\_\_\_\_


**PROJECT NO.** 3570 **PROJECT NAME:** The Wedge Phase 3

**FILE NO.** 03-23015 **PROJECT MANAGER:** Trevor Henry

## SIGNATURES

### SUBMITTER

**Project Manager** 3/13/25 **Approved Signature**   
Date

**Department Head** 3/13/25 **Approved Signature**   
Date  
Digitally signed by Paul Mood  
Date: 2025.03.13 14:16:14 -07'00'

### COMMITTEE

**Water Services** 2025-04-16 **Approved Signature** Douglas Slover Jr  
Date  
Digitally signed by Douglas Slover Jr  
DN: cn=Douglas Slover Jr, o, ou,  
email=dslover@flagstaffaz.gov, c=US  
Date: 2025.04.16 16:33:56 -07'00'

**Public Works** \_\_\_\_\_ **Approved Signature** Absent  
Date

**City Engineering** 17 April 2025 **Approved Signature**   
Date  
Digitally signed by Christina A. Kinnear  
DN: cn=Christina A. Kinnear, o=City of Flagstaff,  
ou=City Attorney,  
email=christina.kinnear@flagstaffaz.gov, c=US  
Date: 2025.04.17 09:21:23 -07'00'

**City Attorney** \_\_\_\_\_ **Approved Signature** Christina A. Kinnear  
Date

**Finance** \_\_\_\_\_ **Approved Signature** Absent  
Date


**Purchasing (Chair)** \_\_\_\_\_ **Approved Signature** \_\_\_\_\_  
Date

**EXECUTIVE**

**City Manager** \_\_\_\_\_ **Approved Signature** \_\_\_\_\_  
Date

**Council Meeting Date (if required)** \_\_\_\_\_ **Council Approved?** Yes  No

We have given careful consideration to the proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, and perform all services necessary for the work specified.

**FIRM NAME:** Eagle Mountain Construction **Signature:** 

**Date:** 03/13/2025 **Print Name and Title:** Marco Spagnuolo, CEO



# Eagle Mountain Construction

3100 N. Caden Ct. - Flagstaff, AZ 86004

AZ ROC 315942, 315943

## CHANGE ORDER PROPOSAL

To: City of Flagstaff Project: Spruce Wash - Wedge Ph 3  
 Attn: Trevor Henry COP #: 1 Rev#: \_\_\_\_\_  
 Date: 2/27/25

**Description:**

This COP is submitted for the additional costs due to compliance with Grant Provisions issued after GMP 5 was generated. The costs identified below are what we've incurred through this date. EMC reserves the right to submit for additional compliance costs, should they arise.

Description	Original		Revised		Quan	Unit	Unit Cost	Subtotal	
Increase for the Slide Gate & Appurtances	\$ 71,889	\$ 342,248			1.0	LS	\$ 270,359.00	\$ 270,359.00	
Increase for Electrical Gear	\$ 163,852	\$ 235,874			1.0	LS	\$ 72,022.00	\$ 72,022.00	
Increase for Modified FUTS Steel	\$ 89,300	\$ 114,840			1.0	LS	\$ 25,540.00	\$ 25,540.00	
<b>Direct Costs</b>								<b>\$ 367,921.00</b>	
<b>Notice to Proceed Date</b>	<b>21-Mar-24</b>						<b>Fee</b>	<b>10.5%</b>	<b>\$ 38,631.71</b>
Original Contract Time	1,025.0	days					<b>Bond &amp; Insur</b>	<b>1.90%</b>	<b>\$ 7,724.50</b>
Change in time by previous COP's	0.0	days					<b>Tax</b>	<b>5.97%</b>	<b>\$ 24,731.79</b>
Revised Contract Time	1,025.0	days					<b>Total this COP:</b>		<b>\$ 439,009.00</b>
Change in Time by this COP	0.0	days							
<b>Revised Contract Time</b>	<b>1,025.0</b>	<b>days</b>							
<b>Revised Contract Completion Date</b>	<b>10-Jan-27</b>								

**Schedule Description:**

This change adds no additional days to the contract duration at this time. EMC reserves the right to submit for time if needed, due to unknowns right now with domestic steel.

Marco Spagnuolo 2/27/2025  
 Eagle Mountain Construction Date

Approval - Client \_\_\_\_\_ Date

## QUOTE # 2311003 R2

**Date: July 26, 2024**

**Project Name: Flagstaff Slide Gate - AZ**

**Representative: Brett Hoffman – Southwest Valve & Equipment – 630-212-5057**

Henry Pratt Company, LLC d/b/a Hydro Gate (“Hydro Gate” or “Seller”) is pleased to offer you (the “Buyer”) this Quotation for the Project.

Quantities and descriptions listed in this quotation were based on the following:  
Emailed information only. Partial drawings. Partial specifications. Actual project requirements may affect your costs.

The equipment we have quoted meets or exceeds the specifications with the following clarifications:

**NOTE: We have received no addendums for this project.**

### **Conditions of Sale:**

1. If awarded to Hydro Gate, we will need to be supplied with a full set of plans and specifications.
2. Prices and lead times quoted are firm for acceptance within 30 days of the bid date and apply to this Quotation only, subject to attached Terms & Conditions. Prices do not include sales or use tax. If this Quote is not accepted within 30 days after bid, Hydro Gate reserves the right to re-quote and price escalation may be necessary.
3. Hydro Gate’s Standard Terms and Conditions of Sale and Limited Warranty apply to this quotation and are attached as Attachment A.
4. Please note these prices are based on receiving the entire order and Buyer’s acceptance of Hydro Gate’s Standard Terms and Conditions and Limited Warranty. Adjustments to item quantities or specifications or requested changes to Hydro Gate’s Standard Terms and Conditions or Limited Warranty may alter the pricing.
5. Prices do not include third party inspection services of gates and equipment unless it is specifically required by specifications that Hydro Gate be responsible for cost of these inspections.
6. Hydro Gate will provide digital copies of all relevant Operation and Maintenance manuals. Contact Hydro Gate should custom manuals be required.
7. Non-machined, submerged ferrous surfaces to be blast cleaned and painted with 2 shop coats of manufacturer's standard epoxy paint.

8. This quotation reflects our policy of sourcing raw materials in the most cost effective manner. Any requirement for specific U.S content shall require a revised quotation.
9. Prices do not include installation of gates and equipment or lubricants for stems, gear units and bearings.
10. Mastic, grout, gaskets and epoxy capsules for anchors not by Hydro Gate.
11. Upon placing an order with Hydro Gate, Buyer must ensure that the approval of equipment be provided to Hydro Gate within 30 days of receiving submittals. Failure to do so may result in an increase of price in relation to market fluctuation of raw material costs.
12. Submittal and Production Lead times are subject to change at the time of order.
13. Please address all purchase orders to Henry Pratt Company, LLC 12000 East 47th Ave., Suite 200, Denver, CO 80239.
14. Purchase orders can be sent to [HydroGateOrders@muellerwp.com](mailto:HydroGateOrders@muellerwp.com).
15. Field service not included. If field service is needed, a charge of \$1,500.00 will be made for each trip, plus \$1,500.00 for each day including any holidays, weekends or other layovers made at the convenience of the contractor or engineer.
16. Top of Concrete and Invert Elevations have not been provided. Hydro Gate has estimated H' Distances based on head levels listed in partial gate schedule.
17. No specification or requirements provided for electric actuators. Hydro Gate has assumed Open / Close service with Nema 4x/6 enclosures, class F insulation, 15 minute duty motors, and local controls for 460volt/3phase/60hertz power supply. If this is incorrect, please contact Hydro Gate for pricing adjustments.
18. The equipment quoted for this project includes electric motor actuators. Actuator controls cannot be adjusted or preset at the factory. Complete instructions for proper setting of components are included with the unit when shipped. This quotation does not include any field service to adjust electric actuators and lubricate equipment unless specifically required by project specification. If a factory technician is preferred, field service rates that are in effect at time service is required shall apply. Contact Hydro Gate with a purchase order if this service is required.
19. Hydro Gate has assumed a 60" x 60" Square flange/Square opening 24" long 'F' Type thimble. If this is incorrect, please contact Hydro Gate for pricing and lead time adjustments.

## **Commercial Terms:**

The delivery lead times are based on stock inventory at the time of quotation. Stock quantities and quoted delivery times must be re-evaluated and verified at time of order and/or time of release to manufacturing.

### Freight:

F.O.B. shipping point, full freight allowed for standard shipments. Additional freight cost incurred to comply with Buyer's special requirements will be added to the invoice.

### Field Service:

Hydro Gate will make every effort to provide a representative to meet your schedule, but due to conflicting requirements a request should be made no later than fourteen (14) days before a representative is required.

Where previous commitments have been made, some flexibility in your schedule should be anticipated. All field service trips will require a written confirmation prior to arriving at the site.

#### Drawings:

Submittal drawing lead time is estimated to be 8 to 10 weeks after formal acceptance of your written purchase order.

#### Extended Warranty:

Seller's Limited Warranty is for a period of 24 months from shipment. An extended warranty may be purchased at the following rates:

Add 2% of order value for a 36 month warranty

Add 3% of order value for a 48 month warranty

Add 5% of order value for a 60 month warranty

#### Quotation Number:

**Item Number :** 01  
**Qty/Size :** 1 – 60" x 60"  
**Gate :** Heavy Duty sluice Gate with cast iron frame and slide, bronze seating faces, bronze wedges, flush bottom seal and stainless steel fasteners.  
**Mounting :** Stainless steel anchor bolts.  
**Lift :** Pedestal mounted electric actuator for 460 Volt, 3-Phase, 60 hertz power, local electrical control station. Type 304 stainless steel stem and plastic stem cover with mylar position indicator. **Packing Gland included.**  
**H-Distance :** 30.77' (from centerline)  
**Gate Ship :** 24-28 weeks after drawing and credit approval.  
**Thimble Ship:** 24-28 weeks after drawing and credit approval.  
**Actuator Ship:** TBD  
**Price Each :** \$ 71,889.00

**Total price for items listed above: \$ 71,889.00**

Thank you for your interest in our product. If any questions arise regarding this quotation, please contact Hydro Gate.

