2019 City of Cheney CDBG Water Improvement

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made and entered into by and between the City of Cheney (hereinafter referred to as the Owner) and Parametrix, Inc. (hereinafter referred to as the Consultant) WITNESS THAT:

WHEREAS, the Owner and the Consultant are desirous of entering into a contract to formalize their relationship, and

WHEREAS, pursuant to Title I of the Housing and Community Development Act of 1974, as amended, the Spokane County Housing and Community Development Department (hereinafter referred to as the County) is authorized by the federal Department of Housing and Urban Development (HUD) to provide Community Development Block Grant Program funds (hereinafter referred to as CDBG funds) to eligible subrecipient organizations to undertake and carry out certain programs and projects under the Spokane County Community Development Block Grant Program in compliance with all applicable local, state, and federal, laws, regulations, and policies, and

WHEREAS, the Owner, as part of its CDBG grant agreement with Spokane County, under contract number ______________________; has been awarded CDBG funds for the purposes set forth herein, and

WHEREAS, the Scope of Work included in this contract is authorized as part of the Owners approved CDBG project, and

WHEREAS, it would be beneficial to the Owner to utilize the Consultant as an independent entity to accomplish the Scope of Work as set forth herein and such endeavor would tend to best accomplish the objectives of the local CDBG project,

NOW, THEREFORE, in consideration of the mutual promises, covenants, and provisions contained herein, and the mutual benefits to be derived therefrom, the parties hereto agree as follows:

1. Services to be Provided by the Parties:

   a. The Consultant shall complete in a satisfactory and proper manner as determined by the Owner, the work activities described in the Bid Proposal, including Scope of Work and Payment Schedule. (Attachment #1 to the contract).

   b. The Owner will provide such assistance and guidance as may be required to support the objectives set forth in the Scope of Work and will provide compensation for services as set forth in Section 3 below.

2. Time of Performance:
The effective date of this contract shall be the date the parties sign and complete execution of the contract. The termination date of the contract shall be December 31, 2019

3. Consideration:

The Owner shall reimburse the Consultant in accordance with the Bid Proposal described in Attachment #1 to the contract for all allowable expenses agreed upon by the parties to complete the Scope of Work. In no event shall the total amount to be reimbursed by the Owner exceed the sum of $27,640. Reimbursement under this contract shall be based on billings, supported by appropriate documentation of costs actually incurred. It is expressly understood that claims for reimbursement shall not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of the agreement.

It is understood that this contract is funded in whole or in part with CDBG funds through the Spokane County Community Development Block Grant Program as administered by the Spokane County Housing and Community Development Department, and is subject to those regulations and restrictions normally associated with federally-funded programs and any other requirements that the County may prescribe.

4. Records:

The Consultant agrees to maintain such records and follow such procedures as may be required under the County’s CDBG Program and any such procedures as the Owner or the County may prescribe. In general, such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultant for a period of three years after final audit of the Owner’s project, unless a longer period is required to resolve audit findings or litigation. In such cases, the Owner shall request a longer period of retention.

The Owner, the Spokane County Housing and Community Development Department, and other authorized representatives of the state and federal government shall have access to any books, documents, papers, and records of the consultant which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.

The Owner, the County, and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent
documents, papers, records, and books of the Consultant involving transactions related to this local program and contract.

5. **Relationship:**

The relationship of the Consultant to the Owner shall be that of an independent Consultant rendering professional services. The Consultant shall have no authority to execute contracts or to make commitments on behalf of the Owner and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the Owner and the Consultant.

