

AGENDA

CITY OF POCATELLO REGULAR CITY COUNCIL MEETING

APRIL 3, 2025 • 6:00 PM

COUNCIL CHAMBERS | 911 NORTH 7TH AVENUE

The meeting will be live-streamed at <https://streaming.pocatello.gov/> and available on Sparklight Cable channel 56

In accordance with the Americans with Disabilities Act, it is the policy of the City of Pocatello to offer its public programs, services, and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require an accommodation, please contact Skyler Beebe with two (2) business days' advance notice at sbeebe@pocatello.gov; [208-234-6248](tel:208-234-6248); or 5815 South 5th Avenue, Pocatello, Idaho. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

Any citizen who wishes to address the Council shall first be recognized by the Mayor, and shall then give their name for the record. If a citizen wishes to read documentation of any sort to the Council, they shall first seek permission from the Mayor. A three (3) minute time limitation is requested for Council presentations.

The purpose of the agenda is to assist the Council and interested citizens in the conduct of this public meeting. **Citizens should examine the agenda for the item of their interest. However, citizens are advised that only Public Hearings**

allow for public comment during the discussion/consideration process.

RECESS: In the event the meeting is still in progress at 7:30 p.m., the Mayor may call a ten-minute recess to allow Council members and participants a brief rest period.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. INVOCATION

The invocation will be offered by Bishop Kevin Rogers, representing Church of Jesus Christ of Latter-day Saints.

3. CONSENT AGENDA

The following business items may be approved by one motion and a vote. If any one member of the Council so desires, any matter listed can be moved to a separate agenda item. **(ACTION ITEM)**

(a) **MINUTES:** Council may wish to waive the oral reading of the minutes and approve the minutes from the following meetings: Clarification and Regular City Council meetings of March 6, 2025; and Special City Council meeting of March 20, 2025.

(b) **MATERIAL CLAIMS:** Council may wish to approve the Material Claims for the period of March 16 - 31, 2025.

(c) **TREASURER'S REPORT:** Council may wish to approve the Treasurer's Report for February 2025 showing cash and investments as of February 28, 2025.

(d) **HISTORIC PRESERVATION COMMISSION APOINTMENT:** Council may wish to confirm the Mayor's appointment of Brittani Hobson to serve as

a member of the Historic Preservation Commission, replacing Kaitlin Blincoe. Brittani's term will begin April 4, 2025 and expire September 5, 2027.

(e) **POCATELLO DEVELOPMENT AUTHORITY APPOINTMENT:**

Council may wish to confirm the Mayor's appointment of Scott Turner to serve as a member of the Pocatello Development Authority, replacing Jim Johnston. Scott's term will begin April 4, 2025 and expire May 1, 2029.

(f) **DECLARATION OF SURPLUS PROPERTY - 2025 CITY AUCTION:**

Council may wish to declare items identified as surplus property to be sold at the City's Annual Auction on May 10, 2025 and dispose as noted. City departments submitted lists of items that they considered surplus, which were reviewed by other departments. The items to be considered surplus are not needed by any other departments within the City.

Documents:

AGENDA-ITEM-3.PDF

4. PROCLAMATIONS

5. CALENDAR REVIEW

Council may wish to take this opportunity to inform other Council members of upcoming meetings and events that should be called to their attention.

6. SOLICITOR LICENSE DENIAL APPEAL

Rex Price will be present to appeal the denial of his solicitor license, which was denied by the Pocatello Police Department. **(ACTION ITEM)**

7. PUBLIC HEARING - EXCHANGE OF REAL PROPERTY - 0.113 ACRES LOCATED BEHIND 2672 HARTFORD DRIVE

This time has been set aside for the Council to hear comments from the public regarding a request by Patrick "Pat" Pape, represented by Creek Hollow & Associates, Inc. (mailing address: 611 Wilson Avenue, Suite 1A,

Pocatello, ID 83201) for the exchange of real property located behind 2672 Hartford Drive. The 0.113 acre parcel of City-owned property was declared underutilized and as surplus property at the March 6, 2025 Regular City Council meeting. Council may wish to approve the land exchange pursuant to Idaho Code §50-1403(2) and authorize the Mayor's signature on all pertinent documents, subject to Legal Department review. **(ACTION ITEM)**
(Quasi-judicial public hearing)

Documents:

AGENDA-ITEM-7.PDF

8. PUBLIC HEARING - EXCHANGE OF REAL PROPERTY - 0.35 ACRES LOCATED SOUTH OF 3920 SOUTH 2ND AVENUE

This time has been set aside for the Council to hear comments from the public regarding an exchange of real property located on South 2nd Avenue, south of 3920 South 2nd Avenue. The subject 0.35-acre parcel was declared underutilized and as surplus property at the March 6, 2025 Regular City Council meeting. Council may wish to approve the land exchange pursuant to Idaho Code §50-1403(2) and authorize the Mayor's signature on all pertinent documents, subject to Legal Department review. **(ACTION ITEM)**
(Quasi-judicial public hearing)

Documents:

AGENDA-ITEM-8.PDF

9. SUSPENSION OF CHILDCARE LICENSING FEES - POLICE DEPARTMENT

Council may wish to allow the Pocatello Police Department to immediately suspend Childcare Licensing Fees as stipulated in Pocatello Municipal Code 5.28.090 and set in Resolution 2024-30 Exhibit "I" until the final disposition of House Bill 243a in the Idaho Legislature is known. **(ACTION ITEM)**

Documents:

AGENDA-ITEM-9.PDF

10. ISU OUTDOOR ADVENTURE CENTER USE AGREEMENT FOR CITY CREEK, ROSS PARK AND NORDIC CENTER – PARKS AND RECREATION DEPARTMENT

Council may wish to approve a use agreement with ISU Outdoor Adventure Center for the use of portions of City Creek Management Area, Ross Park climbing areas and Mink Creek Nordic Center to conduct outdoor programs and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. **(ACTION ITEM)**

Documents:

AGENDA-ITEM-10.PDF

11. MASON HOLLADAY, SEI VOLLEYBALL, LLC USE AGREEMENT – PARKS AND RECREATION DEPARTMENT

Council may wish to approve a use agreement with SEI Volleyball, LLC for use of a portion of the greenspace at Hawthorne Park to conduct adult volleyball tournaments and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. **(ACTION ITEM)**

Documents:

AGENDA-ITEM-11.PDF

12. INDIAN HILLS LIFT STATION FORCE MAIN – SOUTH VALLEY BRIDGE CASINGS PROJECT – CONSOR

Council may wish to accept the recommendation of staff and approve Task Order #5 to the Wastewater Collections On-Call Engineering Services Agreement with Consor for design and construction engineering services for the South Valley Bridge Casings project in the amount of \$199,928.00 and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. This project will be funded by the EPA Community Change grant and includes Phase 1 of the Indian Hills Lift Station pressure line replacement project. The project will include two steel casings on the

South Valley Bridge for one water and one wastewater crossing of the Portneuf River and Union Pacific Railroad. **(ACTION ITEM)**

Documents:

AGENDA-ITEM-12.PDF

13. MEMORANDUM OF UNDERSTANDING - THE RIDGE @ HIGH TERRACE, LLC

Council may wish to approve a Memorandum of Understanding (MOU) between the City of Pocatello and The Ridge @ High Terrace, LLC outlining both parties' obligations and responsibilities regarding nonconforming easement language in relation to water fees associated with certain real property and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. **(ACTION ITEM)**

Documents:

AGENDA-ITEM-14.PDF

14. CONTRACT AWARD AND PROFESSIONAL SERVICES AGREEMENT FOR SOUTH 5TH COMPLETE STREETS AND SEWER PROJECT - KELLER ASSOCIATES, INC.

Council may wish to award a contract and approve a Professional Services Agreement between the City of Pocatello and Keller Associates, Inc. for the South 5th Avenue Complete Streets and Sewer Project including design and Construction Engineering and Inspections and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

Funding for the project has been awarded through the US Environmental Protection Agency (EPA) Community Change Grant for the South 5th Complete Streets and Sewer Project. **(ACTION ITEM)**

Documents:

AGENDA-ITEM-15.PDF

15. ITEMS FROM THE AUDIENCE

This time has been set aside to hear items from the audience not listed on the agenda. Items which appeared somewhere else on the agenda will not be discussed at this time. The Council is not allowed to take any official action at this meeting on matters brought forward under this agenda item. Items will either be referred to the appropriate staff or scheduled on a subsequent agenda. You must sign in at the start of the meeting in order to be recognized. (Note: Total time allotted for this item is fifteen (15) minutes, with a maximum of three (3) minutes per speaker.)

16. ADJOURN

PUBLIC HEARING PROCEDURE

1. Explanation of hearing procedures by Mayor or staff.
 - Ten (10) minute time limit on applicant presentation.
 - Three (3) minute time limit on public testimony.
 - Names and addresses are required from those presenting/testifying.
 - Questions/comments should be addressed to the Mayor and Council.
 - Council members must make their decision regarding the application on facts already in the record and information presented at the public hearing. Conflicts of interest, site visits and ex-parte contacts by Council members will be acknowledged.
 - Protocol requires that Council and audience be recognized by the Mayor prior to speaking.
2. Mayor opens hearing.
3. Presentation by applicant.

Note: Remember, applicant bears the responsibility for making his/her case.

This is also the time for Council members to ask their questions of the applicant.

4. Presentation by staff.
5. Written correspondence submitted for the record.
6. Testimony by those supporting the application.
7. Testimony by those uncommitted on the application.
8. Testimony by opponents to the application.
9. Rebuttal by the applicant.
10. Mayor closes the hearing and initiates motion/deliberations.

Note: The Mayor may choose to require a motion prior to the discussion in order to focus deliberations, or, the Mayor may choose to allow deliberations prior to the motion in order to facilitate wording of the motion.

11. Develop a written and reasoned statement supporting the decision.



**CITY OF POCATELLO, IDAHO
CITY COUNCIL
CLARIFICATION MEETING
MARCH 6, 2025**

AGENDA ITEM NO. 1: ROLL CALL

Mayor Brian Blad called the City Council Clarification meeting to order at 5:31 p.m. Council members present were Rick Cheatum via GoTo meeting, an online platform, Linda Leeuwrik, Corey Mangum, Josh Mansfield, Brent Nichols, and Hayden Paulsen.

AGENDA ITEM NO. 2: DISCUSSION

Mayor Blad and City Council members discussed items listed on the March 6, 2025 Regular City Council Meeting agenda. Staff members clarified agenda item information for City Council members.

AGENDA ITEM NO. 3: ADJOURN

Mayor Blad adjourned the City Council Clarification Meeting at 5:46 p.m.

APPROVED BY:

BRIAN C. BLAD, MAYOR

ATTESTED BY:

KONNI R. KENDELL, CITY CLERK

PREPARED BY:

AUBRIANA T. RESENDES, DEPUTY CITY CLERK



**CITY OF POCATELLO, IDAHO
CITY COUNCIL
REGULAR CITY COUNCIL MEETING
MARCH 6, 2025**

AGENDA ITEM NO. 1: ROLL CALL AND PLEDGE OF ALLEGIANCE

The Regular City Council meeting was called to order at 6:00 p.m. by Mayor Brian Blad. Council members present were Rick Cheatum via GoTo meeting, an online platform, Linda Leeuwrik, Corey Mangum, Josh Mansfield, Brent Nichols, and Hayden Paulsen.

Mayor Blad led the audience in the pledge of allegiance.

AGENDA ITEM NO. 2: INVOCATION

The invocation was offered by Tony Seikel, representing Portneuf Sangha.

AGENDA ITEM NO. 3: CONSENT AGENDA

Council was asked to consider the following business items:

(a) MINUTES

Waive the oral reading of the minutes and approve the minutes from the following meetings: Clarification and Regular City Council meetings of February 6 and February 20, 2025; and Work Session meeting of February 13, 2025.

(b) MATERIAL CLAIMS

Approve the Material Claims for the period of February 16 - 28, 2025 in the amount of \$2,781,464.77.

(c) TREASURER'S REPORT

Approve the Treasurer's Report for January 2025 showing cash and investments as of January 31, 2025 in the amount of \$16,045,664.87.

Mr. Cheatum requested that Agenda Item No. 3(a) be considered separately, as he was not present at the Council meetings on February 13, 2025 and therefore, does not feel comfortable voting upon the minutes.

A motion was made by Ms. Leeuwrik, seconded by Mr. Mansfield, to approve items 3(b) and 3(c) on the Consent Agenda. Upon roll call, those voting in favor were Leeuwrik, Mansfield, Cheatum, Mangum, Nichols, and Paulsen.

A motion was made by Ms. Leeuwrik, seconded by Mr. Mangum, to approve Agenda Item 3(a) on the Consent Agenda. Upon roll call, those voting in favor were Leeuwrik, Mangum, Mansfield, Nichols, and Paulsen. Cheatum voted in opposition to the motion. The motion passed.

AGENDA ITEM NO. 4: PROCLAMATIONS

Mr. Mangum, on behalf of Mayor Blad, proclaimed March 2025 to be National Nutrition Month and March 12, 2025 to be Registered Dietitian Nutritionist Day in Pocatello and

encouraged citizens to become aware of their nutrition needs and the nutrition of others for better health, and to recognize the contributions of Registered Dietitian Nutritionists to promote nutrition for better health.

Jenifer Reader, Idaho State University staff representing Pocatello Dietitian's Group, accepted the proclamation and thanked the Mayor and Council for the recognition.

Mr. Nichols, on behalf of Mayor Blad, proclaimed the week of March 9-15, 2025 to be AmeriCorps Week - "AmeriCorps Works for America" in Pocatello and encouraged citizens to learn about AmeriCorps, recognize its contributions, thank its members, and find ways to give back to their communities.

Annie Mendoza, Idaho State University's Institute of Rural Health representative, accepted the proclamation, thanked the Mayor and Council for the recognition, and encouraged citizens to serve others.

AGENDA ITEM NO. 5: CALENDAR REVIEW

Mayor Blad reminded Council members of the following meetings: March 13th City Council Work Session at 9:00 a.m. immediately followed by an Executive Session; March 20th Clarification meeting at 5:30 p.m. and Regular City Council meeting at 6:00 p.m.

Mayor Blad announced the annual Spring Clean Up at City Cemeteries begins March 31. Crews will remove and discard all flowers and decorations. Citizens are asked to remove decorations, etc. they have placed on a cemetery space if they wish to avoid disposal of the item by staff. Clean up is expected to continue through the end of April. Sandbags are available to residents at the Public Works building located at 2405 Garrett Way. Mayor Blad reminded citizens to keep sidewalks clear of snow and ice. When clearing sidewalks and driveways of snow, please do not place snow in the street. It becomes a driving hazard.

AGENDA ITEM NO. 6: FINAL PLAT APPLICATION – BARTON VILLAS

Council was asked to approve a final plat application submitted by Ben Johnson of Johnson Contracting and Engineering (mailing address: PO Box 4520, Pocatello, ID 83205) to subdivide 1.10 acres (more or less) into thirteen (13) townhome lots and two (2) stormwater/non-buildable lots, off-street parking and a proposed public road extending from Barton Road. The proposed subdivision is generally located in the 800 block of Barton Road, north/northwest of Cowboy Mobile Home Park and will be known as Barton Villas. Staff found the proposal is in substantial conformance with the preliminary plat application and recommend approval with conditions.

A motion was made by Mr. Mangum, seconded by Ms. Leeuwrik, to approve a final plat application submitted by Ben Johnson of Johnson Contracting and Engineering to subdivide 1.10 acres (more or less) into thirteen (13) townhome lots and two (2) stormwater/non-buildable lots with the following conditions: 1) All conditions set out in the Public Works Department Memorandum from Merrill Quayle, P.E. dated February 21, 2025, shall be met; 2) All conditions set out in the Executive Summary dated March 6, 2025, shall be met; 3) All other standards and conditions of Municipal Code not herein stated but applicable to the subdivision shall apply and that the proposed subdivision is



generally located in the 800 block of Barton Road, north/northwest of Cowboy Mobile Home Park and will be known as Barton Villas and that the decision be set out in appropriate Council decision format. Upon roll call, those voting in favor were Mangum, Leeuwrik, Cheatum, Mansfield, Nichols, and Paulsen.

AGENDA ITEM NO. 7: FINAL PLAT APPLICATION WESTERN SKIES DIVISION 4 SUBDIVISION

Council was asked to approve a final plat application submitted by Rockwell Homes, represented by TJ Togiai, Sunrise Engineering, (mailing address: 600 East Oak Street, Pocatello, ID 83201) to subdivide 6.94 acres (more or less) into twenty-eight (28) residential lots. The proposed subdivision is located west of I-15 and north of Western Skies Division 3 Subdivision and will be known as Western Skies Division 4 Subdivision. Staff found the proposal is in substantial conformance with the preliminary plat application and recommend approval with conditions.

A motion was made by Mr. Mangum, seconded by Mr. Paulsen, to approve a final plat application submitted by Rockwell Homes, represented by TJ Togiai, Sunrise Engineering, to subdivide 6.94 acres (more or less) into twenty-eight (28) residential lots with the following conditions: 1) All conditions set out in the Public Works Department Memorandum from Merrill Quayle, P.E. dated February 21, 2025, shall be met; 2) All conditions set out in the Executive Summary dated March 6, 2025, shall be met; 3) All other standards and conditions of Municipal Code not herein stated but applicable to the subdivision shall apply and that the proposed subdivision is located west of I-15 and north of Western Skies Division 3 Subdivision and will be known as Western Skies Division 4 Subdivision and that the decision be set out in appropriate Council decision format. Upon roll call, those voting in favor were Mangum, Paulsen, Cheatum, Leeuwrik, Mansfield, and Nichols.

AGENDA ITEM NO. 8: 2024 STATE HOMELAND SECURITY PROGRAM GRANT ACCEPTANCE – FIRE DEPARTMENT

Council was asked to approve the Pocatello Fire Department to participate in and accept funding through the Fiscal Year 2024 State Homeland Security Program under the Federal Emergency Management Agency (FEMA). The annual grants support the Regional Response Team for Hazardous Materials and the Idaho Technical Rescue Team for Technical Rescue and provide support for equipment and training to RRT 6 (Hazmat) in the amount of \$20,000.00 and ITRT 3A (Technical Rescue) in the amount of \$7,000.00. If approved Council was asked to authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

A motion was made by Ms. Leeuwrik, seconded by Mr. Paulsen, to approve the Pocatello Fire Department to participate in and accept funding through the Fiscal Year 2024 State Homeland Security Program under the Federal Emergency Management Agency annual grants to support the Regional Response Team for Hazardous Materials and the Idaho Technical Rescue Team for Technical Rescue and provide support for equipment and training to RRT 6 (Hazmat) in the amount of \$20,000.00 and ITRT 3A (Technical Rescue) in the amount of \$7,000.00, and authorize the Mayor's signature on all pertinent documents, subject to Legal Department review.



In response to questions from Council, Ryan O'Hearn, Fire Chief, explained the Pocatello Fire Department houses Regional Response Team 6 for hazardous materials and Technical Rescue Team 3A, both serving southeastern Idaho. He stated these teams receive funding through FEMA's state Homeland Security program via the Idaho Office of Emergency Management. Chief O'Hearn clarified that while there may be delays in processing reimbursement requests, the department plans to submit requests more frequently to ensure timely reimbursements.

Ms. Leeuwrik's motion was voted on at this time. Upon roll call, those voting in favor were Leeuwrik, Paulsen, Cheatum, Mangum, Mansfield, and Nichols.

AGENDA ITEM NO. 9: CONCESSIONAIRE AGREEMENT AWARD - JERI'S JUMBOS CAFÉ, LLC

Council was asked to approve a concessionaire agreement with Jeri's Jumbos Café, LLC (mailing address: 3122 Pole Line Road, Pocatello, ID 83201) for food services to be provided at Ross Park Aquatic Complex (RPAC), 2901 South 2nd Avenue, and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

In response to questions from Council, Anne Butler, Parks and Recreation Director, stated that Jerri's Jumbos had a successful first year as the concessionaire. The vendor was pleased with overall performance, and the City was satisfied with the service provided.

A motion was made by Ms. Leeuwrik, seconded by Mr. Mangum, to approve a concessionaire agreement with Jeri's Jumbos Café, LLC for food services to be provided at Ross Park Aquatic Complex (RPAC), 2901 South 2nd Avenue, and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Leeuwrik, Mangum, Cheatum, Mansfield, Nichols, and Paulsen.

AGENDA ITEM NO. 10: CITY CREEK MANAGEMENT AREA USE AGREEMENT - PARKS AND RECREATION DEPARTMENT

Council was asked to approve a use agreement with Alpenglow Experiences, LLC for use of portions of the City Creek Management Area to conduct guided day hiking programs for small groups and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

A motion was made by Mr. Mansfield, seconded by Mr. Mangum, to approve a use agreement with Alpenglow Experiences, LLC for use of portions of the City Creek Management Area to conduct guided day hiking programs for small groups and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Mansfield, Mangum, Cheatum, Leeuwrik, Nichols and Paulsen.

In response to questions from Council, Ryan Cameron, representing Alpenglow Experiences, shared the purpose and goal of the backpacking outfitter business and explained plans to operate on Pocatello's City Creek trails. He aims to follow local regulations and begin operation in the spring.



AGENDA ITEM NO. 11: DONATION AGREEMENT – LOOKOUT POINT

Council was asked to approve a donation agreement with Historic Downtown Pocatello for Lookout Point, and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

A motion was made by Mr. Nichols, seconded by Mr. Mansfield, to approve a donation agreement with Historic Downtown Pocatello for Lookout Point, and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Nichols, Mansfield, Cheatum, Leeuwrik, Mangum, and Paulsen.

AGENDA ITEM NO. 12: LEASE AGREEMENT AND RESOLUTION – LOOKOUT POINT AND SIMPLOT SQUARE

Council was asked to adopt a Resolution and approve a lease agreement with Historic Downtown Pocatello for management rights of Lookout Point and Simplot Square, and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

A motion was made by Ms. Leeuwrik, seconded by Mr. Mangum, to adopt a Resolution (2025-05) and approve a lease agreement with Historic Downtown Pocatello for management rights of Lookout Point and Simplot Square, and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Leeuwrik, Mangum, Cheatum, Mansfield, Nichols, and Paulsen.

AGENDA ITEM NO. 13: PROFESSIONAL SERVICES AGREEMENT – BIOTA CONSULTING

Council was asked to accept the recommendation of staff and approve a professional services agreement with Biota Consulting, in the amount of \$521,366.00 to develop a restoration plan for the Portneuf Oxbow area and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Funding for the contract expenses are covered by the Bureau of Reclamation WaterSMART Grant and ARPA funding.

A motion was made by Mr. Mangum, seconded by Ms. Leeuwrik, to accept the recommendation of staff and approve a professional services agreement with Biota Consulting, in the amount of \$521,366.00 to develop a restoration plan for the Portneuf Oxbow area and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Mangum, Leeuwrik, Cheatum, Mansfield, Nichols, and Paulsen.

AGENDA ITEM NO. 14: PROFESSIONAL SERVICES AGREEMENT – JUB ENGINEERS

Council was asked to accept the recommendation of staff and approve a professional services agreement with JUB Engineers, Inc. in the amount of \$960,600.00 to provide engineering services for the South 5th Avenue Complete Streets and Sewer: Surveying,



Right-of-Way, and Permitting project and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Funding for the project is funded by the US EPA Community Change grant.

A motion was made by Mr. Mangum, seconded by Mr. Paulsen, to accept the recommendation of staff and approve a professional services agreement with JUB Engineers, Inc. in the amount of \$960,600.00 to provide engineering services for the South 5th Avenue Complete Streets and Sewer: Surveying, Right-of-Way, and Permitting project and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Mangum, Paulsen, Cheatum, Leeuwrik, Mansfield, and Nichols.

AGENDA ITEM NO. 15: RECYCLING SERVICES AGREEMENT - WASTE MANAGEMENT OF UTAH, INC.

Council was asked to accept the recommendation of staff and approve a Recycling Services Agreement with Waste Management of Utah, Inc. to provide processing services to the Sanitation Department for the current City recycling program and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

A motion was made by Mr. Cheatum, seconded by Ms. Leeuwrik, to accept the recommendation of staff and approve a Recycling Services Agreement with Waste Management of Utah, Inc. to provide processing services to the Sanitation Department for the current City recycling program and authorize the Mayor's signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Cheatum, Leeuwrik, Mangum, Mansfield, Nichols, and Paulsen.

In response to questions from Council, Tom Kirkman, Director of Public Services, reported that the recycling contract offers flexibility to choose between providers each month, ensuring better pricing. He noted the facility is performing well, with increased material drop-offs from both commercial accounts and neighboring communities. Recent cost-saving measures, such as baling cardboard, have significantly reduced expenses. The department is also developing a commercial cardboard program.

AGENDA ITEM NO. 16: PIGGYBACK BID ACCEPTANCE FOR REFUSE CONTAINERS - SANITATION DEPARTMENT

Council was asked to accept the recommendations of staff and approve piggybacking of the City of Pocatello 2023 competitively bid pricing with Enterprise Sales for the purchase of 3-yard front-load, 6-yard front-load and 30-yard lidded containers in the amount of \$102,776.00 and authorize the Mayor's signature on all pertinent documents, subject to Legal Department review. Funding for the purchase is available in the Sanitation Services FY2025 budget.

A motion was made by Mr. Mansfield, seconded by Mr. Mangum, to accept the recommendations of staff and approve piggybacking of the City of Pocatello 2023 competitively bid pricing with Enterprise Sales for the purchase of 3-yard front-load, 6-yard front-load and 30-yard lidded containers in the amount of \$102,776.00 and authorize the Mayor's signature on all pertinent documents, subject to Legal Department



review. Upon roll call, those voting in favor were Mansfield, Mangum, Cheatum, Leeuwrik, Nichols, and Paulsen.

AGENDA ITEM NO. 17: PIGGYBACK BID ACCEPTANCE FOR CAT CB4.0 UTILITY COMPACTOR PURCHASE – WATER DEPARTMENT

Council was asked to approve the piggyback bid of Sourcewell Contract #020223-CAT via Western States Caterpillar for the purchase of one (1) 2024 CAT CB4.0 Utility Compactor in the amount of \$69,958.19, with a lease return credit of \$10,000.00, for a total expenditure of \$59,638.19, and authorize the Mayor's signature on all pertinent paperwork, subject to Legal Department review. Funding is available in the Water Department budget reserves.

A motion was made by Ms. Leeuwrik, seconded by Mr. Mangum, to approve the piggyback bid of Sourcewell Contract #020223-CAT via Western States Caterpillar for the purchase of one (1) 2024 CAT CB4.0 Utility Compactor in the amount of \$69,958.19, with a lease return credit of \$10,000.00, for a total expenditure of \$59,638.19, and authorize the Mayor's signature on all pertinent paperwork, subject to Legal Department review. Upon roll call, those voting in favor were Leeuwrik, Mangum, Cheatum, Mansfield, Nichols, and Paulsen.

AGENDA ITEM NO. 18: DECLARATION OF SURPLUS PROPERTY – 0.113 ACRE PARCEL OF CITY-OWNED PROPERTY – HARTFORD DRIVE

Council was asked to declare a 0.113-acre parcel of City-owned property located behind Lot 35 Block 2 The Crossings Division 2 Subdivision, commonly known as 2672 Hartford Drive, as underutilized and further declare the intent to exchange said property for real property of equal value, owned by Patrick Pape, represented by Creek Hollow and Associates, Inc. (mailing address: 611 Wilson Avenue, Suite 1A, Pocatello, ID 83201) in accordance with Idaho Code Title 50 Chapter 14 "Conveyance of Property" and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

A motion was made by Mr. Mansfield, seconded by Mr. Cheatum, to declare a 0.113-acre parcel of City-owned property located behind Lot 35 Block 2 The Crossings Division 2 Subdivision, commonly known as 2672 Hartford Drive, as underutilized and further declare the intent to exchange said property for real property of equal value, owned by Patrick Pape, represented by Creek Hollow and Associates, Inc. in accordance with Idaho Code Title 50 Chapter 14 "Conveyance of Property" and authorize the Mayor's signature on all applicable documents, subject to Legal Department review.

Merril Quayle, Development Engineer, explained that the City's property trade will allow the City to combine the acquired parcel with an adjacent lot to create space for a potential four-lot parking area for a nearby trailhead.

Mr. Mansfield's motion was voted on at this time. Upon roll call, those voting in favor were Mansfield, Cheatum, Leeuwrik, Mangum, Nichols, and Paulsen.



**AGENDA ITEM NO. 19: DECLARATION OF SURPLUS PROPERTY – 0.35 ACRE
PARCEL OF CITY-OWNED PROPERTY – SOUTH 2ND
AVENUE**

Council was asked to declare a 0.35-acre parcel of City-owned property located on South 2nd Avenue, south of 3920 South 2nd Avenue and north of 3960 South 2nd Avenue, as underutilized and further declare the intent to exchange said property for real property of equal value, owned by Gary Ratliff, in accordance with Idaho Code Title 50 Chapter 14 “Conveyance of Property” and authorize the Mayor’s signature on all applicable documents, subject to Legal Department review.

A motion was made by Mr. Mansfield, seconded by Mr. Mangum, to declare a 0.35-acre parcel of City-owned property located on South 2nd Avenue, south of 3920 South 2nd Avenue and north of 3960 South 2nd Avenue, as underutilized and further declare the intent to exchange said property for real property of equal value, owned by Gary Ratliff, in accordance with Idaho Code Title 50 Chapter 14 “Conveyance of Property” and authorize the Mayor’s signature on all applicable documents, subject to Legal Department review. Upon roll call, those voting in favor were Mansfield, Mangum, Cheatum, Leeuwrik, Nichols, and Paulsen.

**AGENDA ITEM NO. 20: RESOLUTION SUPPORTING THE PRESERVATION OF
TAX-EXEMPT MUNICIPAL BONDS**

Council was asked to adopt a Resolution expressing support for tax-exempt municipal bonds and encouraging Idaho’s Congressional Delegation to ensure the protection of the federal tax exemption of municipal bonds.

A motion was made by Ms. Leeuwrik, seconded by Mr. Paulsen, to adopt a Resolution (2025-06) expressing support for tax-exempt municipal bonds and encouraging Idaho’s Congressional Delegation to ensure the protection of the federal tax exemption of municipal bonds. Upon roll call, those voting in favor were Leeuwrik, Paulsen, Cheatum, Mangum, Mansfield, and Nichols.

In response to a request by Council, Jared Johnson, City Attorney, read the Resolution aloud.

**AGENDA ITEM NO. 21: ORDINANCES – VACATING 100 SQUARE FEET OF
RIGHT-OF-WAY**

Council was asked to approve an ordinance vacating the public’s interest in approximately 100 square feet of right-of-way located at the northern end of Bogey Lane and distributing said vacated land to the adjoining property owner, Dykman Construction, Inc. Said vacation was approved by City Council Decision dated February 20, 2025 and all conditions therein have been met.

