

AGREEMENT FOR BALLOT PRINTING SERVICES

THIS BALLOT PRINTING SERVICES AGREEMENT is entered into as of the last date executed by the duly authorized representative of the parties, by and between the County of Laramie, State of Wyoming (hereinafter referred to as the “County”) and KP, LLC (hereinafter referred to as the “Contractor” or “KP”).

RECITALS

1. KP provides certain ballot printing services (“Services”), described in Exhibit A, which are available for sale. KP also offers other services, support, and products (“Products”) related to the election process.
2. The County desires to purchase from KP Services and Products described in Exhibit A.
3. NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein and other good and valuable consideration, the Parties agree as follows:

AGREEMENTS

1. Product and Service Purchase

KP agrees to sell, and County agrees to purchase, the Services (and related products) described in Exhibit A. County agrees to pay KP per the fee schedule as shown in Exhibit A. The parties expressly acknowledge and agree that if the cost of paper increases by more than one percent (1.0%) annually, the price will be adjusted to include the amount by which such annual paper cost increase exceeds one percent (1.0%). Any price adjustments shall be duly executed through an addendum of this agreement. County agrees to use the purchased Services and Products in a manner consistent with the terms of this Agreement.

2. Payment to KP

County hereby agrees to pay KP, no later than the applicable due date, all fees due and payable under this Agreement, including Ballot Printing Services, Applicable Shipping Charges, and any other ancillary items County requests be produced hereunder. Payment terms on amounts billed to County are Net forty-five (45) days. Payment will be made upon receipt of the invoice to County. Payments shall be in accordance with Wyo. Stat. § 16-6-602 (as amended).

KP may charge a late fee equal to one and one-half percent (1.5%) per month on any unpaid and past due balances that the County owes. Further, if County fails to timely pay any amounts due, and such failure continues for ten (10) days after written demand for payment is delivered to County, KP, at its sole discretion, may immediately terminate this Agreement and take possession of any materials owned by KP, including any delivered to, but unpaid for by, County, with or without a court order. In addition, KP may pursue any other remedy permitted by law or in equity.

3. Taxes

County is a tax-exempt governmental entity and shall not be responsible for any applicable taxes.

4. Product Delivery

KP shall deliver all Services and Products to County at the address specified in Section 23 of this Agreement, or at such other address that County provides in writing. The Services and Products will be delivered on a mutually acceptable schedule to the parties. KP shall not be responsible for delays in delivery of the Services and Products that are not caused by KP.

5. Shipping

During the term of this Agreement, the County is responsible for paying any expedited shipping charges on the Services and Products provided under this Agreement.

6. Availability and Retention of Records

All records relating to the Services and Products provided under this Agreement and supporting documentation for invoices submitted to the County by KP shall be retained for three (3) years after the County makes final payment and all other matters related to this Agreement are concluded. All records shall also be made available by KP for audit by the County, its duly authorized representatives, the State of Wyoming (including, but not limited to, the Auditor of the State of Wyoming, Inspector General, or duly appointed law enforcement officials) and agencies of the United States government. Such records shall be retained by KP and made available for any time required by state or federal law.

7. Assignment

The Parties expressly agree that neither shall assign this Agreement without the prior written consent of the other. KP may subcontract services agreed to in this Agreement, but only with the written consent of the County. All subcontracts are subject to this Agreement's terms, conditions, and covenants.

8. Governing Law

The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to CONTRACTOR and to COUNTY in executing this Agreement. This provision is not intended nor shall it be construed to waive COUNTY's governmental immunity as provided in this Agreement.

9. Integration and Modification

This Agreement, including any exhibits, embodies the entire Agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this

Agreement shall supersede all previous communications, representations, or contracts, either written or oral, between the Parties to this Agreement. This Agreement shall not be modified in any manner except by an instrument, in writing, executed by the Parties to this Agreement.

10. Severability

If any term or provision of this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

11. Appropriations/Limitations on Payment

County's payment obligation is conditioned upon the availability of funds that are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by KP, this Agreement may be terminated by the County at the end of the period for which funds are available. County shall notify KP in writing, at the earliest possible time, of the services which will or may be affected by a shortage of funds. The earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if County knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to the County in the event this provision is exercised, and the County shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be interpreted or construed to permit the County to terminate this Agreement to acquire similar services from another party. If this Agreement is terminated, the County will be liable to pay KP for all services performed on or before the effective date of the termination.