Regards,



**Branden Hempelman**  
Technical Sales Engineer

12000 E. 47th Avenue - Suite 200 Denver, Colorado 80239  
office: 720.884.6742 | mobile: 720.884.6742 | [muellerwp.com](http://muellerwp.com)

## Attachment A

**MUELLER**

# TERMS AND CONDITIONS OF SALE

1. **PURCHASE ORDERS.** Address purchase orders to Henry Pratt Company, LLC d/b/a Hydro Gate, 12000 East 47th Avenue, Suite 200, Denver, CO 80239-3115, either Henry Pratt Company, LLC or Henry Pratt Company, LLC d/b/a Hydro Gate (“Seller”). Purchase orders can be sent to HydroGateOrders@muellerwp.com.
2. **PAYMENT.** Payment is due 100% net 30 days after the invoice date. No retainage or portion of the amount due may be held for any reason. Payment is not contingent on payment from or approval of any third party. All orders and shipments are subject to credit approval. Waivers of lien will be provided upon request after full payment is received. Remittance should be to Henry Pratt Company, LLC, 23418 Network Place, Chicago, IL 60673-1234. If the Buyer fails to pay Seller as specified herein, the Buyer agrees to pay all collection costs, attorney fees, and expenses incurred in collecting payment, including interest at the maximum legal rate. The Buyer will pay all transportation, insurance, and similar charges incident to delivery of products.
3. **PRICING AND PRICING ADJUSTMENTS.** Except as described in this section below, pricing is valid for shipments of material conducted within one (1) year from the date of purchase order. If an order does not have a scheduled release and shipment date within one (1) year from date of purchase order, or receives a release date beyond one (1) year, then the Buyer agrees to accept scheduling price adjustments. Scheduling price adjustments will be made in accordance with the percentage change in the Producer Price Index by Industry: Metal Valve Manufacturing (PCU33291-33291-Not Seasonally Adjusted). The primary official source of PPI data is the BLS Website. Scheduling price adjustments shall always use the latest version of the PPI data published at the time of shipment. The scheduling price adjustment rate will be determined by comparing base rate from the index at the time of the purchase order to the rate on the date of the shipment and determining the positive percentage change between those two dates. This percentage change will be applied to increase the original purchase price. In addition to the above, quoted prices may increase if shipment is delayed beyond scheduled shipping date due to Buyer’s delay. Specifically, if an order does not ship within sixty (60) days from original ship or release date, then the Buyer agrees to accept a shipping price adjustment equal to two percent (2.0%) of the value of the shippable product per originating purchase order per month for an order released more than sixty (60) days from the original ship date and equal to four percent (4.0%) of the value of the purchase order per month for an order released more than one hundred twenty (120) days from the original ship date. Any price adjustment will be made as an increase of the original purchase price. Buyer will pay all transportation, insurance and similar charges incident to delivery of products.
4. **TAXES.** Quoted prices exclude sales, use or other taxes. Where applicable, all taxes will be billed to the Buyer at time of shipment, unless the Buyer provides proper exemption documentation before shipment is invoiced.
5. **SHIPMENTS.** Unless otherwise noted, quoted price is F.O.B. shipping point with full freight allowance to jobsite. The Buyer will pursue claims directly with carrier for products received that were damaged in transit. Each shipment will be accompanied by a packing list. The Buyer will check shipment against packing list and report any shortages and discrepancies in writing to the Seller within five (5) business days after receipt.
6. **DELIVERY.** Quoted shipping dates are estimates only. The Seller will meet quoted schedules or reflect current schedules upon order acknowledgement. Lead-time will be as mutually agreed to at the time of product release to manufacture and credit package approval by the Seller. The Seller will not be responsible for delay in deliveries due to any cause beyond the Seller’s reasonable control, including, but not limited to, acts of God or the elements, civil insurrection, acts of war or terrorism, unusual health and safety situations, disease (including, but not limited to, COVID-19), epidemics, quarantine restrictions, inability to obtain necessary labor, materials or manufacturing facilities, labor disputes, riots, boycotts, civil or military authority, transportation and/or supply distribution disruption, fires, floods, or other severe weather, governmental actions (including, but not limited to tariffs, embargos, trade war or similar charges), or another situation which by its nature could not have been reasonably foreseen by Seller. In the event of a delay, the date of delivery will be extended for a length of time equal to the period of the delay.
7. **CANCELLATIONS/DELAYS.** The Buyer may cancel this order only with the prior written consent of the Seller. The Buyer agrees to pay the Seller a cancellation charge for any such cancelled order, which charge will be no less than ten percent (10%) of purchase price.
8. **WARRANTY/LIMITATION OF LIABILITY.** The purchase, purchase orders, and products referenced in these terms and conditions are subject to the warranties specified at: <https://www.muellerwaterproducts.com/terms-conditions>.
9. **DAMAGES.** The Seller will not be liable for special, indirect, consequential, incidental, liquidated or punitive damages of any kind (including, but not limited to, loss of use, revenue or profits, inventory or use charges, cost of capital or claims of customers) incurred by the Buyer or a third party. Total liability of the Seller, including its affiliates, officers, employees, agents, subcontractors, suppliers and representatives (the “Protected Group”) with respect to the order or a breach thereof, is capped at the price paid to the Seller for the specific product giving rise to the claim.

10. **INDEMNITY.** The Buyer agrees to indemnify, hold harmless, and defend the Protected Group, against any and all judgments, losses, damages, expenses, costs, including defense costs and legal fees, arising from any and all claims for liability arising or claimed to arise from any act or omission of the Buyer or the Seller in any way related to this order or products. To the extent the aforesaid obligation is prohibited by law, obligation will, but only to extent of such prohibition, be null and void. The remainder of the Buyer's indemnity obligations will remain in effect.
11. **LAW/VENUE.** No suit or cause of action or other proceeding will be brought against either party more than one (1) year after accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract or any other theory. These terms will be governed by and construed in accordance with the laws of the State of Delaware (without giving effect to conflict of law rules) as to all matters. The parties irrevocably submit to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois.
12. **EXPORT/IMPORT.** The Buyer will comply with all applicable import and export control laws and/or regulations, including without limitation those of the U.S. and/or other jurisdictions from which products may be supplied or to which they may be shipped. The Buyer will not use, transfer, release, import, export or re-export products in violation of such applicable laws and/or regulations.
13. **GENERAL.** The Seller reserves the right to modify and update these Terms and Conditions of Sale from time to time on its website at <https://www.muellerwaterproducts.com/terms-conditions>. The Seller's waiver of any performance will not constitute a waiver of any other performance. These conditions supersede any prior written or oral agreement, understanding, representation or promise, and any pre-printed or standard terms and conditions contained in the Buyer's request for quote, purchase order, invoice, order acknowledgement or similar document.



## LIMITED WARRANTY

### 2-Year Warranty

Henry Pratt Company, LLC ("Seller") warrants that each of its products branded PRATT or HYDRO GATE supplied hereunder is free from defects in materials and workmanship (the "Warranty") for a period of twenty-four (24) months from the date of shipment from Seller to Buyer (the "Warranty Period"). Seller agrees, at its sole option, and at Buyer's sole and exclusive remedy, to repair, replace, or refund the unit purchase price of any product which is non-conforming to the Warranty due to Seller's defective workmanship or defective material of which Warranty non-conformance Buyer notifies Seller in writing during the Warranty Period. Buyer shall give written notice within fifteen (15) calendar days of the discovery of any alleged Warranty non-conformance to Seller's Field Service Supervisor, and prior to any repair or replacement work being performed on the non-conforming product, in order to maintain this product Warranty (i.e., otherwise Buyer voids the Warranty). Seller shall have the right to inspect the product for which a Warranty claim is made. Buyer shall return the product to Seller upon Seller's request for such inspection. Buyer shall assume all responsibility and expense for removal, reinstallation, and shipping charges in connection with this Warranty. Seller's obligations hereunder are conditioned upon prompt written notice of the alleged defect from the Buyer.

This Warranty does not apply to products that have defects or failures resulting from (a) Buyer's design; (b) accident, disaster, neglect, abuse, misuse, improper handling, testing, storage or installation by any party other than Seller; (c) external forces, such as, but not limited to, acts of God or the elements, vandalism, accident, vehicular or other impact, societal disruption (for example, war, terrorism, riot, civil unrest), application of excessive torque to the operating mechanism, presence of foreign matter, or frost heave; (d) the products not being installed or maintained as required by Seller's instructions, common practice, and/or applicable laws; (e) the defect arises, in whole or part, because Buyer failed to follow Seller's instructions or local codes as to the storage, installation, commissioning, use or maintenance of the products; (f) Buyer makes any further use of such products after giving such notice and (g) unauthorized alterations, modifications or repairs by any party other than Seller. Seller does not warrant water-operated metallic cylinders against damage caused by corrosion, electrolysis or mineral deposits.

Seller will not be responsible for the Warranty unless: (i) Buyer gives prompt written notice of the alleged defect, reasonably described, to Seller from when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such products, and Buyer (if requested to do so by Seller) returns such products to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the products are defective.

THE REMEDIES SET FORTH IN THIS WARRANTY SHALL CONSTITUTE BUYER'S SOLE AND EXCLUSIVE REMEDY, AND SELLER'S SOLE AND EXCLUSIVE OBLIGATIONS, FOR A NON-CONFORMING PRODUCT UNDER THIS WARRANTY. THE WARRANTY IS IN LIEU OF, AND SELLER EXPRESSLY DISCLAIMS, AND BUYER EXPRESSLY WAIVES, ALL OTHER WARRANTIES WHATSOEVER WHETHER EXPRESS, IMPLIED, STATUTORY, ARISING BY COURSE OF DEALING OR PERFORMANCE OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR INFRINGEMENT OR MISAPPROPRIATION OF ANY RIGHT, TITLE OR INTEREST OF BUYER OR ANY THIRD PARTY, OR OTHERWISE. NO ORAL OR WRITTEN STATEMENT OR REPRESENTATION BY SELLER, ITS AGENTS OR EMPLOYEES SHALL CONSTITUTE OR CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY HEREUNDER.

UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER OR TO ANY OTHER PERSON UNDER ANY CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHER LEGAL OR EQUITABLE CLAIM OR THEORY FOR ANY SPECIAL, INCIDENTAL, LIQUIDATED, CONSEQUENTIAL, OR INDIRECT DAMAGES, OR FOR ANY AND ALL OTHER DAMAGES, LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES WHETHER SUCH PARTY WAS INFORMED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. NOTWITHSTANDING THE FOREGOING OR ANY OTHER CLAIM OR OBLIGATION, SELLER'S MAXIMUM AGGREGATE OBLIGATION TO BUYER SHALL NOT EXCEED THE UNIT PURCHASE PRICE OF THE PRODUCT GIVING RISE TO THE WARRANTY CLAIM.

