

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT

Item G.2 – WRRF Agreement

Remove and replace pages 171 to pages 190 of the Board Packet with the attached Item G2. .

The quote from YSI was updated in the contract to include \$400 in shipping charges. The total cost of the WRRF Facility Controller, Nitrite/Nitrate/Ammonia Sensors and Related Hardware increased from \$135,800 to \$136,200 and the appropriation increase from \$8,000 to \$8,100.

The contract also included an incorrect reference in Section 3.3 Fees and Payment to “Exhibit B”. This was corrected to reference “Exhibit A”. The contract has been updated and is included.

MEMORANDUM**TO:** Board of Trustees**THROUGH:** Bobby Magee, District General Manager**FROM:** Kate Nelson, Interim Public Works Director, Jim Youngblood, Utilities Superintendent**SUBJECT:** Review, Discuss and Possibly Approve the Agreement for Services for Water Resource Recovery Facility Controller, Nitrite/Nitrate/Ammonia Sensors and Related Hardware - FY 2023/24 Public Works; Utilities; Sewer; CIP #2599SS1102 Water Resource Recovery Facility Improvements; Vendor: Xylem dba YSI Incorporated, in the Amount of \$136,200 and Appropriate \$8,100 from the Utility Reserve Fund to CIP #2599SS1102 Water Resource Recovery Facility Improvements for the FY 2023/24 Budget. (Requesting Staff Member: Interim Public Works Director Kate Nelson).**RELATED STRATEGIC PLAN BUDGET INITIATIVE(S):****LONG RANGE PRINCIPLE #5 – ASSETS AND INFRASTRUCTURE**

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation venues, facilities, and services. Maintain, renew, expand and enhance District infrastructure to meet the capacity needs and desires of the community for future generations.

RELATED DISTRICT POLICIES, PRACTICES, RESOLUTIONS OR ORDINANCES

Ordinance No. 2: Sewer; Purchasing Policy for Goods and Services 21.1.0

DATE: March 13, 2024**I. RECOMMENDATION**

That the Board of Trustees makes a motion to:

1. Make the following findings: The District's purchase of the following Water Resource Recovery Facility equipment: Xylem DBA YSI Incorporated, Optical UV Nitrite/Nitrate/Ammonia sensors and 20 channel terminal controller and related hardware are exempt from competitive solicitation for

- the following reasons: NRS 332.115.1 (c) and (d); and,
2. Approve the Agreement for Services with Xylem DBA YSI Incorporated for the total amount of \$136,200; and,
 3. Augment the FY 2023/24 CIP #2599SS1102 Water Resource Recovery Facility Improvements by appropriating \$8,100 from the Utility Reserve Fund; and,
 4. Direct the Interim Director of Public works to sign and execute the Agreement.

II. BACKGROUND

The Public Works staff is responsible for analyzing, treating, tracking, and reporting all wastewater in accordance with Nevada Department Of Environmental Protection (NDEP) Discharge Permit requirements at the Water Resource Recovery Facility (WRRF). These sensors, controller and related hardware allow staff to change the traditional high flow (May through December) treatment structure from a two basin parallel flow to a three basin series flow on either the north and/or south basins. This change accommodates the loading and higher flows coming into the plant during this timeframe. Under the current treatment process, nitrification is occurring in the clarifiers as opposed to in the aeration basins. Fine nitrification bubbles rise to the surface in the clarifiers, bringing with them solids from the bottom of the clarifiers to the surface. When this occurs under high flow and warm weather conditions, the solids flow out of the clarifiers and into the effluent channel. As this occurs, the Total Suspended Solids (TSS) in the effluent rises and there is a chance the District could violate the NDEP Discharge Permit. The permit limits for TSS are 45mg/l/day and 30mg/l/monthly average. In the past, the District has recorded a 42mg/l/day and 20 mg/l/monthly average.

This improved process will allow nitrification to take place in the aeration basins as opposed to the clarifiers, resulting in better treatment of the influent, reducing the amount of sodium hypochlorite needed to treat the final effluent and reducing the risk of exceeding the NDEP Discharge permit limits. These sensors will monitor the nitrite/nitrate/ammonia in basins to verify the treatment process in basins is occurring correctly (nitrification has occurred) and not sending non-denitrified influent to the clarifiers. The new controller will send and save the trends to the SCADA Historian for future reference and reporting, along with providing real-time data.

