

# CITY CLERK ORIGINAL

C-8114  
07/27/2012

## CONSTRUCTION AGREEMENT

This Construction Agreement ("Agreement") is entered into this 27th day of JULY, 2012, and is effective between the City of Glendale, an Arizona municipal corporation ("City"), and Yellow Jacket Drilling Services, LLC, an Arizona limited liability company authorized to do business in the State of Arizona ("Contractor").

### RECITALS

- A. City intends to undertake a project for the benefit of the public, with public funds, that is more fully set forth in **Exhibit A** attached ("Project");
- B. City desires to retain the services of Contractor to perform those specific duties and produce the specific work as set forth in the Project;
- C. City and Contractor desire to memorialize their agreement with this document.

### AGREEMENT

In consideration of the Recitals, which are confirmed as true and correct and incorporated by this reference, the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, City and Contractor agree as follows:

#### 1. Project.

1.1 Scope. Contractor will provide all services and material necessary to assure the Project is completed timely and efficiently consistent with Project requirements, including, but not limited to, working in close interaction and interfacing with City and its designated employees, and working closely with others, including other contractors, providers or consultants retained by City.

#### 1.2 Project Team.

- a. Project Manager. Contractor will designate an employee as Project Manager with sufficient training, knowledge, and experience to, in the City's opinion, to complete the Project and handle all aspects of the Project such that the work produced by Contractor is consistent with applicable standards as detailed in this Agreement.
- b. Project Team.
  - (1) The Project Manager and all other employees assigned to the Project by Contractor will comprise the "Project Team."
  - (2) Project Manager will have responsibility for and will supervise all other employees assigned to the Project by Contractor.
- c. Sub-contractors.
  - (1) Contractor may engage specific technical contractor (each a "Sub-contractor") to furnish certain service functions.
  - (2) Contractor will remain fully responsible for Sub-contractor's services.
  - (3) Sub-contractors must be approved by the City, unless the Sub-contractor was previously mentioned in the response to the solicitation.
  - (4) Contractor shall certify by letter that contracts with Sub-contractors have been executed incorporating requirements and standards as set forth in this Agreement.

### 3. Contractor's Work.

- 3.1 Standard. Contractor must perform services in accordance with the standards of due diligence, care, and quality prevailing among contractors having substantial experience with the successful furnishing of services and materials for projects that are equivalent in size, scope, quality, and other criteria under the Project and identified in this Agreement.
- 3.2 Licensing. Contractor warrants that:
- a. Contractor and Sub-contractors will hold all appropriate and required licenses, registrations and other approvals necessary for the lawful furnishing of services ("Approvals"); and
  - b. Neither Contractor nor any Sub-contractor has been debarred or otherwise legally excluded from contracting with any federal, state, or local governmental entity ("Debarment").
    - (1) City is under no obligation to ascertain or confirm the existence or issuance of any Approvals or Debarments or to examine Contractor's contracting ability.
    - (2) Contractor must notify City immediately if any Approval or Debarment changes during the Agreement's duration and the failure of the Contractor to notify City as required will constitute a material default of this Agreement.
- 3.3 Compliance. Services and materials will be furnished in compliance with applicable federal, state, county and local statutes, rules, regulations, ordinances, building codes, life safety codes, or other standards and criteria designated by City.
- 3.4 Coordination; Interaction.
- a. If the City determines that the Project requires the coordination of professional services or other providers, Contractor will work in close consultation with City to proactively interact with any other contractors retained by City on the Project ("Coordinating Entities").
  - b. Subject to any limitations expressly stated in the budget, Contractor will meet to review the Project, schedules, budget, and in-progress work with Coordinating Entities and the City as often and for durations as City reasonably considers necessary in order to ensure the timely work delivery and Project completion.
  - c. If the Project does not involve Coordinating Entities, Contractor will proactively interact with any other contractors when directed by City to obtain or disseminate timely information for the proper execution of the Project.
- 3.5 Hazardous Substances. Contractor is responsible for the appropriate handling, disposal of, and if necessary, any remediation and all losses and damages to the City, associated with the use or release of hazardous substances by Contractor in connection with completion of the Project.
- 3.6 Warranties. At any time within two years after completion of the Project, Contractor must, at Contractor's sole expense and within 20 days of written notice from the City, uncover, correct and remedy all defects in Contractor's work. City will accept a manufacturer's warranty on approved equipment.
- 3.7. Bonds. Upon execution of this Agreement, and if applicable, Contractor must furnish Payment and Performance Bonds as required under A.R.S. § 34-608.

### 4. Compensation for the Project.

- 4.1 Compensation. Contractor's compensation for the Project, including those furnished by its Sub-contractors will not exceed \$23,000.00, as specifically detailed in **Exhibit B** ("Compensation").
- 4.2 Change in Scope of Project. The Compensation may be equitably adjusted if the originally contemplated scope of services as outlined in the Project is significantly modified by the City.

- a. Adjustments to the Scope or Compensation require a written amendment to this Agreement and may require City Council approval.
- b. Additional services which are outside the scope of the Project and not contained in this Agreement may not be performed by the Contractor without prior written authorization from the City.

**5. Billings and Payment.**

**5.1 Applications.**

- a. Unless Exhibit B (Compensation) dictates otherwise, the Contractor will submit monthly invoices (each, a "Payment Application") to City's Project Manager and City will remit payments based upon the Payment Application as stated below.
- b. The period covered by each Payment Application will be one calendar month ending on the last day of the month.

**5.2 Payment.**

- a. After a full and complete Payment Application is received, City will process and remit payment within 30 days.
- b. Payment may be subject to or conditioned upon City's receipt of:
  - (1) Completed work generated by Contractor and its Sub-contractors; and
  - (2) Unconditional waivers and releases on final payment from Sub-contractors as City may reasonably request to assure the Project will be free of claims arising from required performances under this Agreement.

**5.3 Review and Withholding.** City's Project Manager will timely review and certify Payment Applications.

- a. If the Payment Application is rejected, the Project Manager will issue a written listing of the items not approved for payment.
- b. City may withhold an amount sufficient to pay expenses that City reasonably expects to incur in correcting the deficiency or deficiencies rejected for payment.
- c. Contractor will provide, by separate cover, and concurrent with the execution of this Agreement, all required financial information to the City, including City of Glendale Transaction Privilege License and Federal Taxpayer identification numbers.
- d. City will temporarily withhold Compensation amounts as required by A.R.S. § 34-221(C).

**6. Termination.**

**6.1 For Convenience.** City may terminate this Agreement for convenience, without cause, by delivering a written termination notice stating the effective termination date, which may not be less than 15 days following the date of delivery.

- a. Contractor will be equitably compensated any services and materials furnished prior to receipt of the termination notice and for reasonable costs incurred.
- b. Contractor will also be similarly compensated for any approved effort expended and approved costs incurred that are directly associated with Project closeout and delivery of the required items to the City.

**6.2 For Cause.** City may terminate this Agreement for cause if Contractor fails to cure any breach of this Agreement within seven days after receipt of written notice specifying the breach.

- a. Contractor will not be entitled to further payment until after City has determined its damages. If City's damages resulting from the breach, as determined by City, are less than

the equitable amount due but not paid Contractor for Service and Repair furnished, City will pay the amount due to Contractor, less City's damages.

- b. If City's direct damages exceed amounts otherwise due to Contractor, Contractor must pay the difference to City immediately upon demand; however, Contractor will not be subject to consequential damages more than \$1,000,000 or the amount of this Agreement, whichever is greater.

