

**AGREEMENT FOR
PROFESSIONAL ENGINEERING
SERVICES BETWEEN
THE CITY OF LARAMIE, WYOMING
AND
ENGINEERING ASSOCIATES**

1. **Parties.** This Agreement is made and entered into this 17th day of December 2019, by and between the City of Laramie, Wyoming, a municipal corporation (hereinafter referred to as "City") whose address is 406 Ivinson Street, Laramie, Wyoming 82070 and Engineering Associates, (hereinafter referred to as "Consultant") whose address is 605 Plaza Court, Laramie, WY, 82070.

2. **Purpose of Contract.** The Consultant shall provide professional engineering and other services to perform all operations described in the scope of work and supporting documents necessary to complete the design and bidding, services for the Wellhead Building Upgrade Project.

3. **Term of Contract and Required Approvals.** This Contract is effective when all parties have executed it and all required approvals have been granted. The term of the Contract is from the date of execution through the completion of the work as described in Attachment A, unless otherwise terminated or extended as outlined herein.

4. **Payment.**

A. **Contract Sum.**

(i). City agrees to pay the Consultant for the services described herein and in Attachments A. **The Consultant shall provide services in Attachment A and, for the total projected fee not to exceed the amount of Seventy Three Thousand, Six Hundred Forty Dollars and no cents (\$73,640.00).** Budgets listed in Attachment A for the identified tasks are not transferrable without prior authorization. No payment shall be made for work performed prior to the date upon which the last required signature is affixed to this Contract or the date of the Consultant's receipt of a Notice to Proceed, whichever occurs later.

(ii). Reimbursable expenses, including transportation and copying will be included in the remuneration of services listed in Attachment A, which is attached hereto and incorporated herein and shall be included as a reimbursable expense item in the not to exceed amount of this contract.

(iii). Payments under this Contract shall not be based upon a percentage of the construction cost, in accordance with the prohibition at Wyo. Stat. §9-2-1032(e).

(iv). The Consultant may submit monthly invoices for payment based on the work completed as outlined in Attachment A. Monthly invoices for services

associated with Additional Services shall have written authorization from the City before proceeding with any additional services. Payments shall be made pursuant to Wyo. Stat. §16-6-602. Payments made beyond forty-five (45) days after invoice will include interest at the legal rate for the State of Wyoming for such period beyond thirty (30) days. Any fees for services must be performed prior to the submission of the invoice. No advance payment for services may be requested.

(v). Records of personnel, consultants, extra and reimbursable expenses pertaining to the Project shall be kept on a generally recognized accounting basis, acceptable to City, and shall be available to City or authorized representatives of City upon request by City.

B. Progress Payments for the Consultant's services, as described in Attachment A shall be for time expended on projects by Consultant and of consultant's sub consultant firms.

5. Responsibilities of Consultant.

A. General Services.

(i). The Consultant's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the project. The Consultant shall comply with the schedule for the performance of all services as outlined in Attachment A, which is attached hereto and incorporated herein to this Contract and which shall be adjusted, if necessary, as the project proceeds. The schedule shall be in the form of a progress chart so as to indicate by percentage the work completed at any time. The Consultant shall update the progress schedule as requested by City. This schedule shall include allowances for periods of time required for City's review, and for approval of submissions by authorities having jurisdiction over each project. Time limits established by this schedule approved by City shall not, except for reasonable cause, be exceeded by the Consultant.

(ii). The Consultant may have a direct contract with a person or entity to perform a portion of services required by this Contract. Such subcontract to other consultants is at the Consultant's expense, and those expenses will be reimbursable through payment requests as detailed above to the extent it deems necessary to complete the design and bidding services for the Wellhead Building Upgrade Project in Attachment A and for the public meetings, project reports, and recommendations, including mechanical, electrical, structural and civil engineers licensed as such by the State of Wyoming and any other consultant necessary for the development of the project. The Consultant agrees that it is fully responsible to City for negligence, negligent acts and omissions of its subconsultant and their agents, and or persons either directly or indirectly employed by them, as it is for the negligence, negligent acts or omissions of person is directly employed by it. Nothing in the foregoing procedure shall create any contractual relation between City and any consultants employed by the Consultant under the terms of this Contract. By written agreement, the Consultant shall require each subconsultant, to the extent of the services to be performed by

subconsultant, to be bound to the Consultant by the terms of this Contract, and to assume toward the Consultant all obligations and responsibilities which the Consultant, by this Contract, assumes toward City.