This equipment is sold and serviced by Xylem DBA YSI Incorporated with a regional sales/service manager in Eldorado Hills, California. providing ease of servicing and/or repairs as needed. They will also provide the District with backup units as needed. There is one other supplier, HACH. However, HACH currently has a "Quality Hold" on all items with no projected release date.

The purchase of these items are included and approved within the District's FY 2023/24 Capital Improvement Plan (CIP) within the Utility Division 200 Fund;

however, due to a current encumbrance, an augmentation is being requested.

III. **BID RESULTS**

The proposed agreement is in compliance with the District's Purchasing Policy for Goods and Services, Policy 21.2.0 and NRS 332.115.1 (c) and (d). This purchase is exempt from competitive solicitation requirements and Staff did not seek competitive bids in accordance with: NRS 332.115-1. Contracts which by their nature are not adapted to award by a competitive solicitation, including contracts for:(c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person and (d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government, is compatible with existing equipment.

IV. **FINANCIAL IMPACT AND BUDGET**

The District's CIP Budget for the (200 Utility Fund) in FY 2023/24 includes funding for the WRRF Improvements, CIP #2599SS1102. The table below summarizes the approved budget and associated project costs.

CIP Budget FY 2023/24 - 200 Utility Fund	
\$175,000 + \$92,561 Carry Forward =	\$267,561
Encumbered PO for Repair/Reconditioning of two Centrifuges at the WRRF (Contract: Centrysis - BOT 12/13/23 Item G.6) (\$85,940 each Centrifuge)	\$171,880
Actual Cost for Repair/Reconditioning - 1st Centrifuge	(\$53,480)
WRRF Controller Nitrite/Nitrate/Ammonia Sensors CIP #2599SS1102; Contract: Xylem dab YSI Inc.	\$136,200
Sub Total	\$275,620
Total Remaining Budget	(\$8,059)

One of the centrifuges has been repaired and the District will not know the amount of the second repair until later in May. Therefore, in order to purchase this lab equipment, it is necessary to augment the budget.

V. **ALTERNATIVES**

The District Board of Trustees may defer or delay the purchase of the optical UV nitrite/nitrate/ammonia probes and 20 channel terminal controller and related hardware.

VI. **COMMENTS**

In conclusion:

1. This equipment purchase of the optical UV nitrite/nitrate/ammonia probes and 20 channel terminal controller and related hardware will improve the treatment process of the influent, resulting in the reduction of Sodium Hypochlorite added to the effluent.
2. The proposed agreement is in compliance with the District's Purchasing

- Policy for Goods and Services, Policy 21.1.0 and NRS 332.115 -1 (c) and (d). This purchase is exempt from competitive solicitation requirements.
3. The agreement between Xylem dba YSI Incorporated and the District has been reviewed and approved by the District's Legal Counsel.

VII. BUSINESS IMPACT/BENEFIT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement. However, by purchasing the new equipment, the District will save money by reducing the amount of sodium hypochlorite added to the effluent.

VIII. ATTACHMENTS

1. Agreement for Services for WRRF Controller Sensors_YSI

IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES

INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT SERVICE AGREEMENT

1. PARTIES AND DATE.

This Agreement is made and entered into as of March 13, 2024, by and between the Incline Village General Improvement District, a Nevada general improvement district (“District”) and Xylem, Inc., dba YSI, Inc., a foreign corporation with its principal place of business at 1700/1725 Brannum Lane, in Yellow Springs, Ohio (“Consultant”). The District and Consultant are sometimes individually referred to as “Party” and collectively as “Parties.”

2. RECITALS.

2.1 District. District is a general improvement district organized under the laws of the State of Nevada, with power to contract for services necessary to achieve its purpose.

2.2 Consultant. Consultant desires to perform and assume responsibility for the provision of certain equipment removal, repair and re-installation services required by the District on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing removal, repair and re-installation services for wastewater treatment equipment to public clients, is licensed in the State of Nevada, and is familiar with the plans of District.