12. Compliance

KP agrees to comply with all applicable federal, state, and local laws in work conduct hereunder. KP accepts full responsibility for payment of all taxes, including, without limitation, unemployment compensation, insurance premiums, income tax deductions, social security deductions, and all other taxes or payroll deductions required for all employees engaged by KP in the performance of work under this Agreement.

13. Non-Discrimination

KP certifies it is an equal opportunity employer and shall remain in compliance with state and federal civil rights and nondiscrimination laws and regulations including, but not limited to, Title VI, and Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Age Discrimination Act of 1975 and the Age Discrimination in Employment Act, as amended.

During the performance of this Agreement, KP will not discriminate against any employee, contract worker, or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, ancestry, disability, Vietnam-era veteran status, age, political belief, or place of birth. KP will take affirmative action to ensure that during employment, all employees are treated without regard to race, color, religion, sex, national origin, ancestry,

disability, Vietnam-era veteran status, age, political belief, or place of birth. These provisions apply also to contract workers, such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. KP agrees to post in conspicuous places, available to employees and applicants for employment, notices stating KP complies with all applicable federal and state non-discrimination laws.

KP, or any person claiming through KP, agrees not to establish or knowingly permit any such practice or practices of discrimination or segregation in reference to anything relating to this Agreement, or in reference to any contractors or subcontractors of said KP.

14. Contingencies

CONTRACTOR certifies and warrants no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement.

15. Independent Relationship

Nothing in this Agreement is intended to, nor shall be deemed to, create a partnership, association, or joint venture between County and KP in the conduct of the provisions of this Agreement. KP shall at all times have the status of an independent contractor.

16. Waiver

Any waiver by either party of any right, provision or condition under this Agreement shall not be construed or deemed to be a waiver of any other right, provision or condition of this Agreement, nor a waiver of a subsequent breach of the same right, provision or condition.

17. Confidential Information

All information owned, possessed or used by County which is communicated to, learned, or otherwise acquired by KP or its employees, agents or contractors in the performance of the terms of this Agreement shall be deemed and remain Confidential Information. KP shall not, beginning on the date of first association or communication between the County and KP and continuing through the term of this Agreement and thereafter, disclose, communicate or divulge to another, or use for KP's own benefit or the benefit of another, any such Confidential Information without the prior written consent of the County.

18. Risk of Loss

KP agrees to bear all risk of loss, injury, or destruction of Products as a result of this Agreement, which occurs before delivery to the County. Upon delivery by KP to the County and County taking possession of such Products, the County agrees to bear all risk of loss, injury, or destruction of such Products. KP's invoices will conform to the reasonable requirements of the County.

19. Force Majeure

In no event shall KP be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, pandemics, epidemics, disease, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that KP shall use reasonable efforts which are consistent with accepted industry practices to resume performance as soon as practicable under the circumstances.

20. Warranty

KP warrants and represents that services provided pursuant to this Agreement, and attached exhibits, shall be timely performed in a professional manner.

21. Limitation of KP Liability

KP'S LIABILITY TO THE COUNTY FOR DAMAGES UNDER ANY THEORY OR FORM OF ACTION SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY THE COUNTY TO KP UNDER THIS AGREEMENT. KP SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY CLAIMS OR DAMAGES BY ANY PARTY RESULTING FROM THE COUNTY'S IMPROPER OR NEGLIGENT USE OR POSSESSION OF PRODUCTS. KP SHALL NOT BE LIABLE TO THE COUNTY OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, OR OTHER CONSEQUENTIAL DAMAGES.

22. Parties Responsibility

Each party agrees to be responsible and assume liability for its own wrongful or negligent acts and omissions and those of its officers, agents, and employees to the extent required by law. No term or condition of this Agreement shall be construed or interpreted as a waiver, either express or implied, of the notice requirements, immunities, rights, benefits, defenses, limitations and protections available to County under Wyoming law.