(iii). The Consultant shall consult, to the extent required by City, with authorized employees, agents and/or representatives of City relative to the Wellhead Building Upgrade Project and completion of the project in Attachment A.

(iv). The Consultant shall designate a principal or staff member of Consultant's staff satisfactory to City as the Project representative who shall, so long as their performance continues to be acceptable to City remain in charge of the engineering services for the project in Attachment A from City Council approval through completion of the work.

(v). The Consultant shall assist City in fulfilling requirements and contingencies set forth or required by appropriate authorities and agencies whose interest bears on the professional engineering and other services to perform all operations necessary to complete the design and bidding, services for the Wellhead Building Upgrade Project as outlined in Attachment A. Appropriate authorities and agencies shall mean any private, local, municipal, county, state, region or federal authority or agency with which each of the projects may be involved. This term is intended to include those agencies and authorities, which may require information or the filing of plans, specifications, or other documentation or verifications in connection with the project in Attachment A on either a voluntary or non-voluntary basis.

(vi). The Consultant shall provide copies of all documents required by City for review and approval by City and the appropriate authorities and agencies. Expenses incurred in reproduction will be reimbursed per the reimbursement schedule in Attachment A.

(vii). The Consultant shall provide professional engineering and other services to complete the Wellhead Building Upgrade Project as outlined in Attachment A; services will include professional engineering and other services to complete design and bidding services.

(viii). Extra Services of Consultant. When authorized in advance by means of a written City change authorization, pursuant to the amendment provision of this Contract contained in Paragraph 8(A), shall be paid for by City, as provided Paragraph 4 (B), for each project in Attachment A. If, in the opinion of City, the scope of the extra services significantly changes the terms of this Contract, City has the right to publicly advertise and negotiate for those services without terminating this Contract.

6. Responsibilities of City.

A. Unless otherwise provided in this Contract, City shall provide full information in a timely manner regarding requirements for and limitations on each project

in Attachment A.

B. City's Project representative as identified in Paragraph 8 (Q) shall be authorized to act on the behalf of City with respect to each of the projects in Attachment A. City and/or his designee shall render decisions in a timely manner pertaining to documents submitted by the Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.

C. City shall notify the Consultant upon awareness of any deficiencies or defects in the design during the preliminary engineering design phase.

D. Nothing in this Contract nor any act or failure to act on the part of City shall be construed as a waiver of a claim by City for any defects or deficiencies in the design and bidding services of the project required of the Consultant.

7. Special Provisions.

A. Limitation of Payments. City's obligation to pay the Consultant for services rendered pursuant to this Contract is conditioned upon the availability of City's funds which are allocated to pay the Consultant. If funds are not allocated and available to pay the Consultant for these services, City may terminate this Contract at the end of the period for which the funds are available.

City shall notify the Consultant at the earliest possible time if this agreement will or may be affected by a shortage of funds. No liability shall accrue to City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed so as to permit City to terminate this Contract in order to acquire similar services from another party. The Consultant shall be paid for any allowable services provided and expenses incurred prior to receipt of any such notification that City was terminating the Contract because of a shortage of funds.

B. Assumption of Risk. Consultant shall assume the risk of any loss of State or Federal funding, either administrative or program dollars, due to Consultant's failure to comply with State or Federal requirements. City shall notify Consultant of any State or Federal determination of noncompliance.