A motion was made by Mr. Mansfield, seconded by Mr. Mangum, that the ordinance, Agenda Item No. 21, be read only by title and placed on final passage for publication and that only the ordinance summary sheet be submitted for publication. Upon roll call, those voting in favor were Mansfield, Mangum, Cheatum, Leeuwrik, Nichols, and Paulsen.



Jared Johnson, City Attorney, read the ordinance by title.

Mayor Blad declared the final reading of the ordinance vacating the public's interest in approximately 100 square feet of right-of-way located at the northern end of Bogey Lane and distributing said vacated land to the adjoining property owner, Dykman Construction, Inc. as approved by City Council Decision dated February 20, 2025. Mayor Blad asked, "Shall the ordinance pass?" Upon roll call, those voting in favor were Cheatum, Leeuwrik, Mangum, Mansfield, Nichols and Paulsen. Mayor Blad declared the ordinance passed, that it be numbered 3157 and that only the ordinance summary sheet be submitted to the Idaho State Journal for publication.

AGENDA ITEM NO. 22: ITEMS FROM THE AUDIENCE

There were no individuals signed up to speak at this time.

AGENDA ITEM NO. 23: ADJOURN

There being no further business, Mayor Blad adjourned the meeting at 6:45 p.m.

APPROVED BY:

BRIAN C. BLAD, MAYOR

ATTESTED BY:

KONNI R. KENDELL, CITY CLERK

PREPARED BY:

AUBRIANA T. RESENDES, DEPUTY CITY CLERK





**CITY OF POCATELLO, IDAHO
CITY COUNCIL
CITY COUNCIL SPECIAL MEETING
MARCH 20, 2025**

A Special meeting of the city Council was called to order by Mayor Brian Blad at 4:04 p.m. in the Paradise Conference Room at City Hall. Council members in attendance were Rick Cheatum, via GoTo Meeting, an online meeting platform, Linda Leeuwrik, Josh Mansfield, Brent Nichols and Hayden Paulsen. Council member Corey Mangum was excused.

A motion was made by Mr. Paulsen, seconded by Mr. Mansfield, to convene into Executive Session in accordance with Idaho Code 74-206(1)(j) To consider labor contract matters authorized under section 74-206A (1)(a) and (b), Idaho Code. Upon roll call, those voting in favor were Paulsen, Mansfield, Cheatum, Leeuwrik and Nichols.

In addition to the Council members, the following City staff members were in attendance: Jared Johnson, City Attorney; Heather Buchanan, Human Resources Director; and Konni Kendell, City Clerk.

Council members discussed topics within the parameters of the above statute.

There being no further business, Mayor Blad adjourned the meeting at 5:01 p.m.

APPROVED:

BRIAN C. BLAD, MAYOR

ATTEST AND PREPARED BY:

KONNI R. KENDELL, CITY CLERK

**CITY OF POCA TELLO
2025 AUCTION LIST FOR COUNCIL APPROVAL**

No.	Department	Item Description	Photos
1	HUMAN RESOURCES	STANDING DESK	
2	ZOO IDAHO	2005 GMC 1500 PICKUP TRUCK VIN: 1GTEK14Z35Z248339	
3	ZOO IDAHO	1999 GMC 1500 PICKUP TRUCK VIN: 1GTDT14X3X8524700	
4	ZOO	2012 POLARIS RANGER VIN: 4XARH50AOC4725589 HOURS: 5,735 <i>RUNS ROUGH</i>	 

5	MAYOR'S OFFICE	(2) ORANGE OFFICE CHAIRS	
6	MAYOR'S OFFICE	TABLETOP (NO LEGS)	
7	MAYOR'S OFFICE	SMALL CHRISTMAS TREE	
8	MAYOR'S OFFICE	(2) MACRAME PLANT HANGERS	

9	SANITATION	CARDINAL 5,000 LB LOW PROFILE 5X5 FLOOR SCALE	
10	SANITATION	334SAN 2000 TOYOTA FORKLIFT VIN: 62680	
11	WATER	Used Brass Water Meters 1" to 2" (non-compliant for potable use) – two hundred plus meters	
12	WATER	Canon Imageprograf Printer IPF755 (Needs new motherboard)	
13	WATER	Jet 8" Bench Grinder Model JFB-8A	

14	WATER	Pipe Saw Husqvarna 1260-1		
15	WATER	Pipe Saw Husqvarna K1260-2		
16	WATER	Pipe Saw Husqvarna K1270-1		
17	WATER	Pipe Saw Husqvarna K1270-2		
18	WATER	Pipe Saw Husqvarna K1270-3		
19	WATER	Pipe Saw Husqvarna K1270-4		

20	WATER	Pipe Saw Makita		
21	WATER	Pipe Saw Partner 1250-1		
22	WATER	Pipe Saw Partner 1250-2		
23	WATER	Stihl TS800		
24	P&R	PLOW TRUCK 1985 INTERNATIONAL S1954 VIN: 1HTLDUYP4FHA10380 ODO: 185,272		

25	P&R OUTDOOR REC	(4) AMMO CANS	
26	P&R OUTDOOR REC	ELECTRIC ENGINE COOLING FAN	
27	P&R OUTDOOR REC	16 FOOT FIBERGLASS CANOE	
28	P&R OUTDOOR REC	ADJUSTABLE STAND-UP DESK	
29	P&R OUTDOOR REC	(7) GREEN DRY BAGS	

30	P&R OUTDOOR REC	(9) BLACK DRY BAGS	
31	P&R OUTDOOR REC	(10) SNOWSHOE TOTE BAGS	
32	P&R OUTDOOR REC	COMPUTER MONITOR	
33	P&R OUTDOOR REC	TIRE CHAINS	
34	P&R OUTDOOR REC	BOX OF ELASTIC FITNESS BANDS	

35	P&R OUTDOOR REC	(2) BOXES OF PAINTBALL BULLETS	
36	P&R OUTDOOR REC	CATERING DISHES	
37	P&R OUTDOOR REC	KIDS PAINTBALL SUPPLIES, SLINGSHOT, GUNS, FACE SHIELD, PAINTBALLS	
38	P&R	Standing Desk 29 1/2" deep x 35 1/2" wide	

39	P&R	ROUTER TABLE	   
40	P&R	(6) STARTING BLOCKS	
41	P&R	CYBEX WEIGHT RACK	

42	P&R	MISC PLUMBING PARTS	   
43	P&R	STANDING DESK	

44	WPC	2001 GMC High-Cube Truck VIN: J8DF5C13217700972 Miles: 57,479 Hours: 1,157	  
45	WPC	Leer Truck Shell 6.5' High-Rise FOR A 2018 CHEVROLET 5.5' BED	 
46	WPC	VariDesk, Cube Corner Sit-Stand Desk Converter 36" wide x 34" deep	

47	WPC	VariDesk Sit-Stand Desk Converter 30" x 30" some damage on corners		
48	WPC	Chairs x 2 Office Guest		
49	WPC	Mirror 27.5" x 33.5"		
50	WPC	Rug 62.5" wide x 87.5" long		
51	WPC	Clock 18" diameter		

52	WPC	Coat Rack 6' tall	
53	WPC	Steelcase Desk, L-Shaped, Gray Laminate 6'3" wide x 7'6" long x 30" high Individual component measurements: Desk: 6'3" wide x 30" deep Right side Return: 5' wide x 2' deep	 
54	WPC	Steelcase Desktop (no legs), U-Shape, Light Maple Laminate 5'4" wide x 5'4" long, 29" deep, top only	
55	WPC	Steelcase Desk, U-Shaped, Oak Laminate 8'9" wide x 8'9" long x 30" high Individual component measurements: Left Side: 5' wide x 2' deep Middle Triangle: 3'9" left x 3'9" right Right Side: 5" wide x 2' deep Return/Island: 5' wide x 30" deep	

56	WPC	Steelcase Desk, Oak Laminate 75" wide x 30" deep x 30" high	
57	WPC	Steelcase Desk/Left Side Return, Oak Laminate 5' wide x 2' deep x 30" high	
58	WPC	Steelcase Desk/Right Side Return with File Drawers, Oak Wood Laminate 5' wide x 2' deep x 30" high	
59	WPC	Steelcase Desk Return/Island, Oak Laminate 5' wide x 30" deep x 30" high	
60	WPC	Manual Hoist Chain Fall Long Chain, 3 Ton Max	

61	FIRE DEPT	(2) GREY CHAIRS	
62	FIRE DEPT	2005 CHEVROLET TRAILBLAZER VIN: 1GNDT13S552353915 (HAS NEW BATTERY) ODO: ~116,000	
63	FIRE DEPT	(4) GREY CHAIRS	
64	FIRE DEPT	(1) TOOL BOX	
65	FIRE DEPT	METAL LOCKERS, BLUE	

66	POLICE	APPX (80) LOCKERS	
67	POLICE	FOUR TIRES ON RIMS 195x55R16	
68	POLICE	LEG PRESS	
69	POLICE	CYBEX TREADMILL	
70	POLICE	ELLIPTICAL	
71	POLICE	PRO SPORT CLIMBER	
72	POLICE	LIFE FITNESS TREADMILL	
73	POLICE	SIGNATURE FITNESS FREE MOTION TREADMILL	
74	POLICE	WEIGHT TREE	
75	POLICE	CAP STRENGTH ADJUSTABLE BENCH	
76	POLICE	MATRIX ELLIPTICAL	
77	POLICE	LEG EXTENSION	
78	POLICE	BODY SOLID BENCH	
79	POLICE	RAPTOR INCLINE BENCH	
80	POLICE	BENCH PRESS	
81	POLICE	SCHWINN AIRDYNE STATIONARY BIKE	
82	POLICE	(2) 4-DRAWER METAL CABINETS	
83	POLICE	(3) 2-DRAWER METAL CABINETS	
84	POLICE	LOCKER ROOM BENCHES	
85	POLICE	METAL LADDER Seized Item	
86	POLICE	PIONEER WOMAN 20-PIECE KNIFE SET Seized Item	
87	POLICE	PIONEER WOMAN 20-PIECE GADGET SET Seized Item	
88	POLICE	TENT Seized Item	
89	POLICE	FANATIC PADDLEBOARD Seized Item	
90	POLICE	INFLATABLE RAFT Seized Item	
91	POLICE	STRUTS FOR A VEHICLE Seized Item	
92	POLICE	JOHN DEER TRACTOR TOY Seized Item	
93	POLICE	(2) GREEN WORKS WEED TRIMMER Seized Item	

94	POLICE	THERMAL SHIPPING LABEL PRINTER Seized Item	
95	POLICE	WIRED HELMET AUDIO AND COMMUNICATION Seized Item	
96	POLICE	YELLOW TOOLBOX Seized Item	
97	POLICE	RANDOM WEIGHTS Seized Item	
98	POLICE	WHEEL CHAIR Seized Item	
99	POLICE	RYOBI WEED TRIMMER Seized Item	
100	POLICE	WALKER Seized Item	
101	TRANSIT	907PRT 2009 FORD CROWN VICTORIA ODO: 104,189 VIN: 2FAHP71VX9X128350	
102	TRANSIT	909PRT 2008 FORD CROWN VICTORIA ODO: 100,209 VIN: 2FAHP71V68X153034	
103	TRANSIT	922PRT 2006 OPUS TK OPTIMA ODO: 327,135 VIN: 1Z9B6BSS66W216356	
104	TRANSIT	924PRT 2005 OPUS TK OPTIMA ODO: 327,917 VIN: 1Z9B5BSSX5W216281	

105	TRANSIT	925PRT 2005 OPUS TK OPTIMA ODO: 307,518 VIN: 1Z9B5BSS95W216272	
106	TRANSIT	936PRT 2008 CHEVROLET EL DORADO ODO: 333,537 VIN: 1GBJ5V1918F409802 TOTALED VEHICLE TITLE; STILL OPERABLE	
107	TRANSIT	966PRT 2008 FORD STARCRAFT/STARLITE ODO: 130,210 VIN: 1FD3E35S38DA22990	
108	TRANSIT	967PRT 2010 CHEVROLET PACER ODO: 251,648 VIN: 1GB6G3A65A1111377	
109	TRANSIT	972PRT 2014 FORD EL DORADO ODO: 255,384 VIN: 1FD4E4FS3EDB17336	
110	TRANSIT	976PRT 2008 FORD STARCRAFT/ALLSTAR ODO: 76,516 VIN: 1FD4E45P98DA88238	
111	TRANSIT	2006 OPUS TK OPTIMA BUS VIN: 1Z9B6BSS86W216360	

		ODO: 319,258	
		FOR SCRAP, NOT AUCTION	
112	FLEET	PARTS4FLT 2017 FORD EXPLORER (WRECKED) VIN: 1FM5K8AR9HGC25351 FOR SCRAP, NOT AUCTION	
113	FLEET	PARTS3FLT 2013 FORD TAURUS (WRECKED) VIN: 1FAHP2MT0DG222295 FOR SCRAP, NOT AUCTION	
114	FLEET	JACKS/DRUM CART, BROKEN FOR SCRAP OR AUCTION	



AGREEMENT TO HOLD PUBLIC AUCTION

City of Pocatello
911 North 7th
P. O. Box 4169
Pocatello, Idaho 83205

Dear Sirs:

This agreement contains the following:

We propose to hold an online surplus property auction for the City of Pocatello at Prime Time Auctions. The auction is to be held on Saturday May 10, 2025 online at www.primetimeauctions.com.

Our proposal contains the following conditions:

1. The investment for holding the auction will be 17% of all merchandise. A buyer's premium is paid by the buyer on auction day and is kept by Prime Time Auctions for services. Premiums are 5% on items that sell for \$2501.00 or more and 10% on items that sell for \$2500.00 or less.
2. City of Pocatello will reimburse from proceeds in the amount of \$895.00 for advertising.
3. City of Pocatello will handle any legal advertising that needs to be placed.
4. Prime Time Auctions agrees to have a Fork Lift available to use for setup and removal for this auction.
5. Within 10 days following the auction, we will provide the City of Pocatello with an accounting from each separate Department and payment of auction proceeds.
6. The items may be delivered any time after the contract is signed and will be sold at our May 10, 2025 Community Auction.

Date

2/14/2025

Parker Hernandez
Auction Representative

Date

3-4-2025

BBlad
Mayor Brian Blad

ADMINISTRATIVE APPROVAL

EXECUTIVE SUMMARY
EXCHANGE OF REAL PROPERTY PUBLIC HEARING

TO: Mayor Blad and City Council Members
FROM: Merrill Quayle, P.E., Public Works Engineer
DATE: Meeting Date – April 3, 2025
SUBJECT: Exchange of Real Property Public Hearing

REQUEST

Patrick “Pat” Pape represented by Creek Hollow & Associates, Inc. (mailing: 611 Wilson Ave., Suite 1A, Pocatello, Idaho 83201) request the exchange of real property.

BACKGROUND

The notice for the public hearing was published in the Idaho State Journal on March 19, 2025 pursuant to Idaho Code §50-1402.

At the regular scheduled City Council meeting of March 6, 2025, the City Council declared property 0.113 acres behind 2672 Hartford Drive underutilized and as surplus and further declared their intent to exchange said real property pursuant to Idaho Code §50-1401.

Patrick “Pat” Pape approached the city about a proposed land exchange. The proposal is to grant to the City of Pocatello Lot 28 Block 2 as described in instrument number 22206512 (0.121 acres) within The Crossings Division 2 subdivision located adjacent to Hartford Drive. Lot 28 is adjacent to the City of Pocatello owned Lot 29. The lots combined could be used for a future small parking area for the larger open space lot and future pathway system.

The Property requested to be exchanged for is 0.113 acres to be removed from Lot 38 Block 2 The Crossings Division 2 subdivision, an open space lot owned by the City of Pocatello (9.329 acres) of and located behind Lot 35 Block 2 of said subdivision. Lot 35 belongs to Patrick “Pat” Pape. the exchange would allow for an extended rear yard for Lot 35 where there is currently a rock wall and fence constructed.

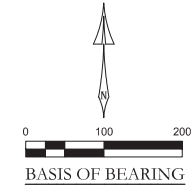
EXHIBIT A – Preliminary record of survey for reference of the proposed real property exchange.

EXHIBIT B – Legal Description of Parcel C – Portion of Lot 38 Block 2 The Crossings Division 2 to be declared underutilized and intent to exchange.

STAFF RECOMMENDATION

Staff recommends Council approve the land exchange pursuant to Idaho Code §50-1403 (2) and authorize the Mayor to sign all relevant documents, subject to Legal Department review.

EXHIBIT A



THE SOUTH LINE OF SECTION 1 BETWEEN FOUND MONUMENTS AS SHOWN BASED ON THE CENTRAL MERIDIAN OF THE EAST ZONE OF THE IDAHO STATE PLANE COORDINATE SYSTEM

LEGEND

- SUBDIVISION BOUNDARY LINE
- - - SECTION LINES
- - - STREET CENTERLINE
- - - INTERIOR LOT LINES
- - - EXISTING PUBLIC UTILITY EASEMENT LINE
- - - IRRIGATION EASEMENT AS NOTED

- FOUND 5/8" REBAR WITH ALUMINUM CAP STAMPED RMES CH&A PLS 12457
- FOUND 1/2" REBAR WITH YELLOW CAP STAMPED CHA - PLS 12457
- SET 1/2" REBAR WITH PLASTIC CAP STAMPED CHA - PLS 12457

RECORD REFERENCES

THE CROSSINGS DIVISION NO. 1
INSTRUMENT NO. 21908026

THE CROSSINGS DIVISION NO. 2
INSTRUMENT NO. 21914004

SURVEYOR'S NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO ADJUST THE LOT LINE OF OPEN SPACE LOT 38 BLOCK 2 OF THE CROSSINGS DIVISION NO. 2, INSTRUMENT NO. 21914004, AND AREA NOTED AS PARCEL C IS DETERMINED TO BE SURPLUS PROPERTY WITHIN THE OPEN SPACE OF SAID SUBDIVISION PLAT.

PARCEL C IS TO BE DEEDED TO THE OWNER OF LOT 35 BLOCK 2 OF THE CROSSINGS DIVISION NO. 2 AND TO REMAIN APART OF SAID LOT NOT TO BE SOLD SEPARATELY.

SURVEYORS CERTIFICATE

I, CHRISTOPHER ADAMS, PLS 12457 OF IDAHO, DO HEREBY CERTIFY THAT THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME, IN CONFORMANCE WITH LAW(S) OF CHAPTER 19, TITLE 55, IDAHO CODE.



LOT 28, 35, & 38, BLOCK 2
THE CROSSINGS DIVISION NO. 2
RECORD OF SURVEY - PROPERTY LINE ADJUSTMENT
SW 1/4 SECTION 1, TOWNSHIP 6 SOUTH, RANGE 34 EAST, B.M.
BANNOCK COUNTY, IDAHO

JOB NO. 17033.PD32
DRAWN BY: CMA
02/04/25

REVISIONS	
1	
2	

SCALE 1" = 100'
SHEET 1 OF 1

CURVE TABLE

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	109.74'	412.50'	15°14'36"	N 29°53'40" E	109.42'
C2	170.36'	487.50'	20°01'21"	N 27°30'18" E	169.50'

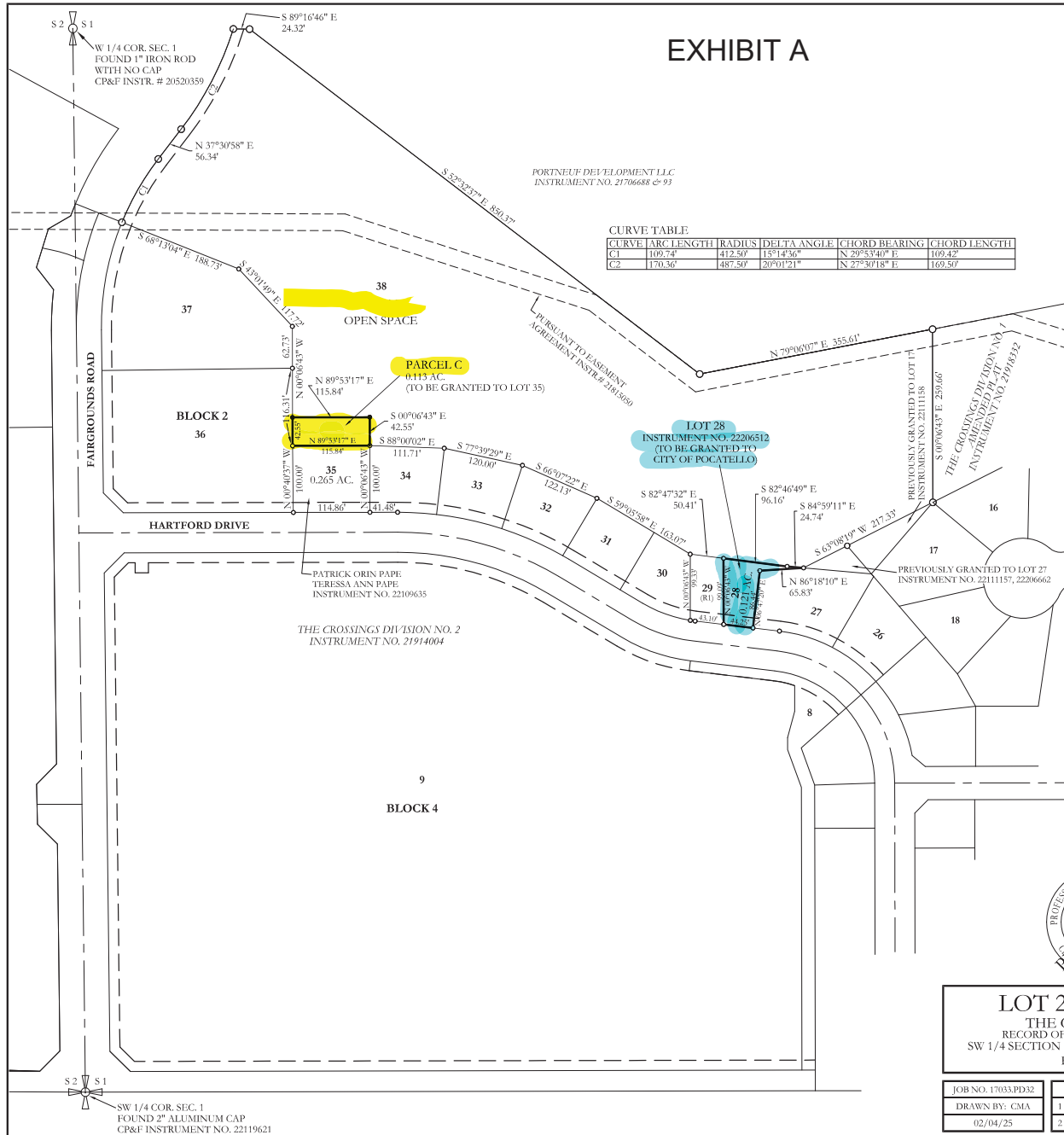


EXHIBIT B



Creek Hollow & Associates, Inc.

611 Wilson Ave., Suite 1A, Pocatello, ID 83201
Phone: (208) 709-3113 / Fax: (208) 238-8852

LEGAL DESCRIPTION

Parcel C - Portion of Lot 38 Block 2 The Crossings Division No. 2

A portion of Lot 38 Block 2 of The Crossings Division No. 2, Instrument No. 21914004, more particularly described as follows:

Commencing at the Northwest corner of Lot 35 Block 2 of said The Crossings Division No. 2, also being the **Point of Beginning**; thence along the West line of said Lot 38 Block 2, North $00^{\circ}40'37''$ West 42.55 feet; Thence parallel with the North line of said Lot 35 Block 2, North $89^{\circ}53'17''$ East 115.84 feet; thence South $00^{\circ}06'43''$ East 42.55 feet to the Northeast corner of said Lot 35 Block 2; thence along the North line of said Lot 35 Block 2, South $89^{\circ}53'17''$ West 115.84 feet to the **Point of Beginning**.

Parcel contains 0.113 acres.



EXECUTIVE SUMMARY

PUBLIC HEARING - INTENT TO EXCHANGE PROPERTY

To: Mayor Blad & Pocatello City Council
From: Matthew G. Lewis, M.S. Senior Planner
Date: April 3, 2025

The City Council may recall declaring their intent to exchange real property between the City of Pocatello and Mr. Gary Ratliff at the meeting held on March 6, 2025. Planning Staff provided notice of the exchange and date of public hearing in the Idaho State Journal at least fourteen (14) days prior to this evenings meeting in accordance with Idaho Code §50-1402.

BACKGROUND

- In October 2009 a number of individuals associated with the rock-climbing community approached City Staff expressing concern with the fact that the southern-most basalt cliff better known as the “Sunny Side” was not owned by the City but rather was privately owned by Gary Ratliff. There are currently 4/5 rock climbing routes and a foot path used to set-up ropes along the entire basalt cliff. Mr. Ratliff has gradually come closer to encroaching upon the foot path through the use of his property to extract gravel.
- Matthew Lewis, Senior Planner and Gary Ratliff met in March of 2012 at which time the possibility of exchanging real property was discussed and agreed upon in principal.
- The possibility of the proposed exchange was brought before the Pocatello City Council at a work session held on May 10, 2012. Following the presentation City Council directed staff to research and prepare documents related to the proposed land swap (see attached minutes).
- Staff followed up by ordering a preliminary title commitment for the property located at 3920 South 2nd Avenue. Said title commitment indicated that there was an incumbrance on the property owed to D.L. Evans Bank. Before the trade could move forward the encumbrance needed to be removed. (See attached correspondence dated June 19, 2012).

- Momentum regarding the trade slowed in light of the aforementioned incumbrance and City staff workload to complete surveying in the field and legal descriptions. Mr. Ratliff was also in/out of the Country making it difficult to communicate.
- More recently – Staff meet with Mr. Ratliff to bring the proposed trade back to the table. In the discussion Mr. Ratliff was unaware of the incumbrance at which time he told me to contact Ricky Evans with D.L. Evans Bank. During a telephone call Mr. Evans noted that the issue would be resolved but a survey with legal descriptions regarding the trade would be needed.
- Staff retained Sunrise Engineering for surveying services which included:
 - o Locate controlling corners & determine existing property boundaries
 - o Research records & analyze adjoiners boundaries
 - o Write legal descriptions for 2 new parcels
 - o Prepare Record of Survey (ROS) and set monuments of parcel corners
- A copy of the ROS is attached. Based on State Code the map with the legal descriptions and deeds must be recorded no later than 90-days following setting the monuments in the field.

EXECUTIVE SUMMARY

DECLARATION OF INTENT TO EXCHANGE PROPERTY

To: Mayor Blad & Pocatello City Council
From: Matthew G. Lewis, M.S. Senior Planner
Date: March 6, 2025

BACKGROUND

- In October 2009 a number of individuals associated with the rock-climbing community approached City Staff expressing concern with the fact that the southern-most basalt cliff better known as the “Sunny Side” was not owned by the City but rather was privately owned by Gary Ratliff. There are currently 4/5 rock climbing routes and a foot path used to set-up ropes along the entire basalt cliff. Mr. Ratliff has gradually come closer to encroaching upon the foot path through the use of his property to extract gravel.
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- A copy of the ROS is attached. Based on State Code the map with the legal descriptions and deeds must be recorded no later than 90-days following setting the monuments in the field.

STAFF RECOMMENDATION

- Following a declaration of intent exchange real property, if the Council chooses to do so, the City Clerk shall publish a summary of the action taken by the Council in the official newspaper of the city and provide notice of a public hearing before the city council. Notice of the public hearing concerning the proposed exchange shall be published at least fourteen (14) days prior to the date of the hearing in accordance with Idaho Code §50-1402.
- Appraisal – In light of the “public good” in preserving a community asset, the Planning & Development Services Staff recommends that the appraisals of the two (2) be waived.

ATTACHMENT A
CITY COUNCIL WORKSESSION MINUTES MAY
10, 2012

AGENDA ITEM NO. 7: Randy Ghezzi, Street Operations Director,
PORPOSED TRAFFIC was present to update the Council on a
SIGNAL COORDINATION traffic signal coordination project with
AND MAINTENANCE the City of Pocatello, Idaho
CONSOLIDATION Transportation Department, Bannock
PROJECT UPDATE Transportation Planning Organization and
the City of Chubbuck. Mr. Ghezzi

reviewed proposed steps to implement the roles and responsibilities for the control system. He explained that it has been a cooperative effort to cycle the traffic signals together. It has been found that when changes are made by one entity it affects other traffic signals causing delays, etc. These issues will be corrected by this proposed change. Mr. Ghezzi explained the City of Pocatello will oversee the coordination efforts. He noted an electrician was hired last year to maintain the traffic signals for their department and is ready to start the project.

In response to questions from Council, Mr. Ghezzi explained costs will be based upon the traffic signals within each community and intersections that border city limits. The coordination will help correct problems on long stretches of road such as 4th Avenue and Center/Clark intersections. Staff plans to have the project completed by the end of 2012.

AGENDA ITEM NO. 8: Matthew Lewis, Planning Division Manager,
PROPOSED PROPERTY was present to provide background
TRADE-SOUTH SECOND information regarding a proposed land
AVENUE "SUNNYSIDE" trade between the City and Gary Ratliff
CLIMBING WALL and to seek further direction from the
Council of how to proceed. The parcels

in question are adjacent to South Second Avenue and the basalt cliff commonly referred to as the "Sunnyside" climbing wall. Mr. Lewis noted the climbing cliffs are owned by Mr. Ratliff and not by the City. He explained City staff met with Mr. Ratliff in 2009 to discuss a possible land trade of the property. The climbing community has become concerned that access to the cliffs may abruptly end because the pathway is on private property. As a result, Mr. Lewis is seeking direction from Council for the following: a) allow staff to waive the appraisal process because of the recreation need; and b) to move forward declaring the intent to trade the property.

It was mentioned that the Parks Department does not have any plans to modify the parking lot located near the cliffs.

Mr. Moore feels the cliffs are a great asset for the community and appreciates Mr. Ratliff's willingness to trade.

CITY COUNCIL STUDY SESSION
MAY 10, 2012

5

Mr. Lewis noted that Idaho State University promotes use of the cliffs and climbers travel to Pocatello specifically to use the cliffs. He mentioned the trail will connect with the Zoo once it is completed.

It was the consensus of the Council for staff to research and prepare documents related to the proposed land swap.

Mayor Blad adjourned the Study Session at 10:29 A.M.