## 7. Insurance.

### 7.1 Requirements. Contractor must obtain and maintain the following insurance ("Required Insurance"):

- a. Contractor and Sub-contractors. Contractor, and each Sub-contractor performing work or providing materials related to this Agreement must procure and maintain the insurance coverages described below (collectively "Contractor's Policies"), until each Parties' obligations under this Agreement are completed.
- b. General Liability.
  - (1) Contractor must at all times relevant hereto carry a commercial general liability policy with a combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
  - (2) Sub-contractors must at all times relevant hereto carry a general commercial liability policy with a combined single limit of at least \$1,000,000 per occurrence.
  - (3) This commercial general liability insurance must include independent contractors' liability, contractual liability, broad form property coverage, products and completed operations, XCU hazards if requested by the City, and a separation of insurance provision.
  - (4) These limits may be met through a combination of primary and excess liability coverage.
- c. Auto. A business auto policy providing a liability limit of at least \$1,000,000 per accident for Contractor and 1,000,000 per accident for Sub-contractors and covering owned, non-owned and hired automobiles.
- d. Workers' Compensation and Employer's Liability. A workers' compensation and employer's liability policy providing at least the minimum benefits required by Arizona law.
- e. Equipment Insurance. Contractor must secure, pay for, and maintain all-risk insurance as necessary to protect the City against loss of owned, non-owned, rented or leased capital equipment and tools, equipment and scaffolding, staging, towers and forms owned or rented by Contractor or its Sub-contractors.
- f. Notice of Changes. Contractor's Policies must provide for not less than 30 days' advance written notice to City Representative of:
  - (1) Cancellation or termination of Contractor or Sub-contractor's Policies;
  - (2) Reduction of the coverage limits of any of Contractor or and Sub-contractor's Policies; and
  - (3) Any other material modification of Contractor or Sub-contractor's Policies related to this Agreement.
- g. Certificates of Insurance.
  - (1) Within 10 business days after the execution of the Agreement, Contractor must deliver to City Representative certificates of insurance for each of Contractor and Sub-contractor's Policies, which will confirm the existence or issuance of

Contractor and Sub-contractor's Policies in accordance with the provisions of this section, and copies of the endorsements of Contractor and Sub-contractor's Policies in accordance with the provisions of this section.

- (2) City is and will be under no obligation either to ascertain or confirm the existence or issuance of Contractor and Sub-contractor's Policies, or to examine Contractor and Sub-contractor's Policies, or to inform Contractor or Sub-contractor in the event that any coverage does not comply with the requirements of this section.
- (3) Contractor's failure to secure and maintain Contractor Policies and to assure Sub-contractor policies as required will constitute a material default under this Agreement.

h. Other Contractors or Vendors.

- (1) Other contractors or vendors that may be contracted by Contractor with in connection with the Project must procure and maintain insurance coverage as is appropriate to their particular agreement.
- (2) This insurance coverage must comply with the requirements set forth above for Contractor's Policies (e.g., the requirements pertaining to endorsements to name the parties as additional insured parties and certificates of insurance).

i. Policies. Except with respect to workers' compensation and employer's liability coverages, the City must be named and properly endorsed as additional insureds on all liability policies required by this section.

- (1) The coverage extended to additional insureds must be primary and must not contribute with any insurance or self insurance policies or programs maintained by the additional insureds.
- (2) All insurance policies obtained pursuant to this section must be with companies legally authorized to do business in the State of Arizona and acceptable to all parties.

7.2 Sub-contractors.

- a. Contractor must also cause its Sub-contractors to obtain and maintain the Required Insurance.
- b. City may consider waiving these insurance requirements for a specific Sub-contractor if City is satisfied the amounts required are not commercially available to the Sub-contractor and the insurance the Sub-contractor does have is appropriate for the Sub-contractor's work under this Agreement.
- c. Contractor and Sub-contractors must provide to the City proof of Required Insurance whenever requested.

7.3 Indemnification.

- a. To the fullest extent permitted by law, Contractor must defend, indemnify, and hold harmless City and its elected officials, officers, employees and agents (each, an "Indemnified Party," collectively, the "Indemnified Parties"), for, from, and against any and all claims, demands, actions, damages, judgments, settlements, personal injury (including sickness, disease, death, and bodily harm), property damage (including loss of use), infringement, governmental action and all other losses and expenses, including attorneys' fees and litigation expenses (each, a "Demand or Expense," collectively, "Demands or Expenses") asserted by a third-party (i.e. a person or entity other than City or Contractor) and that arises out of or results from the breach of this Agreement by the Contractor or the Contractor's negligent actions, errors or omissions (including any Sub-contractor or

other person or firm employed by Contractor), whether sustained before or after completion of the Project.

- b. This indemnity and hold harmless provision applies even if a Demand or Expense is in part due to the Indemnified Party's negligence or breach of a responsibility under this Agreement, but in that event, Contractor shall be liable only to the extent the Demand or Expense results from the negligence or breach of a responsibility of Contractor or of any person or entity for whom Contractor is responsible.
- c. Contractor is not required to indemnify any Indemnified Parties for, from, or against any Demand or Expense resulting from the Indemnified Party's sole negligence or other fault solely attributable to the Indemnified Party.

7.4 Waiver of Subrogation. Contractor waives, and will require any Subcontractor to waive, all rights of subrogation against the City to the extent of all losses or damages covered by any policy of insurance.

## 8. **Immigration Law Compliance.**

- 8.1 Contractor, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.
- 8.2 Any breach of warranty under subsection 8.1 above is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.
- 8.3 City retains the legal right to inspect the papers of any Contractor or subcontractor employee who performs work under this Agreement to ensure that the Contractor or any subcontractor is compliant with the warranty under subsection 8.1 above.
- 8.4 City may conduct random inspections, and upon request of City, Contractor shall provide copies of papers and records of Contractor demonstrating continued compliance with the warranty under subsection 8.1 above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this section.
- 8.5 Contractor agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon Contractor and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.
- 8.6 Contractor's warranty and obligations under this section to the City is continuing throughout the term of this Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.
- 8.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

9. **Conflict.** Contractor acknowledges this Agreement is subject to A.R.S. § 38-511, which allows for cancellation of this Agreement in the event any person who is significantly involved in initiating, negotiating, securing, drafting, or creating the Agreement on City's behalf is also an employee, agent, or consultant of any other party to this Agreement.

10. **Foreign Prohibitions.** Contractor certifies under A.R.S. §§ 35-391 *et seq.*, and 35-393 *et seq.*, that it does not have, and during the term of this Agreement will not have, "scrutinized" business operations, as defined in the preceding statutory sections, in the countries of Sudan or Iran.

11. **Non-Discrimination Policies.** Contractor must not discriminate against any employee or applicant for employment on the basis of race, religion, color sex or national origin. Contractor must develop, implement and maintain non-discrimination policies and post the policies in conspicuous places visible to employees and applicants for employment. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section.

12. **Notices.**

12.1 A notice, request or other communication that is required or permitted under this Agreement (each a "Notice") will be effective only if:

- a. The Notice is in writing, and
- b. Delivered in person or by private express overnight delivery service (delivery charges prepaid), certified or registered mail (return receipt requested).
- c. Notice will be deemed to have been delivered to the person to whom it is addressed as of the date of receipt, if:
  - (1) Received on a business day, or before 5:00 p.m., at the address for Notices identified for the Party in this Agreement by U.S. Mail, hand delivery, or overnight courier on or before 5:00 p.m.; or
  - (2) As of the next business day after receipt, if received after 5:00 p.m.
- d. The burden of proof of the place and time of delivery is upon the Party giving the Notice.
- e. Digitalized signatures and copies of signatures will have the same effect as original signatures.

12.2 Representatives.

- a. Contractor. Contractor's representative ("Contractor's Representative") authorized to act on Contractor's behalf with respect to the Project, and his or her address for Notice delivery is:

Yellow Jacket Drilling Services, LLC.  
Attn:  
Richard LeBlanc  
3922 E. University Drive, Suite 1  
Phoenix, Arizona 85034

- b. City. City's representative ("City's Representative") authorized to act on City's behalf, and his or her address for Notice delivery is:

City of Glendale  
Attn:  
Christina Betz, Landfill Superintendent  
6210 W. Myrtle, Suite 111  
Glendale, Arizona 85301

With required copies to:

City of Glendale  
City Manager  
5850 West Glendale Avenue  
Glendale, Arizona 85301

City of Glendale  
City Attorney  
5850 West Glendale Avenue  
Glendale, Arizona 85301

- c. Concurrent Notices.

- (1) All notices to City's representative must be given concurrently to City Manager and City Attorney.

- (2) A notice will not be considered to have been received by City's representative until the time that it has also been received by City Manager and City Attorney.
- (3) City may appoint one or more designees for the purpose of receiving notice by delivery of a written notice to Contractor identifying the designee(s) and their respective addresses for notices.
- d. Changes. Contractor or City may change its representative or information on Notice, by giving Notice of the change in accordance with this section at least ten days prior to the change.