C. Monitor Activities. City shall have the right to monitor all Contract related activities of the Consultant and all subcontractors. This shall include, but not be limited to, the right to make site inspections at any time, to bring experts and consultants on site to examine or evaluate completed work or work in progress, and to observe all the Consultant's personnel in every phase of performance of Contract related work.

D. No Finder's Fees. No finder's fee, employment agency fee, or other such fee related to the procurement of this Contract shall be paid by either party.

E. Nondiscrimination. The Consultant shall comply with Presidential Executive Order 11246 entitled, "Equal Employment Opportunity," as amended by Presidential Executive Order 11375, and as supplemented in the Department of Labor Regulations (41 CFR Part 60), the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105 et seq.), and the Americans With Disabilities Act (hereinafter referred to as "ADA"), 42 U.S.C. 12101, et seq. The Consultant shall assure that no person is discriminated against based on the grounds of sex, race, religion, national origin or disability in connection with the performance of this Contract. The Consultant shall include the provisions of this section in every subcontract awarded in excess of ten thousand dollars (\$10,000) so that such provisions are binding on each subcontractor.

F. Publicity. Any publicity given to the program or services provided herein including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Consultant, shall identify City as the sponsoring agency and shall not be released without prior written approval from City.

G. Immigration Reform and Control Act of 1986. In connection with the performance of the Consultant pursuant to this agreement, the Consultant warrants that it will comply with the requirements of the Immigration Reform and Control Act of 1986 (P.L. 99-603, November 6, 1986) which prohibits the hiring, referral or recruitment of aliens not authorized to work, and provides for employer verification that an individual is not an unauthorized alien. The Consultant agrees to send notice to all subconsultants regarding the requirements of the Immigration Reform and Control Act of 1986 and notice that they are expected to comply with all of its provisions.

H. Wyoming Preference Act of 1971. The Consultant shall comply with the "Wyoming Preference Act of 1971". Special attention is called to W.S. §§ 16-6-203: Every person who is charged with the duty of construction, reconstructing, improving, enlarging, altering or repairing any public works project or improvement for the state or any political subdivision, municipal corporation, or other governmental unit, shall employ only Wyoming laborers on the project or improvement. Every contract let by any person shall contain a provision requiring that Wyoming labor be used except other laborers may be used when Wyoming laborers are not available for the employment from within the state or are not qualified to perform the work involved. A person required to employ Wyoming laborers may employ other than Wyoming laborers if that person informs the nearest state employment office of his employment needs and the state employment office certifies that the person's need for laborers cannot be filled from those listed as of the date the information is filed. Consultant shall also comply with W.S. §§ 16-6-201, 16-6-202, 16-6-204, 16-6-205 and 16-6-206, as applicable.

8. General Provisions.

A. Amendments. Any changes, modifications, revisions or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument, executed and signed by all parties to this Contract. Change in Services of the Consultant, including services required of Consultant's

subconsultants, may be accomplished after execution of this Contract, without invalidating this Contract, if mutually agreed in writing,

B. Americans with Disabilities Act. The Consultant shall not discriminate against a qualified individual with a disability and shall comply with the Americans with Disabilities Act, P.L. 101-336, 42 U.S.C. 12101, et seq., and/or any properly promulgated rules and regulations related thereto.

C. Applicable Law/Venue. The construction, interpretation and enforcement of this Contract shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties, and the venue shall be the Second Judicial District, Albany County, Wyoming.

D. Assignment/Contract Not Used as Collateral. Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set forth in this Contract without the prior written consent of the other party. The Consultant shall not use this Contract, or any portion thereof, for collateral for any financial obligation.

E. Audit. City and any of its representatives shall have access to any books, documents, papers, and records of the Consultant which are pertinent to this Contract. Additionally, the Consultant shall abide by all regulations imposed by funding sources or governmental agencies, such as auditing requirements, payroll affidavits, and other documentation or verification.

F. Award of Related Contracts. City may undertake or award supplemental or successor contracts for work related to this Contract. The Consultant shall cooperate fully with other Consultants and City in all such cases and the City shall provide notice to the Consultant prior to awarding any such contract.

