

## AGENDA

### TUSAYAN TOWN COUNCIL REGULAR MEETING

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, January 9, 2013 @ 6:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Tusayan Town Council and to the general public that the Tusayan Town Council will hold a meeting open to the public on Wednesday, January 9, 2013 at the Tusayan Town Hall Building. If authorized by a majority vote of the Tusayan Town Council, an executive session may be held immediately after the vote and will not be open to the public. The Council may vote to go into executive session pursuant to A.R.S. § 38-431.03.A.3 for legal advice concerning any matter on the agenda, including those items set forth in the consent and regular agenda sections. The Town Council may change, in its discussion, the order in which any agenda items are discussed during the course of the meeting.

Persons with a disability may request a reasonable accommodation by contacting Town manager (928) 638-9909 as soon as possible.

As a reminder, if you are carrying a cell phone, electronic pager, computer, two-way radio, or other sound device, we ask that you silence it at this time to minimize disruption of today's meeting.

### TOWN COUNCIL REGULAR MEETING AGENDA

#### 1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

#### 2. ROLL CALL

MAYOR GREG BRYAN  
VICE MAYOR AL MONTOYA

COUNCILMEMBER BILL FITZGERALD  
COUNCILMEMBER JOHN RUETER  
COUNCILMEMBER CRAIG SANDERSON

❖ *One or two Council Members may attend by telephone*

#### 3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA

*Members of the public may address the Council on items not on the printed agenda. The Council may not discuss, consider or act upon any matter raised during public comment. Comments will be limited to three minutes per person.*

*Members of the audience who wish to speak to the Council on an item listed as Public Hearing should complete a Request to Speak Card and turn it into the Town Clerk. Speakers will be limited to three minutes each.*

#### 4. CEREMONIAL AND/OR INFORMATIONAL MATTERS

A. Presentation by Todd Chaudhry, Ph.D., Watershed Stewardship Program Manager, Division of Science and Resource Management with Grand Canyon National Park

B. Presentation on Northern Arizona Council of Governments (NACOG) Weatherization Program

**5. CONSENT AGENDA**

ITEMS ON THE CONSENT AGENDA ARE ROUTINE IN NATURE AND WILL BE ACTED ON WITH ONE MOTION AND ONE VOTE. PUBLIC HEARING ITEMS ARE DESIGNATED WITH AN ASTERISK (\*). MEMBERS OF THE COUNCIL OR STAFF MAY ASK THE MAYOR TO REMOVE ANY ITEM FROM THE CONSENT AGENDA TO BE DISCUSSED AND ACTED UPON SEPARATELY.

A. Minutes of Town Council Meeting of 12/19/12

B. Accounts Payable Billings

**6. COMMITTEE REPORTS**

**7. ACTION ITEMS**

A. Consideration, discussion, and possible approval of a contract for a Town of Tusayan Drainage Study

B. Consideration, discussion, and possible approval of a contract for a Broadband Network Strategic Plan

**8. DISCUSSION ITEMS**

A. Discussion of Tusayan Fire Department's Budgetary Needs

**9. TOWN MANAGER'S REPORT**

**10. FUTURE AGENDA ITEMS**

**11. COUNCIL MEMBERS' REPORTS**

**12. MAYOR'S REPORT**

**13. CONSIDERATION, DISCUSSION, AND POSSIBLE APPROVAL OF AN OFFER OF EMPLOYMENT TO A FINALIST FOR THE TOWN MANAGER POSITION**

The Town Council may decide to go into executive session pursuant to A.R.S. § 38-431.03.A.1 for discussion or consideration of persons to serve as Town Manager.

**14. MOTION TO ADJOURN**

**CERTIFICATION OF POSTING OF NOTICE**

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at the General Store in Tusayan, Arizona on this 3<sup>rd</sup> day of January, 2013, at \_\_\_\_\_pm in accordance with the statement filed by the Tusayan Town Council.

DATED this 3<sup>rd</sup> day of January, 2013.

\_\_\_\_\_  
Signature of person posting the agenda

ITEM NO. 4A



## United States Department of the Interior



National Park Service  
Grand Canyon National Park  
P.O. Box 129  
Grand Canyon, Arizona 86023-0129

IN REPLY REFER TO:  
D18 (GRCA 8213)

August 29, 2012

Dear Stakeholder,

Grand Canyon National Park, in partnership with Northern Arizona University, is initiating the Greater Grand Canyon Landscape Assessment (GGCLA) to assess the condition of natural and cultural resources throughout the park and adjacent lands. This collaborative process will identify priority natural and cultural resources and appropriate condition indicators, synthesize information on their current status and trends, and evaluate potential threats. Information used in the assessment will come from existing data, reports, and scientific publications, along with input from subject matter experts and stakeholders through one-on-one meetings and a series of multi-disciplinary workshops. The data derived will then be analyzed within an ecosystem-based, spatially-explicit modeling framework.

The outcomes from this project will include a report and a set of Geographic Information System (GIS) maps that provide an interdisciplinary and landscape-scale overview of resource conditions. It will also identify priority subwatersheds that contain high value resources and those that are at greatest risk from both internal and external threats. It is hoped that the GGCLA will achieve the following: 1) provide a sound scientific foundation and ecosystem-based framework for future park decision making, 2) help to focus future stewardship activities in high priority areas, 3) provide an opportunity for ongoing communication and collaboration with our neighbors in addressing shared resource management issues, and 4) identify critical information gaps to help guide future monitoring and research.

