

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly by



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. C-700, 2002 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other.

SPECIAL NOTE ON USE OF THIS FORM:

This abbreviated Agreement form is intended for use only for professional services of limited scope and complexity. It does not address the full range of issues of importance on most projects. In most cases, Owner and Engineer will be better served by the Standard Form of Agreement Between Owner and Engineer for Professional Services (No. E-500, 2002 Edition), or one of the several special purpose EJCDC professional services agreement forms.

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SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of February 4, 2014 ("Effective Date") between

City of Gillette, Wyoming ("Owner")

and ECS Engineers ("Engineer")

Engineer agrees to provide the services described below to Owner for Fox Park – Park Improvements ("Project").
Project #14EN23

Description of Engineer's Services: The services Engineer shall provide, or cause to be provided, are further defined in
attached General Provisions as amended and supplemented in Exhibit 'A' - Engineer Services, and are generally
described as follows: Provide conceptual and final design plans and contract documents, and bidding documents for
various park improvements including concrete pedestrian pathway, asphaltic concrete access roadway and parking area,
park amenities, lighting system layout, and irrigation system layout within current property in Fox Park Subdivision.

Owner and Engineer further agree as follows:

1.01 Basic Agreement

A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Engineer for such Services as set forth in Paragraph 9.01.

2.01 Payment Procedures

A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, the 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. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in

full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

3.01 Additional Services

A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.

B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; 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 shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience, by Owner effective upon the receipt of notice by Engineer.

B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 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 Project 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.

5.01 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

6.01 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, 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, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted 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.

7.01 General Considerations

A. 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 Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in

accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Engineer.

E. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition).

F. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

G. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, 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 the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

8.01 Total Agreement

A. This Agreement (consisting of pages 1 to 4 inclusive together with any expressly incorporated appendix), constitutes the entire 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 duly executed written instrument.

9.01 Payment (Hourly Rates Plus Reimbursable Expenses)

A. Using the procedures set forth in paragraph 2.01, Owner shall pay Engineer as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class for all services performed on the Project, plus reimbursable expenses and Engineer's consultants' charges, if any.

2. Engineer's Standard Hourly Rates are attached as Appendix 1.

3. The total compensation for services and reimbursable expenses is estimated to be \$ 39,190.00

B. The Engineer's compensation is conditioned on time to complete design & bidding not exceeding 4 (four) months. Should the time to complete services be extended beyond this period, total compensation to Engineer shall be appropriately adjusted.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER:

ENGINEER:

By: _____

By:  _____

Title: Mayor

Title: Project Manager

Date Signed: _____

Date Signed: 1/22/14

Attest: _____

License or Certificate No. and State #13597 - Wyoming

Address for giving notices:

Address for giving notices:

P.O. Box 3003

511 East 4th Street, Suite 3

Gillette, Wyoming 82717

Gillette, Wyoming 82716

Designated Representative:

Designated Representative:

Attn: Kurt Siebenaler, P.E.

Name: Anthony P. MacDonald, P.E.

Title: City Engineer

Title: Project Manager

Phone Number: 307-686-5265

Phone Number: 307-670-8977

Facsimile Number: 307-685-8889

Facsimile Number: 888-424-6090

Email Address: kurt@gillettewy.gov

Email Address: amacdonald@ecsengineers.net

EXHIBIT 'A' TO GENERAL PROVISIONS

FURTHER DESCRIPTION OF BASIC ENGINEERING SERVICES AND OTHER RELATED MATTERS

This is **Exhibit 'A'** referred to in and made a part of the **General Provisions** referred to in and made a part of the **Short Form of Agreement Between Owner and Engineer for Professional Services**, dated February 4, 2014 between the City of Gillette, Wyoming (OWNER) and ECS Engineers (ENGINEER) providing for professional engineering and surveying services on the Fox Park – Park Improvements Project 14EN23. The Basic Services of the ENGINEER as described in Section 1 of said **General Provisions** are amended or supplemented as indicated below.

This scope of work has been prepared based on our understanding of the Fox Park - Park Improvements Project 14EN23 and through discussions with the City of Gillette Engineering Staff.

The Project, as we understand it is to provide Design and Bidding Services during engineering of the Project. Services shall include providing design surveys, preparation of conceptual design plans and contract documents, final design plans and contract documents, and bidding services for the Fox Park – Park Improvements Project 14EN23 at the following location:

- Fox Park, generally south of East Boxelder Road, and approximately 3300' east of the intersection with Garner Lake Road. The location is more specifically west of the intersection of Gordon Street and Sammye Avenue, and also east of the intersection of Anvil Lane and Tong Lane, in Gillette, Wyoming.

I. Pre-Construction Phase Scope of Services

1.1. Conceptual Design

- a. Attend a kick-off meeting with Owner to define scope of work, review expectations, establish lines of communication and establish schedules.
- b. ECS Engineers will, utilizing the City's most current GIS coverage, identify multiple preliminary routes of the roadway & pathways, and locations of the parking area, multi-purpose field & tot lot playground equipment.
- c. Develop three (3) conceptual layouts for the project.
- d. Provide three (3) copies of each of the three (3) conceptual plans to the Owner for consideration.

- e. Meet with the Owner to review and discuss each of the conceptual plans.
- f. Field marking of the selected concept will be provided if requested to compliment the mapping of the conceptual locations of the improvements.