G. Compliance with Law. The Consultant's professional services shall be consistent with sound engineering practices and shall keep informed of and comply with all applicable federal, state and local laws, regulations, codes and standards that are applicable in the performance of this Contract. In the event of a change in laws and/or regulations of which the Consultant shall inform City of the change and its impact on work already performed or to be performed, fees and costs involved, and scheduling. If either City or the Consultant believes the change requires a renegotiation of this Contract, both parties will renegotiate the Contract promptly and in good faith. If a renegotiated Contract cannot be agreed to, either party may terminate this Agreement pursuant to Paragraph 8(X).

H. Confidentiality and Publicity. All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Consultant in the performance of this Contract shall be kept confidential by the Consultant unless written permission is granted by City for its release. The Consultant shall have similar agreements with any subconsultants to maintain the confidentiality of information specifically designated as confidential by City.

I. Entirety of Contract. This Contract, consisting of fourteen pages (14), pages, together with Attachment A, which is entitled Wellhead Building Upgrades SCOPE OF SERVICES consisting of six pages (6) pages, and includes all material as outlined in the Request for Qualifications dated October 26, 2019, and addendums, represents the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral, unless otherwise terminated or extended as outlined herein.

J. Ethics. The Consultant shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat §9-13-101, et seq.), and any and all ethical standards governing the Consultant's profession.

K. Force Majeure. Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

L. Indemnification.

(i) General Indemnity: The Consultant shall indemnify, defend and hold harmless the City, and their officers, agents, employees, successors and assignees from any and all third party claims, losses and liability arising out of the Consultant's work under the Agreement providing that such a claim, damage, loss or expense is attributed to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) but only to the extent caused in whole or in part by negligent acts or omissions of the Consultant, a subconsultant, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

(ii). Professional Liability Indemnifications: The Consultant agrees to indemnify and hold the Owner harmless from and against any liabilities, claims, damages and costs (including reasonable attorney's fees) to the extent caused by the negligence of the Consultant in performance of services under this Agreement. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceeding for professional negligence would be barred by the applicable statute of repose or statute of limitations.

(iii). Without limitation as to other remedies, which City may have, the Consultant will without additional compensation, correct or revise any errors or deficiencies in its designs, drawings, specifications or other services.

M. Independent Contractor. The Consultant shall function as an independent Contractor for the purposes of this Contract, and shall not be considered an employee of the City of Laramie for any purpose. The Consultant shall assume sole responsibility for any debts or liabilities that may be incurred by the Consultant in fulfilling the terms of this Contract, and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents and/or employees to act as an agent or representative for or on behalf of the City, or to incur any obligation of any kind on the behalf of the City. The Consultant agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to City employees will inure to the benefit of the Consultant or their agents and/or employees as a result of this Contract.

N. Kickbacks. The Consultant certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Contract, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Contract. The Consultant shall provide the City with a certification under oath that he has not in any way been involved in any gratuities, kickbacks or contingent fees in connection with his selection or ultimate performance under this contract. If the Consultant breaches or violates this warranty, City may, at its discretion, terminate this Contract without liability to the City, or deduct from the Contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

O. Notices. All notices arising out of, or from, the provisions of this contract shall be in writing and given to the parties at the address provided under this Contract, either by regular mail, facsimile, e-mail, or delivery in person.

P. Notice and Approval of Proposed Sale or Transfer of Consultant. The Consultant shall provide City with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notice provision of this Contract. If City determines that the proposed merger, consolidation, sale or transfer of assets is not consistent with the continued satisfactory performance of the Consultant's obligations under this Contract, then City may, at its option, terminate or renegotiate the Contract.