Products manufactured by a third party ("Third-Party Product") may constitute, contain, be contained in, be incorporated into, be attached to or packaged together with, the products. Third-Party Products are not covered by the Warranty. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY, AND SELLER EXPRESSLY DISCLAIMS ANY, WARRANTY OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF TITLE, OR AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; WHETHER ANY OF THE FOREGOING ARE (OR ARE BELIEVED TO BE) EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

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## QUOTE # 2311003 R3

**Date: July 26, 2024**

**Project Name: Flagstaff Slide Gate - AZ**

**Representative: Brett Hoffman – Southwest Valve & Equipment – 630-212-5057**

Henry Pratt Company, LLC d/b/a Hydro Gate (“Hydro Gate” or “Seller”) is pleased to offer you (the “Buyer”) this Quotation for the Project.

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3. Hydro Gate’s Standard Terms and Conditions of Sale and Limited Warranty apply to this quotation and are attached as Attachment A.
4. Please note these prices are based on receiving the entire order and Buyer’s acceptance of Hydro Gate’s Standard Terms and Conditions and Limited Warranty. Adjustments to item quantities or specifications or requested changes to Hydro Gate’s Standard Terms and Conditions or Limited Warranty may alter the pricing.
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11. Upon placing an order with Hydro Gate, Buyer must ensure that the approval of equipment be provided to Hydro Gate within 30 days of receiving submittals. Failure to do so may result in an increase of price in relation to market fluctuation of raw material costs.
12. Submittal and Production Lead times are subject to change at the time of order.
13. Please address all purchase orders to Henry Pratt Company, LLC 12000 East 47th Ave., Suite 200, Denver, CO 80239.
14. Purchase orders can be sent to [HydroGateOrders@muellerwp.com](mailto:HydroGateOrders@muellerwp.com).
15. Field service not included. If field service is needed, a charge of \$1,500.00 will be made for each trip, plus \$1,500.00 for each day including any holidays, weekends or other layovers made at the convenience of the contractor or engineer.
16. Top of Concrete and Invert Elevations have not been provided. Hydro Gate has estimated H' Distances based on head levels listed in partial gate schedule.
17. No specification or requirements provided for electric actuators. Hydro Gate has assumed Open / Close service with Nema 4x/6 enclosures, class F insulation, 15 minute duty motors, and local controls for 460volt/3phase/60hertz power supply. If this is incorrect, please contact Hydro Gate for pricing adjustments.
18. The equipment quoted for this project includes electric motor actuators. Actuator controls cannot be adjusted or preset at the factory. Complete instructions for proper setting of components are included with the unit when shipped. This quotation does not include any field service to adjust electric actuators and lubricate equipment unless specifically required by project specification. If a factory technician is preferred, field service rates that are in effect at time service is required shall apply. Contact Hydro Gate with a purchase order if this service is required.
19. Hydro Gate has assumed a 60" x 60" Square flange/Square opening 24" long 'F' Type thimble. If this is incorrect, please contact Hydro Gate for pricing and lead time adjustments.
20. R3 Created 12/30/2024.
21. Hydro Gate has quoted domestic material sourcing in order to comply with the Build America, Buy America requirements listed in the specifications. If any project specific certification or documentation is to be supplied by Hydro Gate, please forward those requirements to us for our review. Please note that Hydro Gate has quoted domestic material for the gate systems only. Gearboxes or actuators and their appurtenances must be certified by the actuation vendor, not Hydro Gate.

## **Commercial Terms:**

The delivery lead times are based on stock inventory at the time of quotation. Stock quantities and quoted delivery times must be re-evaluated and verified at time of order and/or time of release to manufacturing.

### Freight:

F.O.B. shipping point, full freight allowed for standard shipments. Additional freight cost incurred to comply with Buyer's special requirements will be added to the invoice.

### Field Service:

Hydro Gate will make every effort to provide a representative to meet your schedule, but due to conflicting requirements a request should be made no later than fourteen (14) days before a representative is required. Where previous commitments have been made, some flexibility in your schedule should be anticipated. All field service trips will require a written confirmation prior to arriving at the site.

### Drawings:

Submittal drawing lead time is estimated to be 8 to 10 weeks after formal acceptance of your written purchase order.

### Extended Warranty:

Seller's Limited Warranty is for a period of 24 months from shipment. An extended warranty may be purchased at the following rates:

- Add 2% of order value for a 36 month warranty
- Add 3% of order value for a 48 month warranty
- Add 5% of order value for a 60 month warranty

Quotation Number: 2311003 R3

**Item Number** : 01  
**Qty/Size** : 1 – 60" x 60"  
**Gate** : Heavy Duty sluice Gate with cast iron frame and slide, bronze seating faces, bronze wedges, flush bottom seal and stainless steel fasteners.  
**Mounting** : Stainless steel anchor bolts.  
**Lift** : Pedestal mounted electric actuator for 460 Volt, 3-Phase, 60 hertz power, local electrical control station. Type 304 stainless steel stem and plastic stem cover with mylar position indicator. **Packing Gland included.**  
**H-Distance** : 30.77' (from centerline)  
**Gate Ship** : 32-36 weeks after drawing and credit approval.  
**Thimble Ship:** 32-36 weeks after drawing and credit approval.  
**Actuator Ship:** TBD  
**Price Each** : **\$342,248**

**Total price for items listed above: \$ 342,248.00**

Thank you for your interest in our product. If any questions arise regarding this quotation, please contact Hydro Gate.

Regards,



**Branden Hempelman**  
Technical Sales Engineer

12000 E. 47th Avenue - Suite 200 Denver, Colorado 80239  
office: 720.884.6742 | mobile: 720.884.6742 | [muellerwp.com](http://muellerwp.com)

## Attachment A

**MUELLER**

# TERMS AND CONDITIONS OF SALE

1. **PURCHASE ORDERS.** Address purchase orders to Henry Pratt Company, LLC d/b/a Hydro Gate, 12000 East 47th Avenue, Suite 200, Denver, CO 80239-3115, either Henry Pratt Company, LLC or Henry Pratt Company, LLC d/b/a Hydro Gate (“Seller”). Purchase orders can be sent to HydroGateOrders@muellerwp.com.
2. **PAYMENT.** Payment is due 100% net 30 days after the invoice date. No retainage or portion of the amount due may be held for any reason. Payment is not contingent on payment from or approval of any third party. All orders and shipments are subject to credit approval. Waivers of lien will be provided upon request after full payment is received. Remittance should be to Henry Pratt Company, LLC, 23418 Network Place, Chicago, IL 60673-1234. If the Buyer fails to pay Seller as specified herein, the Buyer agrees to pay all collection costs, attorney fees, and expenses incurred in collecting payment, including interest at the maximum legal rate. The Buyer will pay all transportation, insurance, and similar charges incident to delivery of products.
3. **PRICING AND PRICING ADJUSTMENTS.** Except as described in this section below, pricing is valid for shipments of material conducted within one (1) year from the date of purchase order. If an order does not have a scheduled release and shipment date within one (1) year from date of purchase order, or receives a release date beyond one (1) year, then the Buyer agrees to accept scheduling price adjustments. Scheduling price adjustments will be made in accordance with the percentage change in the Producer Price Index by Industry: Metal Valve Manufacturing (PCU33291-33291-Not Seasonally Adjusted). The primary official source of PPI data is the BLS Website. Scheduling price adjustments shall always use the latest version of the PPI data published at the time of shipment. The scheduling price adjustment rate will be determined by comparing base rate from the index at the time of the purchase order to the rate on the date of the shipment and determining the positive percentage change between those two dates. This percentage change will be applied to increase the original purchase price. In addition to the above, quoted prices may increase if shipment is delayed beyond scheduled shipping date due to Buyer’s delay. Specifically, if an order does not ship within sixty (60) days from original ship or release date, then the Buyer agrees to accept a shipping price adjustment equal to two percent (2.0%) of the value of the shippable product per originating purchase order per month for an order released more than sixty (60) days from the original ship date and equal to four percent (4.0%) of the value of the purchase order per month for an order released more than one hundred twenty (120) days from the original ship date. Any price adjustment will be made as an increase of the original purchase price. Buyer will pay all transportation, insurance and similar charges incident to delivery of products.
4. **TAXES.** Quoted prices exclude sales, use or other taxes. Where applicable, all taxes will be billed to the Buyer at time of shipment, unless the Buyer provides proper exemption documentation before shipment is invoiced.
5. **SHIPMENTS.** Unless otherwise noted, quoted price is F.O.B. shipping point with full freight allowance to jobsite. The Buyer will pursue claims directly with carrier for products received that were damaged in transit. Each shipment will be accompanied by a packing list. The Buyer will check shipment against packing list and report any shortages and discrepancies in writing to the Seller within five (5) business days after receipt.
6. **DELIVERY.** Quoted shipping dates are estimates only. The Seller will meet quoted schedules or reflect current schedules upon order acknowledgement. Lead-time will be as mutually agreed to at the time of product release to manufacture and credit package approval by the Seller. The Seller will not be responsible for delay in deliveries due to any cause beyond the Seller’s reasonable control, including, but not limited to, acts of God or the elements, civil insurrection, acts of war or terrorism, unusual health and safety situations, disease (including, but not limited to, COVID-19), epidemics, quarantine restrictions, inability to obtain necessary labor, materials or manufacturing facilities, labor disputes, riots, boycotts, civil or military authority, transportation and/or supply distribution disruption, fires, floods, or other severe weather, governmental actions (including, but not limited to tariffs, embargos, trade war or similar charges), or another situation which by its nature could not have been reasonably foreseen by Seller. In the event of a delay, the date of delivery will be extended for a length of time equal to the period of the delay.
7. **CANCELLATIONS/DELAYS.** The Buyer may cancel this order only with the prior written consent of the Seller. The Buyer agrees to pay the Seller a cancellation charge for any such cancelled order, which charge will be no less than ten percent (10%) of purchase price.
8. **WARRANTY/LIMITATION OF LIABILITY.** The purchase, purchase orders, and products referenced in these terms and conditions are subject to the warranties specified at: <https://www.muellerwaterproducts.com/terms-conditions>.
9. **DAMAGES.** The Seller will not be liable for special, indirect, consequential, incidental, liquidated or punitive damages of any kind (including, but not limited to, loss of use, revenue or profits, inventory or use charges, cost of capital or claims of customers) incurred by the Buyer or a third party. Total liability of the Seller, including its affiliates, officers, employees, agents, subcontractors, suppliers and representatives (the “Protected Group”) with respect to the order or a breach thereof, is capped at the price paid to the Seller for the specific product giving rise to the claim.

