

**CONTRACT BETWEEN
CITY OF LARAMIE, WYOMING AND
H2 ENTERPRISES LLC**

1. **Parties.** This Contract is made and entered into this ____ day, by and between City of Laramie, Wyoming, a Wyoming municipal corporation (hereinafter referred to as “City”), whose address 406 Iverson Avenue, Laramie, Wyoming 82070, and H2 Enterprises LLC, (hereinafter referred to as “Contractor”), whose address is 4626 WCR 65, Keensesburg, CO 80643.

2. **Purpose of Contract.** The purpose of this Contract is for Contractor to perform grinding of green waste piles at the Laramie Landfill. In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Contract, the parties agree as follows:

3. **Term of Contract.** The term of the Contract is from the date of execution of this Contract through 30 days. The term of this Contract may be extended through mutual agreement of the parties by the amount of time caused by any delays in the work, which were caused through no fault of Contractor.

4. **Payment.** City agrees to pay the Contractor for the services as more fully described in Attachment A, which is attached hereto and incorporated herein. The total payment under this Contract shall not exceed one hundred thirty three thousand dollars (\$133,000.00). Payment shall be payable to Contractor upon receipt of the invoice for the services herein and the completion of this Contract. The payment shall cover the cost for those services to be provided by Contractor as outlined in Paragraph 5 herein.

5. **Responsibilities of Contractor.** The services to be provided by Contractor is as outlined in Attachment A.

6. **General Provisions.**

A. **Amendments.** Any changes, modifications, revisions or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument, executed and signed by all parties to this Contract.

B. **Applicable Law/Venue.** The construction, interpretation and enforcement of this Contract shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Contract and the parties, and the venue shall be the Second Judicial District, Albany County, Wyoming. Contractor agrees to appoint a registered agent in Wyoming for service of process, and will notify City in writing of the name and address of the registered agent within fifteen (15) days of effective date of this Contract.

C. **Confidentiality.** All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Contractor in the performance of this Contract shall be kept confidential by the Contractor unless written permission is granted by City for its release.

D. **Compliance with Laws.** The Contractor shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this Contract.

E. **Entirety of Contract.** This Contract, consisting of seven (7) pages, including Attachment A, entitled H2 ENTERPRISES PROPOSAL consisting of one (1) page, represents the entire and integrated Contract between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

F. **Ethics.** Contractor shall keep informed of and comply with the Wyoming Ethics and Disclosure Act (Wyo. Stat. §9-13-101, et seq.), and any and all ethical standards governing Contractor's profession.

G. **Force Majeure.** Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

H. **Indemnification.** Contractor shall indemnify, defend and hold harmless City, their officers, agents, employees, successors and assignees from any and all claims, lawsuits, losses and liability arising out of Contractor's failure to perform any of Contractor's duties and obligations hereunder or in connection with the negligent performance of Contractor's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Contractor's negligence.

I. **Independent Contractor.** The Contractor shall function as an independent contractor for the purposes of this Contract, and shall not be considered an employee of the City for any purpose. The Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor in fulfilling the terms of this Contract, and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Contract. Nothing in this Contract shall be interpreted as authorizing the Contractor to incur any obligation of any kind on the behalf of the City or its staff. The Contractor agrees that no health/hospitalization benefits, workers'

compensation and/or similar benefits available to City employees will inure to the benefit of the Contractor or the Contractor's agents and/or employees as a result of this Contract.

J. Ownership of Documents/Work Product. All documents, reports, records, field notes, materials, and data of any kind resulting from performance of this Contract are at all times the property of City.

K. Sovereign Immunity. The City does not waive sovereign immunity by entering into this Contract and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other state law.

L. Taxes. The Contractor shall pay all taxes and other such amounts required by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.

M. Termination of Contract. This Contract may be terminated, without cause, by either party upon thirty (30) days written notice. This Contract may be terminated immediately for cause if the Contractor fails to perform in accordance with the terms of this Contract.

N. Insurance. The Contractor shall maintain the following insurance:

(i) **Commercial General Liability Insurance.** The Contractor shall maintain coverage, during the entire term of the contract, against claims arising out of bodily injury, death, damage to or destruction of the property of others, including loss of use thereof, and including underground, collapse and explosion (XCU) and products and completed operations, and in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per occurrence and One Million Dollars (\$1,000,000.00) general aggregate.

(ii) **Workers Compensation or Employers Liability Insurance.** Contractor shall provide proof of workers compensation coverage, for all its employees who are to work on the projects described in this Contract. Contractor's coverage shall be under the Wyoming Workers Safety and Compensation program, if statutorily required, or such other workers compensation insurance as appropriate. Contractor's insurance shall include A Stop Gap coverage in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) per employee for each accident and disease. Contractor shall have also supply proof of workers' compensation and employer's liability insurance on each and every subcontractor before allowing that subcontractor on the job site.

(iii) **Business Automobile Liability.** Contractor shall maintain, during the entire term of the contract, automobile liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) per occurrence.

(iv) **Coverage.** All policies required under this Contract shall be in effect for the duration of this Contract and projects. All policies shall be primary and

not contributory. Contractor shall pay the premiums on all insurance policies and insurance certificates must include a clause stating that the insurance may not be revoked, cancelled, amended or allowed to lapse until the expiration of at least thirty (30) days advance written notice to City.

(v). **Additional Insured**. All insurance policies required by this Contract, except workers' compensation, shall name City as an additional insured, and shall contain a waiver of subrogation against City, its agents and employees. Contractor shall provide, upon request a copy of an endorsement providing this coverage.

(vi). **City's Right to Reject**. The City reserves the right to reject a certificate of insurance if Contractor's insurance company is widely regarded in the insurance industry as financially unstable. This would include but is not limited to insurance companies with no less than AVIII rating in the A.M. Best insurance rating guide.

(vii). **Subcontractors**. The insurance requirements set forth above apply to all subcontractors. It is Contractor's responsibility to ensure that its subcontractors meet these insurance requirements. City has the right to review the Certificates of any and all subcontractors used by the Contractor.

(viii). **Cancellation**. There shall be no cancellation, material change, potential exhaustion of aggregate limits or intent to not renew insurance coverage without thirty (30) days written notice from Contractor or their insurers to City. Any failure to comply with the reporting provision of this insurance, except for the potential exhaustion of aggregate limits, shall not affect the coverage provided to City and its division, officers and employees.

O. Third Party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Contract shall not be construed so as to create such status. The rights, duties and obligations contained in this Contract shall operate only between the parties to this Contract, and shall inure solely to the benefit of the parties to this Contract. The provisions of the Contract are intended only to assist the parties in determining and performing their obligations under this Contract. The parties to this Contract intend and expressly agree that only parties signatory to this Contract shall have any legal or equitable right to seek to enforce this Contract, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Contract, or to bring an action for the breach of this Contract.

P. Time is of the Essence. Time is of the essence in all provisions of the Contract.

Q. Titles Not Controlling. Titles of paragraphs are for reference only, and shall not be used to construe the language in this Contract.

R. Waiver. The waiver of any breach of any term or condition in this

Contract shall not be deemed a waiver of any prior or subsequent breach.

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IN WITNESS WHEREOF, the Laramie City Council has caused this Agreement to be signed and executed in its behalf by its Mayor or City Manager, and duly attested by its City Clerk, and Contractor has signed and executed this Agreement, the day and year first written above.

CITY OF LARAMIE, WYOMING:

By: _____
Mayor

Attest: _____
City Clerk

CONTRACTOR:

By: _____

Attest: _____
Witness

