

CONSULTING ENGINEERING SERVICES FOR DESIGN OF THE MAIN REPLACEMENT PROJECT WESTERN SECTIONS

THIS CONTRACT ("**Contract**"), entered into the date set forth on the signature page is between the **Lookout Mountain Water District**, a quasi-municipal corporation, a special district organized March 12, 1988 and operated under Title 32 of the Colorado Revised Statutes, acting by and through its Board of Directors, hereinafter referred to as "**District**" or "**LMWD**", and **{Contractor}**, a {state} corporation, with its principal place of business at {Contractor address} hereinafter referred to as the "**Contractor**". The parties to this Contract, each in consideration of the rights and obligations hereinafter specified, agree as follows:

1. Fixed Fee. The Fixed Fee Contract amount cannot exceed {written amount} ({numerical amount}) for the Consulting Engineering Services for Design of the Main Replacement Project Western Sections. Changes to the fixed fee, if any, must be duly authorized by the District.
2. Incorporation into Contract. It is especially understood and agreed that the documents applicable to the Project that are available online at <http://www.lookoutmountainwaterdistrict.org/main-west/>, together with any alterations and modifications as may be made, are each and all included in and made part of this Contract including:

Request for Proposal with Submittal Due Date of July 31, 2025, and all attachments, addenda, and amendments;

Contractor's Proposal dated July 31, 2025

(hereinafter referred to as the "**Contract Documents**").

3. Work to be Performed. The work to be performed for the Consulting Engineering Services for Design of the Main Replacement Project Western Sections is defined in the Contract Documents and Scope of Work. The Contractor agrees that it will, in good and workmanlike manner, at its own cost and expense and strictly in accordance with the Contract Documents, furnish all labor, material and equipment and do all work necessary, or incidental to complete the Scope of Work.
4. Quality of Performance. Contractor warrants that all services performed under this Contract will be performed by qualified personnel in accordance with generally accepted professional practices and standards, as well as the requirements of applicable federal, state, and local laws, codes, ordinances, and regulations. Contractor represents that it possesses the professional qualifications, experience, and competence necessary to perform the services required under this Contract. The standard of care applicable to Contractor's services will be the degree of skill and diligence normally employed by professional practitioners of the same discipline currently practicing under similar

circumstances in the same locality, or if the standard of care is higher in the locality where Contractor's primary office is located, then the higher standard shall apply.

5. Schedule of Work. The Contractor shall schedule work so that milestones and progress submittals are consistent with the Contract Documents, Scope of Work, and overall project timeline. Contractor shall perform the “on-site” work during reasonable hours designated by the District so as to avoid excessive inconvenience to the District and its personnel or interference with the District's operations.
6. Payment. The District will pay Contractor for progress made and sufficiently supported in a monthly progress billing format (“**Payment Application**”). The Payment Application must show hours worked, by task, at hourly rates in accordance with the Rate Schedule. Another method, such as percentage of completion, may be appropriate for items that are not labor. Payment shall be made on or before the last day of the month following the month in which the completed Payment Application is received, provided that the District, in its sole discretion, has determined that the work for which payment is being requested is satisfactory.
7. Term and Time. This Contract shall begin and become effective on and as of August 12, 2025 or upon execution of this Contract (“**Award Date**”) and ends on December 31, 2025. A Contract Amendment will be issued for date extensions, if needed.
8. The Contract shall be in full force and effect, subject to the Termination provisions as set forth in a following paragraph of this Contract.
9. Deliverables. Contractor shall furnish the District with all Deliverables, as specified in Scope of Work and Contract Documents. Final payment will not be issued until District has approved and received all said Deliverables. Contractor acknowledges final payment terms as specified in paragraph 6, Payment.
10. Indemnity. The Contractor shall be liable and responsible for any and all damages to persons or property caused by or arising out of the negligent actions, obligations, or omissions of the Contractor, its employees, agents, representatives or other persons acting under the Contractor's direction or control in performing or failing to perform the Work under this Contract. The Contractor will indemnify and hold harmless the District, its elected and appointed officials, and its employees, agents and representatives (the “**Indemnified Parties**”), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including but not limited to attorneys’ fees, which may be made or brought or which may result against any of the indemnified parties as a result or on account of the actions or omissions of the Contractor, its employees, agents or representatives, or other persons acting under the Contractor’s direction or control.
11. Governmental Immunity. Nothing in this agreement shall be construed in any way to be a waiver of the District's immunity protection under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as amended.