10. **INDEMNITY.** The Buyer agrees to indemnify, hold harmless, and defend the Protected Group, against any and all judgments, losses, damages, expenses, costs, including defense costs and legal fees, arising from any and all claims for liability arising or claimed to arise from any act or omission of the Buyer or the Seller in any way related to this order or products. To the extent the aforesaid obligation is prohibited by law, obligation will, but only to extent of such prohibition, be null and void. The remainder of the Buyer's indemnity obligations will remain in effect.
11. **LAW/VENUE.** No suit or cause of action or other proceeding will be brought against either party more than one (1) year after accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract or any other theory. These terms will be governed by and construed in accordance with the laws of the State of Delaware (without giving effect to conflict of law rules) as to all matters. The parties irrevocably submit to the exclusive jurisdiction of the United States District Court for the Northern District of Illinois.
12. **EXPORT/IMPORT.** The Buyer will comply with all applicable import and export control laws and/or regulations, including without limitation those of the U.S. and/or other jurisdictions from which products may be supplied or to which they may be shipped. The Buyer will not use, transfer, release, import, export or re-export products in violation of such applicable laws and/or regulations.
13. **GENERAL.** The Seller reserves the right to modify and update these Terms and Conditions of Sale from time to time on its website at <https://www.muellerwaterproducts.com/terms-conditions>. The Seller's waiver of any performance will not constitute a waiver of any other performance. These conditions supersede any prior written or oral agreement, understanding, representation or promise, and any pre-printed or standard terms and conditions contained in the Buyer's request for quote, purchase order, invoice, order acknowledgement or similar document.

Mueller refers to one or more of Mueller Water Products, Inc., a Delaware corporation ("MWP"), and its subsidiaries. MWP and each of subsidiaries are legally separate and independent entities when providing products and services. MWP does not provide products or services to third parties. MWP and each of its subsidiaries are liable only for their own acts and omissions and not those of each other. MWP brands include Mueller<sup>®</sup>, Echologics<sup>®</sup>, Hydro Gate<sup>®</sup>, Hydro-Guard<sup>®</sup>, HYMAX<sup>®</sup>, i2O<sup>®</sup>, Jones<sup>®</sup>, Krausz<sup>®</sup>, Mi.Net<sup>®</sup>, Milliken<sup>®</sup>, Pratt<sup>®</sup>, Pratt Industrial<sup>®</sup>, Singer<sup>®</sup>, and U.S. Pipe Valve & Hydrant. Please see <http://www.muellerwpp.com/brands> to learn more.

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## LIMITED WARRANTY

### 2-Year Warranty

Henry Pratt Company, LLC ("Seller") warrants that each of its products branded PRATT or HYDRO GATE supplied hereunder is free from defects in materials and workmanship (the "Warranty") for a period of twenty-four (24) months from the date of shipment from Seller to Buyer (the "Warranty Period"). Seller agrees, at its sole option, and at Buyer's sole and exclusive remedy, to repair, replace, or refund the unit purchase price of any product which is non-conforming to the Warranty due to Seller's defective workmanship or defective material of which Warranty non-conformance Buyer notifies Seller in writing during the Warranty Period. Buyer shall give written notice within fifteen (15) calendar days of the discovery of any alleged Warranty non-conformance to Seller's Field Service Supervisor, and prior to any repair or replacement work being performed on the non-conforming product, in order to maintain this product Warranty (i.e., otherwise Buyer voids the Warranty). Seller shall have the right to inspect the product for which a Warranty claim is made. Buyer shall return the product to Seller upon Seller's request for such inspection. Buyer shall assume all responsibility and expense for removal, reinstallation, and shipping charges in connection with this Warranty. Seller's obligations hereunder are conditioned upon prompt written notice of the alleged defect from the Buyer.

This Warranty does not apply to products that have defects or failures resulting from (a) Buyer's design; (b) accident, disaster, neglect, abuse, misuse, improper handling, testing, storage or installation by any party other than Seller; (c) external forces, such as, but not limited to, acts of God or the elements, vandalism, accident, vehicular or other impact, societal disruption (for example, war, terrorism, riot, civil unrest), application of excessive torque to the operating mechanism, presence of foreign matter, or frost heave; (d) the products not being installed or maintained as required by Seller's instructions, common practice, and/or applicable laws; (e) the defect arises, in whole or part, because Buyer failed to follow Seller's instructions or local codes as to the storage, installation, commissioning, use or maintenance of the products; (f) Buyer makes any further use of such products after giving such notice and (g) unauthorized alterations, modifications or repairs by any party other than Seller. Seller does not warrant water-operated metallic cylinders against damage caused by corrosion, electrolysis or mineral deposits.

Seller will not be responsible for the Warranty unless: (i) Buyer gives prompt written notice of the alleged defect, reasonably described, to Seller from when Buyer discovers or ought to have discovered the defect; (ii) Seller is given a reasonable opportunity after receiving the notice to examine such products, and Buyer (if requested to do so by Seller) returns such products to Seller's place of business at Seller's cost for the examination to take place there; and (iii) Seller reasonably verifies Buyer's claim that the products are defective.

THE REMEDIES SET FORTH IN THIS WARRANTY SHALL CONSTITUTE BUYER'S SOLE AND EXCLUSIVE REMEDY, AND SELLER'S SOLE AND EXCLUSIVE OBLIGATIONS, FOR A NON-CONFORMING PRODUCT UNDER THIS WARRANTY. THE WARRANTY IS IN LIEU OF, AND SELLER EXPRESSLY DISCLAIMS, AND BUYER EXPRESSLY WAIVES, ALL OTHER WARRANTIES WHATSOEVER WHETHER EXPRESS, IMPLIED, STATUTORY, ARISING BY COURSE OF DEALING OR PERFORMANCE OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR INFRINGEMENT OR MISAPPROPRIATION OF ANY RIGHT, TITLE OR INTEREST OF BUYER OR ANY THIRD PARTY, OR OTHERWISE. NO ORAL OR WRITTEN STATEMENT OR REPRESENTATION BY SELLER, ITS AGENTS OR EMPLOYEES SHALL CONSTITUTE OR CREATE A WARRANTY OR EXPAND THE SCOPE OF ANY WARRANTY HEREUNDER.

UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE TO BUYER OR TO ANY OTHER PERSON UNDER ANY CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHER LEGAL OR EQUITABLE CLAIM OR THEORY FOR ANY SPECIAL, INCIDENTAL, LIQUIDATED, CONSEQUENTIAL, OR INDIRECT DAMAGES, OR FOR ANY AND ALL OTHER DAMAGES, LOSS, OR EXEMPLARY OR PUNITIVE DAMAGES WHETHER SUCH PARTY WAS INFORMED OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. NOTWITHSTANDING THE FOREGOING OR ANY OTHER CLAIM OR OBLIGATION, SELLER'S MAXIMUM AGGREGATE OBLIGATION TO BUYER SHALL NOT EXCEED THE UNIT PURCHASE PRICE OF THE PRODUCT GIVING RISE TO THE WARRANTY CLAIM.

Products manufactured by a third party ("Third-Party Product") may constitute, contain, be contained in, be incorporated into, be attached to or packaged together with, the products. Third-Party Products are not covered by the Warranty. SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCT, INCLUDING ANY, AND SELLER EXPRESSLY DISCLAIMS ANY, WARRANTY OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF TITLE, OR AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS; WHETHER ANY OF THE FOREGOING ARE (OR ARE BELIEVED TO BE) EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

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F 14169 12/2023



SPECTRA Electrical Services  
 2519 W. Geneva Drive  
 Tempe, Arizona 85282  
 (480) 446-7200  
 fax (480) 446-7300

**DATA ENTRY PROGRAMMING FOR BID and COST ANALYSIS - ORIGINAL ESTIMATE - 40 HOUR WW (5x8 Mon thru Fri)**

<b>CUSTOMER:</b>	Eagle Mountain	<b>PROPOSAL DATE:</b>	9-Sep-24
<b>ADDRESS:</b>	3100 N. Caden Ct	<b>PROPOSAL TIME:</b>	3PM
	Flagstaff AZ 86604		
<b>CONTACT:</b>	Marco Spagnulo	<b>PROPOSAL #:</b>	24-0294
<b>E-MAIL:</b>	marco@emcaz.com	<b>REV #:</b>	Original
<b>PROJECT NAME:</b>	Spruce Wash Watershed Improvements	<b>PROPOSAL TYPE:</b>	Lump Sum

**I. SCOPE OF WORK**

This proposal has been prepared by SES and is submitted in strict confidence, based upon the following bid documents -

**E-Sheets:** E0.1, E1.1, E2.1, E2.2

**Dated:** 6/25/2024

**Specifications:** Per Plans  
**Dated:** 6/25/2024

**Engineer:** WSP - Randy Cook Jr

**Addendum:** \_\_\_\_\_ **Addendum:** \_\_\_\_\_ **Addendum:** \_\_\_\_\_ **Addendum:** \_\_\_\_\_  
**Dated:** \_\_\_\_\_ **Dated:** \_\_\_\_\_ **Dated:** \_\_\_\_\_ **Dated:** \_\_\_\_\_

**II. CLARIFICATIONS / INCLUSIONS / EXCLUSIONS**

- a.) This proposal shall remain valid for 15 days from the date indicated above.
- b.) SES reserves the right to negotiate a fair and equitable contract or subcontract agreement.
- c.) Please reference the Attachments 'A', 'B', 'C', etc. for proposal clarifications, inclusions & exclusions.

**III. SPECIAL NOTE:**

- a.) The proposal price for this project has been calculated based on the current prices and availability for the \*commodity MATERIALS listed below. However, the market for the materials that are hereafter specified is considered to be **volatile** and sudden price could occur. Spectra Electrical Services, Inc. (hereinafter referred to as SES) agrees to use our best effort to obtain the lowest possible prices increases or lack of availability from available material suppliers, but should there be an increase in excess of 5% in the prices of these specified materials that are purchased after execution of a contract for use in this project, the Owner agrees to pay the cost increase above 5% to SES. Any claim by SES for payment of a cost increase, as provided above, shall require written notice delivered by SES to the Owner / General Contractor stating the increase cost, the material or materials in question and the source of supply supported by invoices or bills of sale.  
 \*Commodity MATERIALS definition is as follows: PVC, Steel, Copper, Aluminum and All Petroleum Based Products. Spectra also reserves the right to negotiate a fair and mutual equitable schedule and contract terms.
- b.) We reserve the right to negotiate a fair and mutually equitable subcontract Agreement, including schedule.

