

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement between the **City of Weiser** ("Owner") and **Keller Associates, Inc.** ("Consultant") and is effective as of the date of the last signature to the Agreement (Effective Date).

Owner's Project, of which Consultant's services under this Agreement are a part, is generally identified as follows: **Paddock Avenue Sewer Pipeline** ("Project").

The Owner and the Consultant agree to the following Project scope, schedule, and compensation:

SCOPE: Consultant's services under this Agreement are generally identified in Attachment A.

SCHEDULE: The schedule shall commence on the Effective Date of the Agreement. Consultant anticipates completing its services in accordance with Attachment A.

COMPENSATION:

Basic Services. As compensation for services to be performed by Consultant, the Owner will pay Consultant a lump sum amount of \$13,645 (thirteen thousand six hundred forty-five dollars) as described in Attachment A.

Additional Services. Compensation for performing Additional Services will be pursuant to a mutually agreed upon amendment to this Agreement.

In Witness Whereof, the parties hereto have executed this Agreement as of the date of the last signature below. The Terms and Conditions attached are included and incorporated in this agreement by this reference. Owner and Consultant further acknowledge that they have reviewed and accepted the attached Terms and Conditions.

OWNER: CITY OF WEISER

CONSULTANT: KELLER ASSOCIATES, INC.

Signature: _____
Name: _____
Title: _____
Address: _____
Telephone: _____
Date: _____

Signature: _____
Name: Justin Walker
Title: Principal
Address: 100 East Bower Street, Suite 110
Meridian, ID 83642
Telephone: (208) 288-1992
Date: _____

TERMS AND CONDITIONS

1. **CONTRACT** – This document constitutes the full and complete Agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral. The Agreement may be amended only if both parties specifically agree in writing to such amendment of the Agreement.
2. **INVOICES AND PAYMENT** – Owner will make payment within 15 calendar days of the invoice date. Consultant shall keep accurate records of expenses. If Owner contests an invoice, Owner shall advise the Consultant within 15 days of receipt of invoice of the specific basis for doing so, may withhold only that portion so contested, and shall pay the undisputed portion.

Interest. If payment is not received by the Consultant within 30 calendar days of the invoice date, Owner shall pay interest at a rate of 1½% per month (or the maximum allowable by law, whichever is lower) of the past due amount. Payments will be credited first to interest and then to principal.

Suspension. If the Owner fails to make payments when due, the Consultant may suspend performance of services upon five (5) calendar days' notice to the Owner. Owner agrees to indemnify and hold Consultant harmless from any claim or liability resulting from such suspension.
3. **DOCUMENTS** – All documents prepared or furnished by Consultant are instruments of service, and Consultant retains ownership and property interest (including the copyright and the right of reuse) in such documents. Owner shall have a limited license to use the documents in and for the Project subject to full payment for all services relating to preparation of the documents. The Owner agrees to obtain prior written agreement for any reuse or modifications of the instruments of service, and understands that any unauthorized use of the instruments of service shall be at the Owner's sole risk and without liability to the Consultant.
4. **STANDARD OF CARE** – The standard of care for all professional engineering and related services performed or furnished by the Consultant 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. The Consultant makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with the Consultant's services. Consultant shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws, rules, ordinances, and such other requirements in effect as of the date of execution of this Agreement.
5. **CHANGES OR DELAYS** – The proposed scope of services, compensation, schedule, and allocation of risks reflect Consultant's understanding of the Project at the date of this Agreement. Costs and schedule commitments shall be subject to renegotiation for changed conditions, unreasonable delays caused by the Owner's failure, independent government agencies, Force Majeure events (i.e. acts of God, riots, wars, sabotage, strikes, civil disturbances, pandemics, government declared emergencies, etc.), or causes beyond the reasonable control of Consultant. Where this occurs, changes in the Agreement shall be negotiated and an equitable adjustment in compensation and schedule shall be made.
6. **TERMINATION OR REDUCTION OF SERVICES** – The Owner and Consultant may terminate this Agreement in whole or in part at any time by giving 30 days written notice thereof. The Owner shall promptly pay Consultant for all services rendered to the effective date of suspension of services, plus suspension charges, which shall include the cost of assembling documents, personnel and equipment, rescheduling or reassignment, and commitments made to others on the Owner's behalf. If Owner elects to terminate, modify, or reduce any portion of Consultant's services under this Agreement, Owner shall indemnify Consultant from any damages related to the services or activities Consultant did not provide.
7. **SUSPENSION OF SERVICES** – If the Owner suspends services of the Consultant for any reason for more than thirty days, the Consultant shall be reimbursed for expenses incurred due to suspension of services, including costs associated with rescheduling or reassigning personnel, and commitments made to others on Owner's behalf.
8. **INDEMNITY AND LIMITATION OF LIABILITY** – Owner and Consultant each agree to indemnify and hold the other (including their respective officers, directors, employees, agents, owners, shareholders, members, partners, sub-consultants, subcontractors, and representatives) harmless from and against liability for all claims, losses, damages and expenses, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Owner and Consultant, they shall be borne by each party in proportion to its negligence. Neither the Owner nor Consultant shall be liable for incidental, indirect or consequential damages. The Consultant's liability to the Owner and to all construction contractors and subcontractors on the Project, due to the Consultant's negligent acts, errors omissions, or breach of contractual obligations relating to or arising out of the Project shall not exceed the Consultant's total fee.