6. **Suspension, Termination, and Close-Out:**

If the Consultant fails to comply with the terms and conditions of this contract, the owner may pursue such remedies as are legally available, including, but not limited to, the suspension or termination of this contract in the manner specified herein:

a. **Suspension** – If the Consultant fails to comply with the terms and conditions of this contract, or whenever the Consultant is unable to substantiate full compliance with provisions of this contract, the Owner may suspend the contract pending corrective actions or investigation, effective not less than seven (7) days following written notification to the Consultant or its authorized representative. The suspension will remain in full force and effect until the Consultant has taken corrective action to the satisfaction of the Owner and is able to substantiate its full compliance with the terms and conditions of this contract. No obligations incurred by the Consultant or its authorized representative during the period of suspension will be allowed under the contract except:

(1) Reasonable, proper, and otherwise allowable costs which the Consultant could not avoid during the period of suspension;

(2) If upon investigation, the Consultant is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed, and;

(3) In the event all or any portion of the work prepared or partially prepared by the Consultant is suspended, abandoned, or otherwise terminated, the owner shall pay the Consultant for work performed to the satisfaction of the Owner, in accordance with the percentage of work completed.

b. **Termination for Cause** – If the Consultant fails to comply with the terms and conditions of this contract and any of the following conditions exist:
(1) The lack of compliance with the provisions of this contract were of such scope and nature that the Owner deems continuation of the contract to be substantially detrimental to the interests of the Owner;

(2) The Consultant has failed to take satisfactory action as directed by the Owner or its authorized representative within the time period specified by same;

(3) The Consultant has failed within the time specified by the Owner or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract; then,

The Owner may terminate this contract in whole or in part, and thereupon shall notify the Consultant of termination, the reasons therefore, and the effective date, provided such effective date shall not be prior to notification of the Consultant. After this effective date, no charges incurred under any terminated portions of the Scope of Work are allowable.

c. Termination for Other Grounds – This contract may also be terminated in whole or in part:

(1) By the Owner, with the consent of the Consultant, or by the Consultant with the consent of the Owner, in which case the two parties shall devise by mutual agreement, the conditions of termination, including effective date and in case of termination in part, that portion to be terminated;

(2) If the funds allocated by the Owner via this contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services;

(3) In the event the Owner fails to pay the Consultant promptly or within sixty (60) days after invoices are rendered, the Owner agrees that the Consultant shall have the right to consider said default a breach of this agreement and the duties of the Consultant under this agreement terminated. In such event, the owner shall then promptly pay the Consultant for all services performed and all allowable expenses incurred; and

(4) The Owner may terminate this contract at any time giving at least ten (10) days notice in writing to the Consultant. If the contract is terminated for convenience of the Owner as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.
7. **Changes, Amendments, Modification:**

The Owner may, from time to time, require changes or modifications in the Scope of Work to be performed. Such changes, including any decrease or increase in the amount of compensation, which are mutually agreed upon by the Owner and the Consultant shall be incorporated in written amendments to this contract.

8. **Personnel:**

The Consultant represents that he/she has, or will secure at his own expense, all personnel required in order to perform under this contract. Such personnel shall not be employees of, or have any contractual relationship to the Owner.

All services required hereunder will be performed by the Consultant or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

None of the work or services covered by this contract shall be subcontracted without prior written approval of the Owner. Any work or services subcontracted hereunder shall be specified in written contract or agreement and shall be subject to each provision of this contract.

9. **Assignability:**

The Consultant shall not assign any interest on this contract, and shall not transfer any interest on this contract (whether by assignment or novation), without prior written consent of the Owner thereto: provided, however, that claims for money by the Consultant from the Owner under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Owner by the Consultant.

10. **Reports and Information:**

The Consultant, at such times and in such forms as the owner may require, shall furnish the Owner such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

11. **Findings Confidential:**

All of the reports, information, data, etc., prepared or assembled by the Consultant under this contract are confidential and the Consultant agrees that
they shall not be made available to any individual or organization without prior written approval of the Owner.

12. **Copyright:**

No report, maps, or other documents produces in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the Consultant.

13. **Compliance with Local Laws:**

The Consultant shall comply with all applicable laws, ordinances, and codes of the state and local government and the Consultant shall save the Owner harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract.

14. **Title VI of the Civil Rights Act of 1964:**

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

15. **Section 109 of the Housing and Community Development Act of 1974:**

No person in the United States shall on the grounds of race, color, creed, religion, sex, or national origin be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

16. **Age Discrimination Act of 1975, as Amended:**

No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance. (42 U.S.C. 610 et. seq.)