**IV. BASE BID COST PROPOSAL**

COST	\$	163,852
P&P Bond (if req'd)	\$	-
Non-MRRA -TAX @	\$	-
MRRA -TAX @	\$	-
<b>TOTAL PROPOSED AMOUNT</b>	<b>\$</b>	<b>163,852</b>

<b>YEAR</b>	<b>EMR</b>
2024	0.99
2023	0.98
2022	0.99



Thank you,  
 Spectra Electrical Services, Inc.

Accepted By:  
 Eagle Mountain

Prepared By David Barndollar

Printed Name / Title \_\_\_\_\_

Reviewed By John Brunia

Signature / Date \_\_\_\_\_

**ATTACHMENT 'A' - CLARIFICATIONS (STANDARD)**

PROJECT NAME: Spruce Wash Watershed Improvements  
 PROPOSAL DATE: 9-Sep-24

PROPOSAL #: 24-0294  
 PROPOSAL TYPE: Lump Sum

ITEM	Included	Excluded	NOTES
Allowances & Contingencies		X	Unless specifically noted in this Proposal
Bid Bond		X	
Payment & Performance Bond		X	Not included in base bid.
Excess and/or Wrap Insurance		X	
Sales & Use Taxes		X	
Permits and/or associated Fees		X	
Engineered Drawings		X	Also excludes Light pole base structural calculations
Responsibility for design meeting code		X	
Handling of or Disposal of Hazardous Waste		X	Also excludes all fees, packaging & crating
Code Upgrades to existing systems		X	
Warranty or Freight claims		X	For equipment provided by others
Third Party Testing		X	Switchgear Only
Short Circuit and Arc Flash Studies		X	
Spare Parts, Attic Stock		X	
Additional / Relocated fixtures, fire alarm, battery packs, equipment etc requested by the AHJ, GC or Owner		X	
As-Built Drawings for our Work - "redline" type	X		SES will provide "redline" As-Built drawings on a clean set of drawings provided by GC or Owner, specifically for this purpose.
As-Built Drawings for our Work - CAD		X	
Reprographic & CAD file fees of any kind		X	All drawings and copies for construction by GC / Owner
BIM Services		X	
1-Year Warranty - Labor & Material	X		From the date of substantial completion for each respective project component (i.e. Building A, Building B, etc.)
Lighting Fixture Support / Slack Wire		X	To be furnished by Others, PRIOR to SES setting lights in grid, etc. - SES to tie off at corner(s) of light fixtures.
Jobsite Storage		X	In a secure location provided by Others, including exterior placement of storage trailers, containers, etc.
Jobsite Office		X	
Dumpster for disposal of construction debris		X	By Others
Temporary Power & Lighting		X	
Demolition		X	Concealed Items discovered during demolition or during new construction that will impede new work shall immediately be brought to the GC's attention. Spectra to proceed only after an evaluation & determination is made by the engineer or design team on how to proceed.
Painting & Patching		X	
<b>Packaged Items</b>			
Light Fixtures		X	Light fixture types and counts are quoted from the electrical drawings lighting schedule. Any additional fixtures types or schedules not on the electrical drawings are excluded.
Lighting Controls		X	
SES/Gear Package	X		
Disconnects (Loose)	X		Furnished by Spectra Electrical Services
<b>DRY UTILITIES</b>			<i>Utility Drawings were not provided at bid time. Our proposal is based on site drawings received. Utility excavation and installation will be reviewed and costs associated with any changes to Utility plans will be addressed.</i>
Power Utility - Design & Fees		X	
Power Utility - Equipment Cost & Install		X	
Power Utility - Primary Conduit(s)		X	
Power Utility - Secondary Conduit(s)		X	
Telco and/or Cox Utility - Design & Fees		X	
Telco and/or Cox Utility - Equip. Cost & Install		X	
Telco and/or Cox Utility - Conduit(s)		X	
Asphalt Cutting / Patchback		X	
Concrete Cutting / Patchback		X	
Trenching & Backfill		X	<b>No Soils Report Exclusions:</b> Shoring equipment of any kind. Spectra reserves the right to charge for unknown conditions and/or obstructions.
Rock / Coliche Digging		X	
Native Soil Backfill	X		
Imported Backfill-(Sand, Pea Gravel)		X	
Export of Spoils		X	Spoils to be spread on site
Concrete/Slurry Backfill		X	By others
Concrete Form Work		X	Pads, Pole bases. Also excludes auguring of pole light bases

end



SPECTRA Electrical Services  
 2519 West Geneva Drive  
 Tempe, Arizona 85282  
 p. 480.446.7200  
 f. 480.446.7300

**ATTACHMENT 'B' - CLARIFICATIONS (STANDARD)**

PROJECT NAME: Spruce Wash Watershed Improvements  
 PROPOSAL DATE: 9-Sep-24

PROPOSAL #: 24-0294  
 PROPOSAL TYPE: Lump Sum

ITEM	Included	Excluded	NOTES
<b>Fire Alarm System</b>			
Duct Smoke Detector - Purchase		X	Includes deferred submittal of plans for permit from AHJ. By Mechanical
Duct Smoke Detector - Installation		X	
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>Security System</b>			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>CCTV / MATV / Access Control System</b>			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>Voice / Data / Com System</b>			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>HVAC, Energy Mgt / Bld Automation System</b>			
Raceway System - Complete		X	By Mechanical
Raceway System - Stub-Up Only & Device Box		X	
Combo-Motor Starters for Mechanical / HVAC		X	Supplied & Installed by Mechanical
HVAC Equipment - Controls Wiring / Conduit		X	
<b>EMERGENCY SYSTEMS</b>			
Generator & Transfer Switch		X	By Spectra when applicable for startup only
Generator Fuel		X	
Generator Fuel Piping, Exhaust & Radiator work		X	By Mechanical when applicable
UPS / Batteries		X	
<b>LIGHTNING PROTECTION</b>			
Lightning Protection (exterior & roof)		X	
Ground Ring (u/g around building in footers)		X	
<b>LABOR &amp; MATERIAL TERMS</b>			
Standard Time Labor	X		This proposal is based upon a 5 day work week, 8 hours per day - Mo thru Fri, 6AM to 2:30PM, with allowance for a 1 hour shift in start time (1 week written notice required).
Premium, Holiday or Shift Time Labor		X	
Standard Material Lead Times		X	<b>Strong demand, large backlogs &amp; raw materials availability have effected typical delivery times.</b>
Use of Elevator at no cost on multi-story buildings		X	<b>Spectra to be compensated if elevator use is not permitted for material loading</b>
Expedited Manufacture/Delivery of Materials		X	Costs available upon request
Access Panels		X	
Acoustical Putty Pads		X	
Fire Stopping		X	Furnish and install firestopping at Spectra penetrations only. Sleeves installed for other subcontractor use excluded
MC Cable		X	Where allowed by NEC
Free Air Low Voltage Class-2 Cabling		X	
Slab work conduit		X	Proposal based on conduit being installed within or under slab.
Coordination With Trades		X	



SPECTRA Electrical Services  
 2519 W. Geneva Drive  
 Tempe, Arizona 85282  
 (480) 446-7200  
 fax (480) 446-7300

**DATA ENTRY PROGRAMMING FOR BID and COST ANALYSIS - ORIGINAL ESTIMATE - 40 HOUR WW (5x8 Mon thru Fri)**

<b>CUSTOMER:</b>	Eagle Mountain	<b>PROPOSAL DATE:</b>	23-Aug-24
<b>ADDRESS:</b>	3100 N. Caden Ct	<b>PROPOSAL TIME:</b>	3PM
	Flagstaff AZ 86604		
<b>CONTACT:</b>	Marco Spagnulo	<b>PROPOSAL #:</b>	24-0294
<b>E-MAIL:</b>	marco@emcaz.com	<b>REV #:</b>	Original
<b>PROJECT NAME:</b>	Spruce Wash Watershed Improvements	<b>PROPOSAL TYPE:</b>	Lump Sum

**I. SCOPE OF WORK**

This proposal has been prepared by SES and is submitted in strict confidence, based upon the following bid documents -

**E-Sheets:** E0.1, E1.1, E2.1, E2.2

**Dated:** 6/25/2024

**Specifications:** Per Plans

**Dated:** 6/25/2024

**Engineer:** WSP - Randy Cook Jr

<b>Addendum:</b>	<b>Addendum:</b>	<b>Addendum:</b>	<b>Addendum:</b>
<b>Dated:</b>	<b>Dated:</b>	<b>Dated:</b>	<b>Dated:</b>

**II. CLARIFICATIONS / INCLUSIONS / EXCLUSIONS**

- a.) This proposal shall remain valid for 15 days from the date indicated above.
- b.) SES reserves the right to negotiate a fair and equitable contract or subcontract agreement.
- c.) Please reference the Attachments 'A', 'B', 'C', etc. for proposal clarifications, inclusions & exclusions.

**III. SPECIAL NOTE:**

- a.) The proposal price for this project has been calculated based on the current prices and availability for the \* commodity MATERIALS listed below. However, the market for the materials that are hereafter specified is considered to be **volatile** and sudden price could occur. Spectra Electrical Services, Inc. (hereinafter referred to as SES) agrees to use our best effort to obtain the lowest possible prices increases or lack of availability from available material suppliers, but should there be an increase in excess of 5% in the prices of these specified materials that are purchased after execution of a contract for use in this project, the Owner agrees to pay the cost increase above 5% to SES. Any claim by SES for payment of a cost increase, as provided above, shall require written notice delivered by SES to the Owner / General Contractor stating the increase cost, the material or materials in question and the source of supply supported by invoices or bills of sale. \*Commodity MATERIALS definition is as follows: PVC, Steel, Copper, Aluminum and All Petroleum Based Products. Spectra also reserves the right to negotiate a fair and mutual equitable schedule and contract terms.
- b.) We reserve the right to negotiate a fair and mutually equitable subcontract Agreement, including schedule.

**IV. BASE BID COST PROPOSAL**

COST	\$	235,874
P&P Bond (if req'd)	\$	-
Non-MRRA -TAX @	\$	-
MRRA -TAX @	\$	-
<b>TOTAL PROPOSED AMOUNT</b>	<b>\$</b>	<b>235,874</b>

<b>YEAR</b>	<b>EMR</b>
2024	0.99
2023	0.98
2022	0.99



Thank you,  
 Spectra Electrical Services, Inc.