12. Insurance Requirements. The Contractor shall procure and maintain at its own expense, and without cost to the District, the following kinds and minimum amounts of insurance for purposes of insuring the liability risks which the Contractor has assumed until this Contract has expired or is terminated:

- a. Commercial General Liability.
 - i. This coverage should be provided on an Occurrence Form, ISO CG001 or equivalent, with Minimum limits of \$1,000,000 Each Occurrence, \$2,000,000 General Aggregate and \$2,000,000 Products Completed Operations Aggregate.
- b. Automobile Liability.
 - i. Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of the Contract.
 - ii. Minimum limits \$1,000,000 Each Accident.
- c. Workers' Compensation and Employer's Liability.
 - i. Workers' Compensation must be maintained with the statutory limits. Employer's Liability is required for minimum limits of \$100,000 Each Accident/\$500,000 Disease-Policy Limit/\$100,000 Disease-Each Employee.
- d. Professional Liability (Errors and Omissions).
 - i. All contractors required to be professionally certified by the State of Colorado (i.e., architects, engineers, doctors, nurses, etc.) and/or any consultants whose errors in judgment, planning, design, etc. could result in economic loss to the District, must provide proof of professional liability coverage with minimum limits of \$1,000,000 Per Loss and \$1,000,000 Aggregate.
 - ii. Professional Liability provisions indemnifying for loss and expense resulting from errors, omission, mistakes or malpractice is acceptable and may be written on a claims made basis. The contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.
- e. Prior to commencement of the Work, Contractor shall provide a Certificate of Insurance to the District demonstrating that the insurance requirements have been met prior to the commencement of Work under this Contract. The District shall be named as an additional insured for all insurance policies (except workers' compensation and professional liability), as designated in the contract. Additional insured shall be endorsed to the policy.
 - i. THE ADDITIONAL INSURED WORDING SHOULD BE AS

FOLLOWS: Lookout Mountain Water District, a quasi-municipal corporation, State of Colorado, is named as Additional Insured.

- ii. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the District, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to:

Lookout Mountain Water District
C/O Dylan Woods
1202 Bergen Parkway, Suite 110
Evergreen, Colorado 80439

and via email to:

dwoods@evergreenco.law

- iii. If any insurance company refuses to provide the required notice, the Contractor or its insurance broker shall notify the District of any cancellation, suspension, and/or non-renewal of any insurance within seven (7) days of receipt of insurers' notification to that effect. Such notice shall be sent directly to:

Lookout Mountain Water District
C/O Dylan Woods
1202 Bergen Parkway, Suite 110
Evergreen, Colorado 80439

and via email to:

dwoods@evergreenco.law

Please forward certificates to the above certificate holder.

- 13. Nondiscrimination. The Contractor agrees to comply with the letter and spirit of the Colorado Anti-Discrimination Act, C.R.S. § 24-34-401, et seq., as amended, and all applicable local, state and federal laws respecting discrimination and unfair employment practices.
- 14. Nondiscrimination Provisions Binding on Subcontractors. In all solicitations, either by competitive bidding or negotiation, by the Contractor for any Work related to this Contract to be performed under a subcontract, including procurement of materials or equipment, the Contractor shall notify each potential subcontractor of the Contractor's obligations under this Contract, and of all pertinent regulations relative to

nondiscrimination and unfair employment practices, as set forth above.

15. Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, as determined by the District within its sole discretion, the District shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the Contract until the Contractor complies with the nondiscriminatory provision set forth in paragraph 12 of this Contract; and/or
 - b. cancellation, termination, or suspension of the Contract, in whole or in part, effective upon seven (7) days written notice to the Contractor pursuant to paragraph 17 of this Contract.
16. Debarment and Suspension. A Contract award, including sub-contractors, must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 and 12689 "Debarment and Suspension" Debarment Reference (Sam.Gov); if the Contractor or Sub-Contractor is debarred or suspended after the Contract award is made, Termination and Related Remedies are applicable.
17. Subcontractors. The Contractor will include the provisions of paragraphs 12 through 16 in every subcontract, including procurement of materials and leases of equipment. The Contractor will take such action with respect to any subcontractor or procurement as the District may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the District may, at its own discretion, enter into such litigation to protect the interests of the District.
18. Post Completion. Final payment made to the Contractor, on account of the work, shall not operate to relieve the Contractor of responsibility for any mistakes or errors in submitted work product, and unless otherwise provided, the Contractor shall remedy any defect due thereto and pay for any damages resultant therefrom.
19. Termination and Related Remedies.
 - a. The other provisions of this Contract notwithstanding, financial obligations of the District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. The District is prohibited by law from making financial commitments beyond the term of its current fiscal year. The District has contracted for goods and/or services under this Contract and has reason to believe that sufficient funds will be available for the full term of the Contract. Where, however, for reasons beyond the control of the Board of Directors as the funding entity, funds are not allocated for any fiscal period beyond the one in which this Contract is entered into, the District shall have the right to terminate this Contract by providing seven (7) days written

