



PUBLIC WORKS COMMITTEE AGENDA

August 23, 2022 – 5 PM | Council Chambers, City Hall.

- 1. Call meeting to order**
- 2. Approval of Minutes**
 - a. July 26, 2022
- 3. Public Comment - Limit to three minutes per person**
- 4. Old Business**
 - a. Citywide Sidewalk Repair Application Review – Jordan/Trent
- 5. New Business**
 - a. Business District Striping Task Order – Trent
 - b. Water Modeling Task Order – Trent
 - c. Water SCADA System Upgrade – Trent
 - d. Water & Wastewater Annual Cybersecurity Proposal – Trent
 - e. Drying Beds Pay Estimate #2 - Trent
- 6. Staff Comments**
- 7. Announcement of the next meeting:**
 - a. September 27, 2022, at 5 PM
- 8. Adjournment**

Public Works Committee

Garbage | Sewer | Streets | Trees | Wastewater | Water | City Parks

Members

Jackie Greenwood (Chair) | John Henderson | Gordon Pierson

PUBLIC WORKS COMMITTEE MINUTES

July 26, 2022, at 5PM | Council Chambers, City Hall.

Members Present:	John Henderson, Jackie Greenwood,
Members Absent:	1 Vacant
Mayor:	None
CAO:	Jordan Green
Council Member:	None
Staff:	Trent Freeman, Cyndi Thompson
Consultants:	None
Guests:	See Sign in Sheet

1. Call Meeting to Order

Chairperson Greenwood called the meeting to order at 5:00PM.

2. Approval of Minutes

- a. Regular Meeting: June 28, 2022

Member Henderson motioned to approve the minutes as presented. Chairperson Greenwood seconded the motion. 2 Ayes, 0 Nos, 1 Vacant. Motion passed.

3. Public Comment - Limit to Three Minutes Per Person

- a. None

4. Old Business

- a. Citywide Sidewalk Repair – Trent

Discussed the Public Works crew being able to do 80 hours per year (not consecutive) which could equal to 4-5 homes per year, based also on the length of the sidewalk. Residents purchase their own material prior to work being scheduled and they are responsible for topsoil, backfilling the sidewalk and reseeding. A type of application for residents needs to be in place and each application will be on a first come first serve bases.

Member Henderson motioned staff to create an application and present it back to Public Works for review. Chairperson Greenwood seconded the motion. 2 Ayes, 0 Nos, 1 Vacant. Motion passed.

5. New Business

- a. PRA 4th Pay Application – Trent

This is the 4th Pay Application for Milwaukee Roundhouse in the amount of \$23,373.98. The work is complete although this is not the last pay estimate.

Member Henderson motioned to approve and recommend this to Finance and Council as presented. Chairperson Greenwood seconded the motion. 2 Ayes, 0 Nos, 1 Vacant. Motion passed.

6. Committee Comments or Concerns:

- a. Trent stated the 1st pay estimate for the Drying Beds at the Landfill is prepared but did not make the agenda for today’s meeting. Would like to have the committee approve and move this forward to Finance. Unanimous consent from the committee.
- b. Member Henderson mentioned about any increases to complete the roads. Trent sated no increase at this time.

7. Announcement of the next meeting

- a. August 23, 2022, at 5pm.

8. Adjournment

- a. Meeting adjourned at 5:22PM.

Prepared by Cyndi Thompson, City Clerk

Jackie Greenwood, Chairman

Date

Public Works Committee

Garbage | Sewer | Streets | Trees | Wastewater | Water| City Parks

Members

Jackie Greenwood (Chair)| John Henderson | Vacant



August 9, 2022

Mayor James Jess
City of Deer Lodge
300 Main Street
Deer Lodge, MT 59722

Subject: Task Order – Business District Striping Plans

Dear Mayor and Members of the Council:

This letter is intended as a request for Task Order approval for Stahly Engineering & Associates to prepare a standard parking layout plan in the City of Deer Lodge Business District.

We request approval of a time and materials task order in the amount of \$3,200.00. If approval is obtained, please sign the Notice to Proceed below and return the original to our office. Thank you for the opportunity to continue to provide services to the City of Deer Lodge.

Sincerely,

Stahly Engineering & Associates, Inc.

