

STATE LAND AND INVESTMENTS
2015 AUG 24 AM 11 38

**CONTRACT FOR A STUDY AND FINAL REPORT AND RECOMMENDATIONS
ADDRESSING THE MANAGEMENT OF PUBLIC LANDS IN WYOMING BY THE
STATE OF WYOMING**

BETWEEN THE

**STATE OF WYOMING OFFICE OF STATE LANDS AND INVESTMENTS
AND
Y2 CONSULTANTS, LLC**

1. **Parties.** The parties to this Contract are the State of Wyoming Office of State Lands and Investments (Agency), whose address is: Herschler Building, 3W, 122 West 25th Street, Cheyenne, Wyoming 82002, and Y2 Consultants, LLC (Contractor), whose address is: 215 East Simpson, P. O. Box 2674, Jackson, Wyoming 83001.
2. **Purpose of Contract.** The purpose of this Contract is to set forth the terms and conditions by which the Contractor shall perform a study and report that includes, at a minimum, an analysis of the topics detailed in Section 5 below. The study and report shall include a proposed plan for the administration, management, and use of the federal public lands in the State of Wyoming under the principle of multiple use and sustained yield including, but not limited to, the continuation of all existing public access to the lands for hunting, fishing and recreation subject to closure for special circumstances including public safety and environmental sensitivity.
3. **Term of Contract and Required Approvals.** This Contract is effective when all parties have executed it and all required approvals have been granted (Effective Date). The term of the Contract is from the Effective Date through September 1, 2016. All services shall be completed during this term.

By law, contracts for professional or other services must be approved as to form by the Attorney General and approved by A&I Procurement, Wyo. Stat. § 9-1-403(b)(v), and all contracts for services costing over one thousand, five hundred dollars (\$1,500.00) must be approved by the Governor or his designee, Wyo. Stat. § 9-2-1016(b)(iv).

4. **Payment.** The Agency agrees to pay the Contractor for the services described in Section 5 below. Total payment under this Contract shall not exceed Seventy-Five Thousand Dollars (\$75,000.00). Payment shall be made monthly. Payment shall be made upon submission of invoice pursuant to Wyo. Stat. § 16-6-602. No payment shall be made for work performed before the Effective Date of this Contract. Contractor shall submit invoices in sufficient detail to ensure that payments may be made in conformance with this Contract. Should the Contractor fail to perform in a manner consistent with the terms and conditions set forth in this Contract, payment under this Contract may be withheld until such time as the Contractor performs its duties and responsibilities to the satisfaction of the Agency.

5. **Responsibilities of Contractor.** The Contractor agrees to:
- A. Provide the services described in Attachment A, Statement of Work, which is attached to and made a part of this Contract by this reference, and all responses to the Request for Proposal Number 0373-Z.
6. **Responsibilities of Agency.** The Agency agrees to:
- A. Pay Contractor in accordance with Section 4 above.
7. **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 First Judicial District, Laramie County, Wyoming.
 - C. **Assignment/Contract Not Used as Collateral.** Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the other party. The Contractor shall not use this Contract, or any portion thereof for collateral for any financial obligation without the prior written permission of the Agency.
 - D. **Audit/Access to Records.** The Agency and its representatives shall have access to any books, documents, papers, electronic data and records of the Contractor which are pertinent to the services provided in this Contract.
 - E. **Availability of Funds.** Each payment obligation of the Agency is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for continued performance of the Contract, the Contract may be terminated by the Agency at the end of the period for which the funds are available. The Agency shall notify the Contractor at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the Agency in the event this provision is exercised, and the Agency shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the Agency to terminate this Contract to acquire similar services from another party.
 - F. **Award of Related Contracts.** The Agency may award supplemental or successor contracts for work related to this Contract. The Contractor shall cooperate fully with other contractors and the Agency in all such cases.