23. No Third-Party Beneficiary

Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in this Agreement allows any claim or right of action in any third person or entity. Any person or entity other than County or KP receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

24. Notices

All written notices required under this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid as follows:

By KP to: Laramie County
309 West 20th
Street Cheyenne,
WY 82001
Attention: Debra Lee, County Clerk

To KP: KP, LLC.
13951 Washington Avenue
San Leandro CA 94578
Attention: Darren Loken, VP Sales and Business
Development A copy sent via email to:
DLoken@kpcorp.com and bbirky@kpcorp.com

Notices hand delivered or sent by overnight courier are effective upon delivery; notices sent by certified mail are effective upon receipt; and notices sent by U.S. mail are effective upon the expiration of five (5) mail delivery days from deposit (postmarked) with the U.S. Postal Service.

25. Binding Authority

The person signing this Agreement on behalf of each party represents and warrants that he or she has full legal power to execute this Agreement and has proper authority to bind and obligate his or her party with respect to all provisions contained in this Agreement.

26. Successors and Assigns

Neither party may, directly or indirectly, in whole or in part, neither by operation of law or otherwise, assign or transfer this Agreement or delegate any of its obligations under this Agreement without the other party's written consent. Any attempted assignment, transfer or delegation without prior written consent will be void and unenforceable.

27. Time is of the Essence

The Parties agree that in the performance of the terms of this Agreement, time shall be of the essence.

28. Term

This Agreement shall commence on the date last executed by the duly authorized representatives of the parties and shall be in effect for four (4) years subject to KP's right to terminate immediately due to lack of approved appropriations as set forth in Section 11 of the Agreement; fraud; or disclosure of KP Confidential Information.

29. Termination

This Agreement may be terminated (a) by either party at any time for failure of the other party to comply with the terms and conditions of this agreement; (b) by either party, with thirty (30) days' prior written notice to the other party; or (c) upon mutual written agreement by both

parties.

30. Obligations at Expiration

Upon expiration, including Termination, of this Agreement, KP shall provide to the County an accounting of all monies due and payable to KP under this Agreement. County shall pay to KP all amounts owed, if any, within forty-five (45) days of the date of the invoice that KP sends to the County.

31. Governmental/Sovereign Immunity

The County does not waive its Governmental/ Sovereign Immunity, as provided by any applicable law including WYO. STAT. §§ 1-39-101 through 1-39-121, as amended, by entering into this Agreement. Further, County fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.

32. Indemnification

To the fullest extent permitted by law, both Parties agree to indemnify and hold harmless the other party, its elected and appointed officials, employees and volunteers from any and all liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with work performed by or on behalf of the Party for the other Party except to the

extent liability is caused by the negligence or willful misconduct of the other Party or its employees, elected or appointed officials, and volunteers.

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IN WITNESS WHEREOF, the parties hereto acknowledge and agree to be bound by the terms and conditions herein as of the date first set forth above.

By: _____ Date _____
Chairman Laramie County Commissioners

ATTEST:

By: _____ Date _____
Debra Lee, Laramie County Clerk

CONTRACTOR: KP LLC

By: Brett Birky Date Nov. 21, 2023
Name: Brett Birky
Title: Chief Operating Officer

This Agreement is effective the date of the last signature affixed to this page.

REVIEWED AND APPROVED AS TO FORM ONLY:

By:  Date 11/28/23
Laramie County Attorney's Office

EXHIBIT A

Pricing

Description	Cost
8-1/2" x 14" Ballots, scored & folded, shrink wrapped in 100s:	\$ 0.26 each
Test Decks, pre-filled / programmed by ES&S:	\$ 0.35 each
Election Set-up:	\$ 750
Freight – ship to Laramie County:	\$ 642

Other & Optional Pricing

Description	Cost
11-14" Ballot	\$ 0.26
Up to 18" Ballot	\$ 0.28
Up to 22" Ballot	\$ 0.29
Test Decks Pre-filled	\$ 0.35
Art/Set-up Production	included
Precinct Ballot (Poll Ballot) - including shrink wrap and packaging	+\$0.07
Database Set-up	\$1,000
Standard ground shipping to Cheyenne, WY County Offices	\$ 642