Kurt Thomson, PE
Project Manager

NOTICE TO PROCEED

Stahly Engineering & Associates is hereby granted a notice to proceed for the striping plan in the Business District for the City of Deer Lodge:

Owner: City of Deer Lodge

Authorized Signature: _____

Title: Mayor

Date: _____



August 9, 2022

Mayor James Jess
City of Deer Lodge
300 Main Street
Deer Lodge, MT 59722

Subject: Task Order – Water Modeling for the City of Deer Lodge

Dear Mayor and Members of the Council:

This letter is intended as a request for Task Order approval for Stahly Engineering & Associates to prepare a water model for the City of Deer Lodge. This will include obtaining WaterCad water modeling software (\$4,378.00), intersection elevations for all streets within the City, preparing the water mains and hydrants within the City, and utilizing the software to analyze the City's water system.

We request approval of a time and materials task order in the amount of \$58,000.00. If approval is obtained, please sign the Notice to Proceed below and return the original to our office. Thank you for the opportunity to continue to provide services to the City of Deer Lodge.

Sincerely,

Stahly Engineering & Associates, Inc.

Kurt Thomson, PE
Project Manager

NOTICE TO PROCEED

Stahly Engineering & Associates is hereby granted a notice to proceed for the Water Modeling project for the City of Deer Lodge:

Owner: City of Deer Lodge

Authorized Signature: _____

Title: Mayor

Date: _____



In Control, Inc.
10350 Jamestown St. NE
Blaine, MN 55449

PROPOSAL # QP22071201-03

To: City of Deer Lodge

Date: August 4, 2022

From: Cade Beeton

Valid: 45 days

Page: 1 of 5

Attn: Trent Freeman

Re: City of Deer Lodge Water System Upgrades

In Control, Inc. is pleased to provide our proposal for materials and services as part of the project referenced above. This proposal is based upon discussions with Trent Freeman and the Pre-Engineering Survey performed by In Control in June of 2022. The overall water control system was found to be operational, but in need of upgrades due to much of the equipment being obsolete and difficult to find replacements for. In Control recommends beginning the overall system improvements by replacing the existing SCADA computer, City Hall Control Panel, and control software at all remote sites. All control panel software and SCADA programming will mirror the look and feel of the WWTP SCADA control system.

Secure remote access to the SCADA computer using MFA is included in our separate Automation & Cybersecurity Maintenance Plan proposal.

Proposed Materials and Services

Item 1 - Professional Engineering Services

- A. One project manager will be assigned as a primary point of contact through project completion
- B. A project team consisting of up to (3) engineers will be assigned to the project
- C. Engineering review meetings will be conducted on a timely basis as required
- D. Industry best practices, proven control approaches and standardized objects will be implemented in the design, configuration and development of the entire system
- E. PLC, OIT, and SCADA Programming is included and will be tested prior to start up
- F. The entire design including control panel schematics, motor control schematics, instrumentation schematics, and control panel manufacturing will be completed internally with functional testing prior to start up
- G. Electronic drawings will be drafted and submitted for approval. As Built drawings will be provided electronically upon shipment of control panels. Final drawings and O&M documents will be provided electronically after substantial completion

Item 2 - SCADA Computer System Hardware

In Control will furnish and configure the following SCADA Computer System Hardware:

- A. Dell Precision desktop workstation
- B. Dell wired keyboard and laser scroll mouse
- C. Dell wired mouse
- D. (QTY: 2) Dell 24" Ultrasharp Monitor
- E. Dell USB soundbar
- F. Eaton 700VA Online UPS
- G. 8 port desktop Ethernet switch
- H. 4TB, 2 USB external HDD

Item 3 - SCADA System Software

In Control will furnish and configure the following SCADA System Software licenses and programming:

- A. Microsoft Office Professional
- B. SCADA Software - FactoryTalk View SE Station Unlimited Display License
- C. Alarm Software – WIN911 Interactive with 1 year WIN911 Mobile
 - 1. Telephone modem for alarm dialing (City is responsible for phone line)
- D. Report Printer - Inkjet

Item 4 - City Hall Control Panel

In Control will furnish and install the following City Hall Control Panel hardware:

- A. The existing control panel backplate will be replaced with the following:
 - 1. Hoffman 24X20 back panel
 - 2. Allen Bradley CompactLogix PLC
 - 3. Allen Bradley CompactLogix PLC Digital Input/Output Modules
 - 4. Allen Bradley 7" Panelview Touch Screen
 - 5. Uninterruptible Power Supply
 - 6. 4 Channel Hardware Alarm Dialer (City is responsible for phone line)
 - 7. Control Power Surge Protection
 - 8. DC Power Supply, Fuses, Circuit Breakers, Relays, Wiring Terminals

Item 5 - Well 1 RTU

In Control will re-write the existing control programming to work with the new City Hall SCADA system. The existing control hardware including radios and antennas will be re-used.