9. **OPINIONS OF COST** – Consultant’s opinions of probable cost represent Consultant’s judgment as an experienced and qualified design professional. Since Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Owner’s and other contractor’s methods of determining prices, or over competitive bidding or market conditions, the Consultant cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable cost prepared by the Consultant.
10. **CONSTRUCTION PHASE SERVICES** – If Consultant performs any services during the construction phase of the Project, Consultant shall not supervise, direct, or have control over Owner’s contractor’s work. Consultant shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of the contractor. Consultant does not guarantee the performance of the construction contract by the contractor and does not assume responsibility for the contractor’s failure to furnish and perform its work in accordance with the Contract Documents. Consultant will not direct or alter payment methodology between Owner and Contractor. Owner agrees to indemnify and hold harmless Consultant from any liability for fraudulent electronic transfers.
11. **MISCELLANEOUS**

Right of Entry: Unless otherwise noted in the scope of work, the Owner shall provide for Consultant’s right to enter the property owned by the Owner and others in order to fulfill the services to be performed hereunder.

Dispute Resolution: Owner or its Contractor agree to notify Consultant of any claims against the Consultant within 10 days of discovery of any allegations, errors or omissions. Should a dispute arise, Owner and Consultant agree to negotiate disputes between them in good faith for a period of 30 calendar days from the date the dispute is raised in writing by either the Owner or Consultant. If the parties fail to resolve the dispute through negotiation, then the dispute shall be decided through non-binding mediation or other mutually agreed alternative dispute resolution technique. Fees and expenses for mediation shall be split equally between the parties. The Owner and Consultant agree non-binding mediation or other mutually acceptable dispute resolution technique shall precede litigation. This Agreement shall be governed by the laws of the State where the Project is located.

Hazardous Environmental Conditions: The scope of Consultant’s services does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead or other hazardous materials, as defined by Federal, State, and local laws or regulations. Consultant is not required to become an arranger, operator, generator, or transporter of hazardous substances, and shall have no responsibility for the discovery, handling, removal, disposal or exposure of persons to hazardous substances of any form.

Subsurface Investigations: In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics may vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect total project cost and/or execution. These conditions and cost/execution effects are not the responsibility of Consultant.

Consultant Reliance: Owner shall make available to Consultant all relevant information pertinent to the Project. Consultant shall be entitled to rely, without liability or the need for independent verification, on the accuracy and completeness of any and all information provided by Owner, Owner’s consultants and contractors, information from public records, and information ordinarily or customarily furnished by others, including, but not limited to specialty contractors, manufacturers, suppliers, and publishers of technical standards.

Certifications: Consultant shall not be required to sign any documents that result in Consultant having to certify, warrant, or guarantee the existence of conditions whose existence Consultant cannot ascertain within its services for the Project.

Third Parties: Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Consultant. Consultant’s services hereunder are being performed solely for the benefit of the Owner, and no other entity shall have any claim against Consultant because of this Agreement or Consultant’s performance of services hereunder.

Severability and Waiver: In the event any of these contract provisions are found to be illegal or otherwise unenforceable, the unenforceable contract provisions will be stricken, and those remaining contract provisions shall continue in full force and effect. The failure of either party of this Agreement to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, shall not be construed as a waiver of such term, covenant or right.