Q. Liaison and Notice City's and Consultant's Designated Representatives.

(i) City's designated representative is Cal Van Zee, Utility Division Manager, PO Box C, Laramie, WY 82073: telephone number: (307) 721-5206, cell phone: (307) 760-9804, and email: cvanee@cityoflaramie.org

(ii) The Consultant's project representative is John Wetstein, Project Engineer, 605 Plaza Court, Laramie, WY, 82070, telephone number: (307) 742-9220, cell phone: (307) 761-4926 and email: John.Wetstein@EAengineers.com.

(iii) All notices and invoices required in this Contract shall be in writing, properly addressed to the liaison above, and mailed first-class, postage prepaid. All notices sent via U.S. Postal Services are deemed effective on the date of postmark. Notices and invoices mailed through another carrier (e.g., UPS or FedEx) are effective upon receipt.

R. **Insurance.** The Consultant shall maintain the following insurance:

(i). **Comprehensive General Liability.** The Consultant shall have and maintain comprehensive general liability insurance coverage during the entire term of the Contract, against claims arising out of bodily injury, death, damage to or destruction of the property of others, including loss of use thereof, and including underground, collapse and explosion (XCU) and products and completed operations in an amount not less than one million each occurrence and one million dollars (\$1,000,000.00) in the general aggregate.

(ii). **Workers Compensation or Employers Liability Insurance.** The Consultant shall provide proof of workers compensation coverage, for all its employees who are to work on the projects described in this Contract. The Consultant's coverage shall be under the Wyoming Workers Safety and Compensation program, if statutorily required or such other workers compensation insurance as appropriate. The Consultants insurance shall include AStop Gap@ coverage in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per employee for each accident and disease. The Consultant shall have also supply proof of workers' compensation and employer's liability insurance on each and every subconsultant before allowing that sub consultant on the job site.

(iii). **Professional Liability or Errors and Omissions Liability Insurance.** The Consultant shall provide proof of professional liability insurance or errors and omissions liability insurance to protect the City from any and all claims arising from the Consultant's alleged or real professional errors, omissions or mistakes in the performance of professional duties by the Consultant or his structural, electrical, or mechanical engineering consultants in an amount not less than one million dollars (\$1,000,000.00).

(iv). **Business Automobile Liability.** The Consultant shall maintain, during the entire term of the contract, automobile liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) per occurrence.

(v). **Coverage.** All policies required under this Contract shall be in effect for the duration of this Contract and projects. All policies shall be primary and not contributory. The Consultant shall pay the premiums on all insurance policies and insurance certificates must include a clause stating that the insurance may not be revoked, cancelled, amended or allowed to lapse until the expiration of at least thirty (30) days advance written notice to City.

(vi). **Additional Insured.** All insurance policies required by this Contract, except workers' compensation and professional liability insurance or errors and

omissions liability insurance, shall name City as an additional insured, and shall contain a waiver of subrogation against City, its agents and employees. The Consultant shall provide, upon request a copy of an endorsement providing this coverage.

(vii). City's Right to Reject. The City reserves the right to reject a certificate of insurance if the Consultant's insurance company is widely regarded in the insurance industry as financially unstable. This would include but is not limited to insurance companies with no less than AVIII rating in the A.M. Best insurance rating guide.

(viii). Subcontractors. The insurance requirements set forth above apply to all subconsultants. It is the Consultant's responsibility to ensure that its subconsultants meet these insurance requirements. City has the right to review the Certificates of any and all subconsultants used by the Consultant.

(ix). Cancellation. There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent to not renew insurance coverage without thirty (30) days written notice from the Consultant or their insurers to City. Any failure to comply with the reporting provision of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverage provided to City and its division, officers and employees.

S. Ownership of Documents/Work Product/Materials. All construction documents including but not limited to the plans and specifications, prepared by the Consultant, whether complete or incomplete, shall be and remain the property of City and any other, reports, records, field notes, data, samples, specimens, and materials of any kind resulting from performance of this Contract are at all times the property of City. City will not revise any of the construction documents without prior written approval of the Consultant.

T. Patent or Copyright Protection. The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and warrants that no work performed by The Consultant or its subcontractors will violate any such restriction.