- G. Certificate of Good Standing.** Contractor shall provide to Agency a Certificate of Good Standing verifying compliance with the unemployment insurance and workers' compensation programs before and during performing work under this Contract, if applicable.
- H. 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.
- I. Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, data and 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 the Agency for its release. If and when Contractor receives a request for information subject to this Contract, Contractor shall notify Agency within ten (10) days of such request and not release such information to a third party unless directed to do so by Agency.
- J. Entirety of Contract.** This Contract, consisting of eight (8) and Attachment A, Statement of Work, consisting of four (4) pages, represent the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral.
- K. 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.
- L. Extensions/Renewals.** Nothing in this Contract shall be interpreted or deemed to create an expectation that this Contract will be extended beyond the term described herein.

Any extension of this Contract shall be initiated by the Agency and shall be accomplished through a written amendment between the parties entered into before the expiration of the original Contract or any valid amendment thereto, and shall be effective only after it is reduced to writing and executed by all parties to the Contract.

- M. 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.

- N. Indemnification.** The Contractor shall indemnify, defend, and hold harmless the State, the Agency, and 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 malpractice or malfeasance.
- O. 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 State of Wyoming for any purpose. Consistent with the express terms of this Contract, the Contractor shall be free from control or direction over the details of the performance of services under this Contract. 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 or its agents and/or employees to act as an agent or representative for or on behalf of the State of Wyoming or the Agency or to incur any obligation of any kind on the behalf of the State of Wyoming or the Agency. The Contractor agrees that no health/hospitalization benefits, workers' compensation, unemployment insurance and/or similar benefits available to State of Wyoming employees will inure to the benefit of the Contractor or the Contractor's agents and/or employees as a result of this Contract.
- P. Nondiscrimination.** The Contractor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. §27-9-105 et seq.), the Americans with Disabilities Act (ADA), 42 U.S.C. §12101, et seq., and the Age Discrimination Act of 1975 and/or any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance under this agreement.
- Q. Notices.** All notices arising out of, or from, the provisions of this Contract shall be in writing either by regular mail, facsimile, e-mail or delivery in person at the address(es) provided under this Contract. Notice provided by facsimile or e-mail shall be delivered as follows:

Agency: Susan Child, Deputy Director
Office of State Lands and Investments
Herschler Building, 3W
122 West 25th Street
Cheyenne, Wyoming 82002
susan.child@wyo.gov
Fax Number: 307.777.3524

Contractor: Brenda Younkin, Owner
Y2 Consultants, LLC.
P. O. Box 2674
215 East Simpson
Jackson, Wyoming 83001
brenda@y2consultants.com
Fax Number: 307.733.8333

- R. Notice and Approval of Proposed Sale or Transfer.** The Contractor shall provide the Agency with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Contractor. Such notice shall be provided in accordance with the notices provision of this Contract. If the Agency determines that the proposed merger, consolidation, sale, or transfer of assets is not consistent with the continued satisfactory performance of the Contractor's obligations under this Contract, then the Agency may, at its option, terminate or renegotiate the Contract.
- S. Ownership and Destruction of Documents/Information.** Agency owns all documents, data compilations, reports, computer programs, photographs, data and other work provided to or produced by the Contractor in the performance of this Contract. Upon termination of services, for any reason, Contractor agrees to return all such original and derivative information/documents to the Agency in a useable format. In the case of electronic transmission, such transmission shall be secured. The return of information by any other means shall be by a parcel service that utilizes tracking numbers. Upon Agency's verified receipt of such information, Contractor agrees to physically and electronically destroy any residual Agency-owned data, regardless of format, and any other storage media or areas containing such information. Contractor agrees to provide written notice to Agency confirming the destruction of any such residual Agency-owned data.
- T. Patent or Copyright Protection.** The Contractor recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license, or other similar restrictions, and warrants that no work performed by the Contractor or its subcontractors will violate any such restriction. The Contractor shall defend and indemnify the Agency for any violation or alleged violation of such patent, trademark, copyright, license, or other restrictions.
- U. Prior Approval.** This Contract shall not be binding upon either party, no services shall be performed under the terms of this Contract, and the Wyoming State Auditor shall not draw warrants for payment on this Contract until this Contract has been reduced to writing, approved as to form by the Office of the Attorney General, filed with and approved by A&I Procurement, and approved by the Governor of the State of Wyoming, or his designee, if required by Wyo. Stat. § 9-2-1016(b)(iv).
- V. Proof of Insurance.** The Contractor shall not commence work under this Contract until it has obtained all the insurance required by the Agency and the