Accepted By:  
 Eagle Mountain

Prepared By David Barndollar

Printed Name / Title \_\_\_\_\_

Reviewed By John Brunia

Signature / Date \_\_\_\_\_



SPECTRA Electrical Services  
 2519 West Geneva Drive  
 Tempe, Arizona 85282  
 p. 480.446.7200  
 f. 480.446.7300

**ATTACHMENT 'A' - CLARIFICATIONS (STANDARD)**

PROJECT NAME: Spruce Wash Watershed Improvements  
 PROPOSAL DATE: 23-Aug-24

PROPOSAL #: 24-0294  
 PROPOSAL TYPE: Lump Sum

ITEM	Included	Excluded	NOTES
Allowances & Contingencies		X	Unless specifically noted in this Proposal
Bid Bond		X	
Payment & Performance Bond		X	Not included in base bid.
Excess and/or Wrap Insurance		X	
Sales & Use Taxes		X	
Permits and/or associated Fees		X	
Engineered Drawings		X	Also excludes Light pole base structural calculations
Responsibility for design meeting code		X	
Handling of or Disposal of Hazardous Waste		X	Also excludes all fees, packaging & crating
Code Upgrades to existing systems		X	
Warranty or Freight claims		X	For equipment provided by others
Third Party Testing		X	Switchgear Only
Short Circuit and Arc Flash Studies		X	
Spare Parts, Attic Stock		X	
Additional / Relocated fixtures, fire alarm, battery packs, equipment etc requested by the AHJ, GC or Owner		X	
As-Built Drawings for our Work - "redline" type	X		SES will provide "redline" As-Built drawings on a clean set of drawings provided by GC or Owner, specifically for this purpose.
As-Built Drawings for our Work - CAD		X	
Reprographic & CAD file fees of any kind		X	All drawings and copies for construction by GC / Owner
BIM Services		X	
1-Year Warranty - Labor & Material	X		From the date of substantial completion for each respective project component (I.e. Building A, Building B, etc.)
Lighting Fixture Support / Slack Wire		X	To be furnished by Others, PRIOR to SES setting lights in grid, etc. - SES to tie off at corner(s) of light fixtures.
Jobsite Storage		X	In a secure location provided by Others, including exterior placement of storage trailers, containers, etc.
Jobsite Office		X	
Dumpster for disposal of construction debris		X	By Others
Temporary Power & Lighting		X	
Demolition		X	Concealed Items discovered during demolition or during new construction that will impede new work shall immediately be brought to the GC's attention. Spectra to proceed only after a evaluation & determination is made by the engineer or design team on how to proceed.
Painting & Patching		X	
<b>Packaged Items</b>			
Light Fixtures		X	Light fixture types and counts are quoted from the electrical drawings lighting schedule. Any additional fixtures types or schedules not on the electrical drawings are excluded.
Lighting Controls		X	
SES/Gear Package	X		14-16 week lead time, including shop drawings. Shop drawings are currently estimated at 3-4 weeks from receipt of order.
<b>DRY UTILITIES</b>			
Power Utility - Design & Fees		X	<i>Utility Drawings were not provided at bid time. Our proposal is based on site drawings received. Utility excavation and installation will be reviewed and costs associated with any changes to Utility plans will be addressed.</i>
Power Utility - Equipment Cost & Install		X	
Power Utility - Primary Conduit(s)		X	
Power Utility - Secondary Conduit(s)		X	
Telco and/or Cox Utility - Design & Fees		X	
Telco and/or Cox Utility - Equip. Cost & Install		X	
Telco and/or Cox Utility - Conduit(s)		X	
Asphalt Cutting / Patchback		X	
Concrete Cutting / Patchback		X	
Trenching & Backfill		X	<b>No Soils Report Exclusions:</b> Shoring equipment of any kind. Spectra reserves the right to charge for unknown conditions and/or obstructions.
Rock / Coliche Digging		X	
Native Soil Backfill	X		
Imported Backfill-(Sand, Pea Gravel)		X	
Export of Spoils		X	Spoils to be spread on site
Concrete/Slurry Backfill		X	By others
Concrete Form Work		X	Pads, Pole bases. Also excludes auguring of pole light bases

end



SPECTRA Electrical Services  
 2519 West Geneva Drive  
 Tempe, Arizona 85282  
 p. 480.446.7200  
 f. 480.446.7300

**ATTACHMENT 'B' - CLARIFICATIONS (STANDARD)**

PROJECT NAME: Spruce Wash Watershed Improvements  
 PROPOSAL DATE: 23-Aug-24

PROPOSAL #: 24-0294  
 PROPOSAL TYPE: Lump Sum

ITEM	Included	Excluded	NOTES
<b>Fire Alarm System</b>			
Duct Smoke Detector - Purchase		X	Includes deferred submittal of plans for permit from AHJ. By Mechanical
Duct Smoke Detector - Installation		X	
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>Security System</b>			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>CCTV / MATV / Access Control System</b>			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>Voice / Data / Com System</b>			
Raceway System - Complete		X	
Raceway System - Stub-Up Only & Device Box		X	
Cable Tray		X	
<b>HVAC, Energy Mgt / Bld Automation System</b>			
Raceway System - Complete		X	By Mechanical
Raceway System - Stub-Up Only & Device Box		X	
Combo-Motor Starters for Mechanical / HVAC		X	Supplied & Installed by Mechanical
HVAC Equipment - Controls Wiring / Conduit		X	
<b>EMERGENCY SYSTEMS</b>			
Generator & Transfer Switch		X	By Spectra when applicable for startup only
Generator Fuel		X	
Generator Fuel Piping, Exhaust & Radiator work		X	By Mechanical when applicable
UPS / Batteries		X	
<b>LIGHTNING PROTECTION</b>			
Lightning Protection (exterior & roof)		X	
Ground Ring (u/g around building in footers)		X	
<b>LABOR &amp; MATERIAL TERMS</b>			
Standard Time Labor	X		This proposal is based upon a 5 day work week, 8 hours per day - Mo thru Fri, 6AM to 2:30PM, with allowance for a 1 hour shift in start time (1 week written notice required).
Premium, Holiday or Shift Time Labor		X	
Standard Material Lead Times		X	<b>Strong demand, large backlogs &amp; raw materials availability have effected typical delivery times.</b>
Use of Elevator at no cost on multi-story buildings		X	<b>Spectra to be compensated if elevator use is not permitted for material loading</b>
Expedited Manufacture/Delivery of Materials		X	Costs available upon request
Access Panels		X	
Acoustical Putty Pads		X	
Fire Stopping		X	Furnish and install firestopping at Spectra penetrations only. Sleeves installed for other subcontractor use excluded
MC Cable		X	Where allowed by NEC
Free Air Low Voltage Class-2 Cabling		X	
Slab work conduit		X	Proposal based on conduit being installed within or under slab.
Coordination With Trades		X	



**Palmerosa Construction, L.L.C**

P.O Box 30158  
Flagstaff, AZ 86003 US  
(928) 699-4592  
miketpalmer@gmail.com

**Estimate**

ADDRESS
Spruce Wash 3100 Caden Ct Flagstaff, AZ 86004

ESTIMATE #	DATE
1146	03/02/2024

**P.O. NUMBER**

Spruce Wash

ACTIVITY	QTY	RATE	AMOUNT
Estimate for Fencing for Spruce Wash job. Price includes material and labor to install fencing as per drawings from SWI job #223098 details 1-3			
4' section ( Detail 1 ) - Posts = 4"x4"x3/16" with caps 8' OC mounted to top of wall or concrete - Top and Bottom rail = 3"x3"x1/8" square tube - Middle section = 1/4" woven wire mesh 4" OC secured with 1"x1"x1/8" angle iron on each side of mesh	340	130.00	44,200.00
6' section ( Detail 2 ) - Posts = 4"x4"x3/16" with caps 8' OC mounted in poured concrete post holes - Top, Bottom and Middle rail = 3"x3"x1/8" square tube - Top and Bottom section = 1/4" woven wire mesh 4" OC secured with 1"x1"x1/8" angle iron on each side of mesh	210	190.00	39,900.00
Gate ( Detail 3 ) - 16' opening with 2 gates hinged on sides - Material and spacing to match the 6' fence	1	5,200.00	5,200.00
Excludes: Survey or staking for fence location, Private Blue Stake, Special Inspections Page Steel only guarantees material prices for 30 days. Mesh could take up to 5 weeks to get from order date			

TOTAL

**\$89,300.00**

Accepted By

Accepted Date

**Palmerosa Construction, L.L.C**

P.O Box 30158  
Flagstaff, AZ 86003 US  
(928) 699-4592  
miketpalmer@gmail.com

**Estimate**

ADDRESS
Spruce Wash 3100 Caden Ct Flagstaff, AZ 86004

ESTIMATE #	DATE
1146	02/27/2025

**P.O. NUMBER**

Spruce Wash

ACTIVITY	QTY	RATE	AMOUNT
Estimate for Fencing for Spruce Wash job. Price includes material and labor to install fencing as per drawings from SWI job #223098 details 1-3; and to meet Buy American provisions.			
4' section ( Detail 1 ) - Posts = 4"x4"x3/16" with caps 8' OC mounted to top of wall or concrete - Top and Bottom rail = 3"x3"x1/8" square tube - Middle section = 1/4" woven wire mesh 4" OC secured with 1"x1"x1/8" angle iron on each side of mesh	340	172.00	58,480.00
6' section ( Detail 2 ) - Posts = 4"x4"x3/16" with caps 8' OC mounted in poured concrete post holes - Top, Bottom and Middle rail = 3"x3"x1/8" square tube - Top and Bottom section = 1/4" woven wire mesh 4" OC secured with 1"x1"x1/8" angle iron on each side of mesh	210	236.00	49,560.00
Gate ( Detail 3 ) - 16' opening with 2 gates hinged on sides - Material and spacing to match the 6' fence	1	6,800.00	6,800.00
Excludes: Survey or staking for fence location, Private Blue Stake, Special Inspections Page Steel only guarantees material prices for 30 days. Mesh could take up to 5 weeks to get from order date			

**TOTAL**

**\$114,840.00**

Accepted By

Accepted Date

**FEDERAL FINANCIAL ASSISTANCE  
AWARD OF DOMESTIC GRANT 24-DG-11030000-015  
Between The  
CITY OF FLAGSTAFF  
And The  
USDA, FOREST SERVICE  
SOUTHWESTERN REGION, COCONINO NATIONAL FOREST**

Project Title: The Wedge Detention Basin

Upon execution of this document, an award to the City of Flagstaff, hereinafter referred to as “Flagstaff,” in the amount of **\$3,500,000**, is made under the authority of the Consolidated Appropriations Act of 2022, P.L. 117-103. The Federal Assistance Listing (formerly Catalog of Federal Domestic Assistance - CFDA) number and name are 10.723, Community Project Funding - 2022 Congressionally Designated Funding. Flagstaff accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated July 3, 2024, and the attached Forest Service provisions, ‘Forest Service Award Provisions,’ are incorporated into this letter and made a part of this award.

