

**AGREEMENT FOR A DIGITAL PORTABLE X-RAY MACHINE FOR THE LARAMIE
COUNTY CORONER'S OFFICE**

by and between

LARAMIE COUNTY, WYOMING and MTX MEDICAL SOLUTIONS, INC.

This Agreement (Agreement) is made and entered into by and between Laramie County, Wyoming, 310 W. 19th Street, Suite 300, Cheyenne, Wyoming, 82003 (COUNTY) and MTX Medical Solutions Inc. 5835 Interstate Ave, Suite B, Billings, MT 59101 (CONTRACTOR).

I. PURPOSE

In consideration for the payment amount set out below, CONTRACTOR will provide County with the equipment, installation, training and services for a digital portable X-ray machine and accessories (Portable X-Ray Project). The Laramie County Coroner's Office sought bid proposals from vendors for a Portable X-Ray Project through a Request for Proposal (RFP) that closed on November 22, 2019, after initial release followed by an advertisement period providing public notice of the RFP. Contractor answered the bid, submitting its proposal for a Portable X-Ray Project to County on November 17, 2019 ("Proposal"). The Proposal describes the Portable X-Ray Project that County has agreed to purchase, and the Proposal is attached hereto as Exhibit A to this Agreement.

II. TERM

This Agreement shall commence on the date last executed by the duly authorized representatives of the parties to this Agreement, and shall remain in force and effect until CONTRACTOR delivers Portable X-Ray Project, COUNTY accepts it and pays for it, and all other services associated with the purchase have been provided or the time period for their performance has lapsed.

III. PAYMENT

COUNTY shall pay CONTRACTOR for the Portable X-Ray Project with 45 days upon receipt of the CONTRACTOR'S undisputed invoice to COUNTY according to the Proposal and the RFP. The total payment to CONTRACTOR under this Agreement shall not exceed the Proposal's bid amount of \$55,300.00 (excluding taxes). No payment shall be made before the last signature is affixed to this Agreement. Payments shall be in accordance with Wyo. Stat. § 16-6-602 (as amended).

IV. RESPONSIBILITIES OF CONTRACTOR

- A. CONTRACTOR shall timely provide the Portable X-Ray Project as specified in the Proposal, and the Portable X-Ray Project will conform with the Proposal in all material respects.
- B. CONTRACTOR shall work closely and in good faith with COUNTY and use commercially reasonable best efforts to deliver the Portable X-Ray Project.

CONTRACTOR will work with COUNTY as needed in accordance with such individuals or couriers as deemed appropriate by COUNTY.

- C. CONTRACTOR agrees to retain all required records for three (3) years after the County makes final payment and all other matters relating to the Agreement are concluded. CONTRACTOR agrees to permit access by COUNTY or any of its duly authorized representatives to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this specific Agreement for purposes including but not limited to audit, examination, excerpts, and transcriptions.

V. GENERAL PROVISIONS

A. 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; or (b) upon mutual written agreement by both parties.

B. Entire Agreement: This Agreement (5 pages), and the attached RFP (13 pages) and the attached Proposal (9 pages) represent the entire and integrated agreement and understanding between the parties and supersede all prior negotiations, statements, representations and agreements, whether written or oral.

C. Assignment: 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.

D. Modification: This Agreement shall be modified only by a written agreement, duly executed by all parties hereto.

E. Invalidity: If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if 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.

F. Applicable Law and Venue: 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.

G. Contingencies: 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.

H. Discrimination: 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.

I. ADA Compliance: All parties agree they will not discriminate against a qualified individual with disability, pursuant to 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.

J. Governmental/Sovereign Immunity: 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.

K. Indemnification: 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.

L. Third Parties: 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.

M. Conflict of Interest: 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.

N. 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.

O. Limitation on Payment: 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.

P. Notices: 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.

Q. Compliance with Law: CONTRACTOR shall comply with all applicable laws, regulations and ordinances, whether Federal, State or Local.

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Signature Page

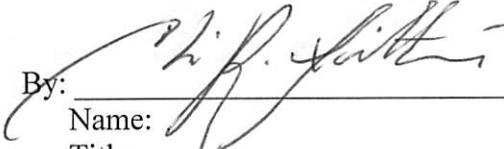
LARAMIE COUNTY, WYOMING

By: _____ Date _____
Linda Heath, Chairman, Laramie County Commissioners

ATTEST:


By: _____ Date _____
Debra Lee, Laramie County Clerk

CONTRACTOR: MTX MEDICAL SOLUTIONS, INC.

By:  (Sales) _____ Date 12/10/2019
Name: _____
Title: _____

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

REVIEWED AND APPROVED AS TO FORM ONLY:

By:  _____ Date 12/13/19
Mark Voss, County Attorney