The success of this project depends upon stakeholder participation. Thus, we would like to invite you or your representative(s) to actively engage so that your organization's interests and expertise can be incorporated in a meaningful way. This will be particularly important for our neighboring land owners and managers, and our hope is to include adjacent lands within the scope of this assessment. Given the scale and complexity of this project, it will be an iterative process with multiple opportunities for engagement and input through the end of 2014, which is the anticipated completion date. The initial stakeholder workshop will be held October 11, 2012 in Flagstaff, AZ. We invite you to participate in this workshop and will be providing additional details in the coming weeks.

As a first step, park staff would like to meet with you or your representative(s) at a time and place of your convenience to discuss this project in more detail and gauge your potential level of interest and role in the process. Please have your primary representative contact Todd Chaudhry, Watershed Stewardship Program Manager, at (928) 638-7448 ([todd\\_chaudhry@nps.gov](mailto:todd_chaudhry@nps.gov)) to coordinate a meeting or gain additional information on the proposed assessment process.

Sincerely,

Martha G. Hahn

Chief, Division of Science and Resource Management



ITEM NO. 5A

## **TUSAYAN TOWN COUNCIL REGULAR MEETING**

PURSUANT TO A.R.S. § 38-431.02 & §38-431.03

Wednesday, December 19, 2012 @ 6:00pm

TUSAYAN TOWN HALL BUILDING

845 Mustang Drive, Tusayan Arizona

### **TOWN COUNCIL SUMMARIZED MINUTES**

#### **1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Bryan called the meeting to order at 6:00pm and the Pledge of Allegiance was recited.

#### **2. ROLL CALL**

**MAYOR GREG BRYAN  
VICE MAYOR AL MONTOYA**

**COUNCILMEMBER BILL FITZGERALD  
COUNCILMEMBER JOHN RUETER  
COUNCILMEMBER CRAIG SANDERSON**

Also present were:

Tami Ryall, Interim Town Manager  
Melissa Malone, Town Clerk

#### **3. CALL TO THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

None.

#### **4. JOINT MEETING WITH GRAND CANYON UNIFIED SCHOOL DISTRICT GOVERNING BOARD REGARDING TUSAYAN COMMUNITY PARK POLICIES**

The Board Members present were:

**Clarinda Vail, Board President  
Pete Shearer, Board Clerk**

**Bess Foster, Member  
Luis Garcia, Member  
Katie Morris, Member**

Also present was:

Sharyl Allen, Superintendent  
Kevin Hartigan, Member-elect  
Brandon Cavanaugh, Board Attorney

The Council and Board discussed a possible Park Policy regarding the use of alcohol and tobacco within the Tusayan Community Park.

President Clarinda Vail stated that the Park should not allow alcohol or tobacco since the School has a policy against both. Mayor Bryan stated that the Council was considering a future use when the ramada is built. Kevin Hartigan suggested that the Town would see a ban as prohibitive and that special use permits allow alcohol until the school has buildings and a full presence.

Discussion continued regarding special use permits, state law, liability, and enforcement of policies in the park:

- Vice Mayor Montoya suggested a need for input from the community.

- Board Members Katie Morris, Pete Shearer, and Luis Garcia stated that the School District should stay with the current policy of banning alcohol and tobacco.
- Councilmember Fitzgerald was in favor allowing special use permits for non-profit organizations for alcohol 3-4 times per year and posting signage stating that a special use permit is required for alcohol.
- President Vail stated that it is important to show kids that alcohol is not allowed on any school property.
- Attorney Brandon Cavanaugh stated that there is not a state law prohibiting alcohol on school property (This differs from a school site.) He restated that the School does have a policy prohibiting it.

Mayor Bryan mentioned that the Intergovernmental Agreement (IGA) between the Town and the School District calls for quarterly meetings of the 2 groups. He stated that further discussions are needed concerning prioritizations of the continuing project. He asked about the status of getting wood chips in place at the Park. Superintendent Sharyl Allen stated that they are currently getting quotes for the work.

6:35pm – The School Board Adjourned and the Council recessed.

Tusayan Town Council reconvened at 6:46pm.

## **5. CEREMONIAL AND/OR INFORMATIONAL MATTERS**

### **A. Presentation from Irshad Ansari from NI Solutions, Inc. regarding options to expand internet services in Tusayan**

Irshad Ansari listed some of the advantages of expanding internet services in Tusayan:

- Create Economic Development
- Lower Telecommunications Costs
- Improve overall quality of life

He listed the Scope of Services required:

- Needs Assessment
- Conceptual Design
- Grant Assistance
- Cost Estimates
- Financial Feasibility Analysis
- Partnership Evaluation
- Implementation Plan

He noted the following possible sources of funding:

- National Telecommunications & Information Administration (NTIA) Grants
- Homeland Security Grants
- Rural Utility Services (RUS) Funding
- Hospital grants
- Educational Grants
- Local Public Private Partnerships

The Council would like Interim Town Manager Ryall to proceed with developing a contract with NI Solutions. The project could be scaled up if the National Park or the Airport wants to be involved.