Item 6 - Well 2 RTU

In Control will re-write the existing control programming to work with the new City Hall SCADA system. The existing control hardware including radios and antennas will be re-used.

Item 7 - Water Tank RTU

In Control will re-write the existing control programming to work with the new City Hall SCADA system. The existing control hardware including radios and antennas will be re-used.

Item 8 - Lift Station

In Control will re-write the existing control programming to work with the new City Hall SCADA system. The existing control hardware including radios and antennas will be re-used.

Proposal Summary

The price for all items above is \$79,829.00 USD net total excluding sales and use taxes. Freight is included, FOB shipping point.

TERMS: 20% upon order, 20% upon submittal, 50% upon equipment shipment, and 10% upon substantial.

Our proposal specifically excludes the following:

- Removal, demolition or disposal of existing wiring, devices or equipment
- Field installation of equipment, enclosures, instrumentation or other products provided
- Fasteners or mounts, wire, raceway or fittings required for field installed products
- Termination of any field wiring such as line power, control signals, instrumentation, etc.
- Normal and customary items provided by a general or electrical contractor.
- Any equipment or services that are not defined in the scope of work detailed in this proposal.
- Shipping costs to locations other than the primary project site.

Thank you in advance for the consideration of our offer and for the opportunity to work together. Should you have any questions regarding this proposal, please contact me directly at your convenience. I look forward to hearing from you soon to secure and coordinate this project.

Best Regards,

Cade Beeton
 Technical Sales Engineer
 Mobile: 406.661.4795
 Office: 763.783.9500
 E-Mail: cade.beeton@incontrol.net

Jeff Iverson
 Sr Technical Sales Engineer
 Mobile: 612.802.8875
 Office: 763.783.9500 x3001
 E-Mail: jeff.iverson@incontrol.net

ACCEPTANCE: To accept this proposal please return a signed copy with purchase order. Thank you!

Signature: _____

Purchase Order: _____

Print Name: _____

Date: _____

Title: _____

Proposal Number: QP22071201-03

Standard Terms and Conditions of Sale

These terms and conditions are in effect between the party ("Purchaser") issuing the purchase order ("Order") and In Control, Inc. ("In Control").