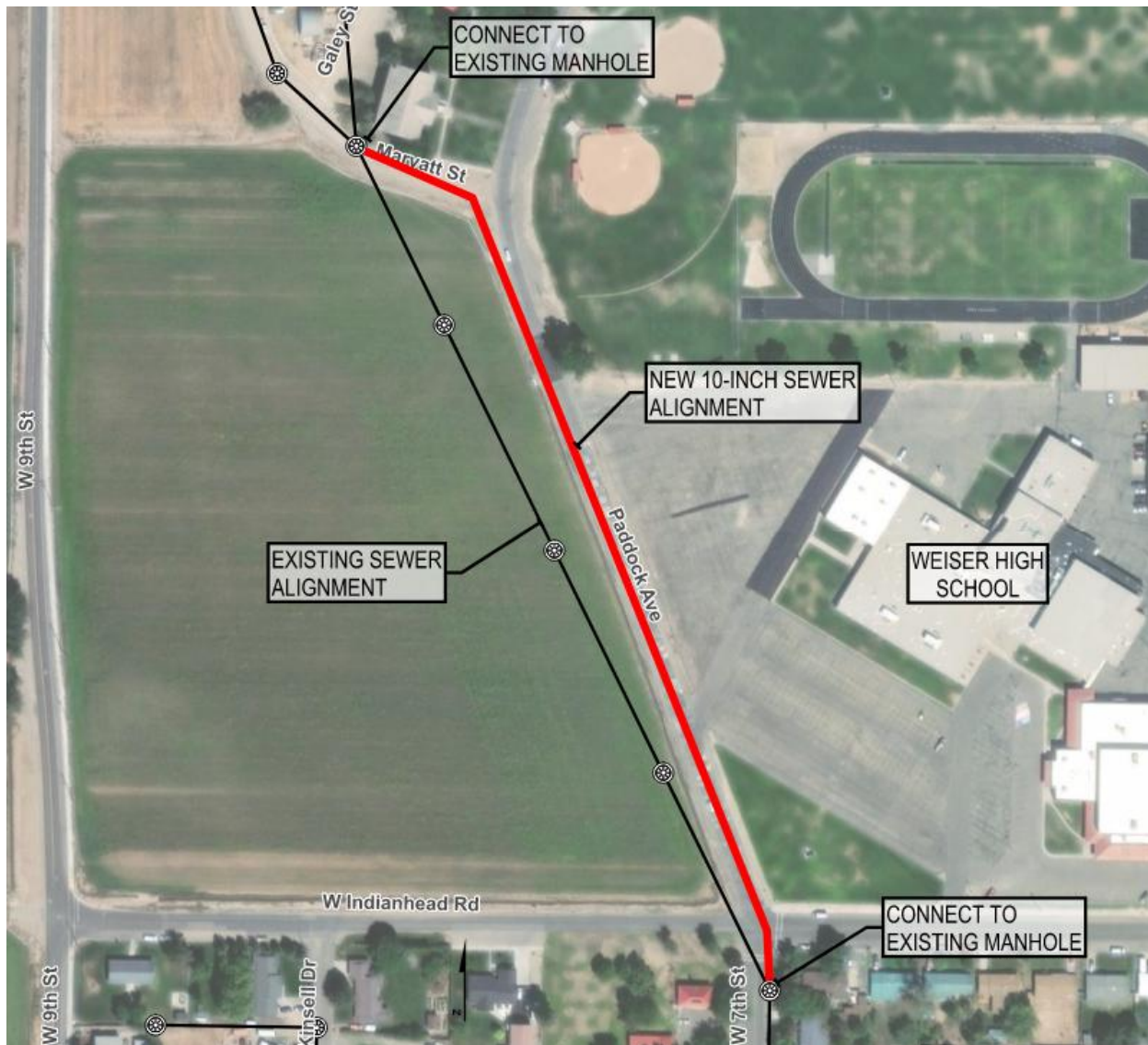
Joint Drafting: The Parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

Attachment A
CITY OF WEISER
PADDOCK AVENUE SEWER PIPELINE
SCOPE OF WORK

PROJECT DESCRIPTION

The **City of Weiser** (“Owner”) has contracted with **Keller Associates, Inc.** (“Consultant”) to provide design and bidding services for installing a new sanitary sewer pipeline. The Consultant’s scope of work has been developed based on the following project description. As the project moves forward, some of the information may change or be refined, and additional information will become known, resulting in the possible need to change, refine, or supplement the scope of work.

This project consists of installing approximately 1,400 ft of new 10-inch sewer pipe within Paddock Avenue from Maryatt Street to the intersection of W 7th Avenue and W Indianhead Road (see figure below). The existing sewer pipeline is located outside of the existing right-of-way, and this project will re-align the pipeline into the right-of-way in Paddock Avenue. The construction is anticipated to be installed via open trench methods. The project is being funded by the Owner.



Consultant's services are limited to those services outlined in the following scope of work.

SCOPE OF WORK

TASK 1: PROJECT MANAGEMENT

Consultant Responsibilities:

- 1.1. General Project Management. Provide general project administration services including contract administration, project accounting, scheduling, and internal project administration.

Owner Responsibilities:

- Provide meeting space for project meetings. Provide advertising as needed.