## **6. CONSENT AGENDA**

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### **A. Minutes of Town Council Meetings of 11/14/12, 12/4/12, and 12/5/12 and Public Hearings of 11/14/12 and 12/11/12**

### **B. Accounts Payable Billings**

Vice Mayor Montoya moved to approve the Consent Agenda. Councilmember Rueter seconded the motion. Mayor Bryan noted that in the Accounts Payable Billings there was a check to himself and a check to the Squire Inn and recused himself on those 2 items. The motion passed on unanimous vote.

## **7. COMMITTEE REPORTS**

None

## **8. ACTION ITEMS**

### **A. Consideration, discussion, and possible approval of a Liquor License Application for Grand Canyon Spirits**

Public Hearing: No comments from the public.

Vice Mayor Montoya asked where the liquor store will be located. Cecily Maniaci, owner of Grand Canyon Spirits, explained that it will be in the former auxiliary dining room of Sophie's Kitchen.

There was discussion about the fact that Mr. Huellmantel (attorney) had already reviewed the application and that this business is a use by right.

Councilmember Rueter moved to approve the Liquor License and Councilmember Sanderson seconded the motion. It passed by unanimous vote.

## **9. DISCUSSION ITEMS**

### **A. Presentation on Updated Capital Improvement Plan**

Manager Ryall discussed the 5-year plan, in the Agenda Packet, which has been developed from input in previous meetings.

The Council requested that Manager Ryall:

- Add \$150,000 on CIP 0001 for FY 16/17
- On CIP 0009, change \$15,000 on each year to \$20,000
- On CIP 0010 change each year to \$30,000 through FY 16/17
- On CIP 0010 add partnering with NPS, NFS, etc.

The total estimate for FY 13/14 is approximately \$600,000.

All other items were not changed by the Council.

Manager Ryall will bring back this working document for approval in a future meeting.

#### **B. Overview of report from International Housing Solutions (IHS) on composition and responsibilities of a housing authority**

Manager Ryall discussed the report from IHS, Task 1, Phase 2. Attorney Bill Sims has directed Manager Ryall to information about the statutes in Arizona. She will review and report back to the Council. There was a discussion of deed restrictions, appreciation values of homes, improvements, etc.

Manager Ryall will find out what other Arizona communities have Housing Authorities or departments for this purpose.

There was discussion about the differences between current employer housing in Tusayan and renting or buying from the Housing Authority and having a requirement of being employed in the Town of Tusayan.

### **10. TOWN MANAGER'S REPORT**

Zoning Code:

- There will be few non-conforming uses as stated in Richard Turner's memo
- We need an aerial photo of the Town to be taken around January 5, 2013, when the code takes effect, as a baseline for future issues.

### **11. FUTURE AGENDA ITEMS**

- January 9<sup>th</sup> - Executive Session on Town Manager Position and possible final decision on employment offer
- January 7<sup>th</sup> - Executive Session for Interviews 8-12 and Meet & Greet that afternoon with the final 2 applicants and time with Ms. Ryall in the afternoon for questions
- Move "Town Council Rules of Procedure" draft from January 23<sup>rd</sup> to February 5<sup>th</sup> to discuss with appropriate Municipal Code Chapter
- January 23<sup>rd</sup> - presentation from Grand Canyon Chamber of Commerce and Visitors' Bureau on holiday lights

**12. COUNCIL MEMBERS' REPORTS**

- Councilmember Sanderson enjoyed the Community Park opening today.
- Vice Mayor Montoya thanked Kevin Hartigan, Yvette Gomez, & Becky Shearer for putting up the Holiday Lights. Kevin Hartigan thanked Vice Mayor Montoya for his help and asked that a storage location for the lights be determined. It was decided to take down the holiday on Friday, 1/11/13.

**13. MAYOR'S REPORT**

- The Mayor and Vice Mayor Montoya had meeting in Phoenix with the Stilo Group and the Town Attorney. They are awaiting a response from Stilo.
- The Mayor went to a meeting with Planning & Zoning Commission Chair Rob Gossard in Phoenix
- Town Manager applicants - The Arizona candidate withdrew. Applicants from Pennsylvania and Nebraska will come into town on Sunday, January 6 for interviews on the 7<sup>th</sup>. The Council agreed to allow travel reimbursement for spouses as well as each candidate.
- The Mayor found a Smart board option which costs about \$7600. Manager Ryall will bring in an audio-visual consultant to look at options.

**14. MOTION TO ADJOURN**

Vice Mayor Montoya moved to adjourn the meeting at 9:31pm. Councilmember Rueter seconded the motion and it passed on unanimous vote.

\_\_\_\_\_  
Greg Bryan, Mayor Date

ATTEST:

\_\_\_\_\_  
Melissa A. Malone, Town Clerk

**CERTIFICATION**

State of Arizona        )  
                                  ) ss.  
Coconino County        )

I, Melissa Malone, do hereby certify that I am the Town Clerk of the Town of Tusayan, County of Coconino, State of Arizona, and that the above minutes are a true and correct summary of the meeting of the Council of the Town of Tusayan held on December 19, 2012. I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 3<sup>rd</sup> day of January, 2013.