17. **Section 504 of the Rehabilitation Act of 1973, as Amended:**

No otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funds. (29 U.S.C. 794)
18. **Public Law 101-336, Americans With Disabilities Act of 1990:**

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or be denied the benefits of, the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

19. **Section 3 of the Housing and Community Development Act of 1968 Compliance in the Provision of Training, Employment, and Business Opportunities:**

   a. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, (12 U.S.C. 1701u). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given lower-income residents of the project area; and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.

   b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary from HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD, Washington State, and Spokane County issued thereunder prior to execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability, which would prevent them from complying with these provisions.

   c. The Consultant will send to each labor organization or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

   d. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant, or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of the regulations issued by the Secretary of HUD, 24 CFR Part 135. The Consultant will not subcontract with any contractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract, unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of HUD, Washington State, and Spokane County issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its consultants and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

20. Interest of Members of Owner Organization:

No member of the governing body of the Owner organization and no other officer, employee, or agent of the Owner organization who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct, or indirect, in this contract; and the Consultant shall also take appropriate steps to assure compliance.

21. Interest of Other Public Officials:

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct or indirect, in this contract; and the Consultant shall take appropriate steps to assure compliance.

22. Interest of Consultant and Employees:

The Consultant covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the project area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. The Consultant further covenants that in the performance of this contract no person having such interest shall be employed.

23. Audits and Inspections:

The Owner, Spokane County, the State Auditor, and HUD or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of the CDBG project and this contract, by whatever legal and reasonable means are deemed expedient by the Owner, Spokane County, the State Auditor, and HUD.

24. Hold Harmless:
The Consultant agrees to indemnify and hold harmless the owner, its appointed and elective officers and employees from and against all loss and expense, including attorney's fees and costs by reason of any and all claims and demands upon the Owner, its elected and appointed officers and employees from damages sustained by any person or persons, arising out of or in consequence of the Consultant's and its agents negligent performance or work associated with this agreement. The Consultant shall not be liable for property and bodily injury that may result from the negligence of any construction contractor or subcontractor.

25. **Executive order 11246 Clause:**

During the performance of this contract, the Consultant agrees as follows:

(1) The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(2) The Consultant shall post in conspicuous places, available to employees and applicants for employment, the Equal Employment Opportunity Notice included as attachment #2 to this contract. The Consultant shall further state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) Consultants shall incorporate these requirements into any and all subcontracts.

26. **Special Provisions for Professional Services:**

*Parametrix, Inc* (the Consultant) must be authorized to do business in the State of Washington and be in full compliance with the requirements of the applicable Board of Professional Registration.

*Parametrix, Inc* (the Consultant) must be covered by errors and omissions insurance in an amount not less than $27,640 (amount of contract). If *Parametrix, Inc* (the Consultant) is unable to obtain errors and omissions insurance, they shall post a bond with the Owner for the benefit of the Owner for not less than the amount of its contract. Such insurance or bond shall remain in effect for the entire term of the contract. Cancellation or lapse of the bond or insurance during the term of the
contract shall constitute a material breach of the contract and cause for contract termination. Should Parametrix, Inc (the Consultant) be notified of for any reason to expect a termination or cancellation action by the insurance company, they will provide the Owner with at least 30 days’ advance notice.

In the event that Parametrix, Inc. (the Consultant) is also the project administrator, the bond or insurance shall be for not less than the amount of the entire CDBG project.

This agreement contains all terms and conditions agreed to by the Owner and the Consultant. The attachments to this agreement are identified as follows:

Attachment #1, Consultant’s Bid Proposal, consisting of 4 pages.

IN WITNESS WHEREOF, the Owner and the Consultant have executed this contract agreement as of the date and year last written below:

OWNER

By:

Title:

Date:

CONSULTANT

By: Mark Asman

Title: Principal Engineer

Date: 5/16/19

Approved As To Legal Form:

Attorney
PARAMETRIX

SCOPE & FEES
For
DESIGN, BIDDING AND CONSTRUCTION ADMINISTRATIVE SERVICES FOR
CITY OF CHENEY 2019 CDBG WATER UMPROVEMENTS

SCOPE OF WORK

The project will be administered and inspected in accordance with City of Cheney and CDBG Standards and Criteria.

