Engineering Services Agreement Laramie County, Wyoming/GLM Design Group, LLC

This Agreement made and entered into by and between Laramie County, Wyoming, P. O. Box 608, Cheyenne, Wyoming, 82003-0608 (COUNTY), for the benefit of the Laramie County Public Works Department, and GLM Design Group, LLC, 929 Apache Street, Cheyenne, Wyoming 82009 (CONTRACTOR).

NOW THEREFORE IT IS HEREBY AGREED by and between the parties hereto that:

- 1. CONTRACTOR shall prepare and submit to the Federal Emergency Management Agency (FEMA), a Letter of Map Revision (LOMR) during the period of operation of this agreement as specified in the Proposed Scope of Services and Contract Fee (Attachment A), incorporated herein by reference.
- 2. COUNTY may, during the course of this agreement, request inspections, modifications or changes in the scope of services to be performed hereunder. COUNTY may also, upon notice to CONTRACTOR, and without consent of CONTRACTOR, elect to delete any task provided in Attachment A. If work that has been initiated on the task is deleted, CONTRACTOR shall be entitled to compensation for any satisfactory work completed prior to deletion. Changes requiring mutual consent shall be in writing as an amendment hereto executed by COUNTY and CONTRACTOR.
- 3. This Agreement shall be effective from the date of the last signature affixed hereto and remain in full force and effect until completion, unless terminated in accord with the provisions herein.
 - 4. Payment for CONTRACTOR'S services will be made in accordance with Wyo. Stat.
- § 16-6-602 (2015) upon presentation of an itemized invoice to the Laramie County Clerk. Each invoice will be reviewed and approved by the Director of Public Works, and in amounts in accord with Attachment A. CONTRACTOR shall provide to the COUNTY a detailed billing outlining hours and expenditures related to specific services rendered by the CONTRACTOR.
- 5. Fees: Fees for services rendered by CONTRACTOR shall be in accordance with the Attachment A attached hereto.

6. General Provisions

A. <u>Independent Contractor</u>: The services to be performed by CONTRACTOR are those of an independent contractor and not as an employee of COUNTY. Neither CONTRACTOR nor its agents of employees are eligible for Laramie County Employee benefits and will be treated as an independent contractor for federal tax filing purposes. CONTRACTOR assumes responsibility for its personnel who provide services pursuant to this contract and will

make all deductions required of employers by state, federal and local laws and shall maintain liability insurance for each of them. CONTRACTOR is free to perform the same or similar services for others.

- B. Acceptance Not Waiver: COUNTY approval of the reports, and work or materials furnished hereunder shall not in any way relieve CONTRACTOR of responsibility for the technical accuracy of the work. COUNTY approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.
- C. <u>Termination</u>: 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.
- D. <u>Entire Agreement</u>: This Agreement (5 pages) and Attachment 'A' (2 pages) represent the entire and integrated agreement and understanding between the parties and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.
- E. <u>Assignment</u>: Neither this Agreement, nor any rights or obligations hereunder shall be assigned or delegated by a party without the prior written consent of the other party.
- F. <u>Modification</u>: This Agreement shall be modified only by a written agreement, duly executed by all parties hereto.
- G. <u>Invalidity</u>: If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if the COUNTY is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable.
- H. <u>Application Law and Venue</u>: 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.
- I. <u>Contingencies and Conflicts</u>: CONTRACTOR certifies and warrants no gratuities, kick-backs 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. Additionally, CONTRACTOR certifies and warrants that shall examine

all of its activities in the provision of planning services for potential conflicts of interest. In the event such a conflict is determined to exist, CONTRACTOR shall advise the Director of Public Works of this matter and separate arrangements will be made for any services required in regard to individuals or entities who constitute said conflict. CONTRACTOR further agrees and understands that the

provision of governmental services must take place in an environment in which citizens can be assured of the absence of any bias or conflict of interest. CONTRACTOR therefore agrees to advise the Director of Public Works in the event that such a conflict is claimed to exist by any individual or entity or if the appearance of a conflict of interest could be reasonably perceived to exist. The Director shall have sole discretion to determine whether CONTRACTOR should recuse themselves from further planning services in any event.