- V. **Proof of Insurance.** The Contractor shall not commence work under this Contract until it has obtained all the insurance required by the Agency and the State and such insurance has been approved by the Agency and the State. Approval of insurance by the Agency and the State shall not relieve or decrease the liability of the Contractor. The Contractor shall file a Certificate of Insurance with the Agency verifying each type of coverage required.
- (i) **Workers' Compensation and Employer's Liability Insurance.** The Contractor shall provide Agency with a Certificate of Good Standing or other proof of workers' compensation coverage for all its employees who are to work on the project described in this Contract. Contractor's coverage shall be under the Wyoming Department of Workforce Services' workers' compensation program if statutorily required or such other private workers' compensation insurance, as appropriate. Non-Wyoming Contractor's insurance coverage shall also include Employer's Liability "Stop Gap" coverage, in an amount not less than five hundred thousand dollars (\$500,000) per employee for each accident and disease. The Contractor shall also supply proof of workers' compensation and employers' liability insurance, if required, for each and every subcontractor prior to allowing that subcontractor on the job site.
- (ii) **Commercial General Liability Insurance.** The Contractor shall provide commercial general liability insurance coverage, during the entire term of this 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, and products and completed operations, 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.
- (iii) **Unemployment Insurance.** The Contractor shall be duly registered with the Department of Workforce Services and obtain such unemployment insurance coverage as required. Such coverage shall be maintained throughout the duration of this Contract. The Contractor shall supply Agency with a Certificate of Good Standing or other proof of unemployment insurance coverage for itself and each and every subcontractor prior to beginning work under this Contract and at any time upon request of Agency.
- W. **Publicity.** Any publicity given to the project, programs or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices in whatever form, prepared by or for the Contractor, shall identify the Agency as the sponsoring agency and shall not be released without prior written approval from the Agency.
- X. **Severability.** Should any portion of this Contract be judicially determined to be illegal or unenforceable, the remainder of the Contract shall continue in full force and effect, and the parties may renegotiate the terms affected by the severance.

- Y. Sovereign Immunity.** The State of Wyoming and Agency do not waive sovereign immunity by entering into this Contract and specifically retain all immunities and defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(a) and all other applicable law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.
- Z. 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.
- AA. Termination of Contract.** This Contract may be terminated, without cause, by the Agency upon thirty (30) days written notice. This Contract may be terminated by the Agency immediately for cause if the Contractor fails to perform in accordance with the terms of this Contract.
- If at any time during the performance of this Contract, in the opinion of the Agency, the work is not progressing satisfactorily or within the terms of this Contract, then at the discretion of the Agency and after written notice to the Contractor, the Agency may terminate this Contract or any part of it. As of the termination date, the Contractor will be entitled to a pro rata payment for all work accomplished and accepted by the Agency; however, the Contractor shall be liable to the Agency for the entire cost of replacement services for the duration of the contract term.
- BB. 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 this Contract are intended only to assist the parties in determining and performing their obligations under this Contract.
- CC. Time is of the Essence.** Time is of the essence in all provisions of this Contract.
- DD. Titles Not Controlling.** Titles of sections and subsections are for reference only and shall not be used to construe the language in this Contract.
- EE. 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. Failure to object to a breach shall not constitute a waiver.

9. **Signatures.** The parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Contract.

This Contract is not binding on either party until approved by A&I Procurement and the Governor of the State of Wyoming or his designee, if required by Wyo. Stat. § 9-2-1016(b)(iv).

The effective date of this Contract is the date of the signature last affixed to this page.

AGENCY:

State of Wyoming
Office of State Lands and Investments


Bridget Hill, Director


Date

CONTRACTOR:

Y2 Consultants, LLC.


Brenda Younkin, Owner


Date

ATTORNEY GENERAL'S OFFICE: APPROVAL AS TO FORM


Megan Nicholas, Senior Assistant Attorney General


Date

ATTACHMENT A

STATEMENT OF WORK

Introduction/Background

Pursuant to 2015 Session Laws, Ch. 192, § 1, the Sixty-Third Legislature of the State of Wyoming 2015 General Session directed the Office of State Lands and Investments (OSLI) to commission a study and provide a report and recommendations addressing the management of specific federally administered public lands (the Lands) in the State of Wyoming by the State of Wyoming.