1. **ACCEPTANCE** – Acceptance of this Order will be in writing within 30 days of Order receipt, subject to approval of the Purchaser's credit by In Control and compliance with the acceptance criteria set forth herein. Upon acceptance, this Order will constitute the entire agreement between In Control and Purchaser, supersede all prior negotiations and discussions, and may not be modified or terminated except in writing signed by both Purchaser and In Control.
2. **TERMINATION** – Notification of termination of this Order shall be made in writing with 14 days notice. If Purchaser terminates this Order at no fault of In Control, Purchaser shall pay for services rendered at In Control's published rates, reimbursable expenses, and equipment ordered through the date of termination. This payment will also include a fee of 10% of the Order value to cover the expense of terminating the contract.
3. **ATTORNEY FEES** - If either party commences or is made a party to an action or proceeding to enforce or interpret this Order, the prevailing party in such action or proceeding will be entitled to recover from the other party all reasonable attorneys' fees, costs and expenses incurred in connection with such action or proceeding or any appeal or enforcement of any judgment.
4. **INDEMNIFICATION** - Purchaser will indemnify and hold harmless In Control from and against any and all claims, actions, proceedings, costs, expenses, losses and liability, including all reasonable attorneys' fees, costs and expenses, arising out of or in connection with or relating to any goods or services not furnished by In Control pursuant to this Order, including without limitation all product liability claims and any claims involving personal injury, death or property damage. The obligations set forth in this Section will survive the termination or fulfillment of this Order.
5. **LIMITATIONS OF LIABILITY** - In no event will In Control be liable in contract, tort, strict liability, warranty or otherwise, for any special, incidental or consequential damages, such as delay, disruption, loss of product, loss of anticipated profits or revenue, loss of use of the equipment or system, non-operation or increased expense of operation of other equipment or systems, cost of capital, or cost of purchase or replacement equipment systems or power. In particular, unless otherwise agreed to in writing between the Purchaser and In Control, In Control will not accept liquidated damages.
6. **FORCE MAJEURE** – In no event shall In Control be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, supply chain disruptions, accidents, acts of war or terrorism, civil or military disturbances, health crises, nuclear or natural catastrophes or acts of God, and interruptions of utilities, communications or computer services. It being understood that In Control shall use all commercially reasonable efforts to resume performance as soon as practicable under the circumstances.
7. **WARRANTY** - In Control warrants that the goods and services furnished will be of good quality, free from defects in material, design and workmanship will conform to the specifications and drawings and be suitable for their intended purpose. This warranty will be in force for eighteen (18) months after shipment or twelve (12) months from startup, whichever is shorter. Any remaining allotments for Purchaser or end owner/engineer-initiated changes and call-back expire with the warranty period and are not refundable. In Control reserves the right to terminate warranty should the Purchaser's account be in arrears.
8. **TRANSPORTATION** - Unless otherwise specified, all deliveries from In Control will be F.O.B. factory, freight prepaid.
9. **ESCALATION** – This Order is conditioned upon the ability of In Control to complete the work at present prices for material and at the existing scale of wages for labor. If In Control is, at any time during the term of the Order, unable to complete the work at the present prices and wages, then the Order sum shall be equitably adjusted by change order to compensate In Control for significant price increases, where a significant price increase is defined as a change of 10% or more between the date of quote and the date of applicable work.
10. **PAYMENT TERMS** - The payment terms are due upon invoice receipt. Any balance remaining over 31 days beyond the invoice date will be subject to a 2.0% monthly service fee until paid. Debit or credit card payment is accepted and subject to a 3.0% surcharge of the payment amount. Should a payment default occur In Control reserves the right to stop all work, including but not limited to startup of equipment. All reasonable attempts will be made between both parties to resolve the disputed portions of any invoice within the payment terms.
Order value will be invoiced in full upon shipment unless specific terms are described in the proposal. No retainage is allowed.
11. **NONWAIVER** - The failure by In Control to enforce at any time, or for any period of time, any of the provisions hereof will not be a waiver of such provisions nor the right of In Control thereafter to enforce each and every such provision.
12. **REMEDIES** - Remedies herein reserved to In Control will be cumulative and in addition to any other or further remedies provided in law or equity.



In Control, Inc.
10350 Jamestown St. NE
Blaine, MN 55449

PROPOSAL # QP22080402-01

To: City of Deer Lodge

Date: August 4, 2022

From: Cade Beeton

Valid: 30 days

Page: 1 of 5

Attn: Trent Freeman

Re: Water System and WWTP Automation & Cybersecurity Service Plan

In Control, Inc. is pleased to provide our proposal for materials and services as part of the project referenced above.

Cybersecurity threats have increased in the last 5 years. Hackers have become more sophisticated and are constantly finding ways to compromise systems using techniques such as Phishing, Ransomware, and Credential Theft. In addition, at this moment there is credible intelligence Russia is preparing malicious cyber-attacks against our critical infrastructure as a response to United States' economic sanctions.

One of the most important security measures that should be implemented for any system that allows remote access via the internet is Multi-Factor Authentication (MFA). An example of MFA is using a password together with a code sent to your smartphone to authenticate yourself. Any computer system that has access to the internet can become vulnerable to cyber-attack, but experts agree that implementing a hardware firewall coupled with MFA, firmware updates, and ongoing maintenance support will reduce cyber threats.

In Control has developed an **Automation & Cybersecurity Service Plan** collaborating with WatchGuard, a leader in network security. This Service Plan provides regular inspection, testing, and maintenance of your control system and its cybersecurity defenses.

Implementing the hardware and support features contained in this proposal along with following internal best practices will provide a strong defense to cybersecurity threats.

Relevant Cybersecurity Information Links:

- [Statement by President Biden on our Nation's Cybersecurity \(March 21, 2022\)](#)
- [President's Fact Sheet: Act Now to Protect Against Potential Cyberattacks](#)
- [WaterISAC - \(https://www.waterisac.org/about-us\)](https://www.waterisac.org/about-us)
 - [15 Cybersecurity Fundamentals for Water and Wastewater Utilities](#)
- [Cybersecurity & Infrastructure Security Agency - Shields Up](#)

Proposed Materials and Services

Item 1 - Cybersecurity Defense – Configured Firewall Hardware

In Control will add MFA and Total Security Suite functionality to the Hardware Firewall supplied with the WTP SCADA upgrade project. We will furnish and configure a new Hardware Firewall for the WWTP.