This authority requires a **match of 1:1**, which your organization has agreed to provide as shown in the attached application, financial plan and narrative.

This is an award of Federal financial assistance. Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Adoption by USDA of the OMB guidance in 2 CFR 400 gives regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: [www.ecfr.gov](http://www.ecfr.gov). If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at 505-382-9982.

The following administrative provisions apply to this award:

- A. **LEGAL AUTHORITY**. Flagstaff shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the non-Federal share of project costs, when applicable.
- B. **PRINCIPAL CONTACTS**. Individuals listed below are authorized to act in their respective areas for matters related to this award.



**Principal Cooperator Contacts:**

<b>Cooperator Program Contact</b>	<b>Cooperator Administrative Contact</b>
Stacey Brechler-Knaggs 211 West Aspen Ave Flagstaff, AZ 86001 Telephone: 928-213-2227 Email: <a href="mailto:sknaggs@flagstaffaz.gov">sknaggs@flagstaffaz.gov</a>	Stacey Brechler-Knaggs 211 West Aspen Ave Flagstaff, AZ 86001 Telephone: 928-213-2227 Email: <a href="mailto:sknaggs@flagstaffaz.gov">sknaggs@flagstaffaz.gov</a>

**Principal Forest Service Contacts:**

<b>Forest Service Program Manager Contact</b>	<b>Forest Service Administrative Contact</b>
Amber Dorsch 1824 S. Thompson St Flagstaff, AZ 86001 Telephone: 928-527-3440 Email: <a href="mailto:amber.dorsch@usda.gov">amber.dorsch@usda.gov</a>	Sara Comas 201 14 <sup>th</sup> Ave SW Washington, DC 20250 Telephone: 505-382-9982 Email: <a href="mailto:sara.comas@usda.gov">sara.comas@usda.gov</a>

C. **SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM).** Flagstaff shall maintain current organizational information and the original Unique Entity Identifier (UEI) provided for this agreement in the System for Award Management (SAM) until receipt of final payment. This requires annual review and updates, when needed, of organizational information after the initial registration. More frequent review and updates may be required for changes in organizational information or agreement term(s). Any change to the original UEI provided in this agreement will result in termination of this agreement and de-obligation of any remaining funds. For purposes of this agreement, System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a Cooperative. Additional information about registration procedures may be found at the SAM Internet site at [www.sam.gov](http://www.sam.gov).

D. **ADVANCE & REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE.** Advance and reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment must be submitted on Standard Form 270 (SF-270), Request for Advance or Reimbursement, and must be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and Forest Service regulations.

Advance payments must not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the Recipient receives an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully

expended before the Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award must be returned to the Forest Service.

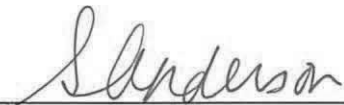
The Program Manager reserves the right to request additional information prior to approving a payment.

The invoice must be sent by one of three methods:	Send a copy to:
EMAIL (preferred): <a href="mailto:SM.FS.asc_ga@usda.gov">SM.FS.asc_ga@usda.gov</a>	Amber Dorsch:
FAX: 877-687-4894	<a href="mailto:amber.dorsch@usda.gov">amber.dorsch@usda.gov</a>
POSTAL: USDA Forest Service Budget & Finance - Grants and Agreements 4000 Masthead St, NE Albuquerque, NM 87109	

- E. INDIRECT COST RATES. The cooperator will not assess indirect against this award.
- F. PRIOR WRITTEN APPROVAL. Flagstaff shall obtain prior written approval pursuant to conditions set forth in 2 CFR 200.407.
- G. MODIFICATIONS. Modifications within the scope of this award must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- H. PERIOD OF PERFORMANCE. This agreement is executed as of the date of the Forest Service signatory official signature. Pre-award costs are authorized as of 07/01/2024 pursuant to 2 CFR 200.458.

The end date, or expiration date is **06/30/2025**. This instrument may be extended by a properly executed modification. *See Modification Provision above.*

I. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof the parties hereto have executed this award.

  
\_\_\_\_\_  
For GREG CLIFTON, City Manager  
City of Flagstaff

8/27/24  
\_\_\_\_\_  
Date

\_\_\_\_\_  
AARON MAYVILLE, Forest Supervisor  
U.S. Forest Service, Coconino National Forest

\_\_\_\_\_  
Date


The authority and the format of this award have been reviewed and approved for signature. SARA

COMAS  
\_\_\_\_\_  
SARA COMAS  
Forest Service Grants Management Specialist

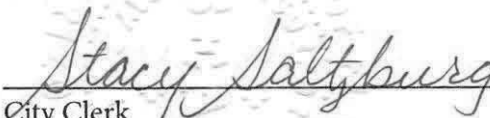
Digitally signed by SARA  
COMAS  
Date: 2024.07.16  
17:42:28 -04'00'

\_\_\_\_\_  
Date

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

ATTEST:

  
\_\_\_\_\_  
City Clerk

## ATTACHMENT A: FOREST SERVICE AWARD PROVISIONS

- A. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award and Federal law, Flagstaff a may enter into collaborative arrangements with other organizations to jointly carry out activities with Forest Service funds available under this award.
- B. FOREST SERVICE LIABILITY TO THE RECIPIENT. The United States shall not be liable to Flagstaff for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by Flagstaff or any third party.
- C. NOTICES. Any notice given by the Forest Service or Flagstaff will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the award.

To Flagstaff, at the address shown in the award or such other address designated within the award.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. SUBAWARDS. Prior approval is required to issue subawards under this grant. The intent to subaward must be identified in the approved budget and scope of work and approved in the initial award or through subsequent modifications. Approval of each individual subaward is not required, however the cooperator must document that each sub-recipient does NOT have active exclusions in the System for Award Management (sam.gov).

The Cooperator must also ensure that they have evaluated each subrecipient's risk in accordance with 2 CFR 200.332 (b).

Any subrecipient under this award must be notified that they are subject to the OMB guidance in subparts A through F of 2 CFR Part 200, as adopted and supplemented by the USDA in 2 CFR Part 400. Any sub-award must follow the regulations found in 2 CFR 200.331 through .333.

All subawards \$30,000 or more must be reported at [fsrs.gov](https://fsrs.gov) in compliance with 2 CFR 170. See Attachment B for full text.

- E. FINANCIAL STATUS REPORTING. A Federal Financial Report, Standard Form SF-425 (and Federal Financial Report Attachment, SF-425A, if required for reporting multiple awards), must be submitted quarterly. These reports are due 30 days after the reporting period ending March 31, June 30, September 30 and December 31. The final

SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 120 days from the expiration date of the award. These forms may be found at <https://www.grants.gov/web/grants/forms.html>.

- F. PROGRAM PERFORMANCE REPORTS. The recipient shall perform all actions identified and funded in application/modification narratives within the performance period identified in award.

In accordance with 2 CFR 200.301, reports must relate financial data to performance accomplishments of the federal award.

Flagstaff shall submit quarterly performance reports. These reports are due 30 days after the reporting period ending March 31, June 30, September 30 and December 31. The final performance report shall be submitted either with Flagstaff's final payment request, or separately, but not later than 120 days from the expiration date of the award.

- Additional pertinent information: submit a copy of all reports to [SM.FS.R3SPTF@usda.gov](mailto:SM.FS.R3SPTF@usda.gov).

- G. NOTIFICATION. Flagstaff shall immediately notify the Forest Service of developments that have a significant impact on the activities supported under this award. Also, notification must be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

- H. CHANGES IN KEY PERSONNEL. Any revision to key personnel identified in this award requires notification of the Forest Service Program Manager by email or letter.

- I. USE OF FOREST SERVICE INSIGNIA. In order for Flagstaff to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted by the Forest Service's Office of Communications (Washington Office). A written request will be submitted by Forest Service, Program Manager, to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The Forest Service Program Manager will notify Flagstaff when permission is granted.

- J. FUNDING EQUIPMENT. Federal funding under this award is not available for reimbursement of Flagstaff's purchase of equipment. Equipment is defined as having a fair market value of \$5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.

- K. PUBLIC NOTICES. It is Forest Service's policy to inform the public as fully as possible of its programs and activities. Flagstaff is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments.

Flagstaff may call on Forest Service's Office of Communication for advice regarding public notices. Flagstaff is requested to provide copies of notices or announcements to the Forest Service Program Manager and to Forest Service's Office Communications as far in advance of release as possible.

- L. DISPUTES. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution (ADR) procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

Should the parties be unable to resolve the issue of controversy through ADR, then the Signatory Official will make the decision. A written copy of the decision will be provided to the Cooperator.

Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, the Cooperator appeals the decision to the Forest Service's Deputy Chief, State, Private, and Tribal Forestry (SPTF). Any appeal made under this provision shall be in writing and addressed to the Deputy Chief, SPTF, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.

A decision under this provision by the Deputy Chief, SPTF, is final. The final decision by the Deputy Chief, SPTF, does not preclude the Cooperator from pursuing remedies available under the law.

- M. AWARD CLOSEOUT. Flagstaff must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

Any unobligated balance of cash advanced to Flagstaff must be immediately refunded to the Forest Service, including any interest earned in accordance with 2 CFR 200.344(d).

If this award is closed without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- N. TERMINATION. This award may be terminated, in whole or part pursuant to 2 CFR 200.340.

- O. DEBARMENT AND SUSPENSION. Flagstaff shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Flagstaff or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion,

debarment, or suspension is voluntary or involuntary. The Recipient shall adhere to 2 CFR Part 180 Subpart C in regards to review of sub-recipients or contracts for debarment and suspension.

All subrecipients and contractors must complete the form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions. Blank forms are available electronically. Completed forms must be kept on file with the primary recipient.