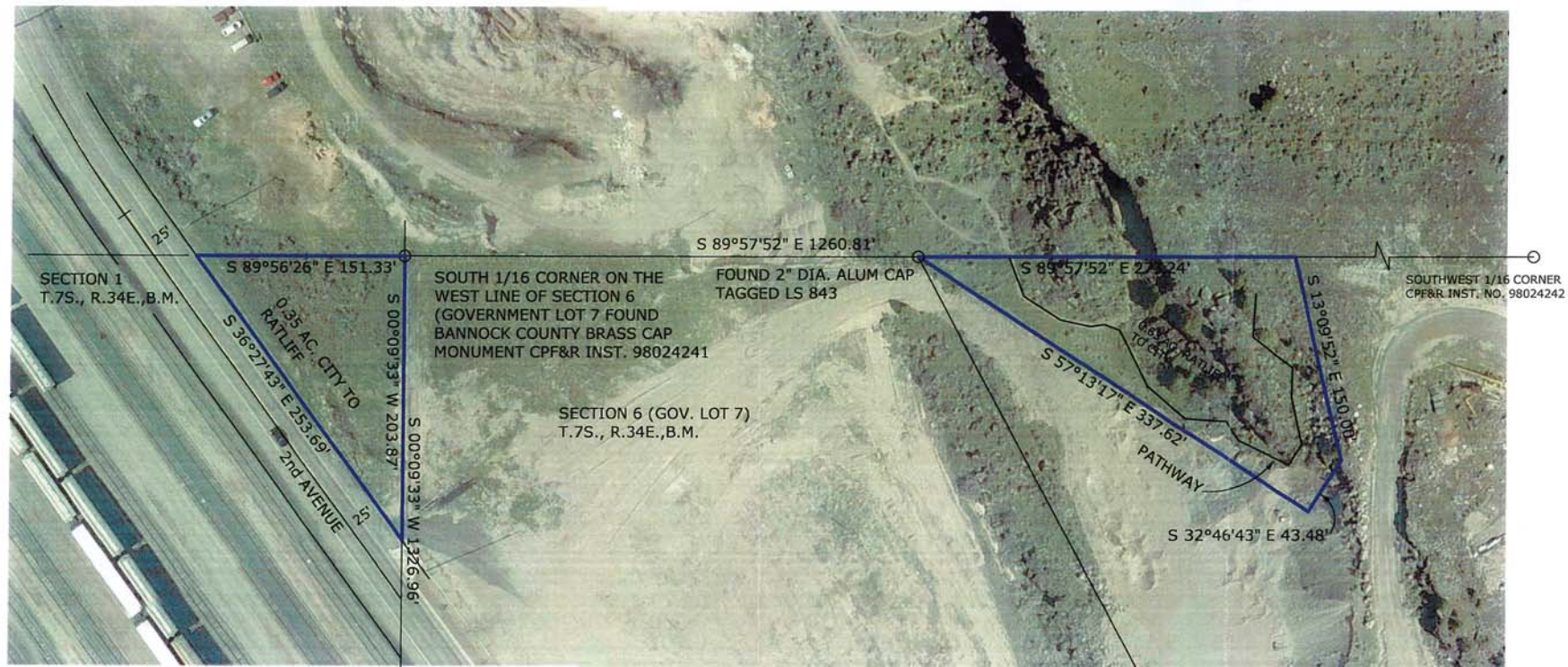
APPROVED:

BRIAN C. BLAD, MAYOR

ATTEST:

RUTH E. WHITWORTH, CMC, CITY CLERK

ATTACHMENT B
AERIAL OF THE PARCELS IN QUESTION



PROPOSED LAND TRADE BETWEEN CITY OF POCATELLO AND
INTERMOUNTAIN SELF STORAGE L.L.C.(GARY G. RATLIFF)

ATTACHMENT C
RECORD OF SURVEY COMPLETED BY SUNRISE
ENGINEERING

RECORD OF SURVEY FOR:
CITY OF POCA TELLO

LOCATED IN THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 7 SOUTH, RANGE 34 EAST AND THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO

PARCEL A

A PARCEL OF LAND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 7 SOUTH, RANGE 34 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH 1/16 CORNER ON THE WEST LINE OF SECTION 6, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BEING MARKED BY A BANNOCK COUNTY BRASS CAP MONUMENT AS DESCRIBED IN CP&F INST. 98024241;

THENCE SOUTH 00°09'49" WEST, ALONG THE WEST LINE OF SECTION 6, A DISTANCE OF 203.85 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOUTH SECOND AVENUE;

THENCE NORTH 38°27'43" WEST, LEAVING THE WEST LINE OF SECTION 6 AND FOLLOWING ALONG SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF SOUTH SECOND AVENUE, A DISTANCE OF 233.66 FEET;

THENCE SOUTH 89°56'26" EAST, LEAVING SAID NORTHEASTERLY RIGHT-OF-WAY LINE OF SOUTH SECOND AVENUE, A DISTANCE OF 151.33 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 0.35 ACRES, MORE OR LESS.

PARCEL B

A PARCEL OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/16 CORNER ON THE WEST LINE OF SECTION 6, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BEING MARKED BY A BANNOCK COUNTY BRASS CAP MONUMENT AS DESCRIBED IN CP&F INST. 98024241;

THENCE SOUTH 89°57'52" EAST, ALONG THE SOUTH 1/16 LINE OF SECTION 6, A DISTANCE OF 371.86 FEET TO THE **POINT OF BEGINNING**;

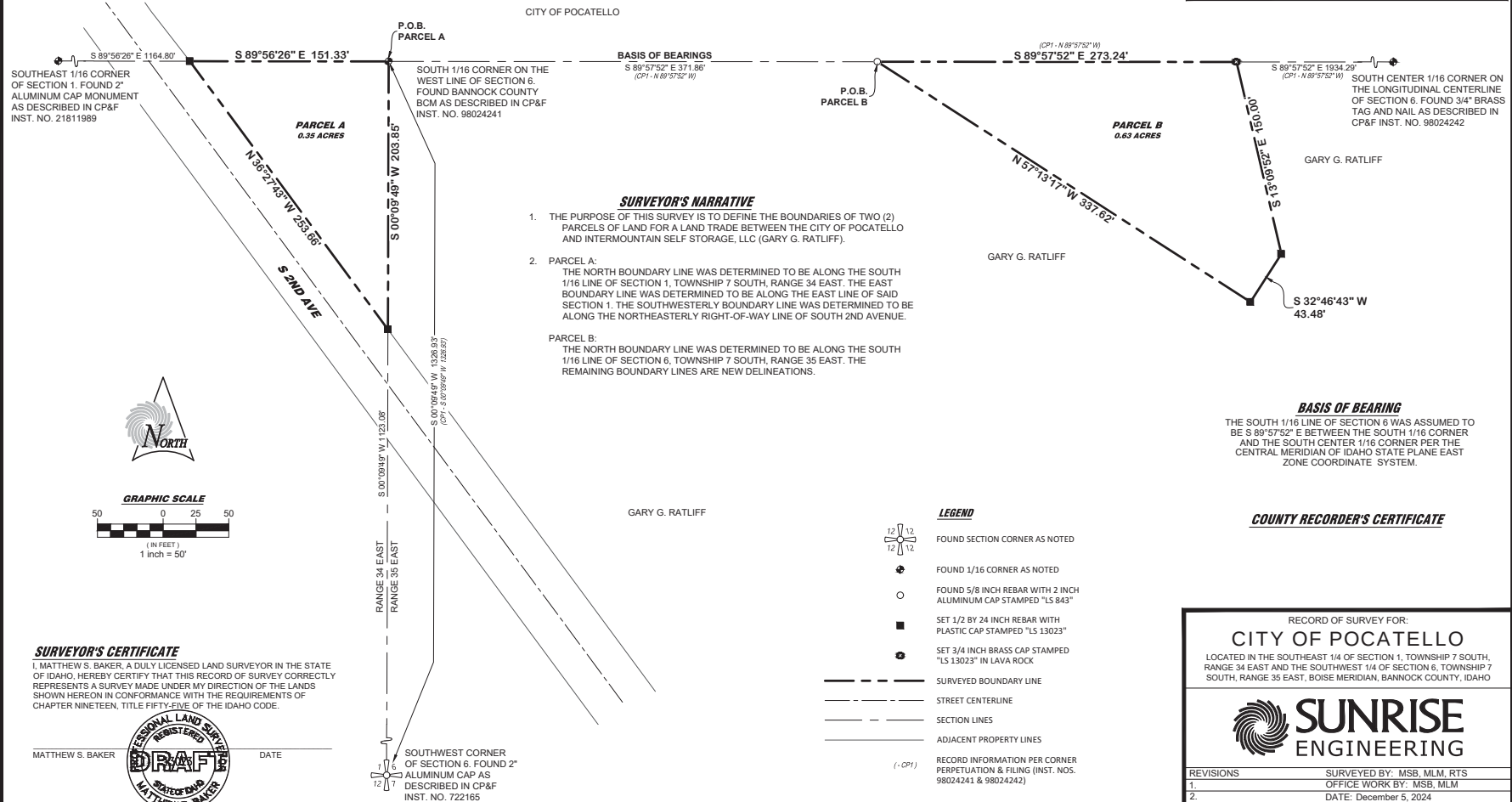
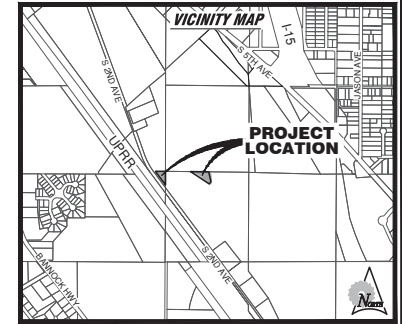
THENCE CONTINUING SOUTH 89°57'52" EAST, A DISTANCE OF 273.24 FEET;

THENCE SOUTH 13°09'52" EAST, LEAVING SAID SOUTH 1/16 LINE OF SECTION 6, A DISTANCE OF 150.00 FEET;

THENCE SOUTH 32°46'43" WEST A DISTANCE OF 43.48 FEET;

THENCE NORTH 57°13'17" WEST A DISTANCE OF 337.62 FEET TO THE **POINT OF BEGINNING**.

PARCEL CONTAINS 0.63 ACRES, MORE OR LESS.



SURVEYOR'S NARRATIVE

1. THE PURPOSE OF THIS SURVEY IS TO DEFINE THE BOUNDARIES OF TWO (2) PARCELS OF LAND FOR A LAND TRADE BETWEEN THE CITY OF POCA TELLO AND INTERMOUNTAIN SELF STORAGE, LLC (GARY G. RATLIFF).

2. **PARCEL A:**
THE NORTH BOUNDARY LINE WAS DETERMINED TO BE ALONG THE SOUTH 1/16 LINE OF SECTION 1, TOWNSHIP 7 SOUTH, RANGE 34 EAST. THE EAST BOUNDARY LINE WAS DETERMINED TO BE ALONG THE EAST LINE OF SAID SECTION 1. THE SOUTHWESTERLY BOUNDARY LINE WAS DETERMINED TO BE ALONG THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOUTH 2ND AVENUE.

PARCEL B:
THE NORTH BOUNDARY LINE WAS DETERMINED TO BE ALONG THE SOUTH 1/16 LINE OF SECTION 6, TOWNSHIP 7 SOUTH, RANGE 35 EAST. THE REMAINING BOUNDARY LINES ARE NEW DELINEATIONS.

BASIS OF BEARING

THE SOUTH 1/16 LINE OF SECTION 6 WAS ASSUMED TO BE S 89°57'52" E BETWEEN THE SOUTH 1/16 CORNER AND THE SOUTH CENTER 1/16 CORNER PER THE CENTRAL MERIDIAN OF IDAHO STATE PLANE EAST ZONE COORDINATE SYSTEM.

COUNTY RECORDER'S CERTIFICATE

RECORD OF SURVEY FOR:
CITY OF POCA TELLO

LOCATED IN THE SOUTHEAST 1/4 OF SECTION 1, TOWNSHIP 7 SOUTH, RANGE 34 EAST AND THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 7 SOUTH, RANGE 35 EAST, BOISE MERIDIAN, BANNOCK COUNTY, IDAHO



REVISIONS	SURVEYED BY: MSB, MLM, RTS
1.	OFFICE WORK BY: MSB, MLM
2.	DATE: December 5, 2024
DRAWING: P:\City of Pocatello\10840 - Boundary Survey\SURVEY\CAD\COP	
Survey Base.dwg	
SCALE: 1 INCH = 50 FEET	PROJECT NO: 10840
SHEET 1 OF 1	

ATTACHMENT D
DRAFT LEGAL NOTICE FOR ISJ

* * NOTICE OF PUBLIC HEARING * *

MEETING DATE: Thursday, April 3, 2025

MEETING TIME: 6:00 p.m.

PLACE: Council Chambers, Municipal Building, 911 N. 7th Avenue, Pocatello, Idaho

ORGANIZATION HOLDING HEARING: Pocatello City Council

The Pocatello City Council will hear comments from the public concerning a proposed exchange of real property located between 3920 and 3960 South 2nd Avenue. Legal description and map are available at City Hall.

At the regular scheduled City Council meeting of March 6, 2025 the City Council declared property located between 3920 and 3960 South 2nd Avenue underutilized and as surplus and further declared their intent to exchange said real property.

All interested persons are invited to attend the hearing to express their views regarding this proposal. Oral testimony may be offered at the meeting and may be restricted to no more than 3 minutes per person. Written testimony may be submitted up to the time of or at the hearing or submitted to the Planning & Development Services Department attention Matthew G. Lewis. Additional information may be obtained by calling 208.234.6190 or e-mailing mlewis@pocatello.gov.

In accordance with the American with Disabilities Act, it is the policy of the City of Pocatello to offer its public programs, services, and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require an accommodation, please contact Skyler Beebe within two (2) business days advance notice at sbeebe@pocatello.gov; 208.234.6248; or 5815 South 5th Avenue, Pocatello, Idaho. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

PUBLICATION DATE: Thursday, March 20, 2025



Agenda Item #9

EXECUTIVE SUMMARY

To: Brian C. Blad, Mayor
Members of the City Council
From: Mallarie Bascom, Licensing Enforcement Officer and Staff Liaison to the Child Care Advisory Committee
Subject: Immediate Suspension of Childcare Licensing Fees
Date: 03/18/2025

The Sixty-eighth Idaho Legislature is currently proposing a bill that would pre-empt local government from licensing childcare facilities as of July 1, 2025. As House Bill 243a progresses to Governor Little for approval or veto, City staff is requesting the immediate suspension of all childcare licensing fees as noted in Pocatello Municipal Code 5.28.090 and set in Resolution 2024-30 exhibit I.

Suspending fees would be advantageous for our local childcare providers, who would likely encounter dual licensing expenses at the city and state levels prior to the proposed implementation date of July 1, 2025. To enhance the support provided to childcare licensees in Pocatello, staff is asking the City Council to give the Pocatello Police Department discretion to suspend childcare licensing fees until the final outcome of House Bill 243a is known.

Should the bill be vetoed by the Governor, Pocatello Police Department Licensing will reinstate fees for all childcare licensees and seek payment from any licensee processed during the suspension period.

Mallarie Bascom, Licensing Enforcement Officer
(208)234-6285
mbascom@pocatello.gov

EXHIBIT I
CHILD CARE LICENSE FEES

Licensure fees for Child Care Providers and Child Care Staff Members (as defined in Pocatello Municipal Code § 5.28) shall be as follows:

Child Care Business:

Initial License Fee	\$150.00
Annual Renewal Fee after Initial License Fee*	\$100.00
Every 5 th Year Renewal Fee**	\$150.00

Child Care Employees, Residents, and Volunteers on the premises:

Initial License Fee	\$80.00 each
Annual Renewal Fee after Initial License Fee*	\$40.00 each
Every 5 th Year Renewal Fee**	\$80.00 each

*Applications for license renewals must be submitted prior to expiration in order to qualify for the renewal fee. Applications received after the expiration date shall require the initial license fee.

Civil penalties may be issued if there is a violation of the Child Care Code:

First violation within one (1) year	\$50.00
Second violation within one (1) year	\$100.00
Third violation within one (1) year	\$200.00

A 2.74% convenience fee will be charged on all card transactions.



CITY OF POCATELLO
Parks & Recreation Department
Agenda Item Executive Summary

Date: 3/19/25
To: Mayor Blad and Council Members
From: Cary Rhodes, Outdoor Recreation Manager
RE: ISU Outdoor Adventure Center – CITY CREEK MANAGEMENT AREA, ROSS PARK CLIMBING AREAS, AND NORDIC CENTER USE AGREEMENT

ISU Outdoor Adventure Center has held a use agreement with the City of Pocatello for use of City Creek, Ross Park Climbing Areas, and the nordic center since 2013. They use the areas for small group programs throughout the year.

We have worked with legal to update the contract. We removed the Pocatello Pump event from the contract and that will be a standalone special use permit going forward. We also adjusted fees to reflect current fees, updated some insurance requirements. Legal indicated that we should gain council approval for this use agreement again since items

ISU Outdoor Adventure Center has been a good steward of their use agreement. They are respectful and take care of the areas and offer quality programming. Parks & Recreation Department staff is very supportive of continuing to allow ISU Outdoor Adventure Center use at our facilities.

Staff recommends that Council approve the Use Agreement with ISU Outdoor Adventure Center for use of portions of the City Creek Management Area, Ross Park Climbing Areas, and the nordic center to conduct programs.

MEMORANDUM

TO: City Council and Mayor
FROM: Brian Trammell, Deputy City Attorney
DATE: March 25, 2025
RE: Use Agreement

I have reviewed the use agreement with Idaho State University acting as the Outdoor Adventure Center. I have no legal concerns with the Council approving the use agreement and authorizing the Mayor to sign the use agreement.

Please let me know if you have any questions or concerns.

**USE AGREEMENT
IDAHO STATE UNIVERSITY OUTDOOR ADVENTURES PROGRAM**

THIS AGREEMENT, hereinafter referred to as “Agreement”, is entered into on the _____ day of _____, 2025 by and between the City of Pocatello, a municipal corporation of Idaho, hereinafter referred to as “City”, and Idaho State University acting as the Outdoor Adventure Center of Idaho State University Student Unions & Involvement, hereinafter referred to as “OAC”.

WHEREAS, the City owns land and improvements throughout the City, specifically the rock-climbing areas in Ross Park, City Creek Management Area, and the Mink Creek Nordic Center; and

WHEREAS, OAC conducts a variety of programs for ISU students and the public, and would like to use these areas and facilities for its programs; and

WHEREAS, it is the parties desire to enter into an agreement which set forth their respective rights and responsibilities.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follow:

1. TERM. The term of this Agreement is from April 3, 2025 through March 31, 2026.
2. RENTAL. The rental fees for this Agreement will be as follows:
 - A. \$300.00 annually for use of the areas and facilities outlined in Section 3 of this Agreement.
 - B. Any other programs/events not specifically identified may include additional fees or charges.

3. PREMISES. The premises which are the subject of this Agreement is the City Creek Management Area, as outlined in Exhibit “A”; Shadyside Ross Park climbing area, located on South 5th Avenue; and the East Mink Creek Nordic Center, as outlined in Exhibit “B”.
4. USE OF PREMISES. OAC shall furnish to the City’s Parks and Recreation Department a schedule of all programs, including dates and times, as soon as the information becomes available. OAC must receive approval from the City Parks and Recreation Department Director, or their designee, prior to conducting any programs. OAC agrees it will use the areas and facilities solely for the purposes of conducting events and programs organized and conducted by OAC including, but not limited to, educational classes, open mountain biking, and rock-climbing. If necessary, entrance capability for the premises shall be obtained from the City’s Parks and Recreation Department Director, or their designee.
5. CARE OF THE PREMISES. The City shall maintain and care for the premises outlined in Section 3. OAC agrees that upon completion of any program or event conducted by OAC, OAC shall arrange to have the premises, including restrooms, grounds and facilities, cleaned and restored to their previous condition prior to use, ordinary wear and tear excepted. All garbage cans shall be dumped into large dumpsters and recyclable materials shall be placed in appropriate containers. Said cleaning and restoration shall be accomplished without unreasonable delay and prior to the next scheduled event at the premises.

OAC agrees to promptly make any needed repairs to the premises, should any damage occur during the use of the premises by OAC. OAC is responsible for securing the premises after use by locking doors, locking gates, turning off lights, ensuring parking areas have been secured, ensuring participants have left the premises, and any other

responsibilities required to secure the premises. OAC agrees to provide a minimum of twenty (20) hours of volunteer trail work for each location listed in Section 3, for a total of sixty (60) hours of volunteer trail work.

6. CONFLICTS. OAC agrees to schedule its trips so as not to conflict with any City Parks and Recreation events or any other event previously scheduled by the City. In addition, OAC agrees to conduct trips throughout the year as scheduled and approved through the City's Parks and Recreation Department Director, or their designee.
7. INSURANCE. The insurance responsibilities for this Agreement shall be as follows:
 - A. OAC shall purchase a comprehensive liability insurance policy in the amount of \$1,000,000 combined single limit to indemnify City from any and all public liability claims. Further, such policy shall include coverage for fire legal liability to repair or replace the demised premises. City shall be named as an additional insured or be acknowledged by the OAC's insurance carrier as a covered entity under the terms of said policy. Moreover, OAC is required to put its surety on notice, that said surety may not change or cancel the existing insurance policy with OAC without first giving City at least thirty (30) days written notice.
 - B. OAC shall purchase personal property insurance in an amount sufficient to insure any and all of OAC's personal property which might be used in OAC's operation of the business or which might be present on the premises.
 - C. If applicable, OAC shall provide Worker's Compensation insurance in accordance with the applicable provisions of Idaho Code for its employees and furnish the City Clerk with satisfactory proof that such insurance is in effect.

D. An Accord Certificate of Insurance evidencing compliance with the foregoing insurance requirements shall be filed with the Clerk of City of Pocatello prior to or at the time of execution of this Agreement. The above described insurance shall contain contractual coverage sufficiently broad to insure the provisions of Section 8. OAC's failure to maintain insurance shall be a basis for immediate termination of this Agreement.

8. INDEMNIFICATION. OAC shall have the responsibility for the safety of persons or property during its occupancy and use of the premises. Additionally, OAC shall indemnify and hold harmless, and agrees to protect and defend at its own cost and expense, the City, their officers, employees, agents, and successors, subject to the limitations and protections of the Idaho Tort Claims Act, against damages arising from the negligence of OAC and/or its officers, employees, agents and successors.
9. DEFAULT. If OAC shall neglect or fail to do or perform any of its covenants and promises herein contained, the City may terminate this Agreement upon five (5) days written notice and cancel further use by the OAC.
10. ASSIGNMENT. That no right or obligation of this Agreement, nor right in the premises described herein, may be assigned, mortgaged, or subleased by OAC without prior written consent of the City.
11. WAIVER OF DEFAULT. The failure of the City to require strict performance of any covenant, promise, or condition of this Agreement shall not affect the City's right to subsequently enforce the same, nor shall a waiver of default be construed to be a waiver of any succeeding default or waiver of this clause. To be effective, any waiver by the City must be in writing.

12. COST OF LITIGATION. If suit or legal action is instituted by any party hereto to establish or enforce any right under this Agreement, to recover any amounts hereunder, to correct breach of any covenant, term or condition hereof, or to litigate any other matter arising from the execution of this Agreement, the prevailing party in the trial court and the prevailing party on any appeal shall recover reasonable attorneys' fees awarded by the trial and appellate courts, in addition to costs and disbursements. This provision shall survive any termination of this Agreement.
13. MERGER CLAUSE. This writing represents the entire agreement between the parties. No prior promises, representations or agreements, written or oral, shall amend, change or add to any express provisions herein.
14. CONSTRUCTION. This Agreement shall be construed pursuant to the laws of the State of Idaho. The parties agree that no construction of this Agreement shall be made in a court of competent jurisdiction against the interest of any party to the Agreement on the basis that the party had primary responsibility for drafting the Agreement.
15. CAPTIONS. The captions herein and for convenience only, and do not limit or amplify the language of the sections following.
16. SEVERABILITY. If any provision or portion of any provision of this Agreement shall be deemed illegal or unenforceable by a court of competent jurisdiction, the unaffected provisions or portions thereof shall remain in full force and effect.
17. JURISDICTION AND VENUE. Any action or proceeding relative to this Agreement shall be maintained in the Sixth District Court, County of Bannock, State of Idaho.

18. NOTICES: That all notices under this Agreement shall be deemed to be properly served if sent by first class mail, postage prepaid, to the last known address furnished by the parties hereto. Until hereafter changed by written notice, said addresses shall be as follows:

City: Anne Butler, Parks and Recreation Director
City of Pocatello
P.O. Box 4169
Pocatello, ID 83205

THE OAC: Lowell Richards
Associate VP for Auxiliary Services and Operations
921 South 8th Avenue
Pocatello, ID 83209

The date of service of such notice is hereby deemed to be the dated postmark of the United States Postal Service.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives the day and year first-above written.

CITY OF POCA TELLO, a municipal
corporation of Idaho

BRIAN C. BLAD, Mayor

ATTEST:

KONNI KENDALL, City Clerk

IDAHO STATE UNIVERSITY,
OUTDOOR ADVENTURE CENTER

LOWELL RICHARDS, Associate VP for
Auxiliary Services and Operations

STATE OF IDAHO)
 ss:
County of Bannock)

On this _____ day of _____, 2025, before me, the undersigned, a Notary Public for the State, personally appeared Brian C. Blad and Konni R. Kendell, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, and acknowledged to me that they executed the foregoing instrument for and on behalf of said municipal corporation and that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the date and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in _____
Commission Expires _____

STATE OF IDAHO)
 ss:
County of Bannock)

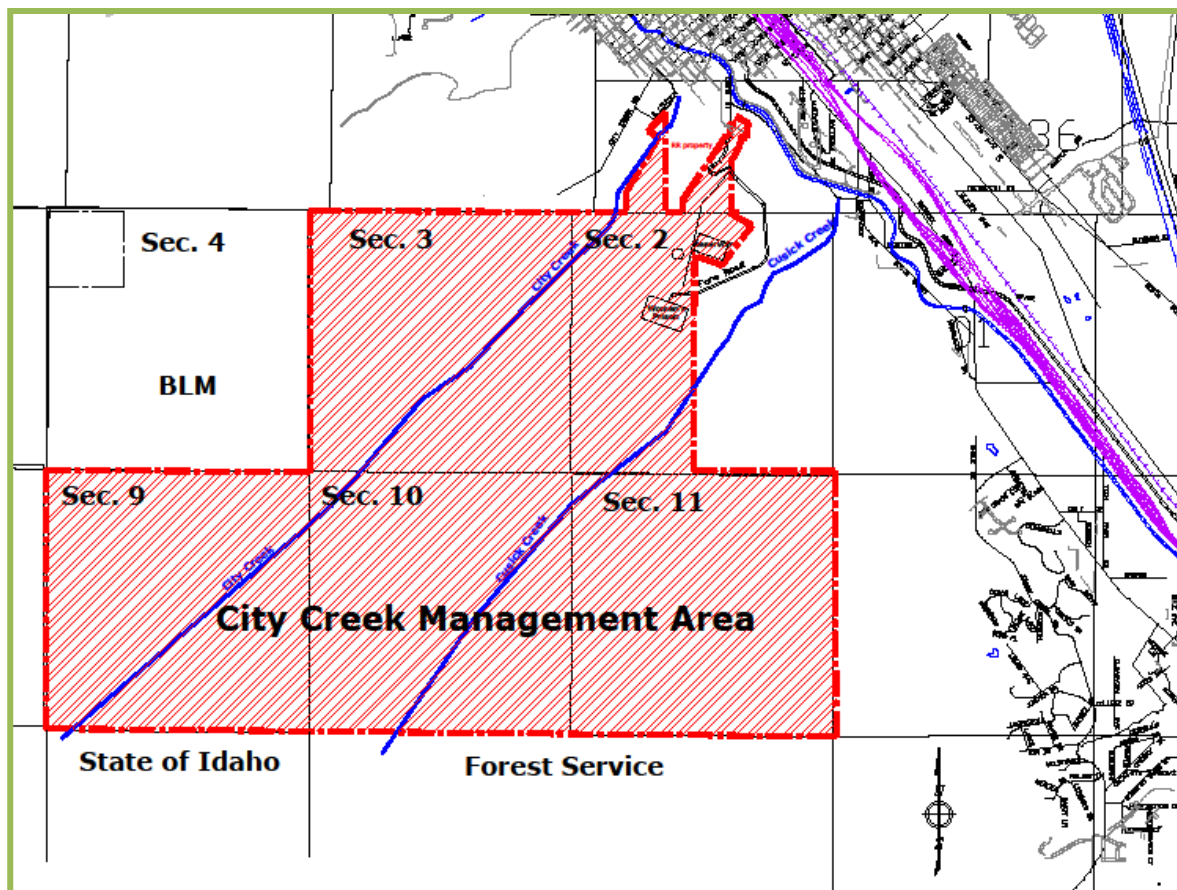
On this _____ day of _____, 2025, before me, the undersigned, a Notary Public in and for the State, personally appeared Lowell Richards, known or proved to me to be the Associate Vice President for Auxiliary Services and Operations for Idaho State University, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in _____
Commission Expires _____

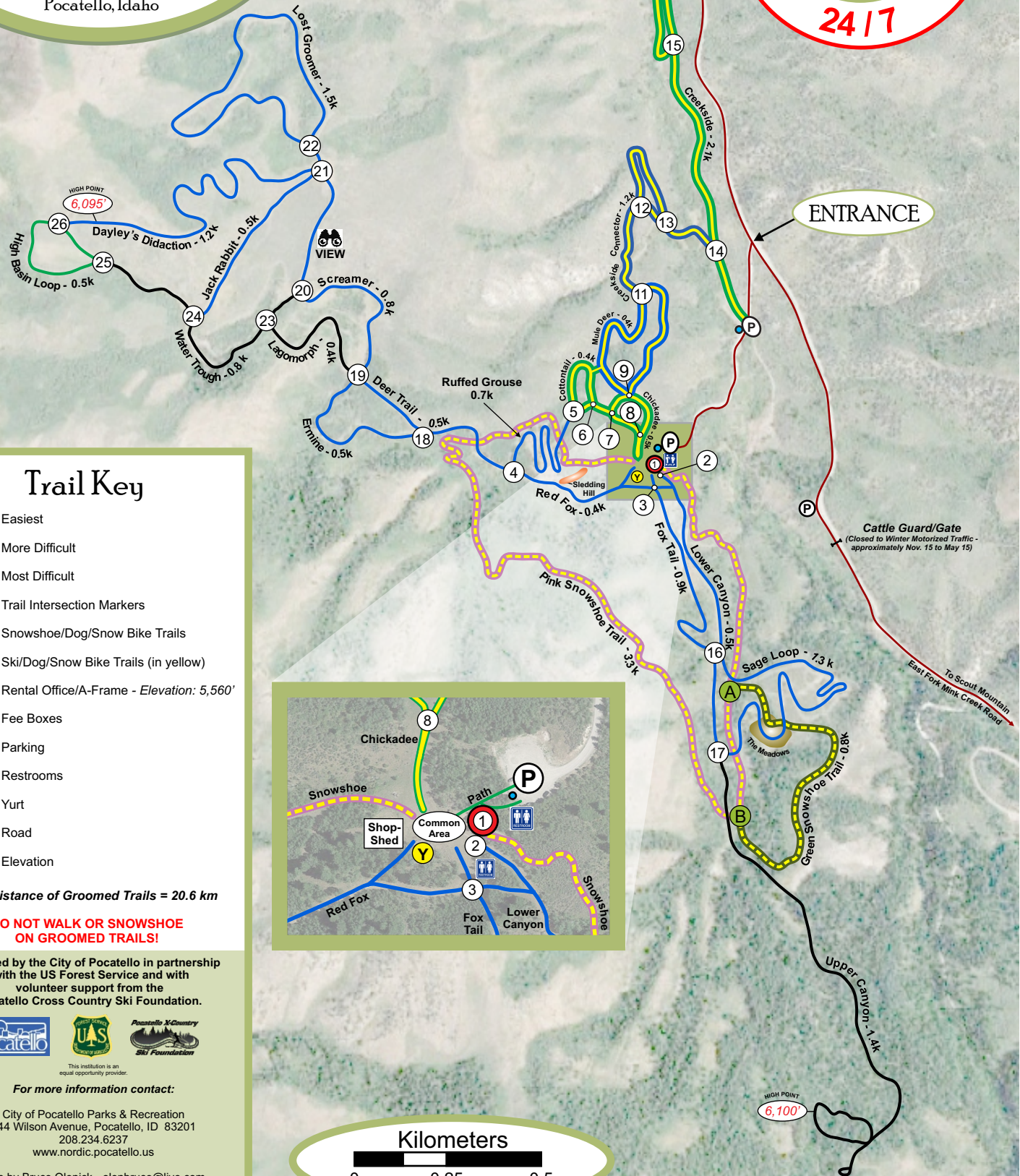
EXHIBIT A
Vicinity Map for the City Creek Management Area