13. **Financing Assignment.** City may assign this Agreement to any City-affiliated entity, including a non-profit corporation or other entity whose primary purpose is to own or manage the Project.

14. **Entire Agreement; Survival; Counterparts; Signatures.**

14.1 Integration. This Agreement contains, except as stated below, the entire agreement between City and Contractor and supersedes all prior conversations and negotiations between the parties regarding the Project or this Agreement.

- a. Neither Party has made any representations, warranties or agreements as to any matters concerning the Agreement's subject matter.
- b. Representations, statements, conditions, or warranties not contained in this Agreement will not be binding on the parties.
- c. Any solicitation, addendums and responses submitted by the Contractor are incorporated fully into this Agreement as Exhibit A. Any inconsistency between Exhibit A and this Agreement will be resolved by the terms and conditions stated in this Agreement.

14.2 Interpretation.

- a. The parties fairly negotiated the Agreement's provisions to the extent they believed necessary and with the legal representation they deemed appropriate.
- b. The parties are of equal bargaining position and this Agreement must be construed equally between the parties without consideration of which of the parties may have drafted this Agreement.
- c. The Agreement will be interpreted in accordance with the laws of the State of Arizona.

14.3 Survival. Except as specifically provided otherwise in this Agreement each warranty, representation, indemnification and hold harmless provision, insurance requirement, and every other right, remedy and responsibility of a Party, will survive completion of the Project, or the earlier termination of this Agreement.

14.4 Amendment. No amendment to this Agreement will be binding unless in writing and executed by the parties. Any amendment may be subject to City Council approval.

14.5 Remedies. All rights and remedies provided in this Agreement are cumulative and the exercise of any one or more right or remedy will not affect any other rights or remedies under this Agreement or applicable law.

14.6 Severability. If any provision of this Agreement is voided or found unenforceable, that determination will not affect the validity of the other provisions, and the voided or unenforceable provision will be reformed to conform to applicable law.

14.7 Counterparts. This Agreement may be executed in counterparts, and all counterparts will together comprise one instrument.

15. **Dispute Resolution.** Each claim, controversy and dispute ("Dispute") between Contractor and City will be resolved in accordance with Exhibit C. The final determination will be made by the City.

**16. Exhibits.** The following exhibits, with reference to the term in which they are first referenced, are incorporated by this reference.

- Exhibit A      Project
- Exhibit B      Compensation
- Exhibit C      Dispute Resolution

(The remainder of this page left blank intentionally. Signatures appear on the following page.)

The parties enter into this Agreement as of the date shown above.

City of Glendale,  
an Arizona municipal corporation

  
By: Horatio Skeete  
Its: Acting City Manager

ATTEST:

  
City Clerk (SEAL)

APPROVED AS TO FORM:

  
City Attorney

Yellow Jacket Drilling Services, LLC,  
an Arizona limited liability company

  
By: Richard LeBlanc  
Its: Operations Manager

WOMEN-OWNED/MINORITY BUSINESS [ ] YES [ ] NO

**EXHIBIT A  
CONSTRUCTION AGREEMENT**

PROJECT

*[See attached]*

**EXHIBIT A  
CONSTRUCTION AGREEMENT**

**PROJECT**

Construct three replacement methane gas extraction wells at the City of Glendale Municipal Landfill located at 11480 W. Glendale Avenue.

**GLENDALE LANDFILL  
SPECIFICATIONS FOR THREE NEW LFG EXTRACTION WELLS  
MARCH 2012**

**SECTION 02500**

**PART 1 - GENERAL**

1.01 REQUIREMENTS INCLUDED

This section sets forth the requirements for furnishing all materials and providing complete installation for three (3) vertical LFG extraction wells and appurtenances as shown on the Construction Drawings.

**PART 2 - EQUIPMENT**

2.01 PIPE AND FITTINGS

- A. The PVC pipe and fittings for the well completion shall be Schedule 80, and shall conform to all applicable requirements of these Specifications and Construction Drawings.
- B. LFG extraction well pipe perforations shall be as shown on the Construction Drawings. The pipe sizes shall be 2-inch and 3-inch Schedule 80 PVC. The bottom of the perforated pipe shall be capped.

2.02 BACKFILL MATERIALS

- A. The rock backfill around the perforated pipe shall consist of homogenous, clean (washed), non-corrosive, inert material, having the following gradation:

<u>SIEVE SIZE</u>	<u>TOTAL % PASSING</u>
1/2"	98.5%
3/8"	65.9%
5/16"	24.7%
1/4"	2.5%
Pan	1.0%

This 1/2" x 1/4" rock is available from Tacna Sand and Gravel, {Phone (928) 785-4584} or approved equal. A sample of this material must be submitted to the ENGINEER for approval 5 days before well installation is to begin. Material of an equal or smaller percentage of fines may be substituted.

- B. The backfill in the well bore above the bentonite seal shall be a cement-bentonite slurry (85% cement grout/15% bentonite powder).

- C. The bentonite material for the wells, as shown on the Construction Drawings shall be 100% bentonite (HOLEPLUG), 3/8-inch size-graded bentonite as produced by the Baroid Industrial Drilling Products or ENGINEER approved equal.

## 2.03 WELL I.D. TAGS

All extraction wells shall have an identification tag. The tag shall be aluminum and contain the well identification number, the total depth of the boring, the length of solid casing and the length of perforated casing.

## PART 3 - EXECUTION

### 3.01 GENERAL REQUIREMENTS

- A. The drilling subcontractor must have experience drilling on landfills and provide the COG with references upon request. The LFG extraction well bores shall be produced by an air rotary drill rig, or an approved equal method. The CONTRACTOR and subcontractor must be aware they will encounter landfill gas containing substantial quantities of methane, which when mixed with air, can reach explosive levels. The drilling subcontractor shall regulate the amount of water used in the drilling process to reduce the chance of fire. The CONTRACTOR and subcontractor will not be compensated for stopping and starting drilling due to these levels of methane.
- B. The CONTRACTOR is responsible for preparing and submitting a Site Health and Safety Plan to the COG for review prior to any work being performed. The Site Health and Safety Plan shall include methane monitoring in the breathing zone during drilling.
- C. The CONTRACTOR shall lay out the locations of LFG extraction wells in the field for the approval of the ENGINEER. LFG extraction well locations shall be within  $\pm 1'$  horizontally and vertically. The elevation of the existing ground surface will also be provided to the ENGINEER at each LFG extraction well location.
- D. The hole drilled for each well shall be a minimum of eight (8) inches in diameter. The depth of the wells shall be as shown on the Construction Drawings.
- E. The bore for the well shall be straight, and the well pipes shall be centered in the bore. The CONTRACTOR shall take all necessary precautions to maintain the well pipes vertically plumbed during backfilling of the bore. If the pipes are installed out of plumb, the CONTRACTOR shall correct the alignment at no cost to the COG.



- L. The completed well shall be extended above grade and temporarily capped until the lateral piping is installed. The cap shall not be glued.
- M. The CONTRACTOR shall connect the gas extraction well to the gas header pipe according to the Construction Drawings and shall include all pipe, valves, fittings, and meter runs.
- N. Excavated material from the borehole shall be the responsibility of the CONTRACTOR.
- O. The CONTRACTOR shall maintain As-Built drawings during the well boring and installation and record any deviations from the Drawings or Specifications such as boring depth and length of well casing perforations.

### 3.02 ACCESS TO EXTRACTION WELL LOCATIONS

- A. The CONTRACTOR, at his own expense, shall be responsible for providing access to all extraction well locations. CONTRACTOR shall consult the Owner regarding access restrictions. Extraction wells located on landfill slopes shall require the construction of an access road and pad for the drill rig. Access roads to extraction well locations shall be constructed by placing clean soil fill on the landfill slope, if required. The CONTRACTOR shall not cut into in-place cover material to create necessary access roads. Access roads shall be removed by the CONTRACTOR after installation of the extraction well.