U. Prior Approval. This Contract shall not be binding upon either party; no services shall be performed under the terms of this Contract, until this Contract has been reduced to writing, approved by the Laramie City Council.

V. Sovereign Immunity. The City does not waive sovereign immunity by entering into this Contract, and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other state law.

W. Taxes. The Consultant shall pay all taxes and other such amounts required by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.

X. Termination of Contract.

(i). If through any cause either party shall fail to fulfill in a timely and proper manner its obligations under this Contract, or if either party shall violate any of the covenants, Contracts or stipulations of this Contract, the other party shall thereupon have the right to terminate this Contract if such default or violation is not corrected within fifteen (15) days after submitting written notice to the other party. Documents, data, studies, surveys, drawings, maps, models, photographs, films, duplicating plates, and reports prepared by the Consultant under their Contract shall then immediately be turned over to the City. In the event of such termination, The Consultant shall be entitled to receive just and equitable compensation, not to exceed the agreed amount for services provided before termination, for any satisfactory work completed on such documents and other materials prior to receipt of Notice of Termination including reimbursable expenses then incurred less any damages sustained by City incident to the Consultant's breach.

(ii). In event of termination, all finished or unfinished design development and construction documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant shall be immediately surrendered to City.

(iii). In the event of termination, City shall pay to the Consultant, as full payment for all services performed and all expenses incurred under this Contract, which shall have become payable because of the progress in the work. In ascertaining the services actually rendered hereunder up to the date of termination of this Contract, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents, whether delivered to City or in the possession of City and to authorized reimbursable expenses.

(iv). If, upon payment of the amount required to be paid under this paragraph herein following the termination of this Contract, City thereafter should determine to complete the original project or substantially the same project, City for such purposes shall have the right of utilization of any original tracings, drawings, calculations, specifications, estimates, and other construction documents prepared under this Contract by the Consultant without liability to the Consultant or its subconsultants. At the Consultant's request, City agrees to credit the Consultant which such authorship as may be due him or her, but is not required to renew the Contract. City will not reuse any of the construction documents without prior written approval of the Consultant.

Y. Third Party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of third party beneficiary and this Contract shall not be construed so as to create such status. The rights, duties and obligations contained in this Contract shall operate only between the parties to this Contract, and shall inure solely to the benefit of the parties to this Contract. The provisions of this Contract are intended only to assist the parties in determining and performing their obligations under this Contract. The parties to this Contract intend and expressly agree that only parties signatory to this Contract shall have any legal or equitable right to seek to enforce this Contract, to seek

any remedy arising out of a party's performance or failure to perform any term or condition of this contract, or to bring an action for the breach of this Contract.

Z. Disputes/Remedies. In seeking to resolve any dispute relating to this Contract, City does not waive its sovereign immunity. Any dispute or claim arising out of or relating to this Contract may be assigned to non-binding mediation upon mutual agreement of the parties, in accordance with the Wyoming Supreme Court's rules for alternative dispute resolution. The parties to the dispute shall bear their respective costs for the mediation. The rights and remedies of the parties provided for in these clauses are in addition to any other rights and remedies provided by law or under this Contract.

AA. Limitations on Lobbying Activities. In accordance with P.L.101-121, any payments made from a Federal grant shall not be utilized by the Consultant or its subcontractors in connection with lobbying Congressmen, or any other Federal Department in connection with the award of a Federal grant, contract, cooperative agreement, or loan. The Consultant and any subcontractors shall submit a certification statement and disclosure form acceptable to the State before commencement of the work.

BB. Americans with Disabilities Act. Contractor shall not discriminate against a qualified individual with a disability and shall comply with the Americans with Disabilities Act, P.L. 101-336, 42 U.S.C. 12101 et seq. and any properly promulgated rules and regulations related thereto.