2.3 Project. District desires to engage Consultant to render materials and services for the following project:

Mobilizing personnel and necessary equipment to the job site (IVGID’s Water Resource Recovery Facility at 1250 Sweetwater Road in Incline Village, Nevada), assist staff with the installation and calibration of the nitrite/nitrate sensors, controller and related hardware. Verifying with staff the proper operation of the equipment (“Project”).

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the District, all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the services necessary for the Project, described in Exhibit A, attached hereto and made a part hereof by this reference (“Services”). All Services shall be subject to, and performed in accordance with this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. The District shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit A.

3.1.2 Term. The term of this Agreement shall be from March 13, 2024 to December 31, 2024, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Consultant. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement and such directions and amendments from District as herein provided. The District retains Consultant on an independent Consultant basis and not as an employee. No employee or agent of Consultant shall become an employee of District. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of the District and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the District to proceed ("Notice to Proceed"). The Notice to Proceed shall set forth the date of commencement of work.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the District's approval.

3.2.4 Substitution of Key Personnel. Consultant has represented to the District that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence subject to the District's written approval. In the event that the District and Consultant cannot agree as to the substitution of key personnel, the District shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the District, or who are determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the District.

3.2.5 District's Representative. The District hereby designates Jim Youngblood, or his designee, to act as its representative for the performance of this Agreement ("District's Representative"). The District's Representative shall have the power to act on behalf of the District for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the District's Representative or his designee.

3.2.6 Consultant's Representative. Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement.

The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with the District staff in the performance of Services and shall be available to the District's staff, Consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of Nevada. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a Washoe County Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the District, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-Consultants who is determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, and shall give all notices required by law. If required, Consultant shall assist District, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies. Consultant shall be liable for all violations of local, state and federal laws, rules and regulations in connection with the Project and the Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold the District, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this Section. In addition, Consultant shall not allow any

subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the District that the subconsultant has secured all insurance required under this Section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance meeting the requirements set forth herein. Consultant shall also require all of its subconsultants to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 combined single limit (each accident) for bodily injury and property damage; and (3) *Industrial Insurance*: Workers' Compensation limits as required by the Labor Code of the State of Nevada. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as additional insured pursuant to this Agreement. Defense costs shall be payable in addition to the limits.

3.2.10.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:

(A) Commercial General Liability. The commercial general liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Consultant to waive its right of recovery prior to a loss. Consultant hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its sub-Consultants.

(B) Automobile Liability. The automobile liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed

by the Consultant or for which the Consultant is responsible; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Consultant to waive its right of recovery prior to a loss. Consultant hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its sub-Consultants.

(C) Industrial (Workers' Compensation and Employers Liability) Insurance. The insurer shall agree to waive all rights of subrogation against the District, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its directors, officials, officers, employees, agents and volunteers.

3.2.10.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, agents and volunteers.

3.2.10.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the District. Consultant shall guarantee that, at the option of the District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.10.6 Acceptability of Insurers. Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Nevada and with an "A.M. Best" rating of not less than A-VII. The District in no way warrants that the above-required minimum insurer rating is sufficient to protect the Consultant from potential insurer insolvency.

3.2.10.7 Verification of Coverage. Consultant shall furnish the District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the District if requested. All certificates and endorsements must be received and approved by the District before work commences. The District

reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.10.8 Subconsultants. Consultant shall not allow any subconsultants or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the District that they have secured all insurance required under this Section. Policies of commercial general liability insurance provided by such subconsultants or subconsultants shall be endorsed to name the District as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, District may approve different scopes or minimum limits of insurance for particular subconsultants or subconsultants.

3.2.10.9 Compliance With Coverage Requirements. If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by District will be promptly reimbursed by Consultant or District will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, District may terminate this Agreement for cause.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement in accordance with the Schedule of Charges set forth in **Exhibit A**, attached hereto and incorporated herein by reference. The total compensation to be provided under this Agreement shall not exceed **One Hundred Thirty-Six Thousand Two Hundred Dollars (\$136,200.00)** without written approval of District's Board. Extra Work may be authorized, as described below; and if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to District a monthly itemized invoice which indicates work completed and hours of Services rendered by Consultant. The invoice shall describe the amount of Services and supplies provided since the initial commencement date of Services under this Agreement, and since the start of the subsequent billing periods, through the date of the invoice. Invoices shall be sent to ap@ivgid.org. District shall, within thirty (30) days of receiving such invoice, review the invoice and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized under **Exhibit A**, or otherwise in writing by the District.