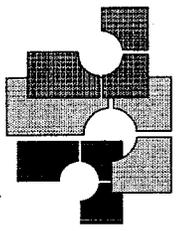
### 3.03 VERIFICATION OF WELL DEPTHS

- A. The CONTRACTOR shall provide survey data (coordinates and elevations) of the well locations prior to drilling. No drilling will be performed without prior authorization by the ENGINEER, and no well will be completed before the ENGINEER has measured the depth of the boring.

### 3.04 EQUIPMENT DECONTAMINATION

- A. If the CONTRACTOR intends for on-site decontamination of the drill rig and equipment, the CONTRACTOR shall first submit a plan to the ENGINEER for the ENGINEER's approval.

**END OF SECTION**



**GLENDALE**

# CITY OF GLENDALE GLENDALE, ARIZONA

2012 GLENDALE LANDFILL  
THREE NEW LFG WELLS  
&  
LATERAL CONNECTIONS

**MAYOR**

ELAINE M. SCRUGGS

**CITY COUNCIL**

NORMA ALVAREZ  
JOYCE V. CLARK  
STEVEN E. FRAITE  
YVONNE J. KNAACK  
H. PHILIP LIEBERMAN  
MANUEL D. MARTINEZ

**CITY MANAGER**

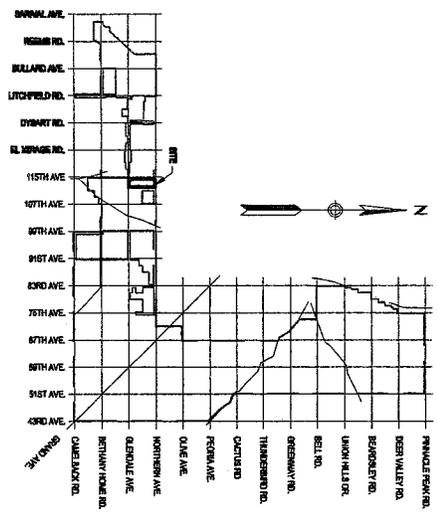
EDWARD BEASLEY

**CITY CLERK**

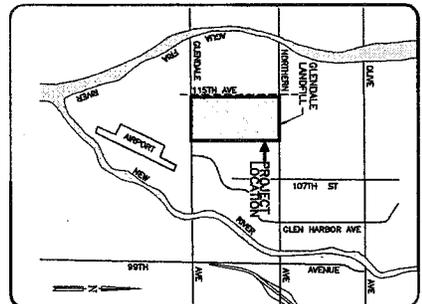
PAMELA HANNA

**CITY ATTORNEY**

CRAG TINDALL



VICINITY MAP



KEY MAP

SHEET NO.	TITLE	DESCRIPTION
1	SITE PLAN	
2	LATERAL PROFILES	
3	LATERAL PROFILES	
4	DETAILS	

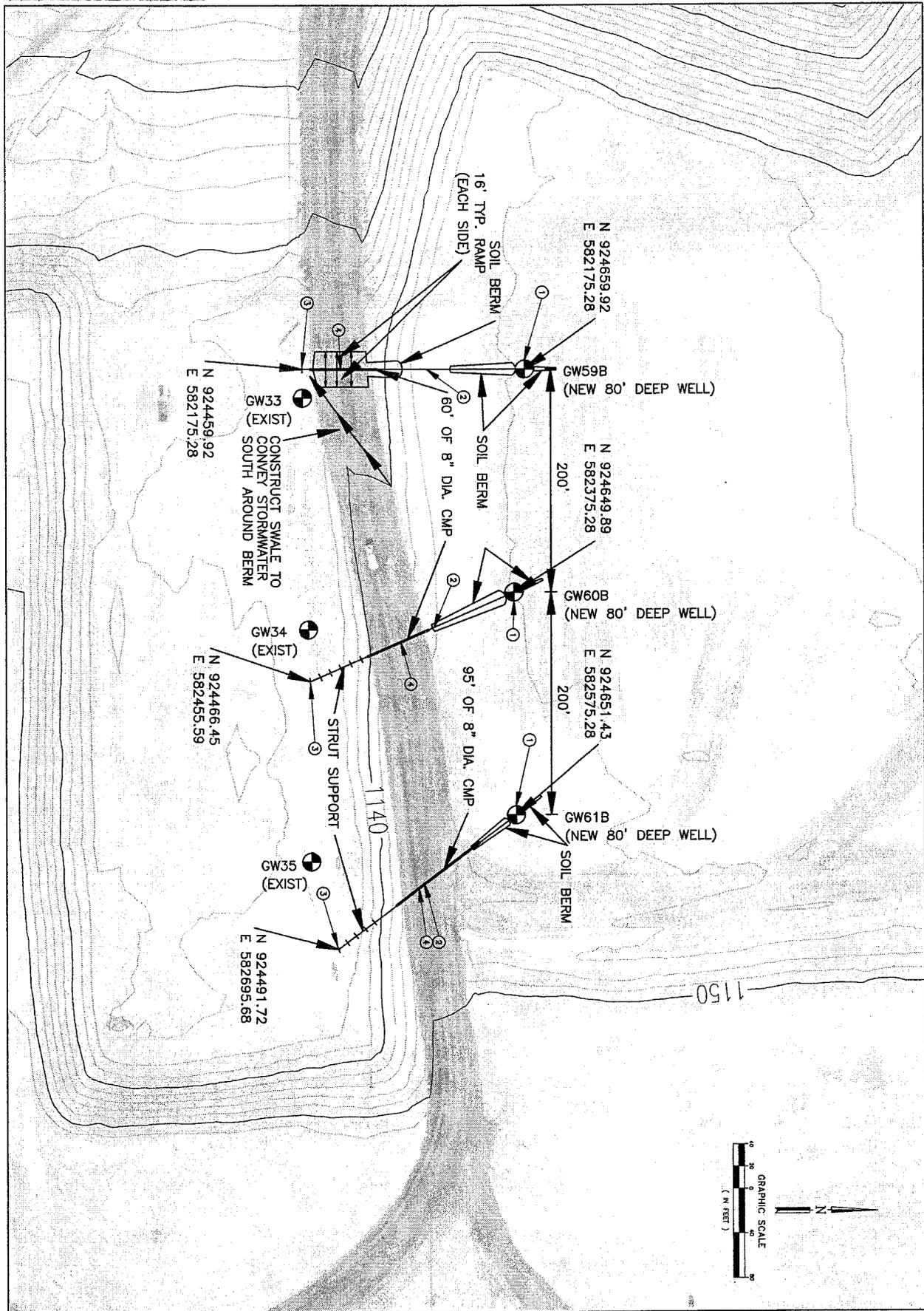
INDEX OF SHEETS

THREE NEW LFG WELLS & LATERAL CONNECTIONS  
LFGES MODIFICATIONS FOR GLENDALE LANDFILL

TITLE SHEET

263-1100

**CITY OF GLENDALE**  
ENGINEERING DEPARTMENT  
8880 W. GLENDALE AVE.  
GLENDALE, ARIZONA 85301 (602) 948-3889



CIVIL SHEET 2	THREE NEW LIFT WELLS & LATERAL CONNECTIONS LIFTS MODIFICATIONS FOR GLENDALE LANDFILL
NO. 2 OF 4	SITE PLAN
REV. NO. 0	CITY PROJECT NO. _____ DATE: JANUARY 2012

**GLENDALE**

CITY OF GLENDALE, ARIZONA  
PUBLIC WORKS/ENGINEERING

5550 W. GLENDALE AVENUE  
GLENDALE, ARIZONA 85301  
(623) 930-3630

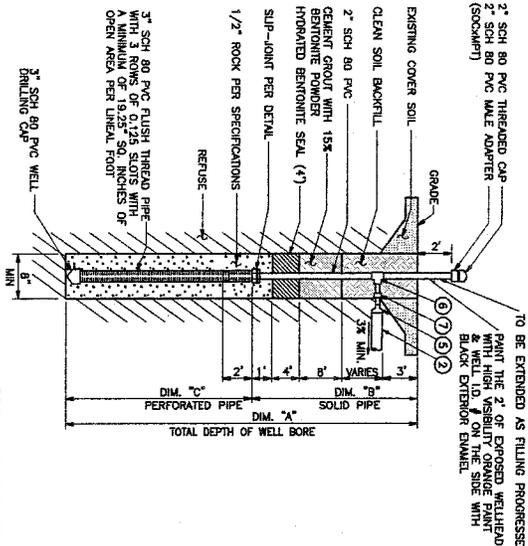
PROJECT NO. \_\_\_\_\_  
FILE NAME: \_\_\_\_\_  
PLOT DATE: 01-2012  
DRAWN BY: R.T.L.  
DESIGNED BY: R.T.L.  
CHECKED BY: K.A.J.