\_\_\_\_\_  
Town Clerk

ITEM NO. 7A

## AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 2013, by and between J2 Engineering and Environmental Design ("CONSULTANT") and the Town of Tusayan, a political subdivision of the State of Arizona ("TOWN").

WHEREAS, TOWN desires to employ CONSULTANT to furnish professional services in connection with developing the Tusayan Downtown Drainage Evaluation and Model Review CIP0008 ("Project").

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

1. Services. CONSULTANT shall provide to TOWN the services described in detail in Exhibit "A", Description of Services, attached hereto and incorporated herein by this reference.

2. Compensation. CONSULTANT shall be compensated for services rendered under Section 1, in accordance with the terms and conditions indicated in Exhibit "B," Compensation. CONSULTANT may submit monthly statements for services rendered in the previous month. It is intended that payments to CONSULTANT will be made by TOWN within 15 business days of invoice.

3. Indemnification. To the extent permitted by law, each party to this Agreement (as "Indemnitor") agrees, to defend, indemnify, and hold harmless the other party, and such party's officers, officials, employees and agents (collectively, "Indemnitees") from and against any and all claims, demands, losses, liabilities, causes of action and costs (including expert witness fees, reasonable attorney fees and costs of defense and appellate appeal) herein referred to as "Claims", which may be imposed upon, incurred by or asserted against the Indemnitees, attributable (directly or indirectly) to, or arising in any manner by reason of, the negligence, acts, errors, or omissions of any agent, officer, servant, or employee of the Indemnitor, or anyone for whom the Indemnitor may be legally liable, in the performance of this Agreement.

4. Insurance. Without in any way limiting CONSULTANT's liability pursuant to the indemnification described above, CONSULTANT shall maintain, during the term of this contract, the following insurance:

Coverage	Minimum Limits
<u>Commercial General Liability, including:</u> Premises and Operations Contractual Liability Personal-Injury Liability Independent Contractors Liability (if applicable)	\$1,000,000 Combined Single Limit, per occurrence and \$2,000,000 general aggregate
<u>Comprehensive Automobile Liability</u> (including, owned, non-owned and hired autos)	\$1,000,000 Combined Single Limit, per Occurrence
<u>Workers' Compensation and Employer's Liability</u>	Statutory, \$1,000,000
<u>Professional Liability</u>	\$1,000,000 per claim and \$2,000,000 annual aggregate

Except Workers Compensation and Professional Liability Insurance coverage, such insurance shall include additional endorsements naming TOWN and its directors, officers, employees and agents as additional insured with respect to liabilities arising out of the performance of services hereunder. CONSULTANT shall provide TOWN with certificates of insurance documenting that CONSULTANT has obtained the above coverages. Such certificates shall include the required provisions and endorsements required by this agreement. Such Certificates shall include a statement that insurance may not be cancelled without 30 days prior written notice to TOWN by first class mail, postage prepaid, 10 days' notice in the event that cancellation is due to nonpayment of premium.

5. Independent Contractor Status. CONSULTANT shall be an independent contractor and shall have responsibility for and control over the details and means of providing the services under this Agreement.

6. Suspension of Work. TOWN may, at any time, by fifteen (15) days written notice, suspend further performance by CONSULTANT. All suspensions shall extend the Performance Schedule (defined in Exhibit A) in a mutually satisfactory manner and CONSULTANT shall be paid for all services performed and reimbursable expenses incurred prior to the suspensions date.

7. Termination. Either party may terminate this Agreement at any time by giving fifteen (15) days written notice to the other party of such termination. If this Agreement is terminated as provided herein, CONSULTANT will be paid an amount which bears the same ratio to the total compensation as the services actually performed bears to the total services of CONSULTANT covered by this Agreement, less payments of compensation previously made.

8. Compliance with Law. Each party hereto will use reasonable care to comply with applicable laws in effect at the time the services are performed hereunder which to the best of their knowledge, information and belief apply to their respective obligations under this Agreement.

9. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, but it shall not be assigned by either party without written consent of the other party.

10. Attorneys' Fees. In the event that any judgment is entered in any action upon this Agreement, the party hereto against whom such judgment is rendered agrees to pay the amount equal to the reasonable attorneys' fees of the prevailing party in such action and that such amount may be added to and made a part of such judgment.

11. Alternative Dispute Resolution. If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

A. A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

B. If, within 30 days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "neutral"), seeking assistance in such regard if they have been unable to agree upon such appointment within 40 days from the initial meeting. The fees of the neutral shall be shared equally by the parties.

C. In consultation with the neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR") by which they will attempt to resolve the dispute, and a time and place for the ADR to be held, with the neutral making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than 60 days after selection of the neutral) if the parties have been unable to agree on any of such matters within 20 days after initial consultation with the neutral.

D. The parties agree to participate in good faith in the ADR to its conclusion as designated by the neutral. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration, or either party may seek an adjudicated resolution through the appropriate court.

12. Records. Records of CONSULTANT's direct labor costs, payroll costs, and reimbursable expenses pertaining to the project covered by this Agreement will be kept on a generally recognized accounting basis and made available during normal business hours upon reasonable notice. CONSULTANT's records will be available for examination and audit if and as required.