3.3.4 Extra Work. At any time during the term of this Agreement, the District may request that Consultant perform Extra Work. As used herein, “Extra Work” means any work which is determined by the District to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the District’s Representative. Where Extra Work is deemed merited by the District, an amendment to the Agreement shall be prepared by the District and executed by both Parties before performance of such Extra Work, or the District will not be required to pay for the changes in the scope of work. Such amendment shall include the change in fee and/or time schedule associated with the Extra Work. Amendments for Extra Work shall not render ineffective or invalidate unaffected portions of this Agreement.

3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain accurate and complete books, documents, accounting records and other records pertaining to the Services for six (6) years (or longer as required by applicable law) from the date of final payment under this Agreement. Consultant shall make such records available to the District for inspection, audit, examination, reproduction, and copying at Consultant’s offices at all reasonable times. However, if requested, Consultant shall furnish copies of said records at its expense to the District, within seven (7) business days of the request.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. The District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to the District, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause. Consultant shall not be entitled to payment for unperformed Services, and shall not be entitled to damages or compensation for termination of this Agreement by District except for the amounts authorized herein.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, the District may require Consultant to provide all finished or unfinished Documents and Data (defined below) and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, the District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

District

Incline Village General Improvement District
893 Southwood Blvd.
Incline Village, NV 89451
Attn: Jim Youngblood

Consultant

Xylem, Inc., dba YSI, Inc.
1725 Brannum Lane
Yellow Springs, OH 45387
Attn: Douglas Grant

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data. All source code, reports, programs, manuals, disks, tapes, and any other material prepared by or worked upon by Consultant for the Services shall be the exclusive property of the District, and the District shall have the right to obtain from Consultant and to hold in District's name copyrights, trademark registrations, patents, or whatever protection Consultant may appropriate to the subject matter. Consultant shall provide District with all assistance reasonably required to perfect the rights in this subsection.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of the District, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use the District's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of the District.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney's Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.5.6 Indemnification. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or relating to any negligence or willful misconduct of Consultant, its officials, officers, employees, agents, consultants, and Consultants arising out of or in connection with the performance of the Services, the Project, or this Agreement, including without limitation the payment of all consequential damages, expert witness fees, and attorney's fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against District, its directors, officials, officers, employees, agents, or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, agents, or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse District and its directors, officials, officers, employees, agents, and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided, including correction of errors and omissions. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials, officers, employees, agents or volunteers.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of Nevada. Venue shall be in Washoe County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 District's Right to Employ Other Consultants. The District reserves right to employ other Consultants in connection with this Project.

3.5.11 Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party.

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the District. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Subcontracting. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of District. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.5.14 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subconsultants of Consultant, except as otherwise specified in this Agreement. All references to the District include its officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.15 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.16 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.17 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.18 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.22 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.23 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.5.24 Limitation of Liability. The District does not and will not waive and expressly reserves all available defenses and limitations contained in Chapter 41 of the Nevada Revised Statutes. Contract liability of both parties shall not be subject to punitive damages.

3.5.25 Non-Appropriations. The District may terminate this Agreement, effective immediately upon receipt of written notice on any date specified if for any reason the District's funding source is not appropriated or is withdrawn, limited, or impaired.

3.5.26 Compliance with Laws. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services. Consultant shall not discriminate against any person on the grounds of race, color, creed, religion, sex, sexual orientation, gender identity or gender expression, age, disability, national origin or any other status protected under any

applicable law. Consultant is not currently engaged in, and during the duration of the Agreement shall not engage in, a Boycott of Israel. The term “Boycott of Israel” has the meaning ascribed to that term in NRS 332.065. Consultant shall be responsible for all fines, penalties, and repayment of any State of Nevada or federal funds (including those that the District pays, becomes liable to pay, or becomes liable to repay) that may arise as a direct result of the Consultant’s non-compliance with this subsection.