**TETRA TECH BAS**

TETRA TECH BAS, INC.  
CIVIL AND ENVIRONMENTAL ENGINEERS  
302 EAST WASHINGTON DRIVE, SUITE 2  
PHOENIX, ARIZONA 85004  
(602) 967-0338

REVISIONS TO DRAWINGS				
NO.	DESCRIPTION	REV. BY	CHK. BY	DATE



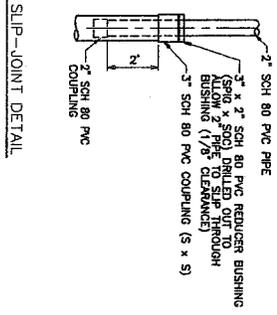


VERTICAL GAS EXTRACTION WELL DETAIL  
NITS

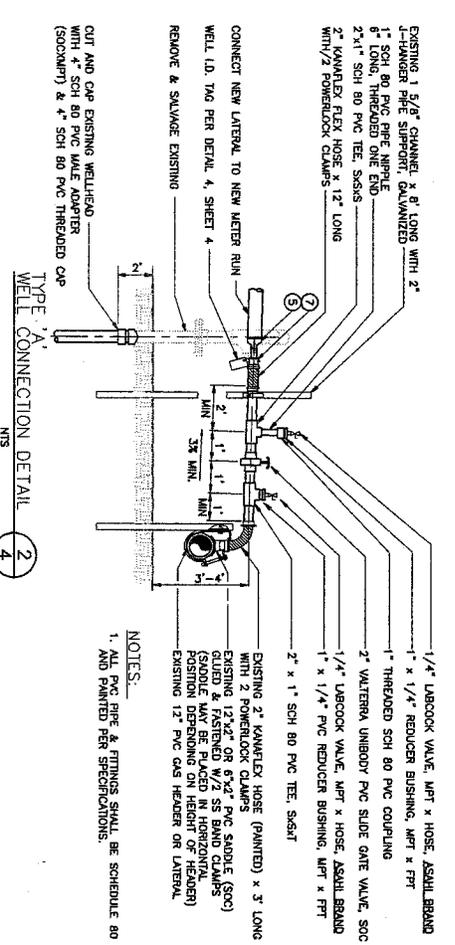
WELL DRILLING TABLE

WELL NUMBER	COORDINATES	DEPTH	SOLID	PERF.	GRADE
0199	SEE SHEET 2	80	21	59	1144
0200	SEE SHEET 2	80	21	59	1144
0201	SEE SHEET 2	80	21	59	1144
0202	SEE SHEET 2	80	21	59	1144
0203	SEE SHEET 2	80	21	59	1144
0204	SEE SHEET 2	80	21	59	1144
0205	SEE SHEET 2	80	21	59	1144
0206	SEE SHEET 2	80	21	59	1144
0207	SEE SHEET 2	80	21	59	1144
0208	SEE SHEET 2	80	21	59	1144
0209	SEE SHEET 2	80	21	59	1144
0210	SEE SHEET 2	80	21	59	1144
0211	SEE SHEET 2	80	21	59	1144
0212	SEE SHEET 2	80	21	59	1144
0213	SEE SHEET 2	80	21	59	1144
0214	SEE SHEET 2	80	21	59	1144
0215	SEE SHEET 2	80	21	59	1144
0216	SEE SHEET 2	80	21	59	1144
0217	SEE SHEET 2	80	21	59	1144
0218	SEE SHEET 2	80	21	59	1144
0219	SEE SHEET 2	80	21	59	1144
0220	SEE SHEET 2	80	21	59	1144
0221	SEE SHEET 2	80	21	59	1144
0222	SEE SHEET 2	80	21	59	1144
0223	SEE SHEET 2	80	21	59	1144
0224	SEE SHEET 2	80	21	59	1144
0225	SEE SHEET 2	80	21	59	1144
0226	SEE SHEET 2	80	21	59	1144
0227	SEE SHEET 2	80	21	59	1144
0228	SEE SHEET 2	80	21	59	1144
0229	SEE SHEET 2	80	21	59	1144
0230	SEE SHEET 2	80	21	59	1144
0231	SEE SHEET 2	80	21	59	1144
0232	SEE SHEET 2	80	21	59	1144
0233	SEE SHEET 2	80	21	59	1144
0234	SEE SHEET 2	80	21	59	1144
0235	SEE SHEET 2	80	21	59	1144
0236	SEE SHEET 2	80	21	59	1144
0237	SEE SHEET 2	80	21	59	1144
0238	SEE SHEET 2	80	21	59	1144
0239	SEE SHEET 2	80	21	59	1144
0240	SEE SHEET 2	80	21	59	1144

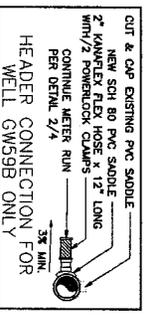
TOTAL DRILLING=240 FT



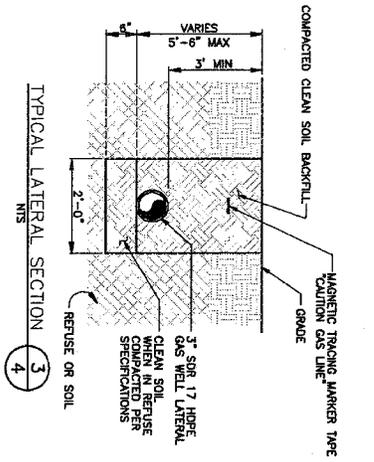
SLIP-JOINT DETAIL  
NITS



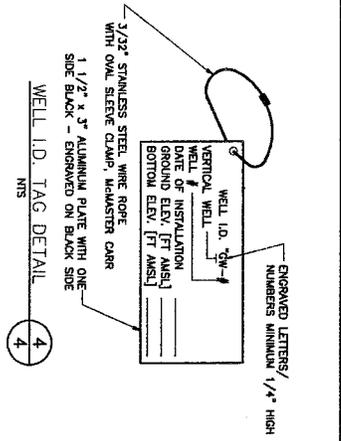
WELL CONNECTION DETAIL  
NITS



CUT & CAP EXISTING PVC SADDLE  
NITS



TYPICAL LATERAL SECTION  
NITS



WELL I.D. TAG DETAIL  
NITS

CONSTRUCTION NOTES (NEW CONSTRUCTION):

- INSTALL VERTICAL GAS EXTRACTION WELL PER DETAIL 1, SHEET 4
- INSTALL 3" SCH 17 HDBE WELL LATERAL IN TRENCH PER DETAIL 3, SHEET 4
- CONNECT WELL LATERAL(S) AND WELLS(S) TO EXISTING WYPALEX INLET PER DETAIL 2, SHEET 4
- REPAIR ASHLEY WALKING ACCESS ROAD TO ORIGINAL CONDITION AFTER TRENCHING
- INSTALL 3" x 2" HOPE REDUCER
- INSTALL 2" SCH 80 PVC TE
- INSTALL 2" SCH 80 PVC TE TO PVC TRANSITION FITTING

**EXHIBIT B  
CONSTRUCTION AGREEMENT**

**COMPENSATION**

**METHOD AND AMOUNT OF COMPENSATION**

By bid, including all services, materials and cost.

**NOT-TO-EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project during the entire term of the Project must not exceed \$23,000.00.

**DETAILED PROJECT COMPENSATION**

Per bid schedule, amount awarded as follows:

Base bid	\$23,000.00
----------	-------------



**YELLOW JACKET**  
DRILLING SERVICES

April 9, 2012

YJD Proposal #(A)JT12-1454

Mr. Ernie Ruiz – Landfill Supervisor  
City of Glendale  
6210 W. Myrtle, Suite 111  
Glendale, AZ 85301

Subject: Landfill Gas Wells (Drilling Costs)

Dear Sirs:

The following is in response to City of Glendale ('Client') request for bids for the above referenced project (no addendums).