- A. City Hall – WatchGuard Firebox T-20 – MFA and Total Security Suite Configuration only
- B. WWTP – WatchGuard Firebox T-20

Item 2 - Automation & Cybersecurity Service Plan

A. Supervisory Control Panels (Plant or Remote Sites) – Annual Maintenance (On-site)

1. Inspection:

- (a) Verify control panels are properly grounded.
- (b) Check PLC diagnostic information for errors and low battery conditions.
- (c) Visually inspect radio cabling for damage and check radio indicators for alarms.
- (d) Visually inspect control panels for abnormalities (frayed or loose wires, moisture, seals).
- (e) Verify electrical schematics are present in each control panel and are up to date.

2. Testing:

- (a) Load test operation of Uninterruptible Power Supply (UPS) and check for alarms.
- (b) Test communication-fail alarms.
- (c) Test critical alarms (Example high/low level and float backup for lift stations).

3. Maintenance:

- (a) Vacuum control panel, lube panel hinges, and check for burnt out light bulbs.
- (b) Backup Programmable Logic Controller (PLC) programs.
- (c) Backup Operator Interface Terminals (OIT) programs and set OIT's to correct date and time.
- (d) Review spares inventory condition and count.

4. Covered Supervisory Control Panels:

- (a) Water System City Hall Control Panel
- (b) WWTP Headworks Building SCP 3-LCP-01
- (c) WWTP Secondary Digester Building 6-LCP-01
- (d) WWTP UV Building Control Panel 7-XJB-01
- (e) WWTP Aerobic Digester Corridor Panel 8-LCP-01
- (f) WWTP NPW Building Control Panel 9-XJB-01

B. Network Components (Computers & Servers) – Semi-Annual Maintenance (On-site and Office)

1. Inspection:

- (a) Check computer hardware, fans and filters for basic function.
- (b) Review computer error logs, database size, resource utilization, and available storage space.

2. Testing:

- (a) Test communication function of software alarm dialers and remote access.
- (b) Test communication function of backup hardware alarm dialer.
- (c) Verify on-demand report generation.

3. Maintenance:

- (a) Power down and clean fans and filters.
- (b) Backup SCADA programs.
- (c) Backup software configurations for switches, firewalls, VOIP dialers, and other devices.
- (d) Renew licensing for subscription software. (Cost of subscriptions included in Plan cost.)

4. Included Software Subscription Support:

- (a) Water System SCADA Computer RealVNC Remote Access (license provided with the WTP SCADA upgrade project)
- (b) WWTP SCADA Computer RealVNC Remote Access