3.5.27 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, District shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.28 Whistleblower Provisions. This Agreement is not intended to and will not preclude Consultant’s employees from exercising available rights under the District’s Whistleblower Policy and associated procedures for reporting suspected misconduct, as that term is defined in the Whistleblower Policy. All reports of suspected misconduct will be handled by the District in accordance with the Whistleblower Policy.

[Signatures on Following Page]

**SIGNATURE PAGE
TO
INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
SERVICES AGREEMENT**

OWNER:

CONSULTANT:

Agreed to:

Agreed to:

By: _____

Kate Nelson, P.E.
Interim Director of Public Works

Date

Reviewed as to Form:

Sergio Rudin
District General Counsel

Date

By: Stephen Wortendyke

Digitally signed by Stephen Wortendyke
Date: 2024.03.11 15:39:09 -07'00'

Signature of Authorized Agent

Stephen A. Wortendyke, National Sales Manager
Print or Type Name and Title

March 11, 2024

Date

SERVICES AGREEMENT

EXHIBIT A

CONSULTANT'S PROPOSAL



Quote Number: B238790
Quote Created: 2024 Feb 07
Quote Expiration Date: 2024 Dec 31

Quote Prepared For:
Troy Sanders
Incline Village
1250 Sweetwater Road
Incline Village, NV 89451
(775) 832-1290
tas@ivgid.org

Prepared by: Douglas Grant
Cell Phone: +1 9169367548
Email: douglas.grant@xylem.com

NOTICE:

The following pricing is proprietary and confidential information. Neither this document nor its contents may be revealed or disclosed to unauthorized persons or sent outside the institution without prior permission from Xylem Inc.

Proposal Summary

Controllers

The following items have been grouped together.

#	Part Number	Description	List Price USD	Qty	Ext. Price USD
1	470024Y	System 2020 3G - 20 Channel Terminal/Controller with 6 Current outputs, power supply 100-240 VAC & USB interface. 5 available IQ Sensor Net Connections	\$3,925.00	1	\$3,925.00
2	480015Y	Output Module, IQ, 6 Analog outputs. 2 IQ Sensor Net Connections	\$1,130.00	2	\$2,260.00
3	480014Y	Output Module, IQ, 3 Analog and 3 Relay. 2 IQ Sensor Net Connections	\$870.00	1	\$870.00
4	480004Y	Power Supply Module, IQ, 100-240 VAC, 18 Watts. 3 IQ Sensor Net Connections.	\$540.00	2	\$1,080.00
				Subtotal	\$8,135.00

Sensors

The following items have been grouped together.

#	Part Number	Description	List Price	Qty	Ext. Price
1	481 056YM	Nitravis 701 IQ NI	\$18,815.00	4	\$75,260.00
2	107 072YK	AmmoLyt Plus IQ SensorNet Ammonium ISE probe complete w/ Reference Electrode, Ammonium & Potassium Electrodes	\$6,370.00	6	\$38,220.00
				Subtotal	\$113,480.00

Mounting and Hardware

The following items have been grouped together.

#	Part Number	Description	List Price	Qty	Ext. Price
1	480008Y	Passive Junction Box IQ. 4 IQ Sensor Net Connections.	\$325.00	10	\$3,250.00
2	109284Y	Sun shield for outdoor installation of junction boxes	\$105.00	10	\$1,050.00
3	109279Y	Pipe mounting of boom or pendulum, with pivot	\$225.00	10	\$2,250.00
4	109272Y	SensoClean Swing mounting assembly, boom length 1.5 m	\$215.00	10	\$2,150.00
5	109320Y	Sensor holder with handle for IQ sensors	\$100.00	6	\$600.00

Quote #: B238790
Expires: 2024 Dec 31

#	Part Number	Description	List Price	Qty	Ext. Price	
6	481073Y	Horizontal mounting kit for UV/VIS probes with Swing mount EH/F 170	\$190.00	4	\$760.00	
7	480044Y	Sensor Connection cable, IQ, 15 m, 49.2 ft	\$200.00	10	\$2,000.00	
8	480070Y	IQ Cable, 2 Wire w/Shield, 250 Meter Roll (820 ft.)	\$2,125.00	1	\$2,125.00	
					Subtotal	\$14,185.00

Total List Price	\$135,800.00
+ Shipping	\$400.00
Grand Total (in USD)	\$136,200.00

Terms Net 30
FOB Origin