The provided pricing is for drilling and constructing three (3) landfill gas wells as outlined in well detail 1-4 only. Pricing does not include costs for header or connection of well.

We at Yellow Jacket Drilling Services, LLC appreciate the opportunity to provide this proposal. If you have any questions or require any additional information, please do not hesitate to contact us at (888) 495.3745. We look forward to hearing from you soon.

Sincerely,  
Yellow Jacket Drilling Services

*John Truax*

John Truax

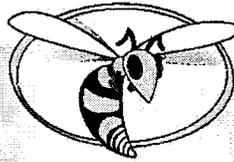
4/9/12

YJB Proposal #(A)JT12-1454

**CITY OF GLENDALE FIELD OPERATIONS DEPARTMENT  
GLENDALE LANDFILL - THREE NEW VERTICAL LANDFILL GAS EXTRACTION WELLS  
WELL DRILLING & COMPLETION BID SHEET**

PAY ITEM	DESCRIPTION	UNITS	UNIT PRICE	APPROX. QTY.	AMOUNT
1	Equipment mobilization/demobilization	EA	1,400.	1	1,400.
2	Well Drilling, 3 - 8" diameter bore holes per detail 1/4	LF	66.	240	15,840.
3	Installation of landfill gas well per detail 2/4 completed with 2" pvc slip-on cap	LF	24.	240	5,760.
4	Transfer of cuttings to active face of landfill	LS	Included	1	Included
5	Traffic control	LS	Included	1	Included
6	Dust control	LS	Included	1	Included
	Note: Subsurface conditions may require the relocation and/or field fitting of some system components. Water will be available at no cost to the contractor.				
				Total	23,000.
<b>Bids Due April 9, 2012</b>					
Return bids to: Ernie Ruiz at 6210 W. Myrtle, Suite 111 Glendale, AZ 85301 or E-mail: eruiz@glendaleaz.com					
		Date: March 27, 2012			

## STATEMENT OF QUALIFICATION



Yellow Jacket Drilling  
4YJDRIL (1-888-495-3745)  
yjdrilling.com

## YELLOW JACKET DRILLING SERVICES

Yellow Jacket Drilling (YJD) has built its reputation throughout the Southwest as being a premier provider of high quality, safe and cost effective drilling services. YJD's corporate office is located in Phoenix, Arizona; projects that we service across the Southwestern States are supported from facilities located in the States of Arizona, California, and Nevada.

As a qualified small business enterprise; we able to offer several innovative techniques and solutions for your drilling needs, many of which were previously only available from our large business competitors.

YJD specializes in but is not limited to providing drilling services for the environmental, geotechnical, mining, water supply, and energy market sectors. Some of our available drilling methods include, hollow stem auger, air rotary, mud rotary, dual tube, air rotary casing hammer (ARCH), air rotary with casing advancement (tubex/stratex), flooded reverse, conventional and wireline coring.

Our diverse fleet of equipment includes multiple hollow stem auger and rotary drill rigs. With our fleet we have the capability to do everything from drilling in excess of 200' with hollow stem auger; to drilling depths beyond 2,000' using rotary techniques. Some of our specialized rigs allow us the ability to drill in difficult access settings such as under a service station canopy, in a building, on a barge, on a remote hillside. Our fleet is maintained through a preventative maintenance program that enables us to operate at peak performance at all times.

Safety is our number one priority and all YJD employees maintain numerous industry certifications including; 40-hour OSHA, MSHA, Smith Defensive Driving, as well as certification and participation in multiple safety programs such as API and LPS. Annual refreshers and medical monitoring are mandatory, as well as daily tailgate and all hands monthly safety meetings. We believe that our EMR rating over the last few years is reflective of our efforts (2007 - .71, 2008 - .72, 2009 - .74).

YJD is committed to maintaining the highest quality workmanship, reliability, professionalism, and efficiency in the industry. Our personnel is extremely knowledgeable and have years of experience. We understand our clients' needs, and want every customer to be completely satisfied with our work. Each and every employee at YJD is willing to go the extra step to ensure we meet that goal. With such a dedicated group, you can be certain we will get the job done properly, safely, cost-effectively, and on time.

**AN  
ATTITUDE  
OF  
EXCELLENCE**

It plays a role in everything we do - whether it concerns safety, our customers, equipment, or drill methods.

**WE NEVER  
PROMISE  
MORE THAN  
WE CAN  
DELIVER**

By placing a strong emphasis on safety, maintenance, high quality equipment, and proper scheduling practices, we maximum efficiency and flexibility to meet your ever-changing project needs.

**WE VALUE  
LASTING  
PARTNERSHIPS  
WITH OUR  
CUSTOMERS**

Maintaining an honest dialogue and keeping close personal contact with all involved is our way of ensuring your needs will be met. You benefit from high performance, a hassle-free job, and above standard results.

**OUR GOAL  
IS YOUR  
COMPLETE  
SATISFACTION**

Yellow Jacket Drilling has become known throughout the Southwest for providing high quality, safe, and cost effective drilling services.

**YELLOW  
JACKET  
DRILLING  
SERVICES**

As one of the most respected names in the industry, Yellow Jacket Drilling stands to become one of your most relied on service providers.

If you require additional information, or would like to discuss an upcoming project; please contact us through our corporate office.

**Yellow Jacket Drilling Services, LLC** • 3922 E. University Drive, Suite #1, Phoenix, AZ 85034  
1-888.4YJDRIL (1-888-495-3745) • Phone: 602-453-3252 • Fax: 602-453-3258 • Visit us on the web @ [www.yjdrilling.com](http://www.yjdrilling.com)



# **YELLOW JACKET**

**DRILLING SERVICES**

## List of Landfill Project References

### Air Rotary Casing Hammer / Hollow Stem Auger

Client: Brown & Caldwell      Contact: Barbara Sylvester      Phone# 602-567-4000  
Address: 201 E Washington St, Ste 201, Phoenix, Arizona 85004  
Email Address: [bsylvester@brwncald.com](mailto:bsylvester@brwncald.com)  
Job Description: Drill & install 1 – 5” monitoring well to a depth of 395 feet bgs. at Waste Management – NW Regional Landfill, Surprise, Arizona.  
Period of Performance: May 2008  
Contract Amount: \$59,000

Client: Brown & Caldwell      Contact: Barbara Sylvester      Phone# 602-567-4000  
Address: 201 E Washington St, Ste 201, Phoenix, Arizona 85004  
Email Address: [bsylvester@brwncald.com](mailto:bsylvester@brwncald.com)  
Job Description: Drill & install 4 – monitoring wells & landfill gas probes up to a depth of 240 feet bgs. at Waste Management – Ironwood Landfill, Florence, Arizona.  
Period of Performance: May 2008  
Contract Amount: \$46,000

Client: Bryan A. Stirrat & Associates      Contact: Todd Livermore      Phone# 602-267-0336  
Address: 3822 E University Dr., Suite 2, Phoenix, Arizona 85034  
Email Address: [tlivermore@bas.com](mailto:tlivermore@bas.com)  
Job Description: Drill & install 1 – 6” monitoring wells to a depth of approximately 800 feet bgs at the Cave Creek Landfill, Phoenix, Arizona.  
Period of Performance: September 2008  
Contract Amount: \$75,000

Client: Brown & Caldwell      Contact: Barbara Sylvester      Phone# 602-567-4000  
Address: 201 E Washington St, Ste 201, Phoenix, Arizona 85004  
Email Address: [bsylvester@brwncald.com](mailto:bsylvester@brwncald.com)  
Job Description: Drill & install 2 – landfill gas probes up to a depth of 80 feet bgs. at Waste Management – Butterfield Landfill, Mobile, Arizona.  
Period of Performance: November 2008  
Contract Amount: \$11,000