A. DESIGN SERVICES

1. Site Investigation: Will visit the project site to determine locations of surface features that may be impacted by the project. Items that will be located and shown on the plans include roads, curbs, sidewalks, driveways, trees, signs, fences, hydrants, utility poles, manholes, valves, monuments and fire hydrants.

2. Utility Research: Will research City of Cheney and Avista records to located existing underground utilities found within the project limits.

3. PS&E Package: Will prepare and submit 90% plans, specifications and cost estimate to the City of Cheney and Spokane County Community Development for review. 100% Bid Documents will be prepared based on comments received from the City of Cheney and Spokane County Community Development. The PS&E package is anticipated to include the following information:

   a. Cover Sheet: Including project title, index of drawings, project vicinity map, a legend and general construction notes.

   b. Water System Design Plans: Will provide plan sheets identifying the nature and limits of the proposed water line work. Where required, connection details will be provided. Items that will need to be removed, repaired or replaced will be identified. These items include, but are not limited to asphalt pavement, concrete curbs and sidewalks, signage and landscaping.

   c. Specifications: Will prepare a specification package in accordance with WSDOT and Spokane County Community Development requirements. The specification package will include a copy of the advertisement to bid, proposal, sample contract forms, state and federal prevailing wage rates, WSDOT Amendments to the Standard Specifications, Special Provisions, CDBG required documentation and copies of the relevant standard plans.

   d. Engineers Estimate: Complete a summary of quantities tabulation and develop estimated unit prices for each item based on recent bid history and engineering judgement.

B. BIDDING SERVICES

1. Support During Ad, Bid and Award: Services provided under this category will include uploading the plans and specifications to Abadan to load onto the City’s Online Planroom;
answering questions from bidders during the bid advertisement period; provide assistance in preparing addenda, if needed; provide assistance reviewing bids for award; and preparation of bid tabulations.

C. CONSTRUCTION ADMINISTRATION SERVICES

1. Pre-Construction Conference: Attend and facilitate pre-construction meeting. Prepare and distribute meeting minutes to all parties.

2. Weekly Construction Meetings: Meet with the Contractor's representative(s) and Owner's Construction Manager on a weekly basis as necessary to assist in implementing the construction process. (5 meetings are included)

Engineer shall act as initial interpreter of the requirements of the Contract provisions & plans and judge the acceptability of the work or the interpretation of the requirements of the Contract provision & plans pertaining to the execution and progress of the work and shall notify Owner, in writing, of any non-conformance with the Contract, provided that the Owner shall retain the final decisional authority and Engineer shall not be liable for the results of any decisions rendered by Owner.

3. Technical Interpretations. Assist the Owner in making technical interpretations of the plans, specifications, and Contract provisions, and evaluate requested significant deviations from the approved design or specifications.

4. Prepare Change Order Documentation. Negotiate with the Contractor the scope and cost of any necessary contract change orders for owner approval. All estimated costs and working day revisions shall be independently justified as part of this work.

5. Submittal Review. Review submittals, shop drawings, diagrams, illustrations, catalog data, schedules and samples, the results of tests and inspections, and other data which the Contractor is required to submit. Review and approve materials source submittals and assure the required materials acceptance procedures are in compliance with the WSDOT Construction Manual, the Standard Specifications, and the Local Agency Guidelines and Contract Provisions.

6. Construction Observation. It is anticipated that the City of Cheney will provide on-site representative personnel; to provide on-the-job, day-to-day observation of the work as defined herein; to prepare monthly written progress reports on the work; to tabulate construction quantities on bid items as set forth in the Contract provisions; and to keep records, sketches, and plans of the construction for the preparation of record drawings of the Project. Verify on-site testing is being completed by the contractor, according to the Contract Specifications.

The Engineer shall visit the Project to observe the progress and quality of the work and to determine, in general, if the work is proceeding in accordance with the intent of the Contract documents. Engineer will coordinate with City representative, address questions, and meet on site as necessary.