5. Covered Network Equipment:
 - (a) Water System City Hall SCADA Computer
 - (b) WWTP SCADA Computer
- C. Cybersecurity Defense – Ongoing services, Semi-Annual Maintenance (Office)
 1. Inspection: Check firewall* software, security logs, and identify required firmware updates.
 2. Maintenance: Install firewall security updates, if available, and renew security subscriptions.
 3. On-going Services: Implement and maintain Unified Threat Management (UTM) system including:
 - (a) URL filtering, Intrusion Prevention System (IPS), and Gateway Antivirus (GAV)
 - (b) APT Blocker – Defends against ransomware, zero-day threats, advanced malware
 - (c) DNS Filtering – Detects and blocks dangerous connections via a cloud-based service using DNS-level (Domain Name System) filtering
 - (d) Threat Detection & Response – Identifies and isolates infected computers on the network
 - (e) Cloud Data Retention – Real-time monitoring and thirty-day retention of traffic logs of all activity on the network.
 4. Secure Remote Access through a VPN and Multi-factor Authentication Service:
 - (a) Virtual Private Network (VPN) – Limit remote connections to those established through a secure connection using IPSec and/or SSL
 - (b) Multi-Factor Authentication – Verify all remote connections with a second means of authentication through a separate smartphone application
 - (c) Provide user administration support as requested, including creating and removing user accounts, resetting passwords, and supporting multifactor authentication and remote access
 5. Included security services subscriptions, software, and support:
 - (a) WatchGuard's Total Security Suite
 - (b) AuthPoint Multi-Factor Authentication (Up to 5 users)
 6. Covered Cybersecurity Devices
 - (a) Water System City Hall Firewall – WatchGuard Firebox T-20
 - (b) WWTP Firewall – WatchGuard Firebox T-20
- D. Controls System Planning Meeting – Annual meeting with Controls Engineer to develop and review multi-year control system and cybersecurity defense posture.
- E. Warranty Extension for Identified Projects – This plan extends In Control's warranty term an additional 12 months for controls engineering services (equipment excluded). This extension applies to any work completed by In Control in the past 30 days and any new work completed during the life of this Plan. Plan must be active for extended warranty to be valid.
 1. Projects covered by warranty extension include:
 - (a) "No projects identified at this time."
- F. Rate Schedule Discount – A 5.0% discount on In Control's current Rate Schedule for all engineering service calls.
- ~~G. Scheduled Service Hour Block – Block of XX hours must be used within one calendar year.~~
- H. Equipment – Required equipment upgrades and replacements will be identified to customer. If not covered under warranty and if approved, equipment will be replaced and billed separately. Cost of replacement or upgrade is not included in Plan cost.
- I. Enrollment Fee – A customary enrollment fee will be charged when a customer first enters a Plan agreement. This enrollment fee covers an on-site inspection of each covered control panel or computer, uploading and off-site backup of all PLC and SCADA programs, and retaining an electronic copy of all control schematic drawings.
- J. Agreement Duration & Invoicing – One calendar year from the date of execution, automatically renewed each year. Invoicing will be due Net 30 and submitted on a quarterly basis at the beginning of the coverage period.

Proposal Summary

The below pricing for the items above excludes sales and use taxes. Freight is included, FOB shipping point.

Item 1 – Configuration of Firewall Hardware	<u>\$1,445.00</u> USD (one time cost)
Item 2 - Automation & Cybersecurity Service Plan	<u>\$5,087.00</u> USD (annual cost)

Total cost of the full plan for the first year is \$6,532.00 USD and can be broken up in four quarterly payments of \$1,633.00 USD.

Our proposal specifically excludes the following:

- Field installation of equipment.
- Any equipment or services that are not defined in the scope of work detailed in this proposal.
- Shipping costs to locations other than the primary project site.

Thank you in advance for the consideration of our offer and for the opportunity to work together. Should you have any questions regarding this proposal, please contact me directly at your convenience. I look forward to hearing from you soon to secure and coordinate this project.

Best Regards,

Cade Beeton
 Technical Sales Engineer
 Mobile: 406.661.4795
 Office: 763.783.9500
 E-Mail: cade.beeton@incontrol.net

Jeff Iverson
 Sr Technical Sales Engineer
 Mobile: 612.802.8875
 Office: 763.783.9500 x3001
 E-Mail: jeff.iverson@incontrol.net

ACCEPTANCE: To accept this proposal please return a signed copy with purchase order. Thank you!

Signature: _____

Purchase Order: _____

Print Name: _____

Date: _____

Title: _____

Proposal Number: QP22080402-01

Service Plan Terms and Conditions of Sale

These terms and conditions are in effect between the party ("Purchaser") executing the Automation Service Plan agreement ("Agreement") and In Control, Inc. ("In Control").