notice to the Contractor pursuant to paragraph 19, and will be released from any and all obligations hereunder. If the District terminates the Contract for this reason, the District and the Contractor shall be released from all obligations to perform Work and make payments hereunder, except that the District shall be required to make payment for Work which has been performed by the Contractor prior to the effective date of termination under this provision; and, conversely, the Contractor shall be required to complete any Work for which the District has made payment prior to providing written notice to the Contractor of the termination. In such an event, the District is released from all liability whatsoever and will not be responsible for payment of any costs or expenses incurred in reliance upon this Contract beyond that amount which has been appropriated and made available for this Contract and neither party shall have any further liability hereunder, said Contract to cease and terminate as of such date.

- b. If Contractor materially breaches any provision of this Contract and fails to cure such breach within thirty (30) days after receiving written notice specifying the breach (or such longer period as may be reasonably necessary to cure the breach if cure cannot reasonably be completed within thirty (30) days, provided Contractor commences cure within the thirty (30) day period and diligently pursues cure to completion), the District may terminate this Contract immediately upon written notice. The District, after seven (7) days written notice to the Contractor and without prejudice to any other remedy it may have, may make good such deficiencies and may deduct the cost thereof from any payment then or thereafter due the Contractor or, at its option, may terminate the Contract and may finish the Work by whatever method it may deem expedient. If such expense exceeds the unpaid balance of the Contract, the Contractor shall pay the difference to the District.
- c. In the event the District exercises either of the termination rights specified in paragraphs 17(a) or 17(b), this Contract shall cease to be of any further force and effect, with the exception of all Contract remedies which are specified herein and may otherwise be available to the parties under the law, and with the exception of any rights or liabilities of the parties which may survive by virtue of this Contract.
- d. The preceding provisions notwithstanding, the District may terminate this Contract, either in whole or in part, for any reason, whenever the District determines that such termination is in the District's best interests. Such termination shall be effective after the District provides seven (7) days written notice to the Contractor pursuant to paragraph 17. Termination of work hereunder shall be affected by the delivery to the Contractor of a "Notice of Termination" specifying the extent to which performance of work, under the Contract, is terminated and the date upon which such termination becomes effective. After receipt of the "Notice of Termination", the Contractor shall cancel its outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition, the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of its outstanding

commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the notice. The Contractor shall then submit a written claim for all outstanding amounts to the District, due within the timeframe as specified, thirty (30) days, upon receipt of "Notice of Termination", from the District.

- e. Refund Upon Termination. Upon termination of this Contract for any reason other than Contractor's material breach or default, the District shall pay Contractor for all satisfactory work performed through the effective date of termination. Upon termination for Contractor's material breach or default, Contractor shall refund to the District any prepaid amounts for work not satisfactorily completed as of the termination date, calculated on a pro rata basis.

20. Independent Contractor. The Parties recognize and agree that the Contractor is an independent contractor for all purposes, both legal and practical, in performing services under this Contract, and that the Contractor and its agents and employees are not agents or employees of the District for any purpose. As an independent contractor, the Contractor shall be responsible for employing and directing such personnel and agents as it requires to perform the services purchased under this Contract, shall exercise complete authority over its personnel and agents, and shall be fully responsible for their actions. Contractor acknowledges that it is not entitled to unemployment insurance benefits or workers' compensation benefits from the District, its elected officials, agents, or any program administered or funded by the District. Contractor shall be entitled to unemployment insurance or workers' compensation insurance only if unemployment compensation coverage or workers' compensation coverage is provided by Contractor, or some other entity that is not a party to this Contract. Contractor is obligated to pay federal and state income tax on any monies earned pursuant to this Contract.