13. Immigration Law Compliance.

A. Under the provisions of A.R.S. § 41-4401, each party hereby warrants to the other that the each party and all of its subcontractors (if any) will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulation that relate to their employees and A.R.S. § 23-214 (A) (hereinafter "Contractor Immigration Warranty").

B. A Breach of the Contractor Immigration Warranty shall constitute a material breach of this Agreement and shall subject the breaching party to penalties up to and including termination of this Agreement at the sole discretion of the non-breaching party.

C. Each party retains the legal right to inspect the papers of any contractor or subcontractor employee of the other party who works on this Agreement to ensure that the contractor or subcontractor is complying with the Contractor Immigration Warranty. Each party agrees to assist the other party in regard to any such inspections.

D. Each party may, at its sole discretion, conduct random verification of the employment records of the other party and any of its subcontractors to ensure compliance with Contractor's Immigration Warranty. Each party agrees to assist the other party in regard to any random verifications performed.

E. A party will not be considered in material breach of this Agreement or the Contractor Immigration Warranty if the party establishes that it has complied with the employment verification provision prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

F. The foregoing provisions of subparagraphs A-E of this article must be included in any contract that a party enters into with any and all its subcontractors who provide service under this Agreement or any subcontract.

G. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, each party certifies that it does not have a scrutinized business operation as defined in A.R.S. §§ 35-391 and 35-393 in either Sudan or Iran.

14. Miscellaneous Provisions. This Agreement is subject to the following special provisions:

A. The titles used in this Agreement are for general reference only and are not a part of the Agreement.

B. This Agreement shall be interpreted as though prepared by both parties.

C. Any provision of this Agreement held to violate any law shall be deemed void, and all remaining provisions shall continue in full force and effect.

D. This Agreement shall be interpreted under the laws of the State where the Project is located.

E. This Agreement comprises a final and complete repository of the understandings between the parties and supersedes all prior or contemporary communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement.

F. Any notices given pursuant to this Agreement shall be effective on the third business day after posting by first class mail, postage prepaid, to the address appearing immediately after the signatures below.

G. Either party's waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any subsequent breach of any other term, condition or covenant.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions above stated to be effective on the day and year first above written.

**CONSULTANT**

\_\_\_\_\_  
Date  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**TOWN OF TUSAYAN**

\_\_\_\_\_  
Date  
Greg Bryan  
Mayor  
PO Box 709  
Grand Canyon, AZ 86023  
  
(928) 638-9909

**Attest:**

\_\_\_\_\_  
Melissa A. Malone, Town Clerk

**Approved as to Form:**

\_\_\_\_\_  
William J. Sims, Town Attorney

**Exhibit A**  
**Scope of Services**

## **TUSAYAN DOWNTOWN DRAINAGE EVALUATION AND MODEL REVIEW (CIP0008) – SCOPE OF WORK**

The Town of Tusayan is the newest incorporated community in Arizona. Its location near one of the world's most popular tourist destinations makes the Town unique. Numerous prior drainage studies have been performed on areas within and outside the Town, but have not provided a comprehensive review of the storm water characteristics within downtown Tusayan. The hydrological model used for these studies has not been updated for decades. Developing a realistic hydrological model for the Town based on actual storm water patterns is an opportunity to have a long-term, positive effect on the Town and is a key tool for future planning. Concurrent with development of the Town's General Plan Trails and Open Space element, evaluation of opportunities for joint location of any future storm water detention or other mitigation measures with open space or future trails has the potential for budgetary savings and is a community benefit.

The following work tasks are identified as major components of this project. Additions, deletions, or alterations are fully acceptable—whether to refine specific tasks, to better meet budgetary needs, or to ensure that the Tusayan Downtown Drainage Evaluation and Model Review will be completed in a manner that fully meets the expectations of the Town. The Town of Tusayan reserves the right to change and/or amend this scope of work.

### **OVERALL APPROACH**

#### **Task 1 Research**

The consultant is familiar with the Town of Tusayan and has performed an initial review of recent drainage studies performed for the Arizona Department of Transportation and the National Forest Service. Additional research of other drainage studies may need to be conducted. This effort would include any small scale evaluations performed in association with recent building activities, such as the Interim Housing at Camper Village and others approved by the Coconino County Flood Control District.

#### **Task 2 Initial Issue Identification**

It is important that the consultant spend time getting to know the drainage issues being faced by the Town. It is necessary to develop a clear understanding of the localized issues and recent flooding patterns affecting the community. This task will be addressed by collecting existing information, interviewing individuals knowledgeable about historical patterns, and collecting information from the Coconino County Flood Control District. Within five (5) days following Town Council approval of this Agreement, the parties shall mutually agree upon a schedule of performance ("Performance Schedule") to perform the services described in this Exhibit A. The Consultant shall perform the services as required by the Performance Schedule.

#### **Task 3 Model Review**

The consultant will review the drainage model currently applicable to Tusayan and will evaluate for accuracy and make recommendations for adjustment. Actual field observation and measurement may be needed, including geotechnical soil sampling.