East Mink Creek Nordic Center

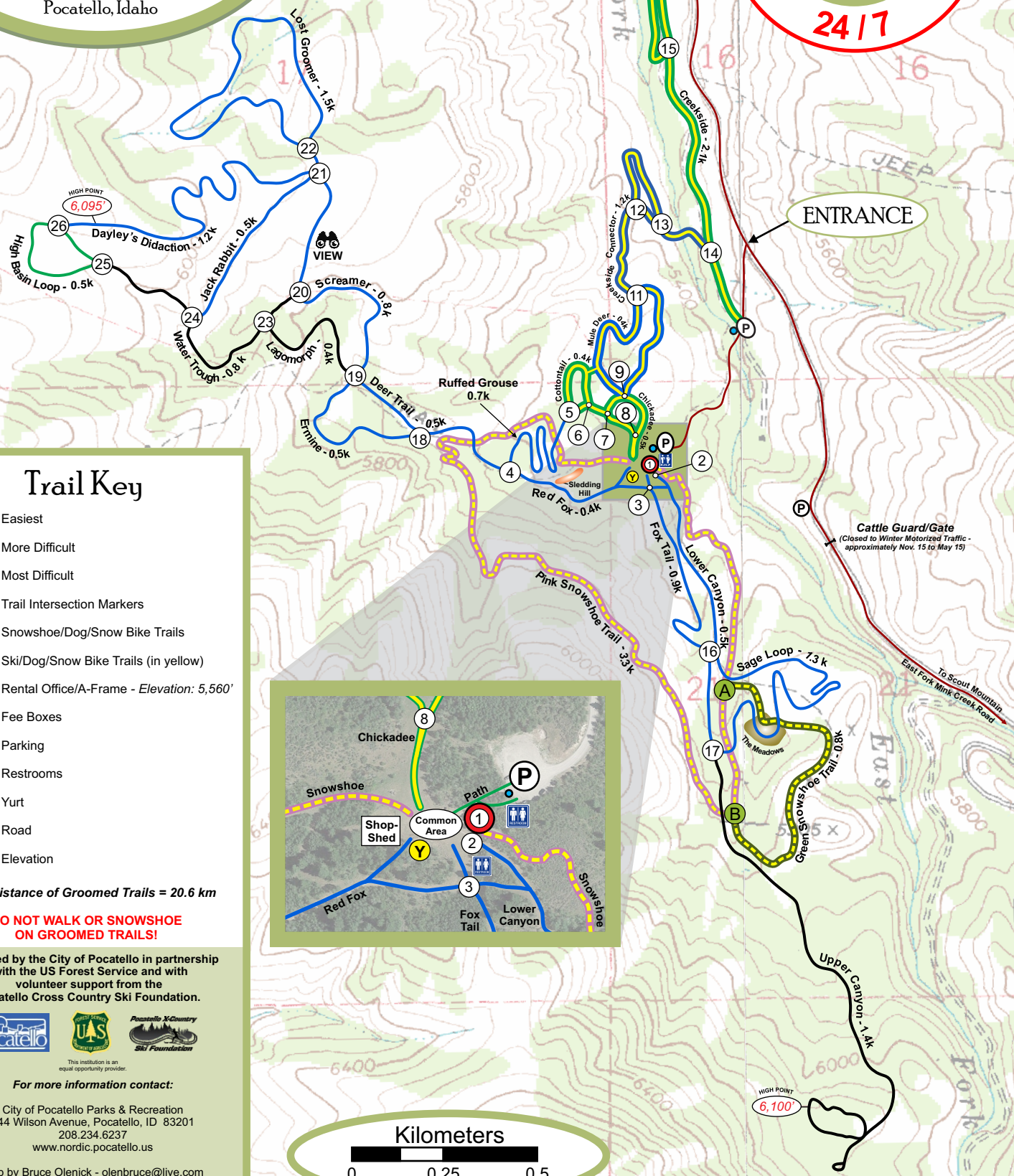
Pocatello, Idaho





East Mink Creek Nordic Center

Pocatello, Idaho



Trail Key

- Easiest
- More Difficult
- Most Difficult
- Trail Intersection Markers
- Snowshoe/Dog/Snow Bike Trails
- Ski/Dog/Snow Bike Trails (in yellow)
- Rental Office/A-Frame - Elevation: 5,560'
- Fee Boxes
- Parking
- Restrooms
- Yurt
- Road
- Elevation

Total Distance of Groomed Trails = 20.6 km

**DO NOT WALK OR SNOWSHOE
ON GROOMED TRAILS!**

Managed by the City of Pocatello in partnership
with the US Forest Service and with
volunteer support from the
Pocatello Cross Country Ski Foundation.



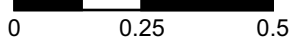
This institution is an
equal opportunity provider.

For more information contact:

City of Pocatello Parks & Recreation
144 Wilson Avenue, Pocatello, ID 83201
208.234.6237
www.nordic.pocatello.us

Map by Bruce Olenick - olenbruce@live.com
Revision: 0.0 (3/7/23)

Kilometers



EXECUTIVE SUMMARY

Date: April 3, 2025

To: Mayor Blad and Council Members

From: Anne Butler, Parks & Recreation Director

Re: Use Agreement – Mason Holladay, SEI Volleyball LLC

It is my recommendation that the City of Pocatello enter into a use agreement with Mason Holladay, SEI Volleyball LLC, 705 Alpine Avenue, Chubbuck, Idaho for use of the greenspace north of the baseball fields located at Hawthorne Park. The proposed agreement designates Mr. Holladay to mark and schedule courts on Saturdays from approximately 8am to 6pm for adult volleyball tournaments. The number of courts marked will be determined by tournament demand.

The City Council may wish to authorize Mayor Blad to execute the necessary documentation to enter into an agreement with Mason Holladay, SEI Volleyball LLC to schedule, prepare, and use the green space at Hawthorne Park.

MEMORANDUM

TO: City Council and Mayor
FROM: Brian Trammell, Deputy City Attorney
DATE: March 21, 2025
RE: Use Agreement

I have reviewed the use agreement with SEI Volleyball. I have no legal concerns with the Council approving the use agreement and authorizing the Mayor to sign the use agreement.

Please let me know if you have any questions or concerns.

USE AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2025, by and between the City of Pocatello, a municipal corporation of Idaho, hereinafter referred to as the City; and SEI Volleyball LLC, hereinafter referred to as the USER.

WHEREAS, the City, in its park system, owns various fields for sporting events throughout the City; and

WHEREAS, the USER conducts an adult, high school, and youth volleyball program and wishes to use Hawthorne Park greenspace to play weekend tournaments; and

WHEREAS, the City wishes to support the USER in providing these worthwhile adult recreation events; and

WHEREAS, it is the parties' desire to enter into an agreement, which sets forth their respective rights and responsibilities.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. Purpose. The City shall allow the USER to use the Hawthorne Park greenspace for weekend tournament. Practices for the USER will be available on other City parks on a first-come first use basis with other park users and will not be reserved for their exclusive use.

2. Term. The term of this Agreement shall be May 1, 2025 through September 30, 2025. The City shall reserve the greenspace for USER during the times scheduled for tournaments. Access to the fields will be allowed during regular park hours during the term of this Agreement.

3. Compensation to City. The USER agrees to pay the City fifty dollars (\$50.00) per day for any scheduled events. USER shall provide the City with schedules of all game activities for purposes of billing by May 1, 2025.

4. Care of the Premises. There will be additional charges if additional garbage service and portable toilets are deemed necessary by the City and City ordinances. These charges will be billed directly to the USER by the service provider or the City. The City shall maintain and care for the grass/lawn areas within the facilities. The City agrees to maintain the irrigation, plumbing, and lighting. The USER must maintain the playing fields in acceptable condition and provide its nets, field marking, and field marking equipment. The USER will be required to remove the volleyball nets immediately after any scheduled tournament(s), unless other arrangements are made with the Parks and Recreation Director. In the event the City determines that any scheduled game(s) could cause significant damage to the turf quality of the Park or be a safety issue to the participants, the City, at its sole discretion, may cancel or delay the scheduled game(s).

The USER agrees that upon completion of any scheduled game(s), the USER shall arrange to have all facilities, including restrooms, cleaned and restored to their previous condition prior to the USER's use, ordinary wear and tear excepted. The USER shall monitor parking at the event and shall prohibit participants, officials, and spectators from driving and/or parking on turf areas. Parking shall be prohibited outside of the designated parking areas. All garbage cans will be dumped into large dumpsters, recyclable materials shall be placed in recycle bins where available, and required cleaning and restoration shall be accomplished without unreasonable delay following the tournament. The USER agrees to promptly make any needed repairs to the facilities should damage to said facilities occur during use by the USER. The USER is responsible for securing the facilities after use, including but not limited to, locking doors and gates, turning off lights (if applicable), ensuring parking areas have been secured and patrons, players, and spectators have left the premises.

5. Compliance with Laws. The USER shall strictly comply with all federal, state, and local laws, rules, regulations, and ordinances. Further, the USER and all participants in its event agree to abide by the rules and regulations as defined by the City's ordinances and the Facilities User Policy regarding use of the premises, and failure to comply with said rules and regulations may result in suspension or termination of privileges to use the premises.

6. Indemnification. The USER shall have the responsibility for the safety of persons and property during its occupancy and use of the premises. The USER agrees to indemnify and hold harmless, and agrees to protect and defend at its own cost and expense, the City, its officers, employees, agents, and successors, from and against any and all risks, suits, judgments, expenses, claims, settlements, or liabilities which the City and or the USER, their officers, employees, agents, and successors may incur or become liable for as a result of injury or death of any person or persons, or loss or damage of any property, arising out of or in connection with activities of the USER granted herein, or by any of the USER's employees, agents, invitees, or any other person acting on behalf of the USER.

7. Insurance. In order to effectuate the foregoing indemnification provisions, USER shall maintain insurance coverage as follows:

A. USER shall purchase a comprehensive liability insurance policy in the amount of \$1,000,000 combined single limit to indemnify the City from any and all public liability claims. Further, such policy shall include coverage for fire legal liability to repair or replace the demised premises. The City shall be named as an additional insured or be acknowledged by USER's insurance carrier as a covered entity under the terms of said policy. Moreover, USER is required to put its surety on notice, that said surety may not change or cancel the

existing insurance policy with USER without first giving the City of Pocatello, at least thirty (30) days written notice.

B. If applicable, the USER shall purchase personal property insurance in an amount sufficient to insure any and all USER's personal property which might be used in USER's operation of the business or which might be present on the premises.

C. If applicable, the USER shall provide Worker's Compensation insurance in accordance with the applicable provisions of Idaho Code for his employees and furnish the City Clerk with satisfactory proof that such insurance is in effect.

D. An Accord Certificate of Insurance evidencing compliance with the foregoing insurance requirements shall be filed with the Clerk of City of Pocatello prior to or at the time of execution of this Agreement. The above described insurance shall contain contractual coverage sufficiently broad to insure the provisions of Section 6 "Indemnification and Hold Harmless." USER's failure to maintain insurance shall be a basis for immediate termination of this Agreement.

8. Assignment. No right or obligation of this Agreement, nor right in the premises described herein, may be assigned, mortgaged, or subleased by the USER without written consent of the City.

9. Termination. If, in the judgment of the Parks & Recreation Director, the USER breaches or is in default of any terms of this Agreement, the City shall give the USER written notice specifying with reasonable particularity the unsatisfactory performance or default. If such breach or default is capable of being remedied and the USER fails or refuses to remedy such unsatisfactory performance or default immediately, the City may terminate this Agreement. The

parties agree that the Parks and Recreation Director has the full authority to act on such matters on behalf of the City.

10. Cost of Litigation.

A. If legal action is required by any party hereto to establish or enforce any right under this Agreement, to recover any amount due hereunder, to correct a breach of covenant, term, or condition hereto, or to litigate any other matter arising from the execution of the Agreement, all parties involved agree to a mediation or arbitration before any legal action can be commenced.

B. If suit, legal action, mediation, or arbitration is instituted by any party hereto to establish or enforce any right under this Agreement, to recover any amount due hereunder, to correct a breach of covenant, term, or condition hereto, or to litigate any other matter arising from the execution of the Agreement, the prevailing party in the trial court and the prevailing party on any appeal shall recover reasonable attorney's fees awarded by the trial and appellate courts, in addition to costs and disbursements. The parties agree that a reasonable rate for attorney's fees will be \$150.00 per hour, unless differently defined through mediation or arbitration. This provision shall survive any termination of this Agreement.

11. Merger Clause. This writing represents the entire Agreement between the parties. No promises, representations or agreements, written or oral, shall amend, change or add to any of the express provisions herein.

12. Destruction of the Premises. In the event the structures and facilities located on the premises, as defined in this Agreement, are destroyed or rendered unusable due to outside forces beyond the control of either party, including but not limited to, natural disasters (e.g. earthquakes, floods, hurricanes,), acts of war, terrorism, vandalism, or other unforeseen

circumstances (“Destructive Events”), this Agreement shall automatically terminate without any liability for either party.

A. Notification. Upon the occurrence of a Destructive Event, the party that is aware of the destruction must notify the other party in writing within five (5) business days of the event.

B. Inspection and Assessment. Following such notification, both parties shall have the right to jointly inspect the premises to assess the extent of the damage. Such inspection should occur within ten (10) business days of the notification.

C. Termination Process. Upon confirmation that the premises have been destroyed or rendered unusable, this Agreement shall be deemed terminated as of the date of the Destructive Event. Both parties shall be released from any further obligations under this Agreement, except for obligations arising from events occurring prior to the termination.

D. Liability Waiver. Neither party shall be held liable for any damages or loss of income resulting from the termination of this Agreement due to a Destructive Event.

E. Final Settlement. Within thirty (30) days of termination, both parties shall settle any outstanding obligations or claims arising out of this Agreement up to the date of termination.

13. Construction. This Agreement shall be construed pursuant to the laws of the State of Idaho. The parties agree that no construction of the Agreement shall be made in a court of competent jurisdiction against the interest of any party to this Agreement on the basis that the party had primary responsibility for drafting the Agreement.

14. Captions for Convenience Only. The captions herein are for convenience only, and do not limit or amplify the language of the sections following.

15. Severability. If any provision or portion of any provision of this Agreement shall be deemed illegal or unenforceable by a court of competent jurisdiction, the unaffected provisions or portions hereof shall remain in full force and effect.

16. Jurisdiction and Venue. Any action or proceeding relative to this Agreement shall be maintained in the Sixth District Court, County of Bannock, State of Idaho.

17. Notice. That all notices under this Agreement shall be deemed to be properly served if sent by first class mail, postage prepaid, to the last known address furnished by the parties hereto. Until hereafter changed by written notice, said addresses shall be as follows:

CITY: Parks & Recreation Director
City of Pocatello
P.O. Box 4169
Pocatello, ID 83205

USER: Mason Holladay
SEI Volleyball LLC
705 Alpine Avenue
Chubbuck, ID 83202
Email: masonion99@gmail.com
Phone: 208.242.6199

The date of service of such notice is hereby deemed to be the dated postmark of the United States Postal Service.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their authorized representative the day and year first above written.

CITY OF POCATELLO, a
municipal corporation of Idaho

BRIAN C. BLAD, Mayor

ATTEST:

KONNI R. KENDELL, City Clerk

USER:

MASON HOLLADAY
d/b/a SEI Volleyball LLC

STATE OF IDAHO)
 ss:
County of Bannock)

On this _____ day of _____, 2025, before me, the undersigned, a Notary Public for the State, personally appeared Brian C. Blad and Konni R. Kendell, known to me to be the Mayor and City Clerk, respectively, of the City of Pocatello, and acknowledged to me that they executed the foregoing instrument for and on behalf of said municipal corporation and that said municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the date and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in _____
Commission Expires _____

STATE OF IDAHO)
 ss:
County of Bannock)

On this _____ day of _____, 2025, before me, the undersigned, a Notary Public in and for the State, personally appeared Mason Holladay, d/b/a SEI Volleyball LLC, known or proved to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

NOTARY PUBLIC FOR IDAHO
Residing in _____
Commission Expires _____

MEMORANDUM

To: Mayor Brian Blad & Pocatello City Councilmembers
From: Skyler Allen, P.E., Senior Engineer
CC: Levi Adams, WPC Superintendent
Jeffrey Mansfield, P.E., Public Works Director
Becky Babb, PMP, Planning Manager
Christine Howe, Grant Administrator
Date: March 11, 2025
Re: Indian Hills Lift Station Force Main – S. Valley Bridge Casings

BACKGROUND

The City of Pocatello's Indian Hills Lift Station currently discharges through an 11,000 linear foot, 6-inch diameter force main. The City has observed several leaks in the force main, which is located in the levee of the Portneuf River. The City would like to replace the damaged pipe. The City's engineering consultant (Conсор) provided an alternatives analysis that reviewed six alternatives that rerouted the force main outside of the levee. The preferred alignment reroutes the force main Northeast across the Portneuf River and along North 2nd Avenue. This alignment is not anticipated to require easement acquisitions from private landowners; however, utility crossing applications are anticipated to be required to cross the Oregon Short Line Railroad (Union Pacific Railroad) and the Portneuf River. This alignment utilizes the South Valley Bridge to accomplish the river and railroad crossing. The new force main has been split into two engineering task orders due to budget drivers and will be performed as phases to this project. This first project is for casing pipe across the South Valley Bridge. A second future scope of work will include the new force main.

The bridge crossing pipe casing component of the Indian Hills LS pressure line was included in the scope of the EPA Community Change Grant, which the City was awarded in 2023. The scope also included a casing for a future waterline to interconnect S. 5th Ave with Bannock Highway, which the Water department plans to construct in the near future.

The City has contracted with Conсор for On-Call engineering services for the wastewater collection system (awarded under their prior name 'Murraysmith' in February, 2022). Conсор has performed water system engineering work for the City in the past and have been deemed qualified by City staff to provide design for the water and wastewater line casings. The EPA has



given approval to award this portion of the grant funded project design under the City's prior procurement of On-Call engineering services.

The Consultant's proposed fee for this scope of work is \$199,928.00, which is within the budget allocated for this task under the EPA Community Change Grant. The contract will be issued as Task Order #5 of the Wastewater Collection System On-Call Services Agreement to include design, construction plans, permitting, bidding, and construction phase engineering services for one 24-inch diameter steel casing (wastewater) and one 16-inch diameter steel casing (water) both of which will attach to the South Valley Bridge, crossing the Portneuf River and UPRR rail corridor.

RECOMMENDATION

It is the recommendation of the City of Pocatello Engineering, WPC, and Planning Departments that the City of Pocatello issue Task Order #5 to Consor in the amount of **\$199,928.00** for engineering design and construction services for the South Valley Bridge Casings project.



To: City Council and Mayor
From: Matt Kerbs, Deputy City Attorney *MK*
Date: March 21, 2025
Re: Indian Hills Lift Station Force Main – South Valley Bridge Casing for
Wastewater Engineering – Task Order 5

I have reviewed the above referenced Agreement and have no legal concerns with Council authorizing the Mayor to sign the Professional Services Term Agreement, Task Order 5, with Consor North America Inc.

TASK ORDER #5
Indian Hills Lift Station Force Main - South Valley Bridge Casing
Scope of Work

CITY OF POCA TELLO

**TASK ORDER NO. 5 FOR PROJECT NO. WPC-013 AND/OR
PROJECT NAME INDIAN HILLS LIFT STATION FORCE MAIN - SOUTH VALLEY BRIDGE CASING
FOR WASTEWATER ENGINEERING PROFESSIONAL SERVICES TERM AGREEMENT FOR CITY
OF POCA TELLO**

Consultant Project No. _____

THIS TASK ORDER is entered into this ____ day of _____ 2025, between The City of Pocatello, a municipal corporation of Idaho, hereinafter referred to as the “City”, and Consor North America Inc., hereinafter referred to as the “Consultant”, and is subject to the provisions of the Wastewater Engineering Professional Services Term Agreement, hereinafter referred to as the Agreement.

WITNESSETH:

WHEREAS, the City intends to construct replacement of a portion of a wastewater discharge force main hereinafter referred to as the Project.

NOW, THEREFORE, the City and Consultant in consideration of their mutual covenants herein agree in respect as set forth below.

City’s Responsibilities:

The City will provide to Consultant the following described information and/or services: reviews of Consultant deliverables.

Consultant’s Scope of Work:

The Consultant team, collectively referred to as the Consultant in this scope, was selected by the City of Pocatello to provide engineering services for the Indian Hills Lift Station Force Main South Valley Bridge Casing Project. The Consultant will serve as the prime consultant on this project and will maintain overall responsibility for the management of the project and quality of deliverables. Any subconsultants will perform specific tasks, as noted in the following scope of work.

Background

Indian Hills LS currently discharges through an 11,000 linear foot, 6-inch diameter force main. The City has observed several leaks in the force main, which is located in the levee of the Portneuf River. The City would like to replace the damaged pipe. Consultant previously provided an alternatives analysis that reviewed six alternatives that rerouted the force main outside of the levee. The preferred alignment reroutes the force main Northeast across the Portneuf River and along North 2nd Avenue. This alignment is not anticipated to require easement acquisitions from private landowners; however, utility crossing applications are anticipated to be required to cross the Oregon Short Line Railroad (Union Pacific Railroad), the Portneuf River, and a parcel of Bannock County. The new force main has been split into two engineering task orders due to budget drivers and will be performed as phases to this project. This first project is for casing pipe across the bridge. A second future scope of work will include the new force main.

This scope of services is for the design of two steel casing pipes across the South Valley Bridge which will include crossing provisions for one waterline and the one force main sewer, neither included in this project. The South Valley Bridge crosses the Oregon Short Line Railroad (Union Pacific Railroad) and the Portneuf River.

Task 1 – Project Management

Task 1.1 Invoices/Status Reports

Consultant will prepare monthly invoices, including expenditures by task, hours worked by project personnel, and other direct expenses with the associated backup documentation. Monthly status reports will accompany each invoice.

Task 1.2 Coordination with the Owner and Management of Staff

Consultant will maintain communication with the City through meetings via voice and email communication. At a minimum, Consultant PM will virtually meet with the City every 2 weeks.

Consultant will manage and coordinate the technical and scope issues of the overall project. Progress meetings will be conducted as appropriate..

Task 1.3 Kick-Off Meeting

Consultant will attend a virtual kick-off workshop with the City to introduce project staff; review communication protocol, scope, schedule and budget; and review project details.

Task 1 Deliverables

1. Notes from the kick-off meeting in PDF format.
2. Consultant shall deliver to the City a monthly invoice and status report covering:
 - a. Work on the project performed during the previous month.
 - b. Meetings attended.
 - c. Problems encountered and actions taken for their resolution.
 - d. Potential impacts to submittal dates, budget shortfalls or optional services.

Task 1 Assumptions

1. Consultant assumes a Notice to Proceed date by April 2025.
2. Project duration will be 19 months; therefore, it is assumed that there will be up to 19 progress payments/status reports.

Task 2 – Design

Work under this task includes preparing Plans, Specifications, and Estimate package for the proposed improvements to South Valley Bridge, Bridge No. 07508. The objective of this task is to design the hanger/attachment systems for one steel casing pipe (24-inch diameter) for the future sewer force main (10-inch diameter) and for one steel casing pipe (16-inch diameter) for a future waterline (12-inch diameter).

Construction plans will be in accordance with City standards, policies, and procedures. Special provisions will be based on the 2023 version of the *Standard Specifications for Highway Construction* and the 2024 supplementals published by the Idaho Transportation Department. An engineer's estimate of probable construction costs and a construction schedule will be developed and included at each design submittal stage. The design of the attachments to the existing bridge will be done in accordance with AASHTO LRFD Bridge Specifications, 9th Edition and Idaho Transportation Department LRFD Bridge Design Manual (BDM).

Task 2.1 Collect and Review Existing Data

Consultant will review data provided by the City that is assumed to include:

- Record drawings of:
 - o South Bridge record drawings

- o City owned utilities in the project area
- Updated GIS shapefiles (utility linework, aerial photography, parcels, etc.)

Task 2.2 South Valley Bridge Crossing 60% Design

Consultant will develop 60% Design documents to the 60% design stage. These documents will consist of plans, a list of technical special provisions, a bid item list, and an opinion of probable construction cost. Consor will prepare one design option for the waterline hanger system and one design option for the Force Main hanger/attachment system. The Sewer force main casing connection will be to the exterior girder along the north side of the bridge. The 60% design drawings will include the final location and size of major components, future force main and future water line layout on the bridge and connection to the existing bridge details.. The following plan sheets are anticipated within the 60% set.

The Consultant will develop a 60% Design Package including:

- General Sheets
- Bridge Plan & Elevation (1 sheet)
- Abutment 1 Details (1 sheet) for Casing of future water line
- Abutment 2 Details (1 sheet) for Casing of future water line
- Utility Hanger & Connection Details (2 sheets)
- Plan Sheets:
 - o Erosion Control Plan
 - o Traffic Control Plan
- Notes and Details Specific to the Project.
- Outline of Front-End and Technical Specifications.
- Bid Schedule.
- Opinion of Probable Cost for Work.
- Reassessment of design schedule.

Task 2.3 South Valley Bridge Crossing 95% Design

Consultant will address the City's review comments on the 60% plans, list of technical special provisions, and engineer's estimate as appropriate, and develop design documents to the 95% design stage. These documents will consist of plans, front end contract specifications, edited technical special provisions, a bid item list, an opinion of probable construction cost, and an anticipated construction working day schedule. The 95% design drawings will include the final location and size of major components, and casing for the future sewer force main and water line layout on the bridge and casing connection details.. As part of this subtask, an engineer will conduct an independent design check of the hanger/attachment details for the sewer force main and the casing for the future water line.

The Consultant will develop a 95% Design Package including:

- General Sheets
- Bridge Plan & Elevation (1 sheet)
- Abutment 1 Details (1 sheet)
- Abutment 2 Details (1 sheet)
- Utility Hanger & Connection Details (2 sheets)
- Plan Sheets:
 - o Erosion Control Plan.
 - o Traffic Control Plan.
- Notes and Details Specific to the Project.
- Front-End Specifications.
- Technical Specifications.
- Bid Schedule.

- Opinion of Probable Cost for Work.

The 95% Design Package will be submitted to the City for Review. The Consultant will attend a 95% Design Workshop with the City to review any comments on the 95% Design Package.

Tasks 2.1 through 2.3 Deliverables

1. PDF of the 60% Design Package
2. 60% Design Workshop summary of notes in PDF format
3. PDF of the 95% Design Package
4. 95% Design Workshop summary of notes in PDF format

Task 2.1 through 2.3 Assumptions

1. Available County and City GIS databases will be used to research land ownership. Title searches are outside the scope of work.
2. Force main casing will be mounted to the exterior of the north girder. Waterline casing will connect to existing end call casing thimble.
3. Consultant will not prepare a load rating report to account for the additional loads for the future sewer force main and the future water lines and their casings.
4. The waterline location through the abutment shown on the Final Structural Plans is assumed correct. The contractor shall field-verify the location
5. Public meetings are not required.
6. Due to schedule requirements, Consultant will proceed with final design (up to the 60% design) in parallel with the UPRR and USACE permits per Task 2.4.
7. Easements through private property do not need to be acquired. See Task 2.4 - Permitting for coordination of permits through UPRR.
8. Front end specifications will be per the 2013 EJCDC (current City standard).

Task 2.4 – Permitting

The Consultant will submit drawings and related application forms to the following agencies for review and permitting:

Subtask 2.4.1 Union Pacific Railroad (UPRR)

The Overhead Pipeline of the South Valley Bridge will follow the requirements for a Crossing Application for Overhead Pipeline and the manual of the American Railway Engineering and Maintenance-of-Way Association (AREMA) Manual for Railway Engineering Part 5.4 Guidelines for Overhead Pipelines Crossings. No encroachment crossing is needed. Consultant will submit plans and related application forms to the following agencies for review and permitting.

Subtask 2.4.2 US Army Corps of Engineers (USACE)

Formal 408 Permitting for the new crossing is not required for the elevated pipeline because minimum overhead clearance will be maintained, and the casings will be vertically within the existing bridge. However, coordination with USACE per EM 1110-2-2902 Appendix H is required. This coordination will include information on pipe material, diameter, plan view, cross sections, casing and annular space details, working pressure, testing pressure, and structural calculations.

Subtask 2.4.3 Idaho Department of Water Resources

Idaho Department of Water Resources (IDWR) Aerial Crossing Permits review for meeting the requirements of Idaho Administrative Procedures Act and requirements for casing to prevent leaks.

Subtask 2.4.4 City of Pocatello Floodplain Development Permit

Floodplain Development Permit with City for portion of force main that crosses the Portneuf River and associated flood plain.

Task 2.4 Deliverables

1. Crossing Application to UPRR/Oregon Short Line RR.
2. Design information package to USACE.
3. IDWR Aerial Crossing Permit.
4. ITD Right-of-Way Application.
5. Floodplain Development Permit Application to City.

Task 2.4 Assumptions:

1. Project is in City Limits and no Bannock County permitting is needed.
2. All necessary permitting fees will be paid directly by the City.
3. One round of comments from each review agency will be addressed.
4. Contractor will be responsible for obtaining erosion control permit and Stormwater Pollution Prevention Plan for construction.

Task 3 Construction Management

Task 3.1 South Valley Bridge Crossing Bid Document Submittal

A senior engineer will conduct a review and constructability review of the 95% Design package. Comments from internal review and the City's comments on the 95% Design package will be incorporated as appropriate. A Final Design package will be submitted to the City. Each sheet will be electronically stamped and signed by the Engineer in Responsible Charge of the elements contained on the specific sheet. The package will consist of plans, technical special provisions, a bid item list, an opinion of probable construction cost, and an anticipated construction schedule. Additionally, Consultant will complete the following:

- Prepare final special provisions for nonstandard items shown on the plans.
- Compute quantities and prepare an engineer's estimate of construction costs with an estimate range of +/- 5%.
- Submit Stamped and Signed Final Plans, Specifications, and Estimate.
- Submit Final Construction Schedule.
- Submit Final load rating report.