7. Materials Testing. Will be completed by the contractor's testing agency and reviewed by the Engineer. The Engineer will notify the Contractors and the Owner of any non-conforming materials.
8. Payment Requests. Develop, review, and approve all payment requests. Submit to the City on a monthly basis for payment.

9. Punchlist Review. Review the work with the Owner upon substantial completion and prepare a punchlist of deficient items. Provide the Contractor and owner with the punchlist.

Make a final review of the construction to determine if the work has been completed in conformance with the intent of the Contract documents jointly with Owner’s Construction Manager. Assist in negotiating final payment for construction and submit a final letter report upon which final settlement and termination of the Contract can be based. The Owner and appropriate regulatory agencies may furnish a representative to jointly make the final observation of the construction.

10. Record Drawings. Upon completion of the work, prepare one master set of redlined drawings showing the field record of the constructed sewers using available information supplied by the Contractor(s), on-site representative personnel, suppliers, and other sources. Amend the design drawings to include these changes, and submit one set of the redlined drawings, one set of mylars and one CD to the Owner.
## CHENEY 2019 CDBG WATER SYSTEM IMPROVEMENTS
### FEE ESTIMATE

<table>
<thead>
<tr>
<th>A. DESIGN SERVICES</th>
<th>Principal Engineer ($165/hr)</th>
<th>Project Engineer ($140/hr)</th>
<th>Project Engineer 1 ($100/hr)</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Site Investigation</td>
<td></td>
<td>6</td>
<td></td>
<td>$600.00</td>
</tr>
<tr>
<td>2. Utility Research</td>
<td>2</td>
<td>3</td>
<td></td>
<td>$580.00</td>
</tr>
<tr>
<td>3a. PS&amp;E: Cover Sheet</td>
<td>2</td>
<td>6</td>
<td></td>
<td>$880.00</td>
</tr>
<tr>
<td>3b. PS&amp;E: Design Plans</td>
<td>2</td>
<td>24</td>
<td>36</td>
<td>$7,290.00</td>
</tr>
<tr>
<td>3c. PS&amp;E: Specifications</td>
<td>3</td>
<td>18</td>
<td>4</td>
<td>$3,415.00</td>
</tr>
<tr>
<td>3d. PS&amp;E: Engineers Estimate</td>
<td>1</td>
<td>4</td>
<td>8</td>
<td>$1,525.00</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td>6</td>
<td>50</td>
<td>63</td>
<td>$14,290.00</td>
</tr>
</tbody>
</table>

| B. BIDDING SERVICES                        |                             |                             |                              |      |
| 1. Ad, Bid & Award Support                 |                             | 8                           | 6                            | $1,720.00 |
| **SUBTOTAL**                                | 0                           | 8                           | 6                            | $1,720.00 |

| C. CONST. ADMIN. SERVICES                  |                             |                             |                              |      |
| 1. Pre-Con Meeting                         |                             | 4                           |                              | $560.00 |
| 2. Weekly Meetings                         |                             | 15                          |                              | $2,100.00 |
| 3. Technical Interpretations               | 2                           | 10                          |                              | $1,730.00 |
| 4. Prepare C.O. Docs                       |                             | 6                           |                              | $840.00 |
| 5. Submittal Review                        |                             | 2                           | 6                            | $880.00 |
| 6. Const. Observation                      |                             | 8                           | 8                            | $1,920.00 |
| 7. Materials Testing                       |                             | 2                           |                              | $280.00 |
| 8. Payment Requests                        |                             | 8                           |                              | $1,120.00 |
| 9. Punchlist Review                        |                             | 6                           |                              | $840.00 |
| 10. Record Drawings                        |                             | 4                           | 8                            | $1,360.00 |
| **SUBTOTAL**                                | 2                           | 65                          | 22                           | $11,630.00 |

**TOTAL:**

<p>| | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8</td>
<td>123</td>
<td>91</td>
<td>$27,640.00</td>
</tr>
</tbody>
</table>