Client: Civil & Environmental Consultants Contact: Steve Sagstad Phone# 602-760-2324  
Address: 11811 N. Tatum Blvd., Suite 3057, Phoenix, Arizona 85028  
Email Address: [ssagstad@cecinc.com](mailto:ssagstad@cecinc.com)  
Job Description: Drill & install 1 – 8” industrial well up to a depth of 450 feet bgs. at Allied  
Waste – Chandler Regional Landfill, Chandler, Arizona.  
Period of Performance: August 2009  
Contract Amount: \$42,000

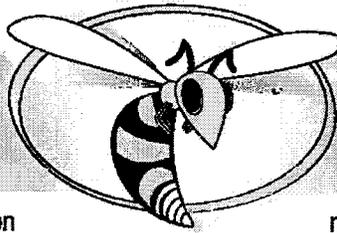
Client: Brown & Caldwell Contact: Barbara Sylvester Phone# 602-567-4000  
Address: 201 E Washington St, Ste 201, Phoenix, Arizona 85004  
Email Address: [bsylvester@brwncald.com](mailto:bsylvester@brwncald.com)  
Job Description: Drill & install 3 – 5” monitoring wells & landfill gas probes up to a depth of  
500 feet bgs. at Waste Management – Butterfield Landfill, Mobile, Arizona.  
Period of Performance: October 2009  
Contract Amount: \$66,000

Client: Civil & Environmental Consultants Contact: Steve Sagstad Phone# 602-760-2324  
Address: 11811 N. Tatum Blvd., Suite 3057, Phoenix, Arizona 85028  
Email Address: [ssagstad@cecinc.com](mailto:ssagstad@cecinc.com)  
Job Description: Drill & install 1 – 5” monitoring well up to a depth of 500 feet bgs. at Allied  
Waste – Southwest Regional Landfill, Buckeye, Arizona.  
Period of Performance: December 2009  
Contract Amount: \$62,000

Client: Bryan A. Stirrat & Associates Contact: Todd Livermore Phone# 602-267-0336  
Address: 3822 E University Dr., Suite 2, Phoenix, Arizona 85034  
Email Address: [tlivermore@bas.com](mailto:tlivermore@bas.com)  
Job Description: Drill & install 2 – 2” x 3” landfill gas probes to a depth of approximately 80  
feet bgs at the City of Glendale Landfill, Glendale, Arizona.  
Period of Performance: December 2009  
Contract Amount: \$12,000

Client: Bryan A. Stirrat & Associates Contact: Todd Livermore Phone# 602-267-0336  
Address: 3822 E University Dr., Suite 2, Phoenix, Arizona 85034  
Email Address: [tlivermore@bas.com](mailto:tlivermore@bas.com)  
Job Description: Drill & install 2 – 6” monitoring wells to a depth of approximately 329 feet  
bgs at the City of Eloy Landfill, Eloy, Arizona.  
Period of Performance: June 2010  
Contract Amount: \$82,000

# speedstar 50K



## Yellow Jacket Drilling

888-4YDRILL (1-888-495-3745)

[ydrilling.com](http://ydrilling.com)

The Speedstar 50K CH air/mud rotary combination rig is one of the most technologically advanced rigs available to the drilling industry. These drill rigs are unique in that they possess the capability to safely adapt onsite and perform a wide range of drilling tasks with minimal reconfiguration including air rotary casing hammer, STRATEX/ODEX under-reaming, direct air rotary, mud rotary, dual tube reverse circulation, 94 mm wireline coring, and down-hole hammer.

Simultaneously, the rigs retain a relatively compact size allowing for excellent location accessibility, quick operational setup, rig movement and injection pumps which decrease site footprint and site to site move time by eliminating the need for auxiliary and external air/mud circulation equipment.

## rigspecs

### Mast and Crown Block

Constructed of square steel tubing and structural steel electrically welded. Equipped with cable sheaves and guide tracks for tophead rotary, which allows tophead to retract off centerline of hole. Allows 38-ft. working space above breakout table. Rated working capacity 80,000 lbs.

### Pulldown/Holdback

The pulldown holdback system powers the tophead rotary in either the pulldown mode or the holdback mode through the use of heavy-duty cables and a 6-1/2 - in. hydraulic cylinder. Pulldown mode provides 25,000 lb. Holdback mode provides 50,000 lb.

### Winch on Mast

Hydrostatically driven winch mounted on the mast for the purposes of tripping and pipe handling through the jib boom. Rated working capacity 50,000 lb.

### Air Compressor

Sullair two-stage twin-screw rotary compressor 1000 CFM and maximum pressure up to 350 PSI. Unit is driven from power gear transfer through multi-disc air clutch and standard universal joint drive shaft. Equipped with automatic low oil/high temperature shutdown system.

### Mud Pump

Mission Magnum 4x3 centrifugal pump with 13 in. impeller is hydrostatically driven and speed is infinitely controlled. Pump is capable of producing 320 GPM.

### Tophead Rotary

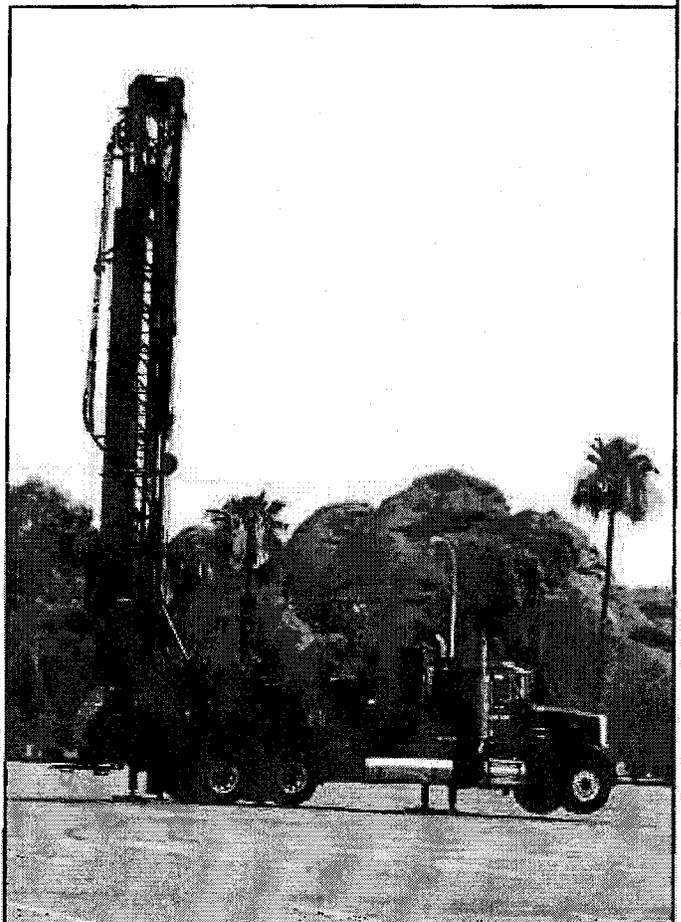
Hydrostatically powered tophead rotary with an infinitely controlled rotation speed of 0 to 120 RPM and a maximum torque of 70,000 in.-lbs. Air/fluid course is 2-1/2 in. dia.

### Truck

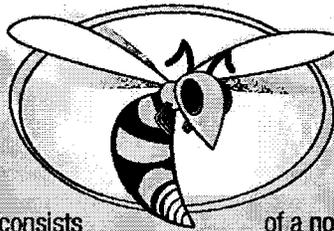
Peterbilt Model 357 (6x4) equipped with a Caterpillar diesel engine rated at 550 horsepower @ 1800 RPM. 22,000 lb. rated front axle and a tandem rear axle with a 46,000-lb. rating, allows the head to travel 29-ft. up and down the mast.

### Casing Hammer Package

Atlas model R-5000 casing driver for 6" to 24" casing, 100% hydraulically operated. The driver weighs 4750 pounds and develops up to 7850 energy ft - lbs. of driving force. Two individual rails are welded to the mast allowing the rectangular guided casing driver to be independently raised and lowered below the tophead drive unit. A hydraulic cylinder equipped with a control valve in the "float" position enables the driver to follow the casing during the driving phase. 6" flex coupling from casing hammer to cyclone hose installed with safety cables.