Task 3.1 Deliverables

1. Final Plans (1 electronic PDF copy)
2. Final Technical Special Provisions (1 electronic Word copy)
3. Final Engineer's Opinion of Probable Construction Cost (1 electronic Excel copy)
4. Final Construction Schedule (electronic PDF copy).

Task 3.1 Assumptions:

1. The contractor shall field-verify all elevations and dimensions shown on plan sheets.
2. This work is confined to the South Valley Bridge and will not extend beyond the limits of the bridge

Task 3.2 – Construction Bid Phase Support

The Consultant will provide support to the City during advertisement of the project to bidders. The City will administer the bid. Bid phase support will include:

- Assisting the City with the advertising the Contract Documents.
- Attend one Pre-Bid Meeting virtually by two staff members.
- Drafting up to one addendum based on questions by bidders.

Task 3.2 Deliverables

1. One addendum packages

Task 3.2 Assumptions:

1. City will administer the bid.
2. City will maintain plan holders list.
3. City will receive questions directly from bidders.
4. City will collect and open bids publicly at City Hall.
5. Advertisement of project to bidders will be 30 days or less.
6. City to directly award the project based on bid results. No recommendation of award will be provided by the Consultant.

Task 3.3 – Engineering Services During Construction

The Consultant will provide engineering services throughout the duration of the construction Contract Time stated in the Agreement between Owner (City) and Contractor.

Subtask 3.3.1 Pre-Construction Conference

Virtually attend the City led Pre-Construction Meeting prior to commencement of work at the site. Hours in this subtask are for attendance by the Consultant project manager and bridge design lead. City will send meeting notes after meeting.

Subtask 3.3.2 Construction Meetings, Visits to Site, and Observation of Construction

City will lead construction meetings, conduct site visits and observations of construction to maintain and observe the progress and quality of Contractor's executed work. Consultant project manager and bridge design lead shall attend virtually up to six (6) weekly construction meetings at intervals appropriate to the various stages of construction, as Consultant deems necessary. City will send meeting notes after meetings.

Subtask 3.3.3 Clarifications and Interpretations

Provide technical review of clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. City will collect questions that come from the Contractor and issue the final RFI to the contractor.

Subtask 3.3.4 Change Orders and Change Proposal Requests

Provide technical review of issues that result in Change Orders and Change Proposal Requests. City will collect, initially review and process Change Orders and Change Proposal Requests.

Subtask 3.3.5 Submittal Review

Review and take appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and

compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and action taken will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Consultant shall meet any Contractor's submittal schedule that Consultant has accepted and as identified in the Contract Documents. Consultant shall review up to 10 submittals with up to four hours review time per submittal, with an additional 4 submittals requiring re-submittal with review up to two hours' time each.

Subtask 3.3.6 Inspections and Tests

Quality control (QC) testing of site earthwork, pipe installation, backfill, and asphalt paving, will be provided by the Contractor. This scope of work includes review of the required QC testing performed by the Contractor, but it does not include additional quality assurance (QA) testing. City shall coordinate special inspections in accordance with the design requirements as may be required by the Contract Documents. City will pay for special inspections through special inspections services. Consultant will review QC testing and final report of special inspections, test results and construction observations upon completion of the Project.

Subtask 3.3.7 Record Drawings

Consultant shall prepare record drawings based on information provided by Contractor and the City. Consultant shall also provide the completed record drawings in digital format on flash drive in both AutoCAD and PDF format. Budget is based on the quality, clarity, and extent of record drawing information from others require no more than 3 hours per sheet for modifications.

Task 3.3 Deliverables

1. Task deliverables are described within each individual task.

Task 3.3 Assumptions:

1. Construction Contractor's Contract Time will be 3 months from Notice to Proceed (NTP) to Substantial Completion (SC).
2. The City will be liaison to the public and perform public involvement.
3. Contractor will provide all Quality control (QC) testing which will be reviewed by the city.
4. City shall coordinate special inspections in accordance with the design requirements as may be required by the Contract Documents. City will pay for special inspections through special inspections services.
5. Consultant is not responsible for construction staking.
6. City will provide determination of Substantial Completion and Final Notice of Acceptability of the Work.

Schedule of Services to be Performed:

The following is a tentative schedule for the project and will be revised as required throughout the course of the

project:

Task Number	Start	End
Task 1 – Project Management	April 2025	October 2026
Task 2 – Design	April 2025	December 2025
Task 3 – Engineering Services During Construction	December 2025	October 2026
Project Total	April 2025	October 2026

Basis of Fee and Billing Schedule:

The City will pay Consultant for its services and reimbursable expenses as follows:

The work provided in this Task Order will be billed on a time and materials basis. The overall budget estimate breakdown for this work is outlined in Table 1. Billing rates will be reviewed with the City and updated at the beginning of each calendar year. The overall project budget has been developed using 2025 rates. Consultant will manage the work identified in this Task Order to the aggregate budget amount (Project Total) which shall not be exceeded without prior written authorization from the City. When any budget has been increased or follow-on work contracted, Consultant's excess costs expended prior to such an increase will be allowable to the same extent as if such costs had been incurred after the approved increase.

Table 1 – Total Project Fee

Task Number	Total Cost
Task 1 – Project Management	\$14,636
Task 2 – Design	\$111,773
Task 3 – Engineering Services During Construction	\$71,518
Project Total	\$199,928

Additional Remarks:

None

IN WITNESS WHEREOF, the parties hereto have executed this Task Order No. 5 as of the day and year first above written.

CITY

City of Pocatello, a municipal corporation

Consultant

Conсор North America, Inc.

Signature

APPROVED BY:

Brian Blad
Mayor

Dennis Galinato, P.E. _____ Date _____
Principal Engineer

APPROVED BY:

Jeffrey L. Mansfield, P.E. Date
Public Works Director/City Engineer

CONTRACT AMOUNT: \$199,928

TASK ORDER NO. 5

INDIAN HILLS LIFT STATION FORCE MAIN SOUTH VALLEY BRIDGE CASING
CITY OF POCATELLO
PROPOSED FEE ESTIMATE

Staff Name	LABOR CLASSIFICATION (HOURS)										Hours	Labor	Expenses	CADD Units \$18/hr	GIS Units \$10/hr	Total
	Principal Engineer IV	Professional Engineer III	Engineering Designer I	Principal Engineer III	Professional Engineer VII	Professional Engineer III	Technician IV	Administrative III	Professional Engineer VI							
	\$312	\$190	\$161	\$292	\$232	\$190	\$189	\$134	\$222							
	GallinatoDen	WeimerEri	TroxelMat	MorganDac	Khalaf AllaOma	Yugar AriasSer	SmithAnt	ThorsonKat	HughesCar							
Task 1 - Project Management	PIC	PM	Staff Engineer	Structural Review	Structural PM	Structural Staff Eng	Structural CAD	Admin								
Task 1.1 - Invoices/Status Reports	8	20								28	\$ 6,453	\$ -	\$ -	\$ -	\$ -	\$ 6,453
Task 1.2 - Coordination with the Owner and Management of Staff	8	20								28	\$ 6,453	\$ -	\$ -	\$ -	\$ -	\$ 6,453
Task 1.3 - Kick-Off Meeting		4			4					8	\$ 1,730	\$ -	\$ -	\$ -	\$ -	\$ 1,731
Task 1.4 -										0	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Task 1 Subtotal	16	44	0	0	4	0	0	0	0	64	\$ 14,637	\$ -	\$ -	\$ -	\$ -	\$ 14,637
Task 2 - Design																
Task 2.1 - Collect and Review Existing Data		1			4	4				9	\$ 1,925	\$ -	\$ -	\$ -	\$ -	\$ 1,925
Task 2.2 - south Valley Bridge Crossing 60% Design		4		4	32	60	120	8		228	\$ 45,617	\$ -	\$ 2,160	\$ -	\$ -	\$ 47,777
Task 2.3 - south Valley Bridge Crossing 95% Design		4		4	24	32	80	4	32	180	\$ 37,244	\$ -	\$ 1,440	\$ -	\$ -	\$ 38,684
Task 2.4.1 Permitting - Union Pacific Railroad	1	16	40							57	\$ 10,037	\$ -	\$ -	\$ -	\$ -	\$ 10,037
Task 2.4.2 Permitting - US Army Corps of Engineers (USACE)	1	24	24							49	\$ 8,954	\$ -	\$ -	\$ -	\$ -	\$ 8,954
Task 2.4.3 Permitting - Idaho Department of Water Resources	1	8	8							17	\$ 3,198	\$ -	\$ -	\$ -	\$ -	\$ 3,198
Task 2.4.5 Permitting - City of Pocatello Floodplain Development Permit	1	8	8							17	\$ 3,198	\$ -	\$ -	\$ -	\$ -	\$ 3,198
Task 2 Subtotal	4	65	80	8	60	96	200	12	32	557	\$ 110,173	\$ -	\$ 3,600	\$ -	\$ -	\$ 113,773
Task 3 - Construction Management																
Task 3.1 - South Valley Bridge Crossing Bid Document Submittal	1	8		12	12	16	40	4		93	\$ 19,737	\$ -	\$ -	\$ -	\$ -	\$ 19,737
Task 3.2 - Construction Bid Phase Support	1	24	8	2	8	8				51	\$ 10,373	\$ -	\$ -	\$ -	\$ -	\$ 10,373
Task 3.3 - Engineering Services During Construction	2	24	48	4	40	40	40			198	\$ 39,483	\$ 1,205	\$ 720	\$ -	\$ -	\$ 41,408
Task 3 Subtotal	4	56	56	18	60	64	80	4	0	342	\$ 69,593	\$ 1,205	\$ 720	\$ -	\$ -	\$ 71,518
TOTAL - ALL TASKS	24	165	136	26	124	160	280	16	32	963	\$ 194,404	\$ 1,205	\$ 4,320	\$ -	\$ -	\$ 199,928

AGENDA ITEM NO. _____

EXECUTIVE SUMMARY
MOU – THE RIDGE @ HIGH TERRACE

TO: Mayor Blad and City Council Members
FROM: Merrill Quayle, P.E., Public Works Engineer
DATE: Meeting Date – April 3, 2025
SUBJECT: MOU – The Ridge @ High Terrace

BACK GROUND

Bill Isley, Managing Member of The Ridge @ High Terraces purchased real property on the east bench above Vista Drive and north of Center Street. When reviewing the easement for the existing 12-inch ductile iron water line installed in 1976, owned and maintained by the City of Pocatello, there was found nonconforming easement language relating to fees associated with said line. After several years of meetings and deliberations over the nonconforming language, Mr. Isley and city staff has agreed on obligations and responsibilities of both parties. These obligations and responsibilities have been documented in the memorandum of understanding attached to this agenda item.

STAFF RECOMMENDATION

Staff recommends approving the MOU between the City of Pocatello and The Ridge @ High Terrace, authorize the Mayor's signature on all pertinent documents, subject to Legal Department review.

MEMORANDUM

TO: Brian C. Blad, Mayor; Members of the City Council
FROM: Rich Diehl, Deputy City Attorney 
RE: MOU with The Ridge @ High Terrace, LLC. (Engineering)
DATE: March 25, 2025

I have reviewed the above-referenced MOU and it meets with my approval for the Mayor's signature once the Council so authorize. This is to facilitate the development and connection East Center Street and Monte Vista on the east side of the City.

If you have any questions, please feel free to contact me.

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding, hereinafter referred to as "MOU", is entered into this ____ day of _____, 2025, between the CITY OF POCA TELLO, a municipal corporation of Idaho, hereinafter referred to as "CITY", and THE RIDGE AT HIGH TERRACE, LLC, a limited liability company of Idaho, hereinafter referred to as "GRANTOR";

WHEREAS, Grantor purchased certain real property located outside the city boundaries from Empire Investment, LLC; and

WHEREAS, following purchase, Grantor discovered nonconforming easement language from easements made in favor of the City and recorded in 1975 and 1976 in relation to the water fees associated with said property; and

WHEREAS, City staff evaluated said easement language and determined the language to be insufficiently clear as to what circumstances would constitute water fees; and

WHEREAS, for and in consideration of the best interest of the utility patrons of the City of Pocatello, the City agrees to provide certain exceptions to development requirements on the cited real property.

NOW, THEREFORE, the parties hereto agree as follows:

1. City shall waive the water fees associated with annexation, pursuant to Resolution 2006-02, for parcels R3851011401, RPCPP149500, RPCPP149600, R3851011408, R3851011410, and R3853026801.

2. The parties understand that while Grantor shall be responsible for all annexation and plat fees, all capacity fees and permits for each developed parcel shall be collected with the issuance of a building permit for each developed parcel, pursuant to City policy.

3. City has identified two (2) pipe segments in need of realignment under the proposed development plans. City shall provide tapping sleeves, valves, and caps along with the associated equipment time and labor for installation at four (4) locations on the 12-inch waterline. Said line is located between Vista Drive and the currently improved north end of Center Street, and between Vista Drive and the Alameda water reservoir. City acknowledges Grantor is grading the area for development as The Ridge @ High Terrace, a proposed but not yet approved or annexed subdivision to City, under a grading permit issued by Bannock County. City shall pay and reimburse Grantor:

- a. The cost difference for materials, including pipe and fittings only, to increase the pipe size from the minimum required eight inch (8") ductile iron to twelve inch (12") ductile iron on the two described realignment pipe segments; and
- b. The cost difference for the labor to install the twelve inch (12") ductile iron on the two (2) described realignment pipe segments to replace the eight inch (8") ductile iron pipe.

4. Grantor shall be responsible for the excavation of the tap locations, replacement of ductile iron pipe and installation of the pipe, backfill, and surface restoration at the pipe realignment locations referred to in section 3, subject to reimbursement by the City of the items specified in said section.

5. City shall provide approval to extend the low-pressure water zone of upper East Center Street water zone along the roadway extension of East Center Street. This would include the conditions approved under the Tuscan Heights subdivision plat. The same conditions would apply to the East Center Street extension and the proposed cul-de-sacs between Elevation 5,000 Division 1 plat and Tuscan Heights subdivision plat, more particularly shown in Exhibit "A" and Exhibit "B".

6. City agrees to make available existing City easements across neighboring properties for installation of sewer extensions to serve the proposed development.

7. Grantor shall hold harmless, defend, and indemnify City, its agents, officials, and employees from any and all claims, actions, causes of action, suits, charges, and judgments whatsoever arising out of the use by any party other than City or its employees.

8. This MOU embodies the whole understanding of the parties. No prior or contemporaneous understanding between City and Grantor, or any third party, shall be incorporated into this understanding.

9. The individuals executing this MOU hereby acknowledge and represents that (s)he has the power and authority to so bind the respective corporation or individual.

10. If any provision or portion of any provision of this MOU shall be deemed illegal or unenforceable by a court of competent jurisdiction, the unaffected provisions or portions hereof shall remain in full force and effect.

11. Grantor may directly assign, transfer or encumber in whole the rights and responsibilities in or to this MOU to another party by providing thirty (30) days written notice to the City.

12. The terms of this MOU shall be effective until the responsibilities described herein are completed by both parties.

IN WITNESS WHEREOF, the parties have caused this MOU to be executed by their authorized representatives the date and year first above written.

CITY OF POCA TELLO, a municipal
corporation of Idaho

BRIAN C. BLAD, Mayor

STATE OF IDAHO)
)
) ss:
County of _____)

On this _____ day of _____, 2025, before me, the undersigned, a Notary Public in and for the State, personally appeared Bill Isley, and acknowledged to me that s/he executed the foregoing instrument on behalf of said corporation, and that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTARY PUBLIC FOR IDAHO
Residing in _____
My commission expires: _____

EXHIBIT A

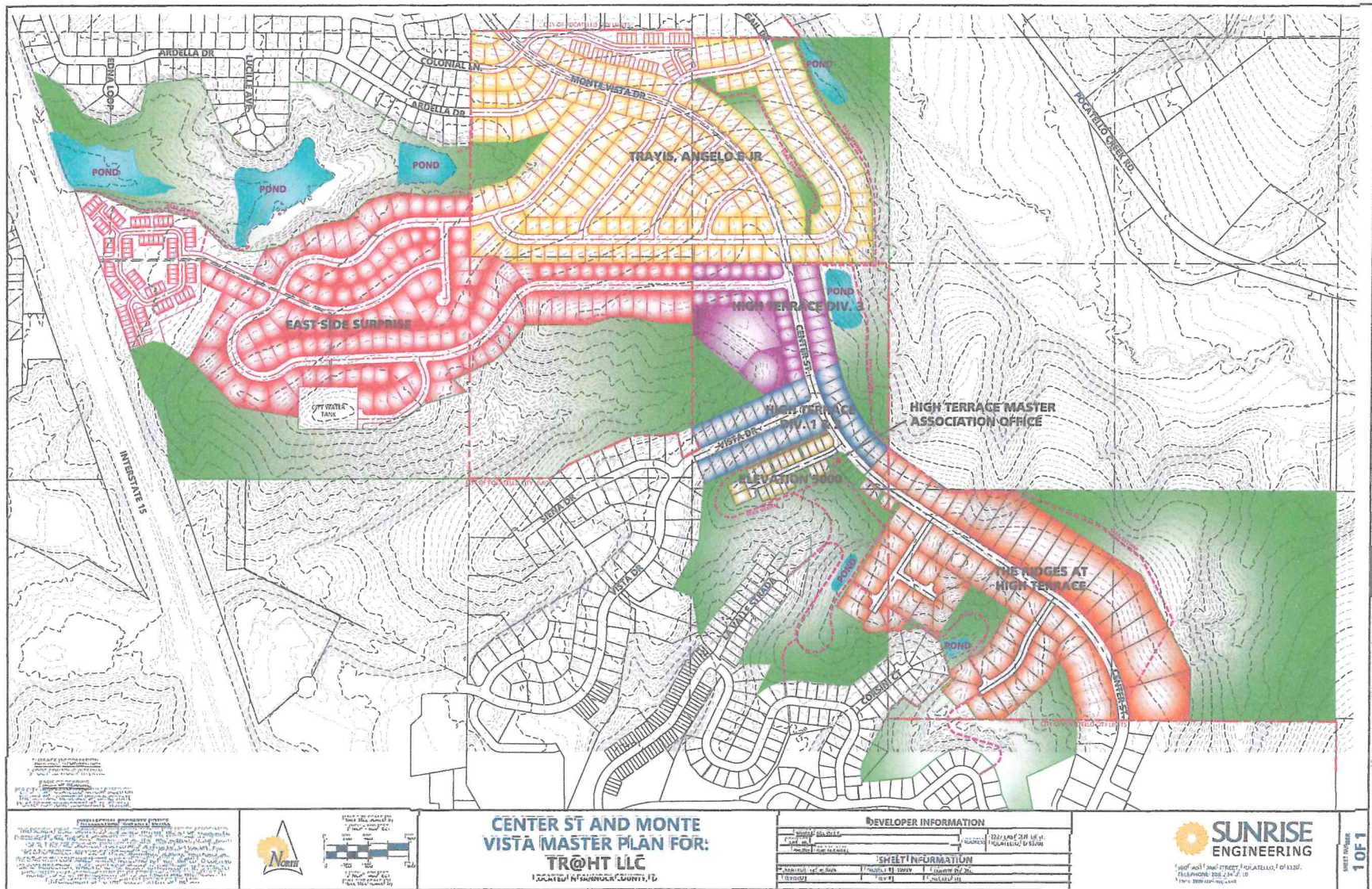
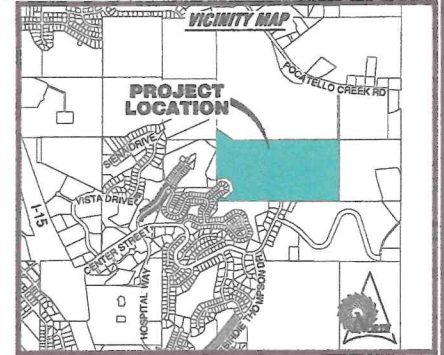


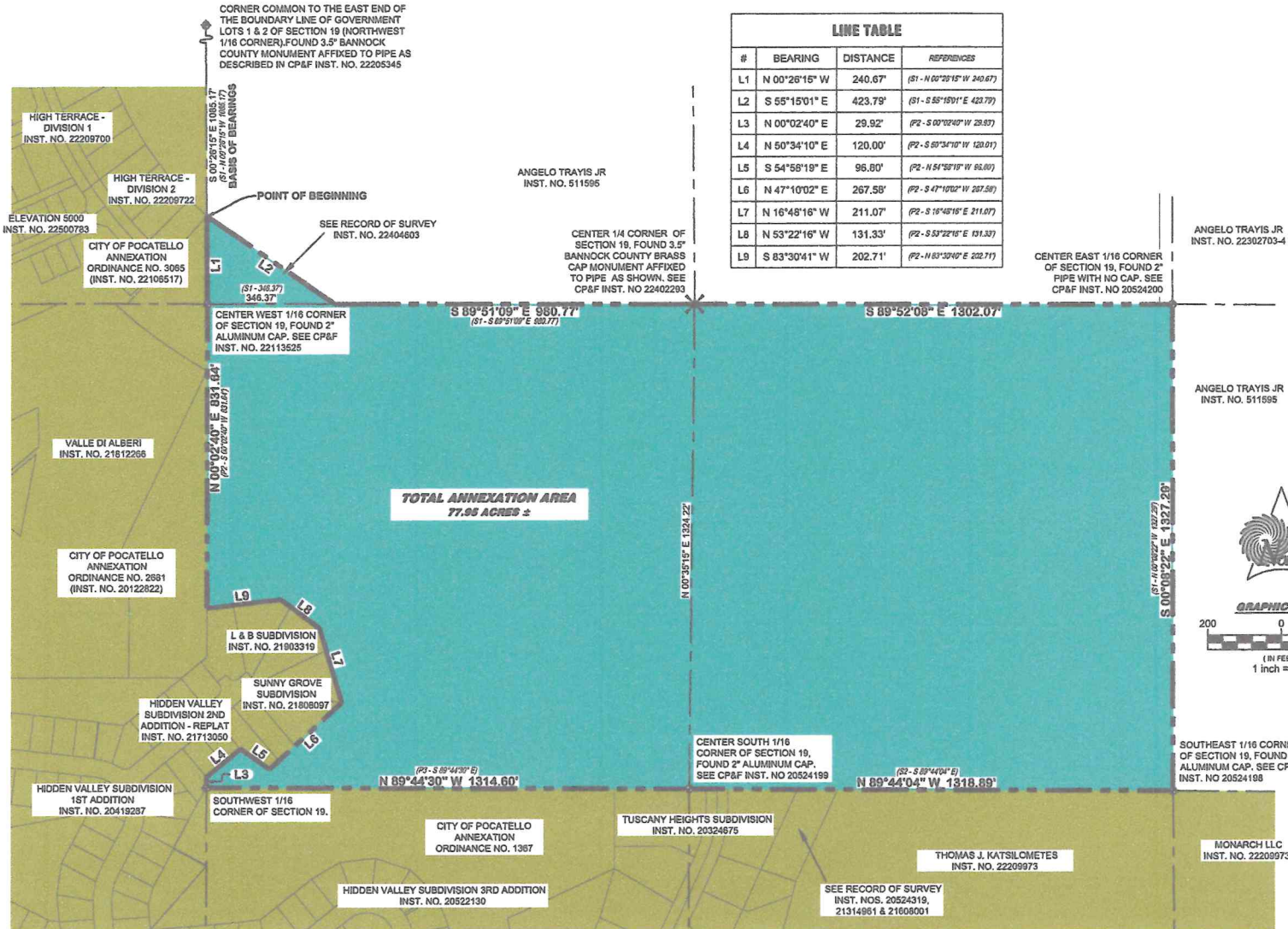
EXHIBIT A

ANNEXATION MAP FOR: THE RIDGE @ HIGH TERRACE

LOCATED IN SECTION 19, TOWNSHIP 6 SOUTH, RANGE 35 EAST,
BOISE MERIDIAN, BANNOCK COUNTY, IDAHO



LINE TABLE			
#	BEARING	DISTANCE	REFERENCES
L1	N 00°26'16" W	240.67'	(S1 - N 00°26'16" W 240.67')
L2	S 55°15'01" E	423.79'	(S1 - S 55°15'01" E 423.79')
L3	N 00°02'40" E	29.92'	(P2 - S 00°02'40" W 29.92')
L4	N 50°34'10" E	120.00'	(P2 - S 50°34'10" W 120.01')
L5	S 54°58'19" E	96.80'	(P2 - S 54°58'19" W 96.80')
L6	N 47°10'02" E	267.58'	(P2 - S 47°10'02" W 267.58')
L7	N 16°48'16" W	211.07'	(P2 - S 16°48'16" E 211.07')
L8	N 53°22'16" W	131.33'	(P2 - S 53°22'16" E 131.33')
L9	S 83°30'41" W	202.71'	(P2 - N 83°30'41" E 202.71')



LEGEND

- FOUND 1/4 CORNER AS NOTED
- FOUND 1/16 CORNER AS NOTED
- CURRENT CITY OF POCATELLO CITY LIMITS
- PROPOSED ANNEXATION AREA
- ANNEXATION BOUNDARY LINE
- SECTION LINES
- ADJACENT PROPERTY LINES
- (S1) RECORD INFORMATION PER RECORD OF SURVEY INST. NO. 22404603
- (S2) RECORD INFORMATION PER RECORD OF SURVEY INST. NO. 20524319
- (S3) RECORD INFORMATION PER RECORD OF SURVEY INST. NO. 21608001
- (P1) RECORD INFORMATION PER SUBDIVISION PLAT INST. NO. 21612266
- (P2) RECORD INFORMATION PER SUBDIVISION PLAT INST. NOS. 21808097, 21713050 & 21903319
- (P3) RECORD INFORMATION PER SUBDIVISION PLAT INST. NOS. 20522130 & 20324675

BASIS OF BEARING

THE WEST LINE OF SECTION 19 WAS ASSUMED TO BE SOUTH 00°26'16" EAST BETWEEN THE NORTHWEST 1/16 CORNER AND THE CENTER WEST 1/16 CORNER PER THE CENTRAL MERIDIAN OF IDAHO STATE PLANE EAST ZONE COORDINATE SYSTEM.

EXHIBIT B

ANNEXATION MAP FOR:
THE RIDGE @ HIGH TERRACE
LOCATED IN SECTION 19, TOWNSHIP 6 SOUTH, RANGE 35 EAST,
BOISE MERIDIAN, BANNOCK COUNTY, IDAHO



REVISIONS	SURVEYED BY: MSB, RTS, MLM
1.	OFFICE WORK BY: MSB, MLM
2.	DATE: February 26, 2025
DRAWING: P:\BBAD Investments, LLC\12419 - The Ridges @ High Terrace	
Subdivision\SURVEY\CAD\TR@HT ANNEX MAP.dwg	
SCALE: 1 INCH = 200 FEET	PROJECT NO: 12419 SHEET 1 OF 1

AGENDA ITEM NO. _____

TO: Mayor Blad
City Council

FROM: Christine Howe, Grants Manager
Becky Babb, Planning Manager
Mariela Mejia, Public Works Project Manager

DATE: Meeting of April 3, 2025

RE: Agreement Between City of Pocatello and Keller Associates Inc.

The City of Pocatello was awarded a US Environmental Protection Agency (EPA) Community Change Grant for the S. 5th Complete Streets and Sewer Project. The Community Change grant application would provide necessary funding for major sewer and transportation infrastructure improvements along S. 5th Avenue as well as greenway trails, park and stormwater improvements, and drinking fountain installation and upgrades throughout the City.

The project includes extensive design work and the Construction Engineering and Inspections for portions of the project. The City conducted a competitive Request for Qualifications (RFQ) procurement process for a Consultant to conduct this work.

The City conducted the RFQ and received five responsive and responsible proposals for the services from: JUB Engineers, Inc., Keller Associates, Consor Engineering, HLE, Inc., and The Land Group. The proposals were scored using established evaluation criteria and Keller Associates, Inc. was deemed the most highly qualified for the scope of services requested in the RFQ.

City Council may wish to award the contract and authorize the Mayor to sign all pertinent documents for a professional services agreement between the City and Keller Associates, Inc.

If you have questions or would like more information about the agreement, please do not hesitate to contact me at chow@pocatello.gov or 208-234-6186.

To: City Council and Mayor
From: Matt Kerbs, Deputy City Attorney *MK*
Date: March 21, 2025
Re: Pocatello South 5th Improvements Agreement Between Owner and Engineer for Professional Services

I have no legal concerns with the Council approving and authorizing the Mayor to sign the above referenced document for professional services. This Professional Services agreement is a result of an RFQ, consistent with the provisions of Idaho Code §67-2320.

POCATELLO – SOUTH 5TH IMPROVEMENTS
AGREEMENT BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES

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AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

This is an Agreement between **City of Pocatello, Idaho** (Owner) and **Keller Associates, Inc.** (Engineer). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as **Pocatello – South 5th Improvements** (Project). Other terms used in this Agreement are defined in Article 7. Engineer's services under this Agreement are generally identified as **predesign, design, bidding, construction contract administration, resident project representative (RPR), and closeout professional services for the Pocatello South 5th Improvements project that is being funded by the EPA Community Change Grant. The project elements include approximately 3 miles of new asphalt pathway or concrete sidewalks along South 5th, 3 miles of curb and gutter along South 5th, 3.3 miles of 8 to 10 feet wide asphalt pathways, stormwater improvements at Constitution Park, and approximately 7,700 feet of new sewer lines.**

Owner and Engineer further agree as follows:

ARTICLE 1—SERVICES OF ENGINEER

1.01 Scope

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.
- B. All phases of service will include Management of Engineering Services as shown in Exhibit A.

ARTICLE 2—OWNER'S RESPONSIBILITIES

2.01 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of Basic and Additional Services, including Owner's:
 - 1. design objectives and constraints;
 - 2. space, capacity, and performance requirements;
 - 3. flexibility and expandability needs;
 - 4. design and construction standards;
 - 5. budgetary limitations; and
 - 6. any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services. Such additional information or data may include the following:
 - 1. Property descriptions.

2. Zoning, deed, and other land use restrictions.
 3. Surveys, topographic mapping, and utility documentation.
 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
 - D. Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) so that Engineer may assist Owner in collating the various cost categories that comprise Total Project Costs.
 - E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
 - F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
 - G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- 2.02 Owner's Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents
- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
 1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to

include in the draft Bidding/Proposal Documents, and in draft Front-End Construction Contract Documents;

2. insurance and bonding requirements;
 3. protocols for electronic transmittals during bidding and construction;
 4. Owner's safety and security programs applicable to Contractor and other Constructors;
 5. diversity and other social responsibility requirements;
 6. bidding and contract requirements of funding, financing, or regulatory entities;
 7. other specific conditions applicable to the procurement of construction or contract documents;
 8. any other information necessary for Engineer to assist Owner in preparing its Bidding/Proposal Documents and Front-End Construction Contract Documents.
- B. Owner shall have responsibility for the final content of (1) such Bidding/Proposal Documents, and (2) such Front-End Construction Contract Documents, other than content furnished by Engineer concerning the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters.
1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- C. If there will be an advertisement soliciting bids for construction, Owner shall place and pay for such advertisement.