CC. Warranty. The Consultant warrants the following:

- (i).** has the ability to perform the agreed services;
- (ii).** shall provide suitable resources to perform work in accordance with agreed services;
- (iii).** will endeavor to provide the services herein on a timely basis consistent with the difficulty and scope of services to be provided;
- (iv).** shall perform services in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances; and
- (v).** is responsible for the professional quality, technical accuracy and coordination of all designs, drawings, specifications and other services furnished by the Consultant under this Contract.

DD. Patent or Copyright Protection. Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and warrants that no work performed by Consultant or its sub-consultants will violate any such restriction.

EE. Extension. Nothing in this Contract shall be interpreted or deemed to create an expectation that this Contract will be extended beyond the term described herein. Any extension of this Contract shall be requested by the Consultant and following approval by City shall be effective only after it is reduced to writing and executed by all parties to the Contract. Any agreement to extend this Contract shall include, but not necessarily be limited to: an unambiguous identification of the Contract being extended; the term of the extension; the amount of any payment to be made during the extension, or a statement that no payment will be made during the extension; a statement that all terms and conditions of the original Contract shall, unless explicitly delineated in the exception, remain as they were in the original Contract; and, if the duties of either party will be different during the extension than they were under the original Contract, a detailed description of those duties.

FF. Severability. Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of this Contract shall continue in full force and effect and either party may attempt to renegotiate the terms affected by the severance.

GG. Titles Not Controlling. Titles of paragraphs are for reference only, and shall not be used to construe the language in this Contract.

HH. Waiver. The waiver of any breach of any term or condition in this Contract shall not be deemed a waiver of any prior or subsequent breach.

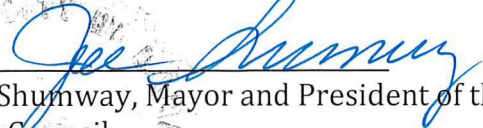
II. Time is of the Essence. Time is of the essence in all provisions of the Contract.


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IN WITNESS WHEREOF, the Laramie City Council has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk, and Consultant has signed and executed this Agreement, the day and year first written above.

CITY OF LARAMIE, WYOMING:

By: 
Joe Shumway, Mayor and President of the
City Council

Attest: 
Nancy Bartholomew
City Clerk

CONSULTANT: ENGINEERING ASSOCIATES

By: 

Title PROJ. MANAGER

Attachment A

Wellhead Building Upgrades

SCOPE OF SERVICES

In this document the term “Engineer” refers to the consulting firm hired by the City of Laramie, WY unless set apart with a specific title, i.e. “City Engineer,” “City Project Engineer” et cetera.

At a minimum the following services shall be provided:

A. Research and Design:

1. The Engineer shall design the project as directed by the City Project Engineer. The design shall at a minimum include a complete set of plans and a project manual.
2. Conduct a Kick Off meeting with City Staff. This meeting will discuss the project scope, foreseeable issues, possible alternatives, desired results and project needs. This meeting shall include a complete walk thru of the project area with City Staff. The Engineer must provide a meeting agenda and notes of the meeting.
3. Review existing maps, drawings, plans and reports on file at City of Laramie relating to the proposed work. Engineer must contact City Engineering for the information regarding this task.
4. Investigate and identify alternate means and methods for constructing the project.
5. Make recommendations concerning means and methods for constructing the project.
6. The Engineer must research the location of all private utilities in the area of the project such as but not limited to Rocky Mountain Power, Black Hills Energy, CenturyLink, Charter Communications, University of Wyoming, and Union Pacific Railroad. The design should avoid conflicts with utilities. If a conflict is unavoidable the Engineer shall design and coordinate a solution. Plans shall be submitted to the private utilities for review during the design of the project. All correspondence with the private utilities must be documented and provided to the City. The project will not be bid until documentation is provided.
7. All survey data shall be tied to Coast and Geodetic Survey BM (B66) 1948 GPS'S in 1992 NAD 1983, NAVD 1988, GEOID 03.
8. Conduct field surveying as needed, or as directed by the Project Engineer, to prepare the construction plans, legal descriptions and to clearly delineate any potential conflicts within the City right-of-way prior to final design.