1.2. Preliminary Design

- a. Based on the selected preliminary route after approval of the City, ECS Engineers will develop 50% complete design plans based on the City's most current GIS coverage to better define the route for plan/profile layouts,.
- b. Provide five (5) 50% complete design plans for the project to the Owner for consideration.
- c. Provide estimate of probable construction cost.
- d. Review 50% complete design plans with the Owner. The City of Gillette will guide irrigation, playground, and lighting layout and design at this point.
- e. Develop 90% complete design plans based on revisions identified in the 50% complete review with the Owner.
- f. ECS Engineers will conduct a detailed design survey to define the route for plan/profile conditions, verify existing utilities, research any as-constructed drawings and records and develop plans based on findings.
- g. Limited geotechnical services will be conducted to establish existing soil conditions for pavement design by boring in 3 locations to be determined in field.
- h. Provide three (3) 90% complete design plans and 90% complete bid documents for the project to the Owner for consideration.
- i. Provide estimate of probable construction cost.
- j. Review 90% complete design plans and 90% complete bid documents for the project with the Owner.

1.3. Final Design

- a. Develop and complete the final design as per the Owner input from preliminary design review stages. All design shall be in conformance with Owner's current Design Standards, Drafting Standards, and shall likewise utilize Owner's current Standard Construction Specifications.
- b. Final plans shall include design plans for the roadway, parking area, concrete pathway, wood chip trail, water service, irrigation system, lighting system, multi-purpose field, playground layout, drainage and storm water pollution prevention plan, and re-vegetation plan.

- c. Final specifications will consist of typical City of Gillette Construction Standards and also special specifications pertaining to playground installation, shelter rehabilitation, irrigation, and lighting, as necessary.
- d. Provide three (3) final design plans and bid documents for the project to the Owner for review, and upload to the EPlans system as required.
- e. Provide estimate of probable construction cost.

1.4. Bidding Services

- a. Provide final bid documents in digital format and also provide 5 hard copies.
- b. Answer Bidder's questions/provide clarifications and prepare addenda if necessary.
- c. Conduct a pre-bid meeting and site tour if necessary.
- d. Attend a bid opening and tabulate bids.
- e. Provide recommendation for award of project to apparent low bidder.
- f. Provide proposal and contract for Construction Administration Services (not included in this contract), in a form similar to this contract.

II. Construction Phase Scope of Services

- 1.5. Construction Management (***INTENTIONALLY DELETED, SERVICES NOT INCLUDED IN THIS CONTRACT***)

2014 RATE SHEET

(Effective 12/1/13)



PROFESSIONAL SERVICES

	HOURLY RATE
Principal in Charge	\$ 150.00
Project Manager	\$ 140.00
Senior Environmental Engineer	\$ 135.00
Professional Land Surveyor	\$ 110.00
Senior Project Engineer	\$ 125.00
Project Engineer	\$ 100.00
Project Surveyor	\$ 90.00
Engineer	\$ 85.00
Surveyor	\$ 90.00
Senior Engineering Technician	\$ 85.00
Engineering Technician	\$ 70.00
Survey Technician	\$ 70.00
Administrative	\$ 65.00
One Man Survey Crew w/ GPS or Total Station	\$ 140.00
One Man Survey Crew LS w/ GPS or Total Station	\$ 160.00
Two Man Survey Crew w/ GPS or Total Station	\$ 210.00
Subconsultants	Charged at Cost + 10%
Equipment	UTV (Day Rate, charge 1/2 or full day only) \$ 300.00

DIRECT CHARGES

Per Diem and Lodging		\$50.00/day + cost of lodging or \$85.00/day minimum
CADD	Hourly	\$ 25.00
Mileage	All Vehicles	\$ 1.00
Communications Fee		3%
Other Direct Project Expenses	i.e. special equipment rental, commercial travel bulk reproduction, protective clothing, supplies, meals, lodging, etc.	Cost+10%

Thank You!



January 22, 2014

Mr. Kurt Siebenaler, P.E.
City of Gillette, Engineering Department
P.O. Box 3003
Gillette, Wyoming 82717

**RE: Fox Park – Park Improvements Project 14EN23 – Professional Engineering and Surveying Services
Proposal: Estimated Schedule**

Dear Mr. Siebenaler:

Environmental and Civil Solutions (ECS Engineers) is pleased to provide the proposal for the Professional Engineering and Surveying Services for Fox Park – Park Improvements Project 14EN23 for the City of Gillette. We appreciate you considering ECS Engineers to provide the requested services, and for giving us an opportunity to continue our relationship with the City of Gillette.

In addition to the EJCDC Contract, Exhibit “A”, and Cost Breakdown provided, ECS Engineers would like to propose the following schedule for the tasks to be completed after careful consideration of the available information and the multiple discussions we have had:

Anticipated Schedule for Services:

• Contract Award:	February 4, 2014
• Conceptual Design Review	February 11, 2014
• Preliminary Design Review	March 12, 2014
• Final Design/Spec Review	April 16, 2014
• Bid Advertisement (3 consecutive Fridays)	May 2, May 9, May 16, 2014
• Bid Opening	May 21, 2014
• Construction Contract Award	June 3, 2014
• Estimated Construction Time	64 Days (TBD, approximately August 6, 2014)

We understand that this schedule is dependent on many items that may prove to draw more effort or less effort through design. It is very likely that we can accelerate this project to move up the bidding process. The Estimated Construction Time is obviously dependent on the final design, and will be updated accordingly.

We appreciate this opportunity to work with you, and if you have any further questions, please don't hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anthony P. MacDonald', written over a light blue circular stamp.

Anthony P. MacDonald, P.E.
Project Manager

Attachments: ECS Contract/Proposal, Exhibit “A”, Rate Sheet, Cost Breakdown