2.03 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, Owner shall obtain, as required for the Project:
1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
 3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.

- C. Owner shall acquire or arrange for acquisition of the Site(s) and any temporary or permanent rights of access, easements, or property rights needed for the Project.
- D. With respect to the portions or phases of the Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
 - 1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, and
 - 2. such reviews, approvals, and consents from others as may be necessary for completion of each portion or phase of the Project.
- E. Owner may delegate to Contractor or others the responsibilities set forth in Paragraphs 2.03.C and D.

2.04 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement.
- B. Owner shall provide **funding for the Project and funding administration services. Owner will notify Engineer if budget or funding sources change.**
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under this Agreement.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project,

including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.

- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, Owner shall define and set forth as an exhibit to this Agreement the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
 1. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.
 - a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.
 - b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
 3. Authorize Engineer to provide Additional Services as set forth in Article 2 of Exhibit A of the Agreement, as required.
 4. Perform or provide the following:
 - a. **Topographic surveying, Utility Coordination, Right-of-Way Surveying and Plans, and Right-of-Way Appraisal, Negotiation, and Acquisition for all components of the project (being provided by Owner's survey consultant, J-U-B Engineers, Inc. under a separate contract with the Owner).**
 - b. **Lead any public involvement/education efforts that are needed for all project components, unless otherwise specifically indicated in the scope.**
 - c. **Pay for any permit fees.**
 - d. **Participate in meetings with regulatory agencies.**
 - e. **Part-time construction observation services (pending finalized SDC Scope).**
 - f. **At a minimum, the following information will be requested from the Owner:**
 - 1) **All preliminary CAD and PDF files for the sewer improvements.**
 - 2) **All available GIS information for the project for sewer and water connections.**
 - 3) **Surveying information provided by J-U-B specifically for this project as both a PDF and as digital .dwg files.**
 - 4) **Any available geotechnical information throughout the project site.**
 - 5) **Available design standards, standard details, and specifications.**
 - 6) **Other pertinent information as determined during this project.**

2.05 Payment

- A. Owner shall pay Engineer as set forth in Article 4 and Exhibit J.
- B. Engineer's compensation is summarized as follows; if there is a conflict between the following summary and the contents of Exhibit J, then Exhibit J will prevail.

Description of Service		Amount	Basis of Compensation
1.	Basic Services (Article 1 of Exhibit A – Pre-Design, Design, Bidding)	\$1,572,000	Lump Sum
2.	Basic Services (Article 1 of Exhibit A - Construction)	\$876,500	Lump Sum
3.	Resident Project Representative Services	\$375,000	Lump Sum
4.	Additional Services (Article 2 of Exhibit A)	\$50,000	Lump Sum or T&M

Based on an **18-month continuous construction period**.

- 1. Compensation items and totals based in whole or in part on Hourly Rates, Direct Labor, or Percentage of Construction Cost are estimates only.
- 2. Lump sum amounts incorporate Engineer's labor, overhead, profit, and Engineer's Subcontractor and Subconsultants' charges.

ARTICLE 3—SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit B, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If Engineer fails, for reasons within control of Engineer, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

ARTICLE 4—INVOICES AND PAYMENTS

4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices, the progress reporting and special invoicing requirements (if any) in Exhibit A Paragraph 1.01.A, and the terms of Exhibit J. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 Payments

- A. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
- B. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so; may withhold only that portion so disputed; and must pay the undisputed portion, subject to the terms of Paragraph 4.01. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and
 - 2. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of Exhibit J.

ARTICLE 5—OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) **(also may be referred to as cost estimates)** are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 Opinions of Total Project Costs

- A. **Engineer's opinions of probable Total Project Costs (if any) (also may be referred to as cost estimates) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Cost will not vary from opinions of probable Cost prepared by Engineer.**

ARTICLE 6—GENERAL CONSIDERATIONS

6.01 Standards of Performance

- A. **Standard of Care:** The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.
- B. **Technical Accuracy:** Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. **Engineer's Subcontractors and Subconsultants:** Engineer may retain such Engineer's Subcontractors and Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. **Reliance on Others:** Subject to the standard of care set forth in Paragraph 6.01.A, Engineer may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. **Compliance with Laws and Regulations, and Policies and Procedures**
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations,

- b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures, and
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. General Conditions of Construction Contract: The general conditions for any Construction Contract Documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer. Engineer shall continue to own the Documents and all associated rights whether or not the Project is completed.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project.
 - 2. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents, and subject to the following limitations:
 - a. Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer;
 - b. any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Subconsultants;
 - c. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and
 - d. such limited license to Owner shall not create any rights in third parties.
- B. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.
- C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.
- D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
 - 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP.
 - 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.
- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
 - 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
 - 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
 - 4. not seek contribution from insurance maintained by the additional insured.
- C. ~~Owner shall procure and maintain insurance as set forth in Exhibit G.~~
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall

require Contractor to cause Engineer, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.

- E. **Engineer shall deliver to the Owner** certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
 - 1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation furnished under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.
- F. All construction contracts entered into by Owner with respect to the Project must require builder's risk or similar property insurance.
- G. All policies of property insurance relating to the Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days' prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require Engineer's Subcontractors or Subconsultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

A. Suspension

1. By Owner: Owner may suspend Engineer's services for up to 90 days upon 7 days' written notice to Engineer.
2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement:
 - a. if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraphs 4.02.B and 4.02.C;
 - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
 - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under this Agreement.

B. Termination for Cause

1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.
 - a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30-day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate this Agreement for cause upon 7 days' written notice:
 - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
 - b. if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
 - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.

C. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of notice from Owner.

D. Extension of Effective Date of Termination: If Owner terminates the Agreement for cause or convenience, Owner may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the

Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Engineer shall be entitled to compensation for such tasks.

- E. **Payments Upon Termination:** In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination. Upon making such payment, Owner will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
 2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit J.

6.06 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
1. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 2. Nothing in this Agreement will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in the Construction Contract Documents.

6.07 Dispute Resolution

- A. Unless otherwise required by Exhibit H, Owner and Engineer shall resolve all disputes in the following manner:
 - 1. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
 - 2. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
 - 3. If the parties fail to resolve a Dispute through negotiations under Paragraph 6.07.A.1 or mediation under Paragraph 6.07.A.2, then:
 - a. either or both may invoke the applicable dispute resolution procedures of Exhibit H for final resolution of Disputes.
 - b. If Exhibit H is not included, or if no final dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of the Project; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which the Project is located.

6.09 Environmental Condition of Site

- A. Owner represents to Engineer that, as of the Effective Date, to the best of Owner's knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern: For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as "undisclosed" Constituents of Concern.
 - 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
 - 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under this Agreement are not undisclosed Constituents of Concern.
 - 3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not

undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.

- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
- E. If the presence at the Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under this Agreement, then:
 - 1. if the adverse effects do not preclude Engineer from completing its Project services in general accordance with this Agreement on unaffected or marginally affected portions of the Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Agreement will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
 - 2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate this Agreement for cause on 7 days' written notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 Indemnification and Mutual Waiver

- A. Indemnification by Engineer: To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use

resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."

- B. Environmental Indemnification: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer, its Subconsultants, Engineer's Subcontractors, and their officers, directors, members, partners, agents, employees, and subconsultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that:
 - 1. any such claim, cost, loss, damages, action, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and
 - 2. nothing in this paragraph obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, will not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- E. Mutual Waiver: To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's officers, directors, members, partners, agents, employees, subconsultants, and insurers, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes. Such excluded damages include but are not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and cost of capital.

6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Agreement will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All such notices are effective upon the date of receipt.

- B. Survival: Subject to applicable Laws and Regulations, all express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. Severability: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if Engineer's services do not include Construction Phase services, or the Project is not completed, then no later than the date of Owner's last payment to Engineer.

ARTICLE 7—DEFINITIONS

7.01 Defined Terms

- A. Wherever used in this Agreement (including the exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following definitions:
 - 1. Addenda—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 - 2. Additional Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 2 of Exhibit A of this Agreement.
 - 3. Agreement—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 4. Application for Payment—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 - 5. Basic Services—The services to be performed for or furnished to Owner by Engineer in accordance with Article 1 of Exhibit A of this Agreement.
 - 6. Bidding/Proposal Documents—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
 - 7. Change Order—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction

Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.

8. Change Proposal—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
9. Constituents of Concern—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
10. Construction Contract—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to property; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.

17. Documents—All documents expressly identified as deliverables in this Agreement, whether in printed or Electronic Document form, required by this Agreement to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. Effective Date—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. Electronic Means—Electronic mail (e-mail), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
22. Engineer—The individual or entity named as such in this Agreement.
23. Engineer's Subcontractor—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to the Project as an independent contractor.
24. Field Order—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
25. Front-End Construction Contract Documents—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
26. Laws and Regulations; Laws or Regulations—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
27. Owner—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.

28. **Project**—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
29. **Record Drawings**—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
30. **Resident Project Representative**—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of the RPR.
31. **Samples**—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
32. **Shop Drawings**—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
33. **Site**—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
34. **Specifications**—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
35. **Subconsultant**—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to the Project as an independent contractor.
36. **Subcontractor**—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
37. **Submittal**—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Construction Contract

Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.

38. Substantial Completion—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
39. Supplier—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
40. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties and private utilities (including relocation if not part of Construction Cost), Owner’s costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.
41. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
42. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
43. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8—EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits to Agreement

The following exhibits are incorporated by reference and included as part of this Agreement:

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Deliverables Schedule.
- C. Exhibit C, Amendment to Owner-Engineer Agreement (form).
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, EJCDC® C-626, Notice of Acceptability of Work (form).
- F. Exhibit F, Electronic Documents Protocol (EDP).
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. – Not Used
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Payments to Engineer for Services and Reimbursable Expenses.
- K. **Exhibit K, Project Description**

8.02 Total Agreement

- A. This Agreement (which includes the exhibits listed above) constitutes the entire contractual agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit C to this Agreement.

8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall each designate a specific individual to act as representative under this Agreement. Such an individual must have authority to transmit instructions, receive information, and render decisions with respect to this Agreement on behalf of the party that the individual represents.

8.04 Engineer's Certifications

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.
- B. Pursuant to provisions of Idaho Code §§ 67-2346, Anti-Boycott Against Israel Act, and Idaho Code §67-2347A, Prohibition on Contracts with Companies Boycotting Certain Sectors the Engineer certifies that it is not currently engaged in and will not for the duration of the contract engage in the following:
1. boycott of goods or services from Israel or territories under its control; or
 2. boycott of any individual or company because the individual or company engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or
 3. boycott of any individual or company because the individual or company engages in or support the manufacture, distribution, sale, or use of firearms, as defined in Idaho Code §§ 18-3302(2) (d).
- C. Idaho Code, §§ 67-2359 states "a public entity in this state may not enter into a contract with a company to acquire or dispose of services, supplies, information technology, or construction unless the contract includes a written certification that the company is not currently owned or operated by the government of China and will not for the duration of the contract be owned or operated by the government of China". Engineer certifies that it is not owned or operated by the government of China.

8.05 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the conflict of interest and its consequences, such that progress under the Agreement may continue.
 2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

This Agreement's Effective Date is _____

Owner:

City of Pocatello

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: Brian C. Blad

(typed or printed)

Title: Mayor

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

911 N. 7th Avenue

Pocatello, ID 83201

Designated Representative:

Name: Mariela Mejia

(typed or printed)

Title:

(typed or printed)

Address:

911 N. 7th Avenue

Pocatello, ID 83201

Phone: 208.234.6272

Email: Mariela.mejia@pocatello.gov

Engineer:

Keller Associates, Inc.

(name of organization)

By:

(individual's signature)

Date:

(date signed)

Name: James Bledsoe, P.E.

(typed or printed)

Title: Vice President

(typed or printed)

Attach evidence of authority to sign.

Attest:

(individual's signature)

Title:

(typed or printed)

Address for giving notices:

305 N. 3rd Avenue, Suite A

Pocatello, ID 83201

Designated Representative:

Name: Colter L. Hollingshead, P.E.

(typed or printed)

Title: Project Manager

(typed or printed)

Address:

305 N. 3rd Avenue, Suite A

Pocatello, ID 83201

Phone: 208.238.2146

Email: chollingshead@kellerassociates.com

EXHIBITS TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

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Article 1 of the Agreement, Services of Engineer, is supplemented to include the following provisions:

Baseline Information: Engineer’s scope of services has been developed based on **the Project Description outlined in Exhibit K**. As the Project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the scope of services.

Engineer shall provide Basic and Additional Services as set forth below.

ARTICLE 1—BASIC SERVICES

1.01 Management of Engineering Services

- A. All phases of Engineer’s services will include management of Engineer’s Project-specific responsibilities, including but not limited to the following management tasks, whether separately tracked and itemized or included as being incidental to other phase and scope task items. **It is anticipated that management of engineering services will last for 16 months as part of the design, bidding, and bid evaluation process.**
1. Develop and submit an Engineering Services Schedule. The Engineering Services Schedule will:
 - a. be consistent with and serve as a supplement to the Schedule of Deliverables set forth in Exhibit B.
 - b. be updated on a regular basis, and as required to reflect any programmatic decisions by Owner.

- c. include, but not be limited to, an anticipated sequence of tasks; estimates of task duration; interrelationships among tasks; milestone meetings and submittals; anticipated schedule of construction; and other pertinent Project events.
- 2. Develop and submit ~~detailed work plans~~ **a project management plan** from Exhibit A tasks.
- 3. Coordinate services within Engineer's internal team, and with Subconsultants and Engineer's Subcontractors.
- 4. Prepare for and participate in meetings with consultants and contractors working on other parts of the Project that may affect, or be affected by, Engineer's services or resulting construction.
- 5. Prepare and submit **monthly** engineering services progress reports to the Owner. Include summary of services performed in period, expected progress in next period, percent completion of current tasks, and a description of major issues or concerns. **In addition to the monthly progress report, meetings with the Owner are planned every other week through design and approximately 1 hour long is anticipated at each of the meetings to communicate and document identified project risks, action items, change of conditions, schedule updates, financial status, and general project status.**
- 6. Special Invoicing: In addition to, or as a substitute for, Engineer's standard invoicing, provide the specified additional information or documentation, following the invoicing procedures indicated: **No special invoicing will be required.**
- 7. Conduct ongoing management tasks, including:
 - a. Maintaining communications records and files pertaining to or arising from Engineer's services;
 - b. With respect to Engineer's services and other directly relevant parts of the Project, prepare for and participate in periodic progress meetings with Owner to discuss progress, schedule, budget, issues, potential problems and their resolution; and
 - c. Preparing agendas prior to and minutes following all Engineer-led meetings.
- B. In all phases of Engineer's services, Engineer shall prepare draft and final Drawings in accordance with **Engineer's CAD standards** using **2024 or newer** version of **AutoCAD Civil 3D** software.
- C. The source documents for the draft and final Specifications in all phases of Engineer's services will be **the Idaho Standards for Public Works Construction ("ISPWC")**, unless otherwise mutually agreed upon by the parties.

1.02 ~~Study and Report Phase~~

A. ~~Engineer shall:~~

- 1. ~~Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.~~

Modified from Exhibit A—Engineer's Services.

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- a. ~~If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of the Owner identified potential solutions listed here:~~
 - 1) ~~**{List the specific potential solutions to be studied and evaluated here}.**~~
 - b. ~~If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~
 - c. ~~If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify **{insert specific number}** alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~
2. ~~Identify potential solution(s) to meet Owner's Project requirements, as needed.~~
 3. ~~Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~
 4. ~~Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~
 5. ~~Assess initially available Project information and data, including the Baseline Information set forth at the beginning of this Exhibit A.~~
 6. ~~Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project related information and data, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~
 7. ~~After consultation with Owner, recommend the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~
 8. ~~Identify, consult with, and analyze requirements of authorities having jurisdiction to permit or approve construction or operation of the portions of the Project to be designed or specified by Engineer, including but not limited to impacts and mitigating measures identified in previously prepared environmental assessments for the Project provided to the Engineer or being concurrently prepared for Owner by others.~~
 9. ~~Advise the Owner of any need for Owner to provide data or services of the types described in Article 2 of the Agreement, for use in Project design, or in preparation for Contractor selection and construction.~~
 10. ~~Assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface conditions at the Site; innovative design, contracting, or procurement strategies; project delivery method; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph will be referred to in Exhibit A as "Project Strategies, Technologies, and Techniques."~~

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11. ~~Assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions, plan for the inclusion of sustainable features in the design.~~
12. ~~Review with Owner the thresholds established in applicable codes, standards, and design criteria specifically governing the ability of the proposed facilities or improvements to perform, and to absorb or avoid damage without suffering complete or substantial failure. As part of the review, identify additional risk assessment studies or tools that are available to evaluate the susceptibility of the facilities or improvements to natural and man-made events beyond the applicable established thresholds. Upon Owner request, as an additional service, perform additional risk assessment studies or tools to further evaluate system resiliency beyond the applicable established thresholds.~~
13. ~~Utilities, including Underground Facilities~~
 - a. ~~Review any utility mapping and surveys and other utilities documentation made available by Owner. Take note of observable utilities during Site visit.~~
 - b. ~~Identify, in a preliminary manner and to the extent determinable by such mapping or other information provided by Owner, and by observations at the Site, those utilities (whether above-ground utilities of any type, or Underground Facilities) likely to be affected by the Project construction and additional utility facilities or extensions that will be needed to serve the Project.~~
 - c. ~~If the impact on existing utilities or the need for additional utility facilities or extensions cannot reasonably be determined in a preliminary manner from mapping or other information provided by Owner, or such information was not available from Owner, then assist Owner in evaluating the need to either obtain additional utility mapping and utility documentation during the Study and Report Phase, or undertake other alternative approaches and contingencies to account for utility uncertainties in this phase.~~
 - d. ~~Advise Owner of additional utility documentation and coordination needed during the design and construction phases to adequately assess, mitigate, and manage the impact of the Project (including any additional utility facilities or extensions needed to serve the Project) on existing utilities.~~
 - e. ~~Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner regarding the extent and identification and mapping of existing Underground Facilities during the design and construction phases.~~
 - 1) ~~If Owner has retained a land surveyor, utility engineer, or utility consultant, collaborate with such individuals or entities regarding the application of ASCE 38.~~
14. ~~Inquire regarding survey methodologies and technologies that would aid in addressing Owner's Project requirements. Develop a scope of work and survey limits for any topographic and other surveys necessary for design. For recommended survey deliverables, specify a) required technical specifications; b) pertinent datum; c) survey~~

~~limits, and d) formats of deliverables. Collaborate with land surveyor, when separately retained by Owner or third party, to develop such scope of work.~~

- ~~15. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed to requirements, considerations involved, and Engineer's recommended solution(s).~~
 - ~~a. For each recommended solution, Engineer will separately tabulate Total Project Cost, itemizing those items and services included within the definition of Total Project Costs.~~
 - ~~b. Engineer will meet with Owner to discuss the draft Report and receive Owner's comments.~~
 - ~~16. Perform or provide the following other Study and Report Phase tasks or deliverables:~~
 - ~~a. **[List any such tasks or deliverables here].**~~
 - ~~17. Furnish the Report and any other Study and Report Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.~~
 - ~~18. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.~~
- ~~B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the final Report (as revised) and any other Study and Report Phase deliverables.~~

1.03 Preliminary Design Phase

- ~~A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables (if Engineer's services under this Agreement included Study and Report Phase services); selection by Owner of a recommended solution; **Exhibit K contains the description of the Owner's Project**; issuance by Owner of any instructions for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design, or enhanced resiliency of the design; indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document in writing any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design and resiliency instructions, specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information.~~
- ~~B. Upon written authorization from Owner, Engineer shall:~~

1. Review and assess all available Project information and data, including any pertinent reports or studies (whether prepared by Engineer or others) and any related instructions from Owner.
2. Based on the threshold review and assessment of available information and data, advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer any additional information and data, for Engineer's use in the preparation of the Preliminary Design Phase Report.
3. Prepare a Preliminary Design Phase Report in the following format: ~~[specify the format that is appropriate to the scope of the design and sufficient for Owner's purposes—ranging from a consolidated and comprehensive narrative report to an assemblage of required documents].~~
4. The Preliminary Design Phase Report will consist of final design criteria, preliminary drawings, a preliminary list of expected specifications, **stormwater report**, and written descriptions of the Project. The Preliminary Design Phase Report will consider the following matters to the extent applicable to the Project and as necessary to establish the basis of design for proceeding to final design and construction:
 - a. The Project concept, intent, performance criteria, desired outcomes, Owner's standards and Owner directed improvements and facility elements as established in the Study and Report Phase and as expressly set forth in the Baseline Information section of this Exhibit A (collectively the "Project Goals").
 - b. Recommended appropriate design criteria for each primary portion and significant discipline of the design necessary to address the Project Goals.
 - c. Site conditions and characterization as known at the time of, or to be determined during, the Preliminary Design Phase, including topography; subsurface information; Constituents of Concern; cultural, historical, and archaeological resources at the Site; wetlands information; and evaluations of flora and fauna that may be affected by the Project.
 - d. The time schedule for completion of the Project in accordance with Project Goals, including any recommended changes to the time required to complete the Final Design Phase (as set forth in Exhibit B, Deliverables Schedule) and estimated schedule(s) for construction.
 - e. Identification of major items of materials and equipment, rationale for selection with consideration of quality, suitability, pricing, sourcing, regulatory, and bidding issues affecting recommended selection.
 - f. Revised opinions of probable Construction Cost.
 - g. ~~The impact of Project Strategies, Technologies, and Techniques, sustainable features, and enhanced resiliency selected by Owner for inclusion in the Project on the Project Goals, schedule and probable Construction Cost, including impact of multiple prime construction contracts, separate procurement of materials or equipment, and other alternate project delivery methods when the Project Goals necessitate and Owner authorizes;~~

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- h. Construction Phase quality assurance and quality control needs affecting development of Drawings and Specifications and other Final Design and Bidding Phase documents.
 - i. The effect of permits and authorizations by other entities and utility coordination needs on the Project.
 - j. Other matters and information pertinent to addressing the Project Goals.
 - k. **The Stormwater Report will be created for stormwater that is collected at Constitution Park. The report will follow the guidelines that are set in the Portneuf Valley Stormwater Design Manual.**
- 5. ~~In preparing the Preliminary Design Phase Report, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features and enhanced resiliency, as appropriate, pursuant to Owner's instructions.~~
- 6. Visit the Site as needed to prepare the Preliminary Design Phase.
- 7. If at any point in the Preliminary Design Phase it becomes apparent to Engineer that additional reports, data, information, or services of the types described in Article 2 are necessary, then so advise Owner, and assist Owner in obtaining such reports, data, information, or services.
- 8. Above-Ground Utilities
 - a. Review above-ground utilities information obtained from Owner and from observations at the Site.
 - b. Make recommendations regarding any further identification, investigation, and mapping of above-ground utilities at or adjacent to the Site, for Engineer's design purposes or otherwise.
 - c. Account for above-ground utilities, based on available information, when advancing design during the Preliminary Design Phase.
- 9. Underground Facilities
 - a. Review Underground Facilities data furnished by Owner **including Owner-provided survey**. ~~Assist Owner in reducing and managing risks associated with Underground Facilities by working together with Owner to jointly establish a procedure ("Underground Facilities Procedure") for the further identification, investigation, and mapping of Underground Facilities at or adjacent to the Site, using ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as a basis for establishing such Underground Facilities Procedure.~~
 - b. ~~Such Underground Facilities Procedure must take into account the Site and the nature of the Project.~~ **The Engineer will review the Owner's provided utility survey.**
 - c. ~~Use the Underground Facilities Procedure to aid in the performance of design services.~~

- 1) ~~Account for Underground Facilities, based on available information, when advancing the design during the Preliminary Design Phase.~~
- 2) ~~The Underground Facilities Procedure will include a plan to keep Underground Facilities information current as Engineer proceeds with the provision of design services, and to add new or relocated Underground Facilities information to the base utility or Site drawings.~~
 - a)
- 3) ~~To manage the potential impact of design changes on Underground Facilities, Engineer shall work together with Owner to modify or reapply the Underground Facilities Procedure as the design progresses and changes.~~

10. Mitigation of Utilities Conflicts

- a. Identify potential conflicts between the Project (including existing and new facilities and structures) and above-ground utilities and Underground Facilities as reviewed in Exhibit A Paragraphs 1.03.B.8 and 9 above, and advise Owner regarding the need for resolution of such conflicts with utility and Underground Facilities owners and permit agencies. Identify the potential need for the relocation of existing above-ground utilities and Underground Facilities.
- b. ~~Update the Underground Facilities Procedure~~ **Work with the Owner and their Consultant J.U.B.** as necessary for any Underground Utilities conflicts and relocations.
- c. Working together with Owner, jointly identify which specific parties or other entities will be responsible for implementation **of utility relocation** ~~of the various specific parts of the Underground Facilities Procedure (including those parts that address resolution of Underground Facilities conflicts), and for resolution of above-ground utilities conflicts.~~ Such identification will take into account Owner's authority and standing, as owner of the Site, with respect to ~~Underground Facilities and above-ground utilities.~~
 - 1) ~~To the extent that Owner and Engineer agree that in addition to performing the design-related obligations set forth in Exhibit A Paragraphs 1.03.B.8 and 9, Engineer will also implement any non-design part of the Underground Facilities Procedure (including resolution of Underground Facilities conflicts), or undertake resolution of above-ground utilities conflicts, such additional duties will be Additional Services under Article 2 of this Exhibit A.~~
 - 2) **Based on the Preliminary Design, the Owner's Consultant J.U.B. Engineering will update the utility map with information about which utilities may remain in place and which utilities must be relocated in order to avoid conflicts with the construction of the Project.**
 - 3) **J.U.B. Engineering will notify the affected utilities of the conflicts and request the utilities to relocate out of the way of the Project's proposed construction. If the utility owner provides proof that the utility has specific easements that allow the utility to remain, then coordinate with the utility to estimate the cost to the Owner to have the utility relocated.**

Modified from Exhibit A—Engineer's Services.

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4)

11. Surveys, Topographic Mapping, and Utility Documentation

- a. Coordinate with Owner's ~~utility engineer, utility consultant, or land~~ surveyor for the necessary field surveys, topographic mapping, and utility documentation required for Engineer's design purposes. ~~or by the Underground Facilities Procedure.~~
 - b. ~~If no scope of work and procedure for utility documentation has been established, selected, or authorized, then at a minimum Engineer will contact utility owners and obtain available information.~~ Except as otherwise provided in this Agreement, Owner acknowledges that the information gathered from utility owners may be incorrect, incomplete, outdated, or otherwise flawed, and as to Engineer, bidders, and Contractor, the Owner accepts all associated risks. Owner reserves all associated rights as to recourse against the sources of such flawed information and against third parties.
12. Prepare initial draft of a comprehensive permit document that identifies Owner's permit duties, Engineer's permit duties, and Contractor's permit duties, and the schedule for permitting activities.
13. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement in Exhibit A Paragraph 1.03.A.
14. Obtain Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's Bidding/Proposal Documents and Front-End Construction Contract Documents.
- a. **Use the EJCDC 2018 Construction Series Documents for Front-End Construction Contract Documents as modified by the Idaho Standards for Public Works Construction**
 - b. ~~Also obtain copies of Owner's standard Bidding/Proposal Documents and Front-End Construction Contract Documents (if other than the EJCDC 2018 Construction Series documents), and any other related documents or content for Engineer to include in drafts of the Project-specific Bidding/Proposal Documents and Front-End Construction Contract Documents, when applicable.~~
 - c. Review Owner's instructions regarding procurement, bidding and contracting of construction services with respect to effects on the Project design, schedule and construction and address as needed in the Preliminary Design Phase deliverables.
15. Prepare the Preliminary Design Phase documents ~~Report~~. This **Report-Phase** documents will consist of, as appropriate, separate or combined submittals in whole or summary, the Preliminary Design Phase documents listed in Exhibit A Paragraph 1.03.B.4, and Engineer's findings and recommendations for advancing the Project to the Final Design Phase (including Engineer's findings and recommendations, if any, regarding permitting,

utilities, and Underground Facilities). The submittal will be in the format of a ~~report~~ **PDF Drawings**, or otherwise organized and assembled for ease and practicality of use.

- a. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and on the basis of information furnished by Owner, assist Owner in tabulating the various cost categories which comprise Total Project Costs.
 - b. Engineer will meet with Owner to discuss the draft Preliminary Design Phase submittal and receive Owner's comments.
16. Perform or provide the following other Preliminary Design Phase tasks or deliverables:
- a. **Geotechnical Investigation.** This investigation will be completed by Atlas Geotech (sub-consultant) with coordination by the Engineer. Up to (13) 5' deep bores and (9) 10' deep geotechnical bores will be drilled for the project.
 - 1) Consultant will utilize the services of Atlas to complete a geotechnical investigation for the proposed subgrade throughout the proposed project corridor.
 - 2) The sub-consultant will supervise up to (13) 5' deep bores and up to (9) 10' deep bores or refusal to be completed by the subconsultant's drilling company. Record depth to rock or refusal (if encountered), the depth to groundwater, and classify soil in accordance with ASTM standards.
 - 3) The sub-consultant will provide earth pressures for existing types of soils, including seismic values and site classification, soil profiles, provide recommended subgrade compaction procedures, re-use of onsite soils, fill specifications, over excavation recommendations, compaction specifications, allowable bearing capacities, pavement recommendations, groundwater depth, and infiltration rates for stormwater areas.
 - b. **Project Outreach Meetings.** This Consultant plans to attend up to four (4) public meetings. It is anticipated that renderings will be provided for discussion purposes with the general public. It is anticipated that each of these public meetings will last for approximately 2 hours.
17. Furnish the Preliminary Design Phase ~~Report~~ **Drawings, the geotechnical report, stormwater report**, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner pursuant to the requirements of the Deliverables Schedule in Exhibit B, and review the deliverables with Owner.
18. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
- C. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Preliminary Design Phase ~~Report~~ **Drawings** (as revised) and associated documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.