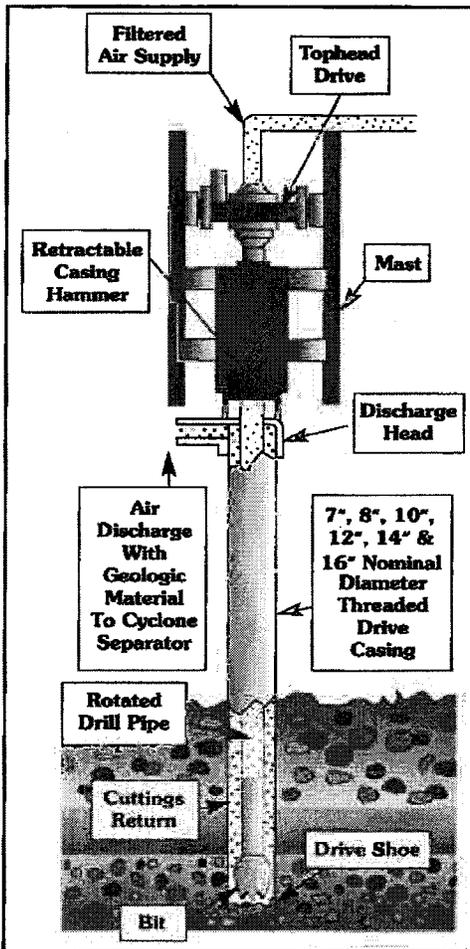
# Air Rotary Casing Hammer



**Yellow Jacket Drilling**  
 208-4YDRILL (1-888-495-3745)  
 yjdrilling.com

The Air Rotary Casing Hammer System (ARCH) consists of a non-rotating-threaded casing driven in conjunction with a conventional air rotary drill string. Cuttings are cleared from the hole by the bit rotation and air circulation. The material is discharged through a hose into a cyclone, which separates the air from the wall flush-threaded pipe. Six diameters are available to accommodate different well diameters and depth requirements. The casing is driven with a hydraulic drill-through casing hammer, which is rated up to 7850-foot pounds of energy.

Upon completion of drilling, the drill rod and bit are extracted from the center of the drive casing to allow the installation of permanent well construction materials. A hydraulic casing puller rated up to 250 tons extracts the drive casing. After the well casing is placed, the sand, bentonite pellets, and cement are installed in the annulus as the drive casing is pulled.



## Primary Benefits

Eliminates the need to set cemented-in conductor casing in upper aquifers in order to drill into lower aquifers.

The flush-threaded drive casing seals off formations in the borehole as drilling progresses, eliminating the potential for cross contamination of the aquifers.

Eliminates the need for drilling fluids.

The casing can be driven to a specified depth allowing continued borehole advancement with direct air/mud rotary methods.

Depth discreet water, vapor, and soil samples can be taken at selected intervals.

Drill cuttings discharged from the cyclone provide representative stratigraphy while drilling progresses.

Drills through most geologic formations and is superior over other methods in conglomerate.

Provides a clean borehole for well construction. This eliminates problems during well installation.

The completed well does not have any drilling mud to develop; thus the well develops quicker and is more efficient.

The method has been approved and utilized for several years on projects for the Environmental Protection Agency, California Department of Environmental Quality, Regional Water Quality Boards, Department of Energy, Department of Defense and private clients throughout the Western States.

*Sample specifications and references are available upon request.*

## General Information

Nominal Casing Diameter	Well Diameter	Nominal Depth Capacity
7"	2"	600'
8"	4"	500'
10"	5"	400'
12"	6"	350'
14"	8"	280'
16"	10"	200'

Telescoped Casing Diameter	Telescoped Depth Capacity
10" x 7"	1000'
10" x 8"	900'
12" x 10"	750'
16" x 12"	550'
16" x 14"	450'

*The actual depth capacity may vary*

**EXHIBIT C  
CONSTRUCTION AGREEMENT**

**DISPUTE RESOLUTION**

**1. Disputes.**

- 1.1 Commitment. The parties commit to resolving all disputes promptly, equitably, and in a good-faith, cost-effective manner.
- 1.2 Application. The provisions of this Exhibit will be used by the parties to resolve all controversies, claims, or disputes ("Dispute") arising out of or related to this Agreement-including Disputes regarding any alleged breaches of this Agreement.
- 1.3 Initiation. A party may initiate a Dispute by delivery of written notice of the Dispute, including the specifics of the Dispute, to the Representative of the other party as required in this Agreement.
- 1.4 Informal Resolution. When a Dispute notice is given, the parties will designate a member of their senior management who will be authorized to expeditiously resolve the Dispute.
  - a. The parties will provide each other with reasonable access during normal business hours to any and all non-privileged records, information and data pertaining to any Dispute in order to assist in resolving the Dispute as expeditiously and cost effectively as possible;
  - b. The parties' senior managers will meet within 10 business days to discuss and attempt to resolve the Dispute promptly, equitably, and in a good faith manner, and
  - c. The Senior Managers will agree to subsequent meetings if both parties agree that further meetings are necessary to reach a resolution of the Dispute.

**2. Arbitration.**

- 2.1 Rules. If the parties are unable to resolve the Dispute by negotiation within 30 days from the Dispute notice, and unless otherwise informal discussions are extended by the mutual agreement, the Dispute will be decided by binding arbitration in accordance with Construction Industry Rules of the AAA, as amended herein. Although the arbitration will be conducted in accordance with AAA Rules, it will not be administered by the AAA, but will be heard independently.
  - a. The parties will exercise best efforts to select an arbitrator within 5 business days after agreement for arbitration. If the parties have not agreed upon an arbitrator within this period, the parties will submit the selection of the arbitrator to one of the principals of the mediation firm of Scott & Skelly, LLC, who will then select the arbitrator. The parties will equally share the fees and costs incurred in the selection of the arbitrator.
  - b. The arbitrator selected must be an attorney with at least 15 years experience with commercial construction legal matters in Maricopa County, Arizona, be independent, impartial, and not have engaged in any business for or adverse to either Party for at least 10 years.
- 2.2 Discovery. The extent and the time set for discovery will be as determined by the arbitrator. Each Party must, however, within ten days of selection of an arbitrator deliver to the other Party copies of all documents in the delivering party's possession that are relevant to the dispute.
- 2.3 Hearing. The arbitration hearing will be held within 90 days of the appointment of the arbitrator. The arbitration hearing, all proceedings, and all discovery will be conducted in Glendale, Arizona unless otherwise agreed by the parties or required as a result of witness location. Telephonic hearings and other reasonable arrangements may be used to minimize costs.
- 2.4 Award. At the arbitration hearing, each Party will submit its position to the arbitrator, evidence to support that position, and the exact award sought in this matter with specificity. The arbitrator must select the award sought by one of the parties as the final judgment and may not independently

alter or modify the awards sought by the parties, fashion any remedy, or make any equitable order. The arbitrator has no authority to consider or award punitive damages.

- 2.5 Final Decision. The Arbitrator's decision should be rendered within 15 days after the arbitration hearing is concluded. This decision will be final and binding on the Parties.
- 2.6 Costs. The prevailing party may enter the arbitration in any court having jurisdiction in order to convert it to a judgment. The non-prevailing party shall pay all of the prevailing party's arbitration costs and expenses, including reasonable attorney's fees and costs.

3. **Services to Continue Pending Dispute.** Unless otherwise agreed to in writing, Contractor must continue to perform and maintain progress of required services during any Dispute resolution or arbitration proceedings, and City will continue to make payment to Contractor in accordance with this Agreement.

4. **Exceptions.**

- 4.1 Third Party Claims. City and Contractor are not required to arbitrate any third-party claim, cross-claim, counter claim, or other claim or defense of a third party who is not obligated by contract to arbitrate disputes with City and Contractor.
- 4.2 Liens. City or Contractor may commence and prosecute a civil action to contest a lien or stop notice, or enforce any lien or stop notice, but only to the extent the lien or stop notice the Party seeks to enforce is enforceable under Arizona Law, including, without limitation, an action under A.R.S. § 33-420, without the necessity of initiating or exhausting the procedures of this Exhibit.
- 4.3 Governmental Actions. This Exhibit does not apply to, and must not be construed to require arbitration of, any claims, actions or other process filed or issued by City of Glendale Building Safety Department or any other agency of City acting in its governmental permitting or other regulatory capacity.