- J. <u>Discrimination</u>: All parties agree they will not discriminate against any person who performs work under the terms and conditions of this Agreement because of race, color, gender, creed, handicapping condition, or national origin.
- K. <u>ADA Compliance</u>: All parties agree they will not discriminate against a qualified individual with disability, pursuant to a law as set forth in the Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. § 12101, et seq., and/or any properly promulgated rules and regulations relating thereto.
- L. <u>Governmental/Sovereign Immunity</u>: COUNTY does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-
- 101 et seq., 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.
- M. <u>Indemnification</u>: To the fullest extent permitted by law, CONTRACTOR agrees to indemnify and hold harmless COUNTY, 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 CONTRACTOR for COUNTY except to the extent liability is caused by the sole negligence or willful misconduct of COUNTY or its employees. CONTRACTOR shall carry liability insurance sufficient to cover its obligations under this provision and provide COUNTY with proof of such insurance.
- N. <u>Third Parties</u>: The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to the Agreement, and shall inure solely to the benefit of the parties to this Agreement.
- O. <u>Conflict of Interest</u>: COUNTY and CONTRACTOR affirm, to their knowledge, no CONTRACTOR employee has any personal beneficial interest whatsoever in the agreement described herein. No staff member of CONTRACTOR, compensated either

partially or wholly with funds from this Agreement, shall engage in any conduct or activity which would constitute a conflict of interest relative to this Agreement.

- P. Force Majeure: Neither party shall be liable to perform under this Agreement if such failure arises out of causes beyond control, and without the fault or the negligence of said party. Such causes may include, but are not restricted to, Act of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. In every case, however, a failure to perform must be beyond the control and without the fault or the negligence of said party.
- Q. <u>Limitation on Payment</u>: COUNTY's payment obligation is conditioned upon the availability of funds which 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 CONTRACTOR the Agreement may be terminated by COUNTY at the end of the period for which funds are available. COUNTY shall notify CONTRACTOR at the earliest possible time of the services which will or may be affected by a shortage of funds. At 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 COUNTY in the event this provision is exercised, and 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 COUNTY to terminate this Agreement in order to acquire similar services from another party.
- R. <u>Notices</u>: All notices required and permitted under this Agreement shall be deemed to have been given, if and when deposited in the U.S. Mail, properly stamped and addressed to the party for whom intended at such parties' address listed herein, or when personally delivered personally to such party. A party may change its address for notice hereunder by giving written notice to the other party.
- S. <u>CONTRACTOR</u> shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

Remainder of this page intentionally left blank

Engineering Services Agreement Laramie County, Wyoming/GLM Design Group, LLC

Signature Page

LARAMIE COUNTY, WYOMING	
By: K.N. Buck Holmes, Chairman, Laramie County Commissioners	Date
ATTEST:	
By: Debra Lee, Laramie County Clerk	Date
CONTRACTOR: GLM Design Group, LLC	
By: Jen Man W_al Title: PRINCIPLE	Date 9/11/18
APPROVED AS TO FORM:	
By:	Date 9/11/18

GLM Design Group, LLC

929 Apache Street, Cheyenne, Wyoming 82009 | 307.214.7065 | airemac@bresnan.net

August 27, 2018

Mr. Rob Geringer
Public Works Director
Laramie County Public Works
13797 Prairie Center Circle, Cheyenne, Wyoming 82009

Dear Rob,

The following is my proposed scope-of-services and contract fee for the preparation and submission of a Letter of Map Revision (LOMR) to the Federal Emergency Management Agency (FEMA) for a reach of Lower Dry Creek located between East Pershing and the Union Pacific Railroad crossing.