1.04 Final Design Phase

- A. After acceptance by Owner of the Preliminary Design Phase ~~Report~~ and any other Preliminary Design Phase deliverables; issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner; and any necessary changes, refinements, and supplementation of the Baseline Information set forth at the beginning of this Exhibit A, Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services, compensation (through application of the provisions regarding Additional Services, or otherwise), and the time for completion of Engineer's services, resulting from specific modifications to the Project, or changes, refinements, or supplementation of the Baseline Information.
1. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is **one contract**. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.
 2. If more than one prime construction contract is to be awarded for the Work designed or specified by Engineer, then Owner shall define and set forth (in an exhibit to this Agreement, or in a subsequent document) the duties, responsibilities, and limitations of authority of a person or entity that will have authority and responsibility for coordinating the activities among the various prime Contractors, and any resulting changes in the duties, responsibilities, and authority of Engineer.
 3. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime construction contract, or if Engineer's services are to be separately sequenced with the work of one or more separate design professional consultants or prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding/Proposal, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable under such separate prime construction contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such construction contracts is to proceed concurrently.
- B. Upon written authorization from Owner, Engineer shall prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor, in accordance with the Preliminary Design Phase Report (as revised) and other Preliminary Design Phase deliverables. As part of the preparation of the Drawings and Specifications, Engineer shall prepare interim drafts and final Drawings and Specifications as follows, pursuant to the Deliverables Schedule in Exhibit B:
1. **The 60% Design Phase draft of all Drawings and Specifications, which will include a draft table of contents and front-end documents.**
 2. **The 90% Design Phase draft of all Drawings and Specifications, addressing Owner comments and including appropriate design advancement.**

3. ~~Final~~ **The 100%** Drawings and Specifications that address Owner comments; complete the design; are suitable for estimating and pricing by prospective Contractors; and are complete and ready for construction.
- C. In preparing the Specifications (and any bidding, contract, or other documents that are part of Engineer's scope of services), Engineer shall obtain from Owner or Owner's legal counsel any relevant constraints such as requirements for use of domestic steel and iron, other domestic purchasing requirements, statutory restrictions on utilizing proprietary specifying methods, and the like, and comply with or account for such constraints in drafting Specifications, Bidding/Proposal Documents, and other Project documents.
- D. Engineer shall prepare or assemble draft Bidding/Proposal Documents and Front-End Construction Contract Documents as follows:
 1. Such documents will be based on the 2018 EJCDC Construction Documents, and on the specific bidding or Contractor selection-related instructions and forms, contract forms, text, or other content received from Owner.
 2. ~~When Engineer is required to use other than the 2018 EJCDC Construction Documents, then as required in the Preliminary Design Phase Owner will furnish to Engineer a copy of the required documents to be used for the Project's Bidding/Proposal Documents and Front-End Construction Contract Documents. Prior to the first Final Design Phase submittal, Engineer will review the bidding and contracting documents furnished by Owner and provide comments to Owner. Engineer will meet with Owner to discuss Engineer's comments. Owner will consider Engineer's recommendations to revise Owner's documents for the Project.~~
 3. Engineer will furnish to Owner, for review by Owner's legal counsel, the draft Bidding/Proposal Documents and Front-End Construction Contract Documents. Owner and Owner's legal counsel must transmit to Engineer, in a timely manner, one coordinated set of comments and revisions to the draft documents.
- E. During the Final Design Phase the Engineer shall continue to account for above-ground utilities and Underground Facilities as the design advances and is finalized. This may include:
 1. performing the services assigned to Engineer under the Underground Facilities Procedure described in Exhibit A Paragraph 1.03 above, including but not limited to the design-related tasks in Exhibit A Paragraph 1.03.B.9.
 2. addressing required and proposed activities or mitigations identified in the analysis of utilities and by the Underground Facilities Procedure as having an impact on the final design, and considering such in preparing the Drawings and Specifications.
- F. Engineer shall perform or furnish the following other Final Design Phase services:
 1. Visit the Site ~~as needed~~ **up to (4) four times** to assist in preparing the final Drawings and Specifications.
 2. Assist with or prepare applications for permits and approvals, as follows:
 - a. Update comprehensive permit document created in Preliminary Design Phase for Final Design detail.

- b. Prepare the following applications for Owner's submittal to authorities having jurisdiction over the construction or operation of the Project:
 - 1) **City of Pocatello Engineering Department**
 - 2) **Idaho Department of Environmental Quality for final review of sewer planned improvements**
 - c. Confer with Owner regarding revisions, if any, to the application(s), and make appropriate revisions to the application(s) for Owner's resubmittal to the authority having jurisdiction.
 - d. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of the authorities having jurisdiction listed above, including applications for review or approval of the final design.
 - e. Identify and indicate in the Construction Contract Documents the permits and approvals for which Contractor will be responsible, including work permits, building permits, and other permits and approvals that will be Contractor's responsibility; and, in addition, indicate those permits initially obtained by Owner for which Contractor will be a co-permittee, together with associated requirements.
 - f. Unless expressly indicated otherwise, Engineer's scope and budget includes attending one meeting or conference call with each permit and approval-issuing agency to discuss the Project and receive the agency's comments on the application.
 - g. Engineer does not guarantee issuance of any required permit or approval.
 - h. Fees charged by authorities having jurisdiction for such permits or approvals are the responsibility of Owner.
- 3. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost. Furnish to Owner an updated opinion of probable Construction Cost with the interim and final deliverables of the Drawings and Specifications.
 - 4. After consultation with Owner, include in the Front-End Construction Contract Documents any Electronic Document Protocol addressing specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website.
 - 5. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
 - 6. Review the preliminary schedule for the Construction Phase and advise Owner when initial understanding of the Construction Contract Times must or should be revised, and furnish Owner with recommendations on revisions to the proposed Construction Contract Times.
 - 7. Engineer's project manager and other appropriate staff will participate in the following meetings and conference calls:

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- a. ~~First draft~~ **60%** design review meeting at Owner's **or Engineer's** office.
 - b. ~~Second draft~~ **90%** design review meeting at Owner's **or Engineer's** office.
 - c. Engineer will prepare and distribute minutes of each such meeting and conference call, indicating attendees, topics discussed, decisions made, and action items for follow-up.
- 8. ~~Perform or provide the following other Final Design Phase activities or deliverables:~~
- G. Engineer shall complete the Final Design Phase as follows:
 - 1. Pursuant to the requirements of the Deliverables Schedule in Exhibit B, furnish for review by Owner, its legal counsel, and other advisors, the final Drawings and Specifications (as set forth in Exhibit A Paragraph 1.04.B.3 above); assembled drafts of other Construction Contract Documents including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost; and any other Final Design Phase deliverables, and review the deliverables with Owner.
 - 2. Revise the final Design Phase deliverables in response to Owner's comments, as appropriate, and submit revised deliverables pursuant to the Deliverables Schedule.
 - 3. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications; assembled drafts of the Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; and any other Final Design Phase deliverables, as revised.

1.05 Bidding/Proposal Phase

- A. After acceptance by Owner of the final Drawings and Specifications; assembled drafts of other Construction Contract Documents, including the draft Front-End Construction Contract Documents; the draft Bidding/Proposal Documents; the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and any other Final Design Phase deliverables, and upon written authorization by Owner to proceed, Engineer shall:
 - 1. Assist Owner in advertising for and obtaining bids or proposals for the Work; assist Owner in issuing assembled Bidding/Proposal Documents and proposed Construction Contract Documents to prospective contractors; if applicable, maintain a record of prospective contractors to which documents have been issued; attend pre-bid conferences, if any; and receive and process contractor deposits or charges, if any, for the issued documents.
 - a. **Bidding documents will be available through QuestCDN and will be setup by the Engineer.**
 - 2. Prepare and issue addenda as appropriate to clarify, correct, or change the issued documents.
 - 3. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement

documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Exhibit A Paragraph 2.01.A.2.

4. Attend the bid opening; prepare bid tabulation sheets; and assist Owner in evaluating bids or proposals, assembling final Construction Contracts for the Work for execution by Owner and Contractor, and in preparing notices of award to be issued by Owner for such contracts.
5. Provide information or assistance needed by Owner in the course of any review of bids, proposals, or negotiations with prospective contractors.
6. Consult with Owner as to the qualifications of prospective contractors.
7. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.
8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.
9. Perform or provide the following other Bidding/Proposal Phase tasks or deliverables:
 - 1) **Consultant to complete a total of two bid packages and administer a total of two bids as part of this project.**
 - a) **Bid Package #1 – The first bid package will include a design package for the sewer improvements. A pre-bid will be held for this bid package.**
 - b) **Bid Package #2 – The second bid package will include the curb and gutter, stormwater, sidewalk, and pathway improvements. A pre-bid will be held for this bid package.**
10. The Bidding/Proposal Phase will be considered complete upon award of Construction Contracts for the Work and commencement of the Construction Phase, or upon cessation of negotiations with prospective contractors. **Any rebidding for any of the two bid packages will be completed as an additional service.**

1.06 Construction Phase – **Phase 2 Services**

- A. After completion of the Final Design Phase and concurrent with the Bidding/Proposal Phase, and after issuance by Owner of any instructions for specific modifications or changes in the scope, extent, character, design, schedule, number of prime construction contracts, and other construction requirements of the Project during the Construction Phase desired by Owner, the Engineer and Owner shall discuss, resolve, and document any necessary revisions to Engineer's scope of services or compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from specific modifications to the Project.
 1. ~~Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified. With the exception of such expressly required services, Engineer shall have no design, Submittal (including Shop Drawing) review, or other obligations during construction, and Owner assumes all responsibility for providing or arranging for all other necessary Construction Phase administrative, engineering, and professional services.~~

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2. ~~Owner waives all claims against Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A. Notwithstanding the foregoing waiver, Engineer shall be responsible for any professional opinions and interpretations provided by Engineer to Owner during the Construction Phase or Post Construction Phase, including interpretations or clarifications of the Construction Contract Documents.~~
- B. Upon successful completion of the Bidding/Proposal Phase, and upon written authorization from Owner, Engineer shall provide the following services:
1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in this Agreement and the Construction Contract. Unless otherwise set forth in the scope of Basic Services (as duly modified), the extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2018) or other construction general conditions specified in this Agreement. Except as otherwise provided in the Construction Contract, Owner's communications to Contractor will be issued through Engineer.
 - a. If the responsibilities of Engineer as set forth in the Construction Contract are greater than those Construction Phase services expressly required of Engineer in Exhibit A Paragraph 1.06, as duly modified, then Owner shall either (1) expand the scope of the Construction Phase services to match those of the Construction Contract, and compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services, or (2) identify a qualified individual or entity (other than Engineer) responsible for the additional responsibilities in the Construction Contract.
 - b. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, or if Owner requires Engineer's services for construction that extends longer than the anticipated Construction Contract Times, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services, pursuant to the provisions for compensating Additional Services.
 - c. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional.
 2. ~~Field Office: Engineer and Resident Project Representative (if any) will be based in a field office at the Site. The field office will be furnished and maintained at Owner's expense, and will include reasonable furnishings, all required temporary utilities (including internet service) and facilities, and be secured for Engineer's (and RPR's) exclusive use.~~
 3. Resident Project Representative (RPR): Provide the services of an RPR at the Site to assist Engineer and to provide more extensive observation of Contractor's Work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of

such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.

4. Selection of Independent Testing Laboratory: Assist Owner in the selection of an independent testing laboratory to perform required testing services **if these services are not required of the Contractor as part of the Construction Contract.**
5. Pre-Construction Conference: Participate in a pre-construction conference prior to commencement of Work at the Site; prepare and distribute agenda for the conference and prepare and distribute minutes of such conference.
6. ~~Electronic Transmittal Protocols: If the Construction Contract does not establish protocols for transmittal of Electronic Documents by Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.~~
7. Original Documents: If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
8. Schedules: Receive, review, and, and, subject to the criteria of the Construction Contract, determine the acceptability of schedules that Contractor is required to submit to Engineer, including the progress schedule, schedule of submittals, and schedule of values. Advise Contractor in writing of Engineer's comments or acceptance of schedules.
 - a. Schedules will be acceptable to Engineer as to form and substance:
 - 1) Progress Schedule: if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2) ~~Contractor's Schedule of Submittals: if it provides a workable arrangement for reviewing and processing the required Submittals.~~
 - 3) Contractor's Schedule of Values: if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
9. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
10. Permits: Provide Owner with copies of technical information and supporting data previously obtained or developed by Engineer for Owner's use, or for Owner to provide to Contractor, in obtaining required permits and licenses delegated to Contractor by Owner.
11. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:

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- a. **Hold construction meetings every other week with Owner and Contractor during periods of active construction** to observe as an experienced and qualified design professional, the progress of Contractor's executed Work. Such visits and observations by Engineer, including its RPR, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by its RPR, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work. Engineer will **create an observation log**, summarizing Engineer's general observations and any significant findings.
 - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to by this Agreement and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer will not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor will Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
12. Defective Work: If, on the basis of Engineer's observations or as indicated in documentation available to Engineer, Engineer believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, Engineer will promptly issue written notice to Contractor (with copy to Owner) of such defective Work. Such notice will communicate the scope, extent (to Engineer's understanding) of defect, and associated provisions of the Construction Contract Documents.
- a. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting the defective Work in accordance with the provisions of the Construction

Contract Documents. Engineer shall give notice to Contractor regarding whether the defective Work should be repaired, replaced, or will be accepted by Owner.

- b. However, Engineer's authority to provide this information to Owner or Engineer's decision to exercise or not exercise such authority will not give rise to a duty or responsibility of the Engineer to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility for Contractors' or Subcontractors' safety precautions and programs incident to the Work.
13. Compatibility with Design Concept: If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
14. Clarifications and Interpretations: Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents. **It is assumed that there will be up to 40 RFI's as part of the project (both projects combined).**
15. Non-reviewable Matters: If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (a) the performance or acceptability of the Work under the Construction Contract Documents, (b) the design (as set forth in the Drawings, Specifications, or otherwise), or (c) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
16. Field Orders: Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work. **It is assumed that there will be up to 10 field orders as part of the project (both projects combined).**
17. Change Orders and Work Change Directives: Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
18. Change Proposals and Claims
 - a. Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability

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of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. **It is assumed that there will be up to 10 change orders as part of the project (both projects combined).**

- b. Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.
19. Differing Site Conditions: Respond to any notice from Contractor of differing site conditions, including conditions relating to Underground Facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use subject to limitations of Engineer's obligations under this Agreement.
20. Contractor's Submittals: Review and approve or take other appropriate action with respect to required Contractor Submittals, but only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Construction Contract Documents, and for compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's Submittal schedule that Engineer has accepted. **It is assumed there will be up to 80 submittals and up to 40 resubmittals as part of this project (both projects combined).**
21. Substitutes and "Or-equals": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Exhibit A Paragraph 2.01.A.2.
22. Inspections and Tests
 - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining whether the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - b. Reply to Contractor requests for written concurrence that specific portions of the Work that are to be inspected, tested, or approved may be covered.
 - c. Issue written requests to Contractor that specific portions of the Work remain uncovered.
 - d. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
 - e. Pursuant to the terms of the Construction Contract, require additional inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

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23. Contractor's Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set offs) based on the provisions for set offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, within the limits of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
 - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.
24. Contractor's Completion Documents: Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, **record drawings provided by the Contractor**, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Exhibit A Paragraph 1.06.B.20. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The

extent of Engineer's review of record documents will be to check that Contractor has submitted a complete set of those documents that Contractor is required to submit.

25. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, visit the Site in company with Owner and Contractor to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
26. Other Tasks: Perform or provide the following other Construction Phase tasks or deliverables:
 - a. **Record Drawings. The Record Drawings will be developed using the Contractor maintained set of "Red-lined" drawings and will show locations of installed components of the Project as identified by the Contractor. These record drawings will be reviewed, noted, and incorporated into a record drawing set as part of the final submittal to the Owner. The record drawings will be a full size electronic copy (PDF) of the final construction record drawings that are clouded and incorporated into CAD drawings.**
27. Completion and Acceptability of the Work: After notice from Contractor that the Work is complete:
 - a. visit the Site with Owner and Contractor to determine if the Work is in fact complete and acceptable;
 - b. notify Contractor of any part of the Work that is found during the visit to be incomplete or defective, and subsequently confirm that Contractor has corrected any such deficiencies;
 - c. follow the procedures in the Construction Contract regarding review and response to Contractor's application for final payment and accompanying documentation; and
 - d. if Engineer is satisfied that the Work is complete and acceptable, provide a notice to Owner and Contractor using EJCDC® C-626, Notice of Acceptability of Work (attached as Exhibit E), stating that the Work is acceptable (subject to the provisions of the Notice and this Exhibit A) within the limits of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
28. Standards for Certain Construction-Phase Decisions: Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

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29. **Construction Services Assumptions:**

- a. **Consultant is not responsible for the Contractor's compliance with the health and safety requirements in the contract for construction, or with federal, state, and local occupational safety and health laws and regulations.**
 - b. **Substantive design and other technical services in connection with work change directives, change proposals, and change orders requested by Owner will be completed as an additional service. Similarly, use the of the additional services budget will apply to extended services arising from (a) the presence at the site of any constituent of concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the work, (c) damage to the work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.**
 - c. **Claims or legal support services, if required, will be provided as an additional service.**
 - d. **Consultant shall not be responsible for any decision made regarding the Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Consultant.**
- C. **Duration of Construction Phase:** The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractor. If the Project involves more than one prime contract as indicated in Exhibit A Paragraph 1.04.A.1, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

1.07 **Post-Construction Phase – Phase 2 Services**

- A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:
- 1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.
 - 2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.
 - 3. Perform or provide the following other Post-Construction Phase tasks or deliverables:
 - a. **None**

- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate 12 months after the commencement of the Construction Contract's correction period.

ARTICLE 2—ADDITIONAL SERVICES

2.01 Additional Services Not Requiring Owner's Written Authorization

- A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
 - 1. Substantive design and other technical services in connection with Work Change Directives, Change Proposals, and Change Orders to reflect changes requested by Owner.
 - 2. Services essential to the orderly progress of the Bidding/Proposal and Construction Phases and not wholly quantifiable prior to those Phases or otherwise dependent on the actions of prospective individual bidders or contractors and including:
 - a. making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items;
 - b. services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project;
 - c. evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract; and
 - d. providing to the Contractor or Owner additional or new information not previously prepared or developed by the Engineer for their use in applying for or obtaining required permits and licenses, in responding to agency comments on such applications, or in the administration of any such permits or licenses.
 - 3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
 - 4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.
 - 5. Implement coordination of Engineer's services with other parts of the Project that are not planned or designed by Engineer or its Subconsultants, unless Owner furnished to Engineer substantive information about such other parts of the Project prior to the

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parties' entry into this Agreement, in the Baseline Information section of this Exhibit A, or otherwise in Exhibit A; if such substantive information has been so provided, coordination of Engineer's services will be part of Basic Services.

6. Implement the specific parts of an Underground Facilities Procedure that are assigned to Engineer, or above-ground utilities tasks that are assigned to Engineer as the Project progresses (but not including the design-related services already assigned to Engineer as a Basic Service).
7. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.
8. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.
9. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.
10. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.
11. To the extent the Project is subject to Laws and Regulations governing public or government records disclosure or non-disclosure, Engineer will comply with provisions applicable to Engineer, and Owner will compensate Engineer as Additional Services for Engineer's costs to comply with any disclosure or non-disclosure obligations beyond those identified in the Basic Services.
12. Services directly attributable to changes in Engineer's Electronic Documents obligations after the effective date of the Agreement.

2.02 Additional Services Requiring Owner's Written Authorization

- A. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit J.
 1. Obtain or provide specified additional Project-related information and data to enable Engineer to complete its Basic and Additional Services.
 2. Preparation of special and customized reporting, invoicing, and related support documentation in addition to that identified to be provided under Basic Services.
 3. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

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4. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
5. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
6. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those agreed to in Exhibit A Paragraph 1.02.A.1.
7. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
8. Providing renderings or models for Owner's use, including development, management, and other services in support of building information modeling or civil integrated management.
9. Undertaking investigations and studies including, but not limited to:
 - a. All-hazards risk assessments and other studies to evaluate the feasibility of enhancing the resiliency of the design;
 - b. ~~detailed consideration of operations, maintenance, and overhead expenses;~~
 - c. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - d. preparation of appraisals;
 - e. with respect to proprietary systems or processes requiring licensing, providing services necessary to assist Owner in obtaining such licensing.
 - f. detailed quantity surveys of materials, equipment, and labor; and
 - g. audits or inventories required in connection with construction performed or furnished by Owner.
10. Furnishing services of Subconsultants or Engineer's Subcontractors for other than Basic Services.
11. Providing data or services of the types described in Article 2, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
12. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Exhibit A Paragraph 1.04.A.1.

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- b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
- 13. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Article 1 of Exhibit A).
- 14. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
- 15. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents); preparing pre-qualification procedures and documents, and participating in pre-qualifying prospective Bidders; and preparing Construction Contract Documents for alternate bids.
- 16. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
- 17. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all addenda and any amendments negotiated by Owner and Contractor.
- 18. Services to assist Owner in developing or modifying protocols for transmittal of Electronic Documents by Electronic Means after the effective date of this Agreement, either by revising or adapting Exhibit F to the Project or implementing other Electronic Documents protocols among Project participants.
- 19. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under Exhibit F Paragraph 1.01.D (see Exhibit F, Electronic Documents Protocol), or any other distribution of a Document to a third party. Such services may include but are not limited to preparing the data contained in the requested Document in a manner deemed appropriate by Engineer; creating or otherwise preparing and distributing the Document in a format necessary to respond to Owner's direction or decision to provide the Document to a requesting party, including Contractor, in a format other than that required for deliverables from Engineer to Owner; and services in connection with obtaining required releases from the third parties to which the Documents will be distributed. Compensation for these Additional Services is not contingent upon Owner's reimbursement from the requesting party.
- 20. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
- 21. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
- 22. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.

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23. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
24. ~~Preparation of operation, maintenance, and staffing manuals.~~
25. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
26. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
27. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
28. Preparing to serve or serving as a consultant or witness for, or producing documents for or on behalf of, Owner in any litigation, arbitration, mediation, lien or bond claim, or other legal or administrative proceeding involving the Project (but not including disputes between Owner and Engineer).
29. Overtime work requiring higher than regular rates.
30. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Exhibit A Paragraph 1.06.B.9; any type of property surveys or related engineering services needed for the transfer of interests in real property; providing construction and property surveys to replace reference points or property monuments lost or destroyed during construction; and providing other special field surveys.
31. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
32. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
33. **Public outreach/meeting or stakeholder outreach support beyond 4 meetings identified.**
34. **Securing funding, modifying specifications to comply with funding requirements, and administering funding requirements during construction.**
35. **National Environmental Protection Act ("NEPA"), environmental evaluation and analysis, environmental field work and permitting.**
36. **Field Surveying or Right of Way Research.**
37. **Additional onsite observation beyond the amount listed in this agreement.**
38. **One year warranty walkthrough and documentation.**
39. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

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EXHIBIT B—DELIVERABLES SCHEDULE

Paragraphs 2.04.E, 3.02.A, and Exhibit A of the Agreement are supplemented by the following paragraph and table.

Engineer shall furnish Documents to Owner as required in Column 2 of the following table (and as further described in Exhibit A), according to the schedule in Column 4. Owner shall comment or take other identified actions with respect to the Documents as indicated in Column 2 (and as further described in Exhibit A), according to the schedule in Column 4. **The schedule below assumes Calendar Days.**

Party	Action	Exhibit A Reference	Schedule
Engineer	Submit 3 review copies of the Preliminary Design , opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.17	Within 90 days after receiving surveying information and Owner's authorization to proceed with Preliminary Design Phase services
Owner	Submit comments regarding Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Engineer.	1.03.B.18	Within 14 days of the receipt from Engineer of Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit 3 copies of the revised Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables to Owner.	1.03.B.18	Within 14 days of the receipt of Owner's comments regarding the Preliminary Design Report, opinion of probable Construction Cost, and other Preliminary Design Phase deliverables.
Engineer	Submit 3 copies of the 60% Design Phase draft of Drawings and Specifications to Owner.	1.04.B.1	Within 60 days of Owner's authorization to proceed with Final Design Phase services.
Owner	Submit comments and instructions regarding the 60% Design Phase draft of Drawings and Specifications to Engineer.	1.04.B.1	Within 14 days of the receipt of the 60% Design Phase drafts of Drawings and Specifications from Engineer.
Engineer	Submit 3 copies of the 90% Design Phase drafts of Drawings and Specifications to Owner.	1.04.B.2	Within 60 days of the receipt of Owner's comments and instructions regarding the 60% Design Phase drafts of Drawings and Specifications.
Engineer	Submit 3 of copies of draft Bidding/Proposal and Front-End Construction Contract Documents, as required, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Owner.	1.04.D.3; 1.04.F.8	Concurrent with submittal to Owner of the 90% Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the 90% Design Phase drafts of Drawings and Specifications to Engineer.	1.04.B.2	Within 14 days of the receipt from Engineer of the 90% Design Phase drafts of Drawings and Specifications.

Exhibit B—Deliverables Schedule.

Party	Action	Exhibit A Reference	Schedule
Engineer	Submit 3 copies of the final, completed, pricing-ready and construction-ready Drawings and Specifications to Owner.	1.04.B.3 and 1.04.G.1	Within 60 days of the receipt of Owner's comments and instructions regarding the 90% Design Phase drafts of Drawings and Specifications.
Owner	Submit comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications to Engineer.	1.04.G.2	Within 14 days of the receipt from Engineer of the final, completed, pricing-ready and construction-ready Drawings and Specifications.
Owner	Submit comments and instructions regarding drafts of Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables (other than Drawings and Specifications) to Engineer.	1.04.D.3; 1.04.F.8	Concurrent with Owner's submittal of comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications.
Engineer	Submit to Owner: 3 copies of the revised final, completed, pricing-ready and construction-ready Drawings and Specifications; and 3 copies of assembled Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.	1.04.G.2 1.04.G.3	Within 30 days of receipt of Owner's final comments and instructions regarding the final, completed, pricing-ready and construction-ready Drawings and Specifications, the Bidding/Proposal and Front-End Construction Contract Documents, and any other Final Design Phase deliverables.

Exhibit B—Deliverables Schedule.

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EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. [Enter Amendment Number]

Owner: **City of Pocatello**

Engineer: **Keller Associates, Inc.**

Project: **Pocatello – South 5th Complete Streets**

Effective Date of Owner-Engineer Agreement: _____

Nature of Amendment: (Check those that apply)

- ☐ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☐ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary. Include cost breakdown and documentation, if applicable.]

Agreement Summary:

Original agreement amount: \$

Net change for prior amendments: \$

This amendment amount: \$

Adjusted Agreement amount: \$

Change in time for services (days or date, as applicable):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is [Enter Effective Date of Amendment].

Owner

City of Pocatello

(typed or printed name of organization)

By: _____

(individual's signature)

(Attach evidence of authority to sign.)

Date: _____

(date signed)

Name: _____

(typed or printed)

Title: _____

(typed or printed)

Engineer

Keller Associates, Inc.

(typed or printed name of organization)

By: _____

(individual's signature)

(Attach evidence of authority to sign.)

Date: _____

(date signed)

Name: _____

(typed or printed)

Title: _____

(typed or printed)

EXHIBIT D—DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

ARTICLE 1—RESIDENT PROJECT REPRESENTATIVE SERVICES

Article 1 of the Agreement, Services of Engineer, and Exhibit A, Engineer's Services, are supplemented to include Exhibit D Paragraphs 1.01, 1.02, and 1.03, as follows:

1.01 Resident Project Representative

- A. Engineer shall furnish a Resident Project Representative ("RPR") to observe progress and quality of the Work. RPR is Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
- B. **The RPR will provide part-time representation an average of 5 days a week and 6 hours with each site visit. The budget assumes the construction schedule will be limited to 18 months with an average of five site visits per week and approximately six hours per site visit including travel to and from the site is being assumed for budgeting purposes. Consultant will be entitled to additional compensation if the schedule is lengthened, or additional onsite observation is required.**
- C. Subject to the scope of RPR's observations of the Work, which may include field checks of materials and installed equipment, Engineer shall endeavor to identify defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, inspect, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor's work in progress, for the coordination of the Constructors' work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A Paragraph 1.06 are applicable.

1.02 Duties and Responsibilities of RPR

- A. The duties and responsibilities of the RPR are as follows:
 - 1. General: RPR's dealings in matters pertaining to the Work in general will be with Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 - 3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings

(but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

4. Safety Compliance: Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
5. Liaison
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. Clarifications and Interpretations: Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.
7. Shop Drawings, Samples, and other Submittals
 - a. Receive Samples that are furnished at the Site by Contractor.
 - b. Receive Contractor-approved Shop Drawings.
 - c. Receive other Submittals from Contractor.
 - d. Record date of receipt of Samples, Contractor-approved Shop Drawings, and other Submittals.
 - e. Notify Engineer of availability of Samples for examination, and forward Contractor-approved Shop Drawings and other Submittals to Engineer. When appropriate recommend distribution of Submittal to specified Subconsultants.
 - f. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. Proposed Modifications: Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. Review of Work; Defective Work

- a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.
- b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work.
- c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. Inspections, Tests, and System Start-ups

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.
- f. Nothing in this Agreement will be construed to require RPR to conduct inspections.

11. Records

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Proposals, Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Proposals, Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the company names and points of contact for Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to designated recipients.

12. Reports

- a. Furnish periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft responses to or make recommends on Change Proposals, Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform appropriate parties of the occurrence of any Site accidents, emergencies, natural catastrophes endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. Completion

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.

- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

1.03 Limitations of Authority

A. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.
3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

NOTICE OF ACCEPTABILITY OF WORK (EJCDC® C-626 2018)

Owner: **City of Pocatello** Owner's Project No.:
Engineer: **Keller Associates, Inc.** Engineer's Project No.: **225017-000**
Contractor: Contractor's Project No.:
Project: **Pocatello – South 5th Complete Streets**
Contract Name:
Notice Date: Effective Date of the Construction Contract:

The Engineer hereby gives notice to the Owner and Contractor that Engineer recommends final payment to Contractor, and that the Work furnished and performed by Contractor under the Construction Contract is acceptable, expressly subject to the provisions of the Construction Contract's Contract Documents ("Contract Documents") and of the Agreement between Owner and Engineer for Professional Services dated **[date of professional services agreement]** ("Owner Engineer Agreement"). This Notice of Acceptability of Work (Notice) is made expressly subject to the following terms and conditions to which all who receive and rely on said Notice agree:

1. This Notice has been prepared with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.
3. This Notice has been prepared to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's Work) under the Owner Engineer Agreement, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Owner Engineer Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents, or to otherwise comply with the Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

Engineer

By (signature): _____
Name (printed): _____
Title: _____

EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

ARTICLE 1—ELECTRONIC DOCUMENTS PROTOCOL (EDP)

Paragraph 6.03 of the Agreement is supplemented by the following Exhibit F Paragraph 1.01 and Exhibit F—Attachment 1: Software Requirements for Electronic Document Exchange:

1.01 Electronic Documents Protocol

- A. Electronic Transmittals: The parties shall conform to the following provisions together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals.

1. Basic Requirements

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents by Electronic Means using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Agreement.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Agreement.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between the Owner and Engineer and any third party for any portion of the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with Owner, Engineer, or any Contractor or other entity directly contracted with the Owner to furnish Program-related services. Nothing herein will modify the requirements of the Agreement and applicable Construction Contract Documents regarding communications between and among the individual third parties and their respective subcontractors and consultants, except to the extent that any respective subcontractor or consultant exchanges Electronic Documents with the Owner or Engineer.
- e. When transmitting Electronic Documents, the transmitting Party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving Party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
- f. Nothing herein negates any obligation (1) in the Agreement to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; (2) to comply with any applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or

(3) to comply with any notice requirements limiting or otherwise modifying the acceptance of Electronic Documents for such notice.