#### **Task 4 Joint Use Opportunity Identification**

In coordination with development of the Tusayan General Plan, the consultant will evaluate any proposed mitigation measures recommended for joint use with elements identified in the Trails and Open Space element with the goal of reducing costs and providing community benefit.

#### **Task 5 Implementation**

Consultant will prepare recommendations for any future drainage mitigation projects needed to address flooding risks within downtown Tusayan, to include a phased and fiscally conservative approach.

**Exhibit B**

**Fee**

CONSULTANT proposes to perform the scope work as stated above for a fee not to exceed \$40,000 to be billed on a time and materials basis per the attached breakdown.

Key Staff	Rate
<b>Principal of Engineering (Jeff Holzmeister PE)</b>	\$204.07
<b>Principal of Landscape Architecture (Jeff Engelmann, RLA)</b>	\$204.07
<b>Senior Landscape Architecture (Dean Chambers RLA)</b>	\$147.95
<b>Landscape Architect (Aaron Allan, RLA)</b>	\$137.02
<b>Drainage Engineer (Matt Kapfer PE)</b>	\$ 92.56
<b>Planning Graphics/Mapping (Adam Hawkins)</b>	\$ 83.08
<b>CAD Tech (Jeff Wotring)</b>	\$ 93.58

ITEM NO. 7B

## AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this \_\_\_ day of \_\_\_\_\_, 2013, by and between NiSolutions ("CONSULTANT") and the Town of Tusayan, a political subdivision of the State of Arizona ("TOWN").

WHEREAS, TOWN desires to employ CONSULTANT to furnish professional services in connection with developing the Tusayan Broadband Network Strategic Plan CIP0002 ("Project").

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

1. Services. CONSULTANT shall provide to TOWN the services described in detail in Exhibit "A", Description of Services, attached hereto and incorporated herein by this reference.

2. Compensation. CONSULTANT shall be compensated for services rendered under Section 1, in accordance with the terms and conditions indicated in Exhibit "B," Compensation. CONSULTANT may submit monthly statements for services rendered in the previous month. It is intended that payments to CONSULTANT will be made by TOWN within 15 business days of invoice.

3. Indemnification. To the extent permitted by law, each party to this Agreement (as "Indemnitor") agrees, to defend, indemnify, and hold harmless the other party, and such party's officers, officials, employees and agents (collectively, "Indemnitees") from and against any and all claims, demands, losses, liabilities, causes of action and costs (including expert witness fees, reasonable attorney fees and costs of defense and appellate appeal) herein referred to as "Claims", which may be imposed upon, incurred by or asserted against the Indemnitees, attributable (directly or indirectly) to, or arising in any manner by reason of, the negligence, acts, errors, or omissions of any agent, officer, servant, or employee of the Indemnitor, or anyone for whom the Indemnitor may be legally liable, in the performance of this Agreement.

4. Insurance. Without in any way limiting CONSULTANT's liability pursuant to the indemnification described above, CONSULTANT shall maintain, during the term of this contract, the following insurance:

<u>Coverage</u>	<u>Minimum Limits</u>
<u>Commercial General Liability, including:</u> Premises and Operations Contractual Liability Personal-Injury Liability Independent Contractors Liability (if applicable)	\$1,000,000 Combined Single Limit, per occurrence and \$2,000,000 general aggregate
<u>Comprehensive Automobile Liability</u> (including, owned, non-owned and hired autos)	\$1,000,000 Combined Single Limit, per Occurrence
<u>Workers' Compensation and Employer's Liability</u>	Statutory, \$1,000,000
<u>Professional Liability</u>	\$1,000,000 per claim and \$2,000,000 annual aggregate

Except Workers Compensation and Professional Liability Insurance coverage, such insurance shall include additional endorsements naming TOWN and its directors, officers, employees and agents as additional insured with respect to liabilities arising out of the performance of services hereunder. CONSULTANT shall provide TOWN with certificates of insurance documenting that CONSULTANT has obtained the above coverages. Such certificates shall include the required provisions and endorsements required by this agreement. Such Certificates shall include a statement that insurance may not be cancelled without 30 days prior written notice to TOWN by first class mail, postage prepaid, 10 days notice in the event that cancellation is due to nonpayment of premium.

5. Independent Contractor Status. CONSULTANT shall be an independent contractor and shall have responsibility for and control over the details and means of providing the services under this Agreement.

6. Suspension of Work. TOWN may, at any time, by fifteen (15) days written notice, suspend further performance by CONSULTANT. All suspensions shall extend the Performance Schedule (defined in Exhibit A) in a mutually satisfactory manner and CONSULTANT shall be paid for all services performed and reimbursable expenses incurred prior to the suspensions date.

7. Termination. Either party may terminate this Agreement at any time by giving fifteen (15) days written notice to the other party of such termination. If this Agreement is terminated as provided herein, CONSULTANT will be paid an amount which bears the same ratio to the total compensation as the services actually performed bears to the total services of CONSULTANT covered by this Agreement, less payments of compensation previously made.

8. Compliance with Law. Each party hereto will use reasonable care to comply with applicable laws in effect at the time the services are performed hereunder which to the best of their knowledge, information and belief apply to their respective obligations under this Agreement.

9. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties, but it shall not be assigned by either party without written consent of the other party.