1. **ACCEPTANCE** – Acceptance of this Agreement will be in writing within 30 days of receipt, subject to approval of the Purchaser's credit by In Control and compliance with the acceptance criteria set forth herein. Upon acceptance, this Agreement will constitute the entire agreement between In Control and Purchaser, supersede all prior negotiations and discussions, and may not be modified or terminated except in writing signed by both Purchaser and In Control.
2. **TERMINATION** – Notification of termination of this Agreement shall be made in writing with 14 days notice. If Purchaser terminates this Agreement at no fault of In Control, Purchaser shall pay for services rendered at In Control's published rates, reimbursable expenses, and equipment ordered through the date of termination.
3. **ATTORNEY FEES** - If either party commences or is made a party to an action or proceeding to enforce or interpret this Agreement, the prevailing party in such action or proceeding will be entitled to recover from the other party all reasonable attorneys' fees, costs and expenses incurred in connection with such action or proceeding or any appeal or enforcement of any judgment.
4. **INDEMNIFICATION** - Purchaser will indemnify and hold harmless In Control from and against any and all claims, actions, proceedings, costs, expenses, losses and liability, including all reasonable attorneys' fees, costs and expenses, arising out of or in connection with or relating to any goods or services not furnished by In Control pursuant to this Agreement, including without limitation all product liability claims and any claims involving personal injury, death or property damage. The obligations set forth in this Section will survive the termination or fulfillment of this Agreement.
5. **LIMITATIONS OF LIABILITY** - In no event will In Control be liable in contract, tort, strict liability, warranty or otherwise, for any special, incidental or consequential damages, such as delay, disruption, loss of product, loss of anticipated profits or revenue, loss of use of the equipment or system, non-operation or increased expense of operation of other equipment or systems, cost of capital, or cost of purchase or replacement equipment systems or power. In particular, unless otherwise agreed to in writing between the Purchaser and In Control, In Control will not accept liquidated damages.
6. **FORCE MAJEURE** – In no event shall In Control be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, supply chain disruptions, accidents, acts of war or terrorism, civil or military disturbances, health crises, nuclear or natural catastrophes or acts of God, and interruptions of utilities, communications or computer services. It being understood that In Control shall use all commercially reasonable efforts to resume performance as soon as practicable under the circumstances.
7. **WARRANTY** - In Control warrants that the goods and services furnished will be of good quality, free from defects in material, design and workmanship will conform to the specifications and drawings and be suitable for their intended purpose. In Control's standard warranty will be in force for eighteen (18) months after shipment or twelve (12) months from startup, whichever is shorter. This Agreement extends those warranty periods an additional twelve (12) months for all controls engineering services provided thirty days prior to the date of execution of the Agreement. This warranty extension remains valid only if this Agreement remains in place. In Control reserves the right to terminate warranty should the Purchaser's account be in arrears.
8. **ESCALATION** – This Agreement is conditioned upon the ability of In Control to complete the work at present prices for material and at the existing scale of wages for labor. If In Control is, at any time during the term of the Agreement, unable to complete the work at the present prices and wages, then the Agreement sum shall be equitably adjusted by change order to compensate In Control for significant price increases, where a significant price increase is defined as a change of 10% or more between the date of quote and the date of applicable work.
9. **PAYMENT TERMS** - The payment terms are due thirty (30) days after an invoice is sent. Any balance remaining over 31 days beyond the invoice date will be subject to a 2.0% monthly service fee until paid. Debit or credit card payment is accepted and subject to a 3.0% surcharge of the payment amount. Should a payment default occur, In Control reserves the right to stop all work, including but not limited to startup of equipment. All reasonable attempts will be made between both parties to resolve the disputed portions of any invoice within the payment terms.
10. **NONWAIVER** - The failure by In Control to enforce at any time, or for any period of time, any of the provisions hereof will not be a waiver of such provisions nor the right of In Control thereafter to enforce each and every such provision.
11. **REMEDIES** - Remedies herein reserved to In Control will be cumulative and in addition to any other or further remedies provided in law or equity.

August 17, 2022

VIA EMAIL

Mayor James Jess
City of Deer Lodge
300 Main Street
Deer Lodge, MT 59722

RE: Landfill Drying Bed Project – Application for Payment #2

Dear James:

Enclosed for your action is Payment Request No. 2 from MJD Contracting for the Landfill Drying Bed project. The Pay Request covers the construction items on the Project from July 22 through August 19, 2022. This Pay Request shows project completion at 59% to date. In addition to the items covered in the first pay request, it includes primarily 75% of concrete installation for the drying bed slabs.

Final concrete placement for the drying bed walls is expected to occur next week. After the pour is complete and forms removed, the project will shut down to accommodate conflicting schedules for the contractor and to complete the project seeding within the stipulated time period. Project completion is expected in time to meet the October 15 deadline.

Everything appears in order to recommend approval of Pay Request No. 2 for processing. Payment of \$49,376.25 will need to be made to MJD Contracting, and \$498.75 to the State of Montana for the gross receipts tax. A total of \$6,505.00 retainage is being withheld from the payments to date.

Please contact me if you have any questions or need more information.

Sincerely,
MORRISON-MAIERLE, INC.

Rika Lashley, PE
Project Manager



Enclosure

Cc via Email: Alan Erickson, PE, CCM – Morrison-Maierle
MJD Contracting