Assumptions:

- Project management budget assumes a project schedule of up to 3 months.

Deliverables:

- Monthly invoices and project update summaries.

TASK 2: DESIGN PHASE SERVICES

Consultant Responsibilities:

- 2.1. Topographic Surveying. Provide limited topographic survey to establish benchmarks for construction reference, establish elevations at the connection points, document location of existing utilities to show minimum setback distances are met, and establish existing ground elevations for the proposed sewer alignment to be used to calculate the new manhole depths. Assumes the City will mark existing utilities, and a drone aerial image will be used to identify location of existing marked utilities. Survey will use NAVD88 Vertical Datum and Idaho State Plane Horizontal datum.
- 2.2. 75% Design Plans. Consultant will prepare and submit 75% design documents to the Owner. Drawings will include plan and profile views showing the pipe and manhole elevations, slopes, utility crossings, and alignment. Plans will also include a vicinity map, sheet index, north arrow, scale, pipe size, type, location of manholes, and reference to appropriate design standards. Three plan and profile sheets are assumed.
- 2.3. 100% Design Plans. Address 75% design review comments and advance design to 100%. Drawings include updated general, civil, and detail sheets as needed. The Idaho Standards for Public Works Construction (ISPWC) will be used for technical specifications.
- 2.4. Agency Submittal. Submit plans to Idaho Department of Environmental Quality (DEQ). Respond to one round of review comments and resubmit revised plans.

Owner Responsibilities:

- Mark existing utilities within the project corridor prior to surveying.
- Provide consolidated written comments and input on the design deliverables.
- Assist in identifying permits and approvals which may be required. Pay for any associated permitting fees.
- Provide input on location and sizes of service lines, meters, hydrants, and valves to be replaced/upgraded. Provide input on construction constraints.
- Provide private property, stakeholders, and public outreach efforts as needed.

Assumptions:

- Surveying does not include an extensive topographic survey of all visible structures and existing ground elevations. Survey will be limited to only gathering data required to design the pipeline, provide benchmarks for construction, and demonstrate potable/non-potable separation distances are met. Right-of-way and boundary surveying, legal descriptions, and setting monuments are not included.
- The following design standards and references are to be considered where relevant during the development of the project:
 - Idaho Standards for Public Works Construction (ISPWC)
 - EJCDC for front end contracting and bidding documents (Div 00)
- Scope does not include preparing nor implementing a Storm Water Pollution Prevention Plan (SWPPP), traffic control plans, or securing associated permits. Shoring (if required) will be provided by the Owner or can be designed by the Consultant as an additional service.
- Additional professional time for correspondence and meetings, due to an Owner or Contractor initiated change in the project design, preparing additional bidding-related documents (i.e. contract prequalification, equipment prepurchase, and alternative bids), participating in project peer reviews or value engineering, and/or project support above and beyond that described is considered an additional service.
- AutoCAD is to be used to prepare drawings and AutoCAD Civil 3D. Spreadsheets will be prepared in Microsoft Excel and text documents in Microsoft Word.
- Does not include developing front-end bidding documents.

Deliverables:

- 75% design drawings, including one PDF submittal (prepared in 22"x34" reviewed in 11"x17")
- 100% design drawings, including one PDF submittal (prepared in 22"x34" reviewed in 11"x17").

TASK 3: BIDDING PHASE SERVICES (FUTURE TASK)

TASK 4: CONSTRUCTION ADMINISTRATION SERVICES (FUTURE TASK)

SCHEDULE

Consultant anticipates the following project schedule. The number of days associated with each of the tasks are approximate and assume timely delivery of requested information. Actual schedule may vary:

Task	Schedule	Comments
Task 2 – 75% Design Complete	60 days	75% Design plans will be completed within 60 days after receiving notice to proceed from the Owner.
Task 2 – 100% Design Submission to Agency	30 days	100% Design Plans will be completed and submitted to Agency within 30 days after receiving Owner comments from the 75% review design meeting.

COMPENSATION

As compensation for services to be performed by Consultant, the Owner will pay Consultant as described in the following table. The total authorized budget amount shall not be exceeded without written authorization from the Owner. Lump sum amounts shall include all costs for direct labor, indirect labor, overhead, reimbursable expenses, equipment, travel, per diem, and fixed fees.

Task	Type	Amount
Task 1 – Project Management	LS	\$1,365
Task 2 – Design Phase Services	LS	\$12,280
Task 3 – Bidding Phase Services (FUTURE TASK)	-	-
Task 4 – Construction Administration Services (FUTURE TASK)	-	-
Total Cost		\$13,645

LS = Lump Sum T&M = Time and Materials