21. Notices. For purposes of the notices required to be provided under paragraphs 11 and 17, all such notices shall be in writing, and shall be either sent by Certified U.S. Mail - Return Receipt Requested, by email, and hand-delivered to the following representatives of the parties at the following addresses:

For the District:

Lookout Mountain Water District
C/O Dylan Woods
1202 Bergen Parkway, Suite 110
Evergreen, Colorado 80439

and via email to:

dwoods@evergreenco.law

For the Contractor:

{Contractor's Info}

- a. In the event a notice is transmitted by mail, email or delivered pursuant to the provisions of this paragraph, any related time periods shall commence to run on the day after the date of transmission.
22. Statutory Requirements. This Contract is subject to all statutory requirements that are or may become applicable to counties or political subdivisions of the State of Colorado generally. Without limiting the scope of this provision, the Contract is specifically subject to the following statutory requirements: Contract payments may be withheld pursuant to C.R.S. § 38-26-107 if the District receives a verified statement that the Contractor has not paid amounts due to any person who has supplied labor or materials for the project. Pursuant to C.R.S. § 8-17-102, this contract is subject to a preference in employment of Colorado labor. Contractor acknowledges and agrees that all document submissions must meet accessibility requirements of HB 21-1110 and SB 23-244.
23. Amendments. This Contract may be altered, amended or repealed only on the mutual agreement of the District and the Contractor by a duly executed written instrument. The District's Project Manager or designated representative is authorized to make minor administrative changes to this Contract that do not affect the scope of work, contract amount, or term, including but not limited to: correction of typographical errors, clarification of existing provisions, updates to contact information, and administrative modifications that do not materially alter the parties' rights or obligations. Such changes shall be documented in writing and signed by the District's Project Manager and Contractor's authorized representative. Material changes requiring additional compensation, scope modifications, or term extensions must be approved by the District's Board of Directors through a formal Contract Amendment.
24. Limitation on Damages. Under no circumstances shall the District be liable to Contractor for special, punitive, indirect, or consequential damages suffered by Contractor arising out of, or in connection with, this Agreement, including, without limitation: lost profits, loss of use, or loss of opportunity. To the fullest extent permitted by law, the total liability, in the aggregate, of Contractor and its officers, directors, employees, agents, and independent professional associates and consultants, and any of them, to the District and any one claiming by, through or under the District, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to Contractor's services, the project, or this Contract, will not exceed \$5,000,000.00 in the aggregate. This limitation will apply regardless of legal theory and includes but is not limited to claims or actions alleging negligence, errors, omissions, strict liability, breach of contract, breach of warranty of Contractor or its officers, directors, employees, agents, or independent professional associates or consultants, or any of them. Contractor and the District waive consequential damages, including but not limited to damages for loss of profits, loss of revenues, and loss of business or business opportunities, for claims, disputes, or other matters in question arising out of or relating to this Subcontract.
25. Taxes. The District is a governmental entity and political subdivision of the State of Colorado and is therefore exempt from federal, state, and local sales and use taxes

pursuant to Article X, Section 4 of the Colorado Constitution and C.R.S. §§ 39-3-105 and 39-26-704(1).

- a. The District will furnish Contractor with the required certificates of tax exemption for use in the purchase of supplies and materials to be incorporated into the Work.
- b. Contractor shall use the District's sales tax exemption for the purchase of any and all products, equipment, and materials on behalf of the District that are incorporated into the Work.
- c. The District's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.
- d. No taxes covered by this exemption shall be included in the Contract price or in any charges for additional services or materials.

26. Relationship of Parties. Nothing in this Agreement will be construed to create a partnership, joint venture, franchise, fiduciary, employment, or agency relationship between the parties. Neither party has any express or implied authority to assume or create any obligations on behalf of the other or to bind the other to any contract, agreement, or undertaking with a third party.

27. Professional Services. It is understood that the District enters into this Agreement based on the special abilities of the Contractor and that this Agreement shall be considered an agreement for professional services. Accordingly, the Contractor shall neither assign any responsibilities nor delegate any duties arising under this Agreement without the prior written consent of the District. The Contractor accepts the relationship of trust and confidence established between the Parties. The Contractor shall use its best efforts and shall perform the services hereunder at or above the standard of care of those in its profession or industry providing similar services in the District's local area; provided, however, that in the event the standard of care is higher in the local area where the Contractor's office primarily responsible for providing the services is located, then the standard of care applicable to the local area where the Contractor's office is located shall be applicable to such services. Contractor shall conduct their business and perform all work in accordance with federal, state, county, and local laws, regulations, ordinances, and codes.