2. System Infrastructure for Electronic Document Exchange

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP and any explicit system requirements specified by attachment to this EDP, it will be the obligation of each party to determine, for itself, its own System Infrastructure.
 - 1) The maximum size of an e-mail attachment for exchange of Electronic Documents under this EDP is **20 MB**. Attachments larger than that may be exchanged using large file transfer functions or physical media.
 - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it will not be liable to the other party for any breach of system security.
- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties will cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the changes cause additional cost or time to Engineer, not reasonably anticipated under the original EDP, Engineer shall be entitled to compensation as Additional Services for its costs associated with the revisions to the EDP, delayed adoption of Exhibit L or implementation of other Electronic Documents protocols.
- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of any Project contract/agreement under this EDP, unless this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the Parties may

rely for document archiving during the specified term of operation of such project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of project documents, as each party deems necessary for its own purposes, after the term of contract, or termination of the project document archive, if one is established.

- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

B. Software Requirements for Electronic Document Exchange; Limitations

- 1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
 - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
- 2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.
- 3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in the following Attachment 1 to this EDP, including software version, if listed.

C. Format and Distribution of Deliverables

- 1. By definition, "Documents" as used in this Agreement are documents expressly identified as deliverables from Engineer to Owner. Exhibit A of the Agreement identifies various Documents that Engineer is required to deliver to Owner as part of Engineer's services; Exhibit B is a schedule of such Documents. Engineer will transmit such Documents to Owner in the formats identified in Attachment 1 to this Protocol. If no specific format is identified for a deliverable Document, the format will be Portable Document Format (PDF).
- 2. If a Document will be distributed to third parties, such as prospective bidders and contractors, reviewing agencies, or lenders, the transmittal format for distribution will be as identified in Attachment 1 to this Protocol; provided, however, that if a format for distribution of a specific Document is expressly stated in Exhibit A, then the Exhibit A

format will take precedence. If no specific format is identified for distribution of a deliverable Document to third parties, the format will be Portable Document Format (PDF).

- a. If a format for Document distribution other than Portable Document Format (PDF) is specified, Owner shall first obtain a written, signed release from each third party to which the deliverable Document is distributed, establishing agreement to the following conditions:
 - 1) The content included in the Electronic Documents prepared by or for Engineer and covered by the request was prepared as an internal working document for Engineer's purposes solely, and is being provided to the third party on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, the third party is advised and acknowledges that the content may not be suitable for the third party's application, or may require substantial modification and independent verification by the third party. The content may include limited resolution of models; not-to-scale schematic representations and symbols; use of notes to convey design concepts in lieu of accurate graphics; approximations; graphical simplifications; undocumented intermediate revisions; and other devices that may affect subsequent reuse.
 - 2) Electronic Documents containing text, graphics, metadata, or other types of data that are provided to the Requesting Party are only for the convenience of the third party. Any conclusion or information obtained or derived from such data will be at the third party's sole risk and the third party waives any and all claims against Engineer or Owner arising from the use of the Electronic Documents covered by the request, or of any data contained in such Electronic Documents.
 - 3) The third party shall indemnify and hold harmless Owner, Engineer, and Engineer's Subcontractors and Subconsultants, from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from the third party's use, adaptation, or distribution of any Electronic Documents provided under the request.
 - 4) The third party agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the request and is limited to the third party's subcontractors and consultants. The third party warrants that subsequent use by the third party's subcontractors and subconsultants will comply with all terms of the Construction Contract Documents and any specific instructions or conditions established by Owner.
- b. If Engineer is required to assist or participate in obtaining such releases from third parties, such services will be categorized as Additional Services.

D. Requests by Project-Related Parties for Electronic Documents in Other Formats

1. Owner may release (or direct Engineer to release) an Electronic Document version of a Document prepared by or for Engineer, including but not limited to a deliverable Document as set forth in Exhibit F Paragraph 1.01.C, in a format other than those identified in Exhibit F Paragraph 1.01.B or 1.01.C of the Electronic Documents Protocol, or elsewhere in the Agreement, only if (a) a Contractor or other Project-related party (Requesting Party) makes a good faith request for such release, (b) Owner determines in its sole discretion that such release is prudent and will be beneficial to the Project, and (c) Owner obtains Requesting Party's written consent to the four conditions set forth in Exhibit F Paragraph 1.01.C.2.a.1-4 above.
2. Any services by Engineer in connection with Owner or Engineer providing a Document to a Requesting Party under this Exhibit F Paragraph 1.01.D are Additional Services. Such services may include but are not limited to preparing the data in a manner deemed appropriate by Engineer. Owner may require reimbursement from the Requesting Party for the cost of such Additional Services, but compensation by Owner to Engineer for the Additional Services is not contingent upon Owner obtaining reimbursement from the Requesting Party.

EXHIBIT F—ATTACHMENT 1: SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices, and responses to general information requests for which there is no specific prescribed form.	Email	Email	
a.2	Meeting agendas; meeting minutes; RFI's and Responses to RFI's; and Construction Contract administrative forms.	Email w/Attach	PDF	(2)
a.3	Contractor's Submittals (Shop Drawings, "Or Equal" requests, Substitute requests, documentation accompanying Sample submittals and other Submittals) to Owner and Engineer; and, Owner's and Engineer's Responses to Contractor's Submittals, Shop Drawings, Correspondence, and Applications for Payment	Email w/Attach	PDF	
a.4	Correspondence; Interim and Final Versions of reports, layouts, Specifications, Drawings, maps, calculations and spreadsheets, Construction Contract, Bidding/Proposal Documents, and Front-End Construction Contract Documents.	Email w/ Attach or LFE	PDF	(3)
a.5	Layouts, plans, maps, and Drawings to be submitted to Owner by Engineer for future use and modification	Email w/ Attach or LFE	DWG	
a.6	Correspondence, reports, and specifications to be submitted by Engineer to Owner for future word processing use and modification	Email w/ Attach or LFE	DOC	
a.7	Spreadsheets and data to be submitted to Owner by Engineer for future data processing use and modification	Email w/ Attach or LFE	EXC	
a.8	Database files and data to be submitted to Owner for future data processing use and modification	Email w/ Attach or LFE	DB	
Notes				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of the Agreement and Construction Contract.			
(2)	Transmittal of written notices is governed by requirements of the Agreement and Construction Contract.			
(3)	Transmittal of Bidding/Proposal Documents and Front-End Construction Contract Documents will be in manner selected by Owner in Exhibit A, Paragraph 1.05.A.1.a. Unless otherwise expressly stated, these documents and the Construction Contract will be transmitted in PDF format, including transmittals to bidders and Contractor.			
Key				
EMAIL	Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies.			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive.)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader Version 10.0 or later.			
DWG	Autodesk® AutoCAD. dwg format Version 2024 .			
DOC	Microsoft® Word. docx format Version 2020 .			
EXC	Microsoft® Excel .xlsx or .xml			
DB	Microsoft® Access .mdb			

EXHIBIT G—INSURANCE

ARTICLE 1—INSURANCE

Paragraph 6.04 of the Agreement, Insurance, is supplemented to include the following Exhibit G Paragraphs 1.01 and 1.02:

1.01 Insurance Policies and Limits

- A. In accordance with Paragraph 6.04.A of the Agreement, the insurance that Engineer must procure and maintain, and the policy limits of such insurance, are as follows:

Coverage	Policy limits of not less than:
Workers' Compensation	
State	Statutory
Employer's Liability	
Each accident	\$1,000,000
Each employee	\$1,000,000
Policy limit	\$1,000,000
Commercial General Liability	
General Aggregate	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Bodily Injury and Property Damage—Each Occurrence	\$1,000,000
Automobile Liability	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$1,000,000
Excess or Umbrella Liability	
Each Occurrence	\$2,000,000
General Aggregate	\$2,000,000
Professional Liability	
Each Claim	\$2,000,000
Annual Aggregate	\$2,000,000

- B. In accordance with Paragraph 6.04.C of the Agreement, the insurance that Owner must procure and maintain, and the policy limits of such insurance, are as follows:

Coverage	Policy limits of not less than:
Workers' Compensation	
State	Statutory
Employer's Liability	
Each accident	\$
Each employee\$	\$
Policy limit	\$
Commercial General Liability	
General Aggregate	\$
Personal and Advertising Injury	\$
Bodily Injury and Property Damage—Each Occurrence	\$
Automobile Liability	
Bodily Injury	
Each Person	\$
Each Accident	\$
Property Damage	
Each Accident	\$
Or	
Combined Single Limit	
Combined Single Limit (Bodily Injury and Property Damage)	\$
Excess or Umbrella Liability	
Each Occurrence	\$
General Aggregate	\$
Unmanned Aerial Vehicle Liability Insurance	
Each Claim	\$
General Aggregate	\$
Other Insurance [Specify]	
Each Claim	\$
General Aggregate	\$

1.02 Additional Insureds

- A. Owner shall cause Engineer, its Subconsultants, and its Engineer's Subcontractors to be listed as additional insureds on any of Owner's general liability policies that are applicable to the Project. The following individuals or entities are to be listed on Owner's general liability policies of insurance (and on Contractor's policies required under Paragraph 6.04.D of the Agreement) as additional insureds:

Name of Additional Insured	Address
{Engineer}	{Engineer's Corporate Address}
{Engineer's Subconsultant}	{Subconsultant's Corporate Address}
{Engineer's Subconsultant}	{Subconsultant's Corporate Address}
{Other Additional Insured}	{Other Additional Insured's Corporate Address}

- B. ~~During the term of this Agreement the Engineer shall notify Owner of any other Subconsultant or Engineer's Subcontractor to be listed as an additional insured on Owner's and applicable Contractor's general liability policies of insurance.~~
- C. The Owner must be listed on Engineer's general liability policy as provided in Paragraph 6.04.B.
- D. For applicable Contractor's general liability policies of insurance, the additional insured endorsements will include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
- E. For applicable Contractor's general liability policies of insurance, Contractor shall provide ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent for Engineer, Subconsultants, and other design professional additional insureds.

EXHIBIT H—DISPUTE RESOLUTION

1. **NOT USED.**

EXHIBIT I—LIMITATIONS OF LIABILITY

ARTICLE 1—LIMITATIONS OF LIABILITY

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph(s):

1.01 Mutual Indemnification

- A. Indemnification by Owner: To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants, and Engineer's Subcontractors, from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

1.02 Limitation of Engineer's Liability

- A. ~~Engineer's Liability Limited to Stated Amount, or Amount of Engineer's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's Subcontractors, officers, directors, members, partners, agents, employees, and Subconsultants, to Owner and anyone claiming by, through, or under Owner for any and all injuries, claims, losses, expenses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project, to Engineer's or its Subconsultants' or Engineer's Subcontractor's services, or to this Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Subconsultants, or Engineer's Subcontractors, will not exceed the total amount of \$[Enter Amount] or the total compensation received by Engineer under this Agreement., whichever is greater. Higher limits are available for an additional fee.~~
- B. Engineer's Liability Limited to Amount of Engineer's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers,

directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors, will not exceed the total compensation received by Engineer under this Agreement.

- C. ~~Engineer's Liability Limited to Amount of Insurance Proceeds: Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by Laws and Regulations, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors (hereafter "Owner's Claims"), will be limited to (1) responsibility for payment of all or the applicable portion of any deductibles, either directly to the Engineer's insurers or in settlement or satisfaction, in whole or in part, of Owner's Claims, and (2) total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's applicable insurance policies up to the amount of insurance required under this Agreement.~~
- D. ~~Such limitation will not be reduced, increased, or adjusted on account of legal fees paid, or costs and expenses of investigation, claims adjustment, defense, or appeal.~~
- E. ~~If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner, for any and all such uninsured Owner's Claims will not exceed \$[Enter Amount].~~
- F.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

ARTICLE 1—COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 1.01:

1.01 Compensation for Basic Services (other than Resident Project Representative)—Lump Sum Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A (except for Resident Project Representative services) as follows:

1. A Lump Sum amount of **\$2,448,500** based on the following estimated distribution of compensation:

a. Management of Engineering Services	<u>\$ 87,100</u>
b. Study and Report Phase	<u>Previously Completed</u>
c. Preliminary Design Phase	<u>\$ 337,300</u>
d. Final Design Phase	<u>\$ 1,107,000</u>
e. Bidding and Negotiating Phase	<u>\$ 40,600</u>
f. Construction Phase	<u>\$ 876,500</u>
g. Post-Construction Phase	<u>\$0</u>

2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but compensation will not exceed the total Lump Sum amount unless approved in writing by the Owner.

3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses).

4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses (see Appendix 1 for rates or charges): **None anticipated.**

5. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.

B. Period of Service: The compensation amount stipulated in Compensation Packet BC-1 is conditioned on a period of service not exceeding **16 months from predesign through bidding and 18 months of construction**. If such period of service is extended, the compensation amount for Engineer's services will be appropriately adjusted.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES
COMPENSATION PACKET RPR-1: RESIDENT PROJECT REPRESENTATIVE—LUMP SUM

ARTICLE 2—COMPENSATION PACKET RPR-1: RESIDENT PROJECT REPRESENTATIVE—LUMP SUM

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 2.01:

2.01 Compensation for Resident Project Representative Services—Lump Sum Method of Payment

A. Owner shall pay Engineer for Resident Project Representative Services as follows:

1. Resident Project Representative Services: For services of Engineer's Resident Project Representative (RPR), if any, under Exhibits A and D, the Lump Sum amount of **\$375,000**. The Lump Sum includes compensation for Resident Project Representative services, including any RPR-related services performed by Engineer's Subcontractors and Subconsultants. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses, as set forth immediately below) related to the Resident Project Representative services.
2. Reimbursable Expenses: In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following RPR-related Reimbursable Expenses (see Appendix 1 for rates or charges); all other expenses are accounted for in the Lump Sum: **None.**
3. Resident Project Representative Schedule: The Lump Sum amount set forth in Exhibit J Paragraph 2.01.A.1 above is based on **an average of six hour workdays Monday through Friday over an 18-month** construction schedule. Modifications to the construction schedule (**longer than 18 months from Notice to Proceed**) will entitle Engineer to an equitable adjustment of compensation for RPR services.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES
COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES

ARTICLE 3—COMPENSATION PACKET AS-1: ADDITIONAL SERVICES—STANDARD HOURLY RATES

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 3.01:

3.01 Compensation for Additional Services—Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Additional Services, if any, as follows:
 - 1. For services of Engineer's personnel engaged directly on the Project pursuant to Exhibit A Paragraph 2.01 or 2.02, except for services as a consultant or witness under Exhibit A Paragraph 2.02.A.28 (which if needed will be separately negotiated based on the nature of the required consultation or testimony), an amount equal to the cumulative hours charged by each class of Engineer's personnel providing such Additional Services times Standard Hourly Rates for each applicable billing class, plus Additional Services-related Reimbursable Expenses and Additional Services-related Engineer's Subcontractors' and Subconsultants' charges, if any.
- B. Compensation for Reimbursable Expenses
 - 1. For those Reimbursable Expenses that are directly related to the provision of Additional Services, and are not already accounted for in the compensation for Basic Services or RPR-related services, Owner shall reimburse Engineer, using the rates set forth in Appendix 1 to this Exhibit J when applicable.
 - 2. Such Reimbursable Expenses include, to the extent Additional Services-related, the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
 - 3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of **1.05**.
- C. Other Provisions Concerning Payment for Additional Services
 - 1. Whenever Engineer is entitled to compensation for the charges of Engineer's Subcontractors and Subconsultants, such compensation will be the amounts billed by Engineer's Subcontractors and Subconsultants to Engineer times a factor of **1.10**.
 - 2. Factors: The external Reimbursable Expenses and Engineer's Subcontractors' and Subconsultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

3. The Standard Hourly Rates and the Reimbursable Expenses Schedule will be adjusted **semi-annually in January and July of subsequent years** to reflect equitable changes in the compensation payable to Engineer for Additional Services-related services and expenses.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

APPENDIX 1: REIMBURSABLE EXPENSES SCHEDULE

Reimbursable Expenses are subject to review and adjustment per Exhibit J. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

Per Diem	\$68.00/day
After Hrs. & Weekend Field Work	At Cost x 1.25
Mileage (auto)	Billed at Federal Rate
3D Survey Scanner Equipment	\$625/day
Phodar Drone	\$750/day
Drone (Non-Phodar)	\$200/day
UTV	\$200/day
Meals and Lodging	At Cost

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

APPENDIX 2: STANDARD HOURLY RATES SCHEDULE

A. Standard Hourly Rates

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit J and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Exhibit J.

B. Schedule: Hourly rates for services performed on or after the date of the Agreement are:

Personnel Classification	2025 Hourly Rate
Project Engineer – I	\$110-\$135
Project Engineer – II	\$135-\$180
Project Engineer – III	\$185-\$260
Project Manager – I / II	\$145-\$185
Project Manager – III	\$190-\$260
Structural Engineer – I	\$110-\$135
Structural Engineer – II	\$135-\$180
Structural Engineer – III	\$185-\$260
Chief Engineer	\$260-\$325
CAD – I	\$85-\$115
CAD – II	\$115-\$135
CAD – III	\$135-\$175
CAD Manager	\$200
Electrical/Controls – I	\$110-\$135
Electrical/Controls – II	\$135-\$180
Electrical/Controls – III	\$185-\$260
Principal	\$260-\$335
Survey – I	\$90-\$130
Survey – II	\$135-\$155
Survey – III	\$160-\$190
Field Representative	\$110-\$175
Engineering Student	\$80-\$85
Administration – I	\$85-\$95
Administration – II	\$95-\$130

- **RATES ARE AS OF JANUARY 2025. BILLING RATES ARE UPDATED SEMI-ANNUALLY IN JANUARY AND JULY.**
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EXHIBIT K
CITY OF POCATELLO
SOUTH 5TH COMPLETE STREETS
PROJECT DESCRIPTION

BACKGROUND

The City of Pocatello (Owner) is proceeding with the predesign, design, bidding, and construction of the Pocatello South 5th Complete Streets project. The Owner was awarded an EPA Community Change Grant in the Fall of 2024 to allow for the design and completion of this project. The project is funded by the EPA Community Change Grant. Construction is expected to begin in the Spring of 2026 and be completed by the Fall of 2027.

The Owner has asked the Keller Associates, Inc. (Engineer) and their subconsultants, Jackson Land Design, PC (landscape architect) and Atlas Technical Consultants, LLC (geotechnical), to complete the preliminary and final design for the Project's improvement project. The Engineer, and subconsultants, will generally provide project administration, data collection, geotechnical evaluation, pre-design, a stormwater report, final design, bidding services, construction administration, and resident project representative (RPR) services.

This Project description reflects the current concept of the Project's improvements and was used to establish the following scope and budget for the preliminary design, final design services, bidding services, construction services, and RPR services. As the project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the services to be provided by the Engineer and the Engineer's subconsultants.

PROJECT DESCRIPTION

Location: The project will primarily be located on the south end of the City as shown in the figure at the end of this Exhibit. The Project is generally located between Constitution Park off South 5th, south to the location where South 5th goes under I-15 near Fort Hall Mine Road. The Project improvements will be made along South 5th, the Pocatello Portneuf Oxbow area, within Katsilometes Road, N. Gateway Drive, Piedmont Road, and Garton Lane.

The project work generally includes the following major components:

1. Stormwater improvements at Constitution Park.
2. Addition of 3-miles of an 8-foot to 10-foot-wide asphalt pathway where possible or a 5-foot-wide sidewalk along with curb and gutter on the west side of South 5th. Final width of pathway and sidewalk will depend on final right-of-way and easement negotiations.
3. Approximately 3.3 miles of asphalt trails from South 5th, along Hildreth Drive, and in the Pocatello River Oxbow Area. Approximately 0.2 miles of conceptual trail design only from the Cliffs to Fort Hall Mine Road.
4. Approximately 7,700 feet of new sewer line tying into existing sewer line.

Preliminary Construction Budget: The project has a preliminary construction budget of approximately \$13,000,000.

- Stormwater at Constitution Park:** Constitution Park along South 5th in Pocatello has had issues with stormwater ponding after a storm event. The stormwater in South 5th runs along a curb and gutter system and then discharges into the parking lot entrance at the Park. Once the water in the parking lot reaches a certain elevation it floods out into an infiltration basin and into the park. After a storm event water/ice will often be there for weeks until it evaporates away. The goal is to reroute the stormwater at Constitution Park to prevent the ponding from occurring near the north entrance. A stormwater report will be created for the stormwater that is collected at Constitution Park and the report will follow the guidelines that are set in the Portneuf Valley Stormwater Design Manual. In addition, there will be public meetings to involve the public in the potential redesign of the park entrance. Jackson Land Design will create a couple of 2D conceptual renderings for the Park redesign for the public meetings. The only areas that will be designed as part of this project will be for the stormwater improvements near the Park entrance and landscaping of the potential stormwater ponds that will be created in the Park.
- Complete Streets:** The complete streets are the largest component of this project and are shown in blue in the attached figure. This will involve the design of the sidewalk and pathway along the west side of South 5th Street from South Valley Road to West Side of I-15. No alterations are planned to be made to the I-15 bridge as part of these improvements where the sidewalk will cross under I-15. It is anticipated that potentially only a sidewalk will be able to be installed under I-15 at this location. Approximately 3 miles of sidewalk/pathway and curb and gutter are planned to be designed on the west side of the road. It is understood that the new walkway will likely be a mix of an asphalt pathway and a concrete sidewalk along South 5th depending on right-of-way negotiations with current property Owners. No improvements are planned to be made to the East side of South 5th as part of this project. No block walls over 30-inches tall are planned to be designed as part of this project. In addition, irrigation and landscaping will be included adjacent to the new pathway area and is planned to generally follow Figure 12 (Principal Arterial) in the BTPO Thoroughfare Plan 2050 where possible. Stormwater swales are planned to be installed adjacent to South 5th to handle stormwater associated with these improvements. There are stormwater concerns on the north and south ends of the existing trailer park and it is likely that additional infrastructure may be needed here. These specific stormwater improvements are not included in this scope of work besides a potential short section of stormwater piping near the south end of the trailer park adjacent to the new sewer line. Complete street lighting along South 5th and pedestrian crossing improvements near South Valley Road are NOT planned to be included as part of the scope of work. The only street lighting that is planned for as part of this project is near the intersection of the new pathway and associated street crossings (up to 4 of these locations have been assumed). It is assumed that lighting at these intersections would be installed on wood utility poles installed by Idaho Power in accordance with City of Pocatello Public Works Standards Section 500.14. In addition, a single pedestrian crossing design will be completed for South 5th, as it is anticipated a South 5th pedestrian crossing may be warranted near the Pocatello Regional Transit Facility (PRT), Hildreth Drive, and near Piedmont Road.
- Trails:** The trails portion of the project will generally consist of an 8-foot to 10-foot-wide asphalt pathway in the Oxbow area as shown in purple in the attached figure. This will involve the design of an asphalt pathway along Hildreth Drive that will tie into the trails in the Portneuf Oxbow and Cliffs area on the west side of I-15. No alterations are planned to be made to the I-15 concrete structure crossing at Hildreth Drive as part of these improvements. The crossing under I-15 at Hildreth is currently planned to have a sidewalk inside of the existing tunnel with rectangular rapid flashing beacons (RRFBs) and delineation between the car lane and pedestrian lane inside of the tunnel. Approximately 3.3 miles of asphalt pathway are planned to be designed as part of this portion of the project. It is understood that in the conceptual phase, a couple of alternative pathway locations will be evaluated as shown in orange in the attached figure. One of the alternatives is making a loop below the bottom of the cliffs instead of heading south along the cliffs at the South end of the project. The other alternative that is planned to be considered is cutting across one of the fields instead of following roadways as shown to the north of the potentially looped area. Design of pedestrian bridges over the future Oxbow areas are NOT included in this current scope of work. In addition, only a conceptual design will be completed for the very south

end of the trail system from the top of the cliffs down to Fort Hall Mine Road as shown in pink in the attached figure near the connection to Fort Hall Mine Road. A single small trailhead-type gravel parking lot is planned to be designed off Hildreth Drive with 4 to 6 parking spaces on the East Side or West Side of I-15 with two preliminary potential locations shown in the attached figure.

- **Sewer Projects:** There will be approximately 7,700 feet of new 8- to 12-inch diameter sewer pipelines designed as part of this project. These sewer pipeline locations are shown as solid green lines in the attached figure. The new sewer lines will be located within Katsilometes Road, N. Gateway Drive, Piedmont Road, and Garton Lane. It is anticipated that there will be some transitioning from existing septic systems into the newly constructed sewer lines in these areas. The Owner will contract with and work directly with a public engagement firm and inform the Engineer which homes will be connecting to the new sewer lines as part of this project versus at a future date. It will be important to know this information as soon as possible to confirm that sewer line depths will be accurate to allow connections now and in the future without requiring individual lift station pumping from homes. It is assumed that basement and finished floor elevations will be provided to the Engineer by the Owner's surveying consultant. Engineer will plan to design service line stubs to property lines on the new sewer mains where septic system currently exist.

The Owner has tasked the Engineer to further evaluate and progress these concepts. The Engineer's, including subconsultants, will complete the design in three parts.

1. Preliminary Design – This work is generally described as review of existing information, identification of design criteria, preliminary design (30%) and alternatives evaluation. These services are included in this project and includes the all project elements (Stormwater at Constitution Park, Complete Streets Along South 5th, Asphalt Trail, and Sewer).
2. Final Design – This work is generally described as progressing the design through bidding including 60%, 90% (permitting set), and bid documents along with providing bidding services to assist the Owner in awarding the construction contract. These services are included in this project and includes the all project elements (Stormwater at Constitution Park, Complete Streets Along South 5th, Asphalt Trail, and Sewer).
3. Construction Phase Services – This work is generally described as progressing the project from the Contractor award stage through construction and closeout of the projects. It is assumed there will be two separate bid packages and two Contractors. One of the bid packages will focus on the Sewer improvements only. The other bid package will include the Stormwater Improvements at Constitution Park, Complete Streets, and the Asphalt Trail. Both of these construction projects will include RPR services by the Engineer.

The following figure shows the current understanding of the extents of the proposed project.

Project Title: South 5th Complete Streets and Sewer Project, City of Pocatello
Project Number: 225017-000
Prepared By: CH & JP



Task	Task/Subtask Name	Total Compensation	Fee Type
1	Project Management	\$87,100	Lump Sum
1.1	General Project Management - 16 Months (Design/Bidding/Award)	\$47,200	
1.2	Project Management Plan	\$2,980	
1.3	Biweekly & Monthly PM Meetings - 12 Months (26 Meetings)	\$36,920	
2	Preliminary Design - 30% Design	\$337,300	Lump Sum
2.1	Request for Information	\$3,050	
2.2	Data Collection & Field Investigations	\$3,780	
2.3	Site Walkthrough	\$6,000	
2.4	Surveying Coordination - Completed by City Consultant	\$6,920	
2.5	Public Involvement Coordination - 4 Meetings	\$9,000	
2.6	Detailed Site Investigation After Surveying	\$6,000	
2.7	Geotechnical Investigation	\$71,430	
	Develop Conceptual Design Drawings		
2.8	Prelim Sewer Updates from City Design	\$30,625	
2.10	Complete Streets	\$48,260	
2.11	Oxbow Trail	\$36,530	
2.12	Conceptual for S. 5th & Highway Crossings and Cliffs to Fort Hall	\$30,490	
2.13	Constitution Park & Stormwater	\$35,960	
2.14	Project Phasing and Construction Constraints	\$12,520	
2.15	Cost Estimate	\$11,635	
2.16	Final Reports and Drawings for Submission to City	\$18,520	
2.17	Submit Reports and Incorporate Modifications	\$6,580	
3	Final Design	\$1,107,000	Lump Sum
3.1	Design Meetings (60, 90, Final)	\$20,040	
	60% Design		
3.2	General Sheets & Survey Incorporate	\$11,600	
	Civil Sheets		
3.4	Sewer Sheets	\$55,460	
3.5	Complete Streets Landscaping & Irrigation Sheets	\$47,140	
3.7	Complete Streets Curb, Sidewalk & Pathway Sheets	\$188,610	
3.8	Oxbow Pathway Sheets and Parking Lot	\$108,665	
3.9	Park and Stormwater Sheets - Constitution Park	\$22,820	
3.1	Demo Sheets	\$12,980	
3.11	Specifications	\$30,300	
3.12	Cost Estimate	\$11,780	
3.13	Final Reviews for 60%	\$14,520	
3.14	60% Set Deliverable	\$20,780	
	90% Design		
3.15	General Sheets & Survey Incorporate	\$11,600	
	Civil Sheets		
3.17	Sewer Sheets	\$55,460	
3.18	Complete Streets Landscaping & Irrigation Sheets	\$47,140	
3.19	Complete Streets Curb, Sidewalk & Pathway Sheets	\$176,210	
3.2	Oxbow Pathway Sheets and Parking Lot	\$108,795	
3.21	Park and Stormwater Sheets - Constitution Park	\$22,820	
3.22	Demo Sheets	\$12,980	
3.23	Specifications	\$30,300	
3.24	Cost Estimate	\$11,780	
3.25	Final Reviews for 90%	\$14,520	
3.26	90% Set Deliverable	\$20,780	
3.27	100% Bid Set Deliverable - Final Modifications	\$49,920	
4	Services During Bidding	\$40,600	Lump Sum
4.1	Manage Bids - 2 Bids - 1 Sewer and 1 Transportation	\$15,825	
4.2	Bidding Documents	\$3,310	
4.3	Pre-Bid Meeting	\$5,420	
4.4	Addenda	\$8,830	
4.5	Bid Opening	\$1,965	
4.6	Bid Evaluation	\$5,250	
5	Construction Phase Services - 2 Contractors & 2 Projects	\$876,500	Lump Sum
5.1	Project Management - 18 Months (Construction Only)	\$89,500	
5.2	Internal Construction Coordination	\$105,690	
5.3	Contractor Communication and Coordination	\$181,930	
5.4	Contract Documents	\$10,650	
5.5	Pre-Construction Conferences	\$13,860	
5.6	Project Site Meetings - Onsite Biweekly for 2 Projects	\$105,390	
5.7	Contractor's Schedule Updates	\$21,840	
5.8	Technical Submittals (shop dwgs, samples, submittals)	\$92,600	
5.9	Review of Testing Results Throughout	\$27,540	
5.1	Review and Responses to RFIs	\$56,220	
5.11	Payments to Contractor - Itemized Pay Applications	\$32,400	
5.12	Change Order Reviews	\$29,700	
5.13	Field Order Reviews	\$17,860	
5.14	Final Testing Reviews, Sewer Camera Reviews, Record Drawings in CAD	\$63,060	
5.15	Substantial and Final Walkthroughs and Punchlists	\$28,260	
6	Construction Phase Services - 2 Contractors & 2 Projects	\$375,000	Lump Sum
6.1	Resident Project Representative Services	\$375,000	
7	Management Reserve (Additional Services)	\$50,000	Lump Sum or T&M
TOTAL FEE AMOUNT		\$2,873,500	