Scope of Services

- 1.0 Meetings, Data Collection and Site Visits
- 1.1 Meetings and Coordination: One coordination meeting between GLM Design Group and BenchMark Engineers to discuss modeling changes/approach prior to LOMR submittal; and one meeting to discuss any LOMR comments/responses to FEMA.
- 1.2 Data Collection: Additional data will be acquired as necessary to facilitate the LOMR submittal.
- 1.3 Site Visits: There will be several site visits as necessary for completion of the project.
- 2.0 Hydrologic Analysis
- 2.1 HEC-1 Model: The Effective Condition hydrologic model will be used for this LOMR submittal. We are not proposing to revise the model with this scope. We will coordinate with Mr. Kelly Hafner of BenchMark and review the hydrologic model that he developed recently to conduct a preliminary evaluation of the Study Reach.
- 3.0 Hydraulic Analysis
- 3.1 Duplicate Effective Model: We will re-run the Duplicate Effective HEC-2 model using the most recent version of HEC-RAS (version 5.0.3). a conversion factor will be applied to the HEC-2 cross sections to convert the data from NGVD 29 to NAVD 88.
- 3.2 Corrected Effected Model: A Corrected Effective will have be developed to evaluate changes made to Mr. Keizer's property from the Laramie County Lower Dry Creek Constructed Wetland Project.

- 3.3 Existing Conditions Floodplain and Floodway Model: The existing conditions model will include revised stream CL and XS locations; corresponding revised floodplain delineation; and upstream and downstream effective vertical and horizontal tie in. A Model Review (QAQC) will be conducted at this juncture.
- 3.4 Floodway Model: Floodway model will include an initial encroachment run; model refinement; and floodway delineation to be coordinated with Mr. Kelly Hafner of BenchMark Engineers. Public outreach with John Hess (adjacent property owner) will be conducted at this juncture.
- 4.0 Mapping
- 4.1 Work Map: The Work Map will include base mapping files; a final floodplain delineation; a final floodway delineation; and exhibit preparation for inclusion in the LOMR submittal.
- 4.2 Annotated FIRM: The annotated FIRM will include the revised floodplain and floodway.
- 5.0 Report
- 5.1 Report: The Report will include BFE comparison tables; Workmap agreement tables; Annotated FIS Profile; and Annotated Floodway Data Table.
- 5.2 MT-2 Forms: MT-2 forms will be completed with signatures from the County and the City (with BenchMark's assistance if necessary).
- 5.3 Response to Review Comments: We are not including any response to local comments with this scope; We are envisioning one (1) round of comments/responses for FEMA review.

Assumptions and Exclusions

We are assuming that no additional survey data will be required above and beyond the as-built survey completed for the County's Lower Dry Creek Constructed Wetland Project; there will be no review by the City of Cheyenne; we are anticipating no changes to the effective hydrology and no changes to the corrected effective hydraulic model from FEMA comments; no permits or fees of any kind are included in this scope; the 500-year floodplain will not be evaluated under this scope.

My proposed fee for completing the above referenced scope-of-services required for the LOMR submittal to FEMA is \$35,000. I am proposing a lump sum contract for the amount of \$35,000. There will be an additional fee required by FEMA in the amount of \$8,000 paid separately of this contract by the County. Thank you, again, for your consideration of Mr. Keizer's request for financial partnership in correcting current inaccuracies of the FEMA-regulated Dry Creek floodplain between East Pershing and the Union Pacific Railroad crossing. Please feel free to contact me by phone at 307.214.7065 or at the above referenced email if you have any questions or would like to visit further about the scope. If you find our agreement acceptable, please countersign and return the agreement to my attention as soon as possible.

Sincerely,

Gene L. MacDonald, PE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/23/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/23/2018

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REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/24/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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Cheyenne,WY 82009					tru:	SURER(S) AFFOR	RDING COVERAGE		NAIC #		
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