- P. MEMBERS OF CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.
- Q. SCIENTIFIC INTEGRITY. USDA is committed to the highest levels of integrity in all of our scientific activities and decision making. This includes to performing, recording and reporting the results of scientific activities with honesty, objectivity, and transparency. All persons performing under this agreement shall adhere to the principles of scientific integrity described in Departmental Regulation (DR) 1074-001.
- R. GEOSPATIAL DATA. All data collected will meet the requirements of the Geospatial Data Act of 2018 where applicable. This will always include the documentation of all relevant metadata standards, use of standard data formats; description of quantitative measures of uncertainty and source of uncertainty and sources of uncertainty associated with the data. Additionally, the data must meet specific standards specified elsewhere to ensure the data is useful to support the USDA's mission. The recipient/cooperator agrees to comply with USDA's Department-wide enterprise geospatial data management policy implemented in Departmental Regulation 3465-001 which establishes the USDA policy for defining the strategic direction necessary to optimize the management of the USDA geospatial data and geospatial infrastructure, including all geospatial data created for, by, and enhanced by USDA.
- S. PUBLIC ACCESS TO SCHOLARLY PUBLICATIONS AND DIGITAL SCIENTIFIC RESEARCH DATA. The recipient agrees to comply with USDA's Department-wide public access policy implemented in Departmental Regulation 1020-006 which establishes the USDA policy for public access to scholarly publications and digital scientific research data assets. The USDA will make all peer-reviewed, scholarly publications and digital scientific research data assets arising from unclassified scientific research supported wholly or in part by the USDA accessible to the public, to the extent practicable.
- T. BUY AMERICA BUILD AMERICA. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

(1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

(2) All manufactured products used in the project are produced in the United States— this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and

(3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

*Incorporation into an infrastructure project.* The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

*Categorization of articles, materials, and supplies.* An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

*Application of the Buy America Preference by category.* An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

*Determining the cost of components for manufactured products.* In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

(a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product

(whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered “produced in the United States.” Except as specifically provided, only a single standard should be applied to a single construction material.

(1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

(2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

(3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

(4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

(5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

(6) Lumber. All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

(7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

(8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers. When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements. The agency should notify the recipient for information on the process for requesting a waiver from these requirements.

When the Federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the Buy America Preference in any case in which the agency determines that:

- (1) applying the Buy America Preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the Buy America Preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described at [USDA Buy America Waivers for Federal Financial Assistance](#).

### Definitions

**“Buy America Preference”** means the “domestic content procurement preference” set forth in section 70914 of the Build America, Buy America Act, which requires the head of each Federal agency to ensure that none of the funds made available for a Federal award for an infrastructure project may be obligated unless all of the iron, steel, manufactured products, and construction materials incorporated into the project are produced in the United States.

**“Construction materials”** means articles, materials, or supplies that consist of only one of the items listed in paragraph (1) of this definition, except as provided in paragraph (2) of this definition. To the extent one of the items listed in paragraph (1) contains as inputs other items listed in paragraph (1), it is nonetheless a construction material.

- (1) The listed items are:
  - (i) Non-ferrous metals;
  - (ii) Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables);

- (iii) Glass (including optic glass);
- (iv) Fiber optic cable (including drop cable);
- (v) Optical fiber;
- (vi) Lumber;
- (vii) Engineered wood; and
- (viii) Drywall.

(2) Minor additions of articles, materials, supplies, or binding agents to a construction material do not change the categorization of the construction material.

**“Infrastructure”** means public infrastructure projects in the United States, which includes, at a minimum, the structures, facilities, and equipment for roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and structures, facilities, and equipment that generate, transport, and distribute energy including electric vehicle (EV) charging.

**“Infrastructure project”** means any activity related to the construction, alteration, maintenance, or repair of infrastructure in the United States regardless of whether infrastructure is the primary purpose of the project. See also paragraphs (c) and (d) of 2 CFR 184.4.

**“Iron or steel products”** means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

#### U. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

- a. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients’ employees may not:
  - (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - (2) Procure a commercial sex act during the period of time that the award is in effect; or
  - (3) Use forced labor in the performance of the award or subawards under the award.
- b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity:
  - (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or

- (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
    - i. Associated with performance under this award; or
    - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),”.
2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:
  - a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
  - b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
    - (1) Associated with performance under this award; or
    - (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),”
3. Provisions applicable to any recipient.
  - a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  - b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
    - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
  - c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
4. Definitions. For purposes of this award term:
  - a. “Employee” means either:
    - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
    - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - b. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for

labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

- c. "Private entity":
  - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
  - (2) Includes:
    - i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
    - ii. A for-profit organization.
- d. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

V. DRUG-FREE WORKPLACE.

- 1. Flagstaff agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must
  - a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
  - b. Specify the actions Flagstaff will take against employees for violating that prohibition; and
  - c. Let each employee know that, as a condition of employment under any award, the employee:
    - (1) Shall abide by the terms of the statement, and
    - (2) Shall notify Flagstaff in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and shall do so no more than 5 calendar days after the conviction.
- 2. Flagstaff agree(s) that it will establish an ongoing drug-free awareness program to inform employees about
  - a. The dangers of drug abuse in the workplace;
  - b. The established policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation and employee assistance programs; and
  - d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.
- 3. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this award, whichever occurs first.

4. Flagstaff agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the award number of each award on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after Flagstaff learns of the conviction.
5. Within 30 calendar days of learning about an employee's conviction, Flagstaff must either
  - a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
  - b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

W. PROHIBITION AGAINST USING FUNDS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS.

1. The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
2. The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect.
3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
4. If the Government determines that the recipient is not in compliance with this award provision, it;
  - a. Will prohibit the recipient's use of funds under this award in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
  - b. May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.

X. ELIGIBLE WORKERS. Flagstaff shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 U.S.C. 1324(a)). Flagstaff shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.

Y. FREEDOM OF INFORMATION ACT (FOIA). Public access to award or agreement records must not be limited, except when such records must be kept confidential and

would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 315(e).

Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

- Z. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, “Federal Leadership on Reducing Text Messaging While Driving,” any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperators, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.
- AA. PROMOTING FREE SPEECH AND RELIGIOUS FREEDOM. As a recipient of USDA financial assistance, you will comply with the following:
1. Do not discriminate against applicants for sub-grants on the basis of their religious character.
  2. 7 Code of Federal Regulations (CFR) part 16.3(a), Rights of Religious Organizations.
  3. Statutory and National policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.
- BB. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. The cooperator (including subrecipients) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216. See Public Law 115-232, Section 889 for additional information.

In accordance with 2 CFR 200.216, the grantee (including subrecipients) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

- (1) procure or obtain, extend or renew a contract to procure or obtain;
- (2) enter into a contract (or extend or renew a contract) to procure; or
- (3) obtain the equipment, services or systems.

## ATTACHMENT B: 2 CFR PART 170

### Appendix A to Part 170—Award Term

#### I. Reporting Subawards and Executive Compensation

##### a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
  - i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

##### b. *Reporting total compensation of recipient executives for non-Federal entities.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
  - i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 CFR 170.320;
  - ii. in the preceding fiscal year, you received—
    - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,
  - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
  - i. As part of your registration profile at <https://www.sam.gov>.
  - ii. By the end of the month following the month in which this award is made, and annually thereafter.

##### c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most

highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
    - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and,
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
  - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
- i. To the recipient.
  - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- d. *Exemptions.*  
If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
- i. Subawards, and
  - ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e. *Definitions.* For purposes of this award term:
1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
  2. Non-Federal *entity* means all of the following, as defined in 2 CFR part 25:
    - i. A Governmental organization, which is a State, local government, or Indian tribe;
    - ii. A foreign public entity;
    - iii. A domestic or foreign nonprofit organization; and,
    - iv. A domestic or foreign for-profit organization
  3. *Executive* means officers, managing partners, or any other employees in management positions.
  4. *Subaward:*
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
    - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

END OF ATTACHMENT B: 2 CFR PART 170

## ATTACHMENT C: WHISTLEBLOWER NOTICE

Whistleblowers perform an important service to USDA and the public when they come forward with what they reasonably believe to be evidence of wrongdoing. They should never be subject to reprisal for doing so. Federal law protects federal employees as well as personal services contractors and employees of Federal contractors, subcontractors, grantees, and subgrantees against reprisal for whistleblowing. USDA bears the responsibility to ensure that nothing in a non-disclosure agreement which a contractor, subcontractor, grantee, or subgrantee requires their employees to sign should be interpreted as limiting their ability to provide information to the Office of Inspector General (OIG).

41 U.S.C. § 4712 requires the head of each executive agency to ensure that its contractors inform their workers in writing of the rights and remedies under the statute. Accordingly, it is illegal for a personal services contractor or an employee of a Federal contractor, subcontractor, grantee, or subgrantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. In this context, these categories of individuals are whistleblowers who disclose information that the individual reasonably believes is evidence of one of the following:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

To be protected under 41 U.S.C. § 4712, the disclosure must be made to one of the following:

- A Member of Congress, or a representative of a committee of Congress;
- The OIG;
- The Government Accountability Office (GAO);
- A Federal employee responsible for contract or grant oversight or management at USDA;
- An otherwise authorized official at USDA or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Under 41 U.S.C. § 4712, personal services contractors as well as employees of contractors, subcontractors, grantees, or subgrantees may file a complaint with OIG, who will investigate the matter unless they determine that the complaint is frivolous, fails to allege a violation of the prohibition against whistleblower reprisal, or has been addressed in another proceeding. OIG's investigation is then presented to the head of the executive agency who evaluates the facts of the investigation and can order the contractor, subcontractor, grantee, or subgrantee

to take remedial action, such as reinstatement or back pay.

Federal Acquisition Regulation (FAR) Subpart 3.903, *Whistleblower Protections for Contractor Employees, Policy*, prohibits government contractors from retaliating against a contract worker for making a protected disclosure related to the contract. FAR Subpart 3.909-1 prohibits the Government from using funds for a contract with an entity that requires its employees or subcontractors to sign internal confidentiality statements prohibiting or restricting disclosures of fraud, waste, or abuse to designated persons. This prohibition does not contravene agreements pertaining to classified information. The regulation also requires contracting officers to insert FAR clause 52.203-17, *Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights*, in all solicitations and contracts that exceed the Simplified Acquisition Threshold as defined in FAR Subpart 3.908. This clause requires notification to contractor employees that they are subject to the whistleblower rights and remedies referenced in 41 U.S.C. § 4712.

In order to make a complaint alleging any of the violations mentioned above, one should complete the OIG Hotline form located at: <https://www.usda.gov/oig/hotline>. For additional information, they may also visit the WPC's webpage at: <https://www.usda.gov/oig/wpc> or they may directly contact the WPC at [OIGWPC@oig.usda.gov](mailto:OIGWPC@oig.usda.gov).