9. A minimum of two benchmarks must be provided on the drawings. Additional benchmarks may be required for larger projects or as directed by the City Project Engineer.
10. Develop solutions to any issues and needs raised by other agencies or entities.
11. Plans and specifications must be consistent with the current City of Laramie Project Manual. Contact City Engineer for latest version.
12. City of Laramie measurement and payment will be understood and complied with in its entirety by Engineer.
13. Bid Schedules and quantities will conform to measurement and payment section in the special provision section of the current Project Manual. Deviations from the standard list shall be submitted to the City Engineering Department for review and approval. The Engineer shall highlight in the submittal any changes. The Engineer shall provide the City Engineer a list of changes made to the Project Manual before the project can be bid.
14. Provide quantity lists for each bid item tied to a location on the plan sheets. Example: one ADA ramp on SE corner of X & Y Streets; 2 - type 5 storm sewer inlet at Station X+XX right side; one 8 inch water valve station X+XX on south property line. Format should be similar to WYDOT standard.
15. Prepare cost estimates for the project at the 60% and 90% and final design level.
16. Plan sets shall be submitted to the City for review at the 60%, 90%, and final designs. Each submittal shall include seven (7) sets of 11x17 plans. It should also include the CAD drawings and a PDF for the 11x17 plan sets.
17. Project Manuals shall be submitted at the 90% and final designs. Each submittal shall include three (3) project manuals with a PDF of the project manual. A digital copy of all project manual documents shall also be submitted with each review.
18. If applicable for the project the DEQ design report shall be submitted to the City at the 90% design for review. It shall include three (3) copies of the report with a PDF. The City must approve the design report before it is submitted to DEQ.
19. Progress and review meetings shall be held at the 60%, 90%, and final design or as needed for the project. The Engineer shall be responsible for writing down all comments made at review meetings and provide all the comments back to the City in the meeting minutes.
20. Engineer is to perform an internal Quality Assurance and Quality Control review of plan sets, specifications and bid schedules prior to submittal for review by the City.
21. Perform an internal project constructability review prior to submittal for review by the City.

22. Engineer shall be responsible for errors and will be expected to pay for correcting design errors.
23. City review does not absolve the Engineer of any errors.
24. All plans and project manuals must be reviewed and approved by the City Engineer prior to bidding.

B. Bidding Services

1. City of Laramie will employ electronic bidding services through Quest CDN. The Engineer will be responsible to provide the City of Laramie with PDF files of all plan sets and project manuals relevant to the project.
2. The City Project Manager will upload bid documents to the Quest CDN web site and make available.
3. Bidder's questions will be initially directed to the City Project Manager, and then forwarded to City Project Engineer or Engineer for responses when necessary.
4. The Engineer shall prepare all addendums and submit addendum documents to the City Project Manager for upload to Quest CDN.
5. Attend and assist City of Laramie staff at a pre-bid meeting. This may include a project walk thru following the pre-bid meeting. The pre-bid meeting shall involve the following.
 - i. Instruct prospective bidders and suppliers as to the types of information required by the contract documents and the format in which bids should be presented.
 - ii. Review special project requirements and contract documents in general.
 - iii. Receive requests for interpretations and answer questions.
 - iv. Prepare minutes of the conference.
6. The Engineer shall review the bids for accuracy, prepare and distribute formal bid tabulation sheets, evaluate bids, and make written recommendations to the City concerning contract award. This shall include creating a spreadsheet combining all bids and the Engineer's Estimate into a single sheet, showing maximum and minimum bids and the average price.
7. The Engineer shall issue the contractor Notice of Award, after receiving authorization to do so from the City.

8. Prepare and distribute construction plans and complete project manuals to the low bidder.
9. The Engineer shall provide a final of documents to the City and include seven (7) sets of 11x17 plans. It should also include the CAD drawings and a f PDF for the 11x17 plan sets.