10. Attorneys Fees. In the event that any judgment is entered in any action upon this Agreement, the party hereto against whom such judgment is rendered agrees to pay the amount equal to the reasonable attorneys fees of the prevailing party in such action and that such amount may be added to and made a part of such judgment.

11. Alternative Dispute Resolution. If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:

A. A meeting shall be held promptly between the parties, attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.

B. If, within 30 days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "neutral"), seeking assistance in such regard if they have been unable to agree upon such appointment within 40 days from the initial meeting. The fees of the neutral shall be shared equally by the parties.

C. In consultation with the neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR") by which they will attempt to resolve the dispute, and a time and place for the ADR to be held, with the neutral making the decision as to the procedure, and/or place and time (but unless circumstances require otherwise, not later than 60 days after selection of the neutral) if the parties have been unable to agree on any of such matters within 20 days after initial consultation with the neutral.

D. The parties agree to participate in good faith in the ADR to its conclusion as designated by the neutral. If the parties are not successful in resolving the dispute through the ADR, then the parties may agree to submit the matter to binding arbitration, or either party may seek an adjudicated resolution through the appropriate court.

12. Records. Records of CONSULTANT's direct labor costs, payroll costs, and reimbursable expenses pertaining to the project covered by this Agreement will be kept on a generally recognized accounting basis and made available during normal business hours upon reasonable notice. CONSULTANT's records will be available for examination and audit if and as required.

13. Immigration Law Compliance.

A. Under the provisions of A.R.S. § 41-4401, each party hereby warrants to the other that the each party and all of its subcontractors (if any) will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulation that relate to their employees and A.R.S. § 23-214 (A) (hereinafter "Contractor Immigration Warranty").

B. A Breach of the Contractor Immigration Warranty shall constitute a material breach of this Agreement and shall subject the breaching party to penalties up to and including termination of this Agreement at the sole discretion of the non-breaching party.

C. Each party retains the legal right to inspect the papers of any contractor or subcontractor employee of the other party who works on this Agreement to ensure that the contractor or subcontractor is complying with the Contractor Immigration Warranty. Each party agrees to assist the other party in regard to any such inspections.

D. Each party may, at its sole discretion, conduct random verification of the employment records of the other party and any of its subcontractors to ensure compliance with Contractor's Immigration Warranty. Each party agrees to assist the other party in regard to any random verifications performed.

E. A party will not be considered in material breach of this Agreement or the Contractor Immigration Warranty if the party establishes that it has complied with the employment verification provision prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

F. The foregoing provisions of subparagraphs A-E of this article must be included in any contract that a party enters into with any and all its subcontractors who provide service under this Agreement or any subcontract.

G. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, each party certifies that it does not have a scrutinized business operation as defined in A.R.S. §§ 35-391 and 35-393 in either Sudan or Iran.

14. Miscellaneous Provisions. This Agreement is subject to the following special provisions:

A. The titles used in this Agreement are for general reference only and are not a part of the Agreement.

B. This Agreement shall be interpreted as though prepared by both parties.

C. Any provision of this Agreement held to violate any law shall be deemed void, and all remaining provisions shall continue in full force and effect.

D. This Agreement shall be interpreted under the laws of the State where the Project is located.

E. This Agreement comprises a final and complete repository of the understandings between the parties and supersedes all prior or contemporary communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement.

F. Any notices given pursuant to this agreement shall be effective on the third business day after posting by first class mail, postage prepaid, to the address appearing immediately after the signatures below.

G. Either party's waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any subsequent breach of any other term, condition or covenant.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this Agreement upon the terms, conditions and provisions above stated to be effective on the day and year first above written.

**CONSULTANT**

\_\_\_\_\_  
Date  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

**TOWN OF TUSAYAN**

\_\_\_\_\_  
Date  
Greg Bryan  
Mayor  
PO Box 709  
Grand Canyon, AZ 86023  
  
(928) 638-9909

**Attest:**

\_\_\_\_\_  
Melissa A. Malone, Town Clerk

**Approved as to Form:**

\_\_\_\_\_  
William J. Sims, Town Attorney

**Exhibit A**  
**Scope of Services**

## **TUSAYAN BROADBAND NETWORK STRATEGIC PLAN (CIP0002) – SCOPE OF WORK**

The primary objective of the proposed *Broadband Network Strategic Plan* is to define and evaluate the potential for the Town to develop a broadband communications network, utilizing a hybrid fiber optic and wireless network capable of offering residents cost-effective, high speed data services with full interactive capabilities. The plan would provide a vision of the Town's present and future telecommunications needs. Specific objectives include: identification of internal and external telecommunications needs of the Town; development of a conceptual plan for providing a hybrid fiber-optic / wireless network; identification of potential telecommunications service providers for resource sharing; evaluation of potential resource sharing agreements with service providers; and analysis of the financial feasibility of developing the broadband network.

The following work tasks are identified as major components of this project. Additions, deletions, or alterations are fully acceptable—whether to refine specific tasks, to better meet budgetary needs, or to ensure that the Tusayan Broadband Network Strategic Plan will be completed in a manner that fully meets the expectations of the Town. The Town of Tusayan reserves the right to change and/or amend this scope of work.