28. Ownership of Work Product. All documents such as reports, plans, drawings, specifications, information, and other materials prepared or furnished by the Contractor (or the Contractor's independent professional associates, subcontractors, and consultants) and paid for pursuant to this Agreement are instruments of public information and property of the District. The District understands such documents are not intended or represented to be suitable for reuse by the District or others for purposes outside the specific scope and conditions of the Scope of Work. Any reuse without written verification or adaptation by the Contractor for the specific purpose intended will be at the District's sole risk and without liability or legal exposure to the Contractor, or to the Contractor's independent professional associates, subcontractors, or consultants.

29. Assignment. This Contract shall not be assigned or subcontracted by the Contractor

without the prior written consent of the District.

30. Benefit to Successors and Assigns. This Contract shall be binding upon the successors and assigns of the parties.
31. Governing Law. The laws of the State of Colorado shall govern the interpretation and enforcement of this Contract. Any litigation that may arise between the parties involving the interpretation or enforcement of the terms of this Contract shall be initiated and pursued by the parties in the Jefferson County Courts of the 1st Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.
32. Breach. Any waiver of a breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract. All remedies afforded in this Contract shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.
33. Termination of Prior Agreements. This Contract cancels and terminates, as of its effective date, all prior agreements between the parties relating to the services covered by this Contract, whether written or oral or partly written and partly oral.
34. Severability. If any provision of this Contract is found to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
35. Third Party Beneficiary. The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement shall be strictly reserved to the District and the Contractor, and nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the parties to this Contract that any person receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.
36. Attorneys' Fees. In the event of any litigation, arbitration, or other proceeding to enforce the terms of this Contract, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, and expenses from the non-prevailing party. If the District is required to engage legal counsel to enforce any provision of this Contract or to collect any amounts due hereunder, Contractor shall pay all costs of collection, including reasonable attorneys' fees, whether or not litigation is commenced.
37. Entire Agreement. This Contract, including all Contract Documents incorporated by reference herein, constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all prior negotiations, representations, or agreements relating to such subject matter, whether written or oral. No representation, inducement, promise, or agreement, oral or otherwise, between the parties not embodied herein or in the Contract Documents shall be of any force or effect.
38. Authority and Warranties. Each party warrants and represents to the other that: (i) it has

full corporate power and authority to enter into this Contract and perform its obligations hereunder; (ii) the execution of this Contract by the person representing such party has been duly authorized by all necessary corporate action; (iii) the person executing this Contract on behalf of such party is duly authorized to execute this Contract; (iv) this Contract has been duly executed and delivered by such party and constitutes a legal, valid, and binding obligation of such party; and (v) neither the execution and delivery of this Contract nor the performance of such party's obligations hereunder will violate any law, regulation, or agreement to which such party is subject or by which it is bound.

39. Information and Reports. The Contractor will provide to authorized governmental representatives, including those of the District, County, State and Federal Government, all information and reports which they may require for any purpose authorized by law. The Contractor will permit such authorized governmental representatives access to the Contractor's facilities, books, records, accounts, and any other relevant sources of information. Where any information required by any such authorized government representative is in the exclusive possession of a person other than the Contractor, then such Contractor shall so certify to the District, and shall explain what efforts it has made to obtain the information.

40. Execution by Counterparts; Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Agreement. Only the following two forms of electronic signatures shall be permitted to bind the Parties to this Agreement: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, CRS §§ 24-71.3-101 to -121.

IN WITNESS WHEREOF, the Board of Directors of Lookout Mountain Water District and the Contractor have executed this contract, all on the day and year set forth below.

OWNER/DISTRICT:

Lookout Mountain Water District,
a quasi-municipal corporation and political subdivision
of the State of Colorado

By: _____

Its: Authorized Director

Attest: _____

Executed by Lookout Mountain Water District on _____ (Date).

CONTRACTOR:

{Contractor}

a {state} corporation qualified to do business
in the State of Colorado

By: _____ Title: _____

Attest: _____

Executed by CONTRACTOR on _____ (Date).

(If this Contract is executed on behalf of a corporation, it must be signed by an agent duly authorized by the corporation to execute such Contract, and if specified by the corporate by-laws, the corporate seal must be affixed to the Agreement by the Secretary of the corporation or other authorized keeper of the corporate seal.)