### **OVERALL APPROACH**

#### **Task 1 Start-Up Meeting**

A project initiation data request will be followed by a start-up meeting and an on-site visit to: provide the Town the opportunity to confirm or refine project scope; review available data; finalize assessment management approach, schedule and progress reporting; establish financial evaluation criteria and projection indices or rates. Within five (5) days following Town Council approval of this Agreement, the parties shall mutually agree upon a schedule of performance ("Performance Schedule") to perform the services described in this Exhibit A. The Consultant shall perform the services as required by the Performance Schedule.

#### **Task 2 Needs Assessment**

Evaluation methodologies will be used to: identify current telecommunication service providers; identify potential consumer demand for advanced telecommunications services; recommend realistic scheduling inputs for an implementation plan.

#### **Task 3 Conceptual Design**

The Conceptual Design of the broadband communications network will provide the base plan to: provide communications services to residents and businesses; identify potential point of presence (POP) locations; identify and review existing public utility easements and plans; identifying conceptual routing of the communications network between all Town locations; identify areas of the conceptual routing where fiber optic cables or towers are to be constructed; provide space requirements for facilities to house the present and future electronic equipment and provide an environment to meet the equipment's specifications; and develop conceptual design options for selected user locations, interface equipment and networking platform.

#### **Task 4 Cost Estimates**

Based on the conceptual system design, a cost estimate will detail the probable capital and annual operating costs estimates to: provide input to the financial feasibility forecast model; identify initial equipment and construction costs for the system; identify costs for leasing and/or purchasing dark fiber or bandwidth; and quantify operating costs based on the member's business plan. This task will provide

realism to the financial feasibility model and an appreciation of probable funding requirements and cash flows for the project. The Town will benefit from this further definition of the potential telecommunications system, and the relative costs associated with the various system components.

**Task 5 Partnership Evaluation**

Depending on the final planning objectives, the Town may elect to develop partnerships to assist in the full or partial operation of the network and/or commercial applications. Consultant will complete a Partnership Evaluation to include: examining the ownership and management elements of various partnership options; identifying and compiling a listing of potential partner organizations; providing background on existing partnership arrangements, successful or otherwise and assessing the likelihood of establishing similar terms for the Town; providing analysis and recommendations on appropriate structure; Initiating and fostering negotiations and/or partnering arrangements with neighboring towns, county, schools, public facilities and private businesses; and attending meetings and participate in negotiations.

**Task 6 Competitive Technologies Assessment**

The Competitive Technologies Assessment will focus on current and emerging technologies and competing service providers to: identify equipment and systems available, ratings and capabilities; seek ways to minimize the risks of technological obsolescence; and identify and evaluate current fiber facilities available for purchase and/or lease.

**Task 7 Financial Feasibility Analysis**

The Financial Feasibility Analysis will include a system base plan and sensitivity run to provide: the financial realities resulting from installing a broadband network; capital cost estimates; estimated operating costs; annual costs and revenues projected over a 15-year period; projected net income and unrestricted cash flow by year; projected sources of revenue and variable costs of various services; profit & loss statement; balance sheet; and income statement. From this information the Town will know the potential costs and anticipated benefits resulting from a broadband telecommunications network. Consultant will assist the Town in the development and implementation of a network model that meets its needs.

**Task 8 Implementation Plan**

Consultant will prepare an Implementation Plan, to include: outlining the issues and sequential actions required; defining the ongoing business management issues that follow start-up; and providing an implementation timeline for construction and commercialization.

**Task 9 Grants**

Consultant will research opportunities for outside funding, including State and Federal grants such as National Telecommunications and Information Administration (NTIA) grants, Rural Utility Services (RUS) grants, Homeland Security grants, State grants, FCC grants, and any others identified as a potential funding source. Consultant will review the guidelines and assist in the preparation of grant applications.

**Task 10 Report of Findings**

Consultant will review the draft report with the Town staff and provide an electronic and three (3) hardcopies of the final Assessment Report. Major report sections will include: a formal report detailing

the project objectives and methodologies, consultant's key findings and conclusions; and recommendations. An action plan for each recommendation will be provided. For the more complex issues, further brainstorming and research may be necessary to analyze the opportunity further and decide what action to take. Recommendations will be prioritized according to the following: items that must be addressed immediately; items that can be handled now; items that should be researched further; items that should be planned for the future. Major sections of the plan will include: an Executive Summary; a Situational Analysis examining and evaluating the internal and external elements of the industry, marketplace and organization; identification of Organizational Goals, Objectives and Strategic Initiatives.

**Exhibit B**

**Fee**

CONSULTANT proposes to perform the scope work as stated above for a lump sum price of \$30,025.00 to be billed monthly based on the percentage of work completed during the prior month.

Fee Derivation	
Start up	\$3,000.00
Needs Assessment	\$3,750.00
Conceptual Design	\$3,000.00
Cost Estimating	\$2,000.00
Partnership Evaluation	\$3,000.00
Competitive Technologies Assessment	\$1,000.00
Financial Feasibility Analysis and Grant Review	\$3,000.00
Implementation Plan	\$1,000.00
Report of Findings	\$3,000.00
Easement Review	\$5,000.00
Misc. Expenses	\$2,275.00
Total	\$30,025.00