Scope of Work

This scope of work includes all planning and execution necessary to conduct the study and draft a final report and recommendations in accordance with the specific deliverables and tasks presented in the Work Requirements Section and the Schedules/Milestones Section of this Statement of Work (SOW). The study and report shall include, at a minimum, an analysis of the topics outlined in the SOW and a proposed plan for the administration, management, and use of the federal public lands in the State of Wyoming under the principle of multiple use and sustained yield including, but not limited to, the continuation of all existing public access to the lands for hunting, fishing and recreation subject to closure for special circumstances including public safety and environmental sensitivity.

Period of Performance

The period of performance for the study and report begins on the Effective Date of the Contract by and between the State of Wyoming, Office of State Lands and Investments and Y2 Consultants, LLC (Y2) and ends on September 1, 2016. All work performed by Y2 must be scheduled for completion within this timeframe. Any extension shall be initiated by OS LI and shall be accomplished through a written amendment to the Contract between OS LI and Y2 entered into before the expiration of the original Contract, and shall be effective only after it is reduced to writing and executed by all parties to the Contract.

Place of Performance

Y2 will perform the majority of the work at its own facility. There shall be constant (possibly daily) communication between OS LI and Y2 throughout the entire process of the study, preparation of the report and development of the recommendations. Y2 will be required, at a minimum, to communicate with OS LI via conference call and/or WebEx for weekly project status updates. While most of the communication will be by phone and email, it is expected that the Y2's project lead may need to meet with OS LI's project lead and/or staff as necessary. Travel by Y2 for these meetings as necessary will not be billable travel expenses. Y2 will also be required, at the expense of Y2, to send a representative to a minimum of one (1) Select Federal

Natural Resource Management Committee meeting at a location within the State of Wyoming to be determined and date to be announced.

Work Requirements

At a minimum, the study and final report shall include and provide the following:

1. An identification of federally administered public lands within the State and the interests, rights and uses associated with the Lands. The study shall exclude current congressionally designated wilderness areas; national conservation areas; and lands currently administered by the Department of Energy, Department of Defense; the Department of Interior's Bureau of Indian Affairs; United States Fish and Wildlife Service; and National Park Service.
2. An economic analysis concerning the management of the Lands including:
 - i) The identification of all costs directly incident to the management of the Lands.
 - ii) A comparison of the likely costs for the State of Wyoming to manage the Lands and the costs incurred by the federal government to manage the Lands. In determining likely costs, the comparison shall consider differing land management objectives and practices.
 - iii) The identification of sources of revenue to pay for the administration and maintenance of the Lands by the State of Wyoming, including appropriate fees to charge the federal government for the management of the Lands.
 - iv) A determination of the amount of any revenue that is currently received by the State of Wyoming, or political subdivision thereof, in connection with the Lands, including but not limited to, any payments made in lieu of taxes, mineral royalties and leases and Secure Rural Schools and Forest payments.
 - v) The identification of any potential revenue which may be received from the Lands by the State of Wyoming after the management of the Lands by the State of Wyoming and recommendations for the distribution of those revenues.
 - vi) Consideration of other relevant federal actions or policies determined to impact revenues to the State of Wyoming due to federally managed lands.
3. Identification of traditional cooperative and cost-sharing opportunities and programs associated with the Lands and state land management agencies.

To the extent possible, the study shall include any other relevant factors Y2 concludes would be helpful in identifying the policy considerations surrounding the State of Wyoming managing the Lands.

Schedule/Deliverables/Milestones

The list below consists of the initial milestones identified for the subject study, report and recommendations by OSLI and Y2:

Period of Performance Begins	Effective Date of Contract
Identification of the Lands within the State within the State	August 1 – 31, 2015
Identification of the interest, rights and uses associated with the Lands	September 1 – 30, 2015
Meeting with State staff to review scope and status	Date TBD for September, 2015
Identification of costs directly incident to management of the Lands	October 1 – November 30, 2015
Identification of revenues (current and potential) directly incident to management of the Lands; consideration of other federal actions or policies that may impact revenues	November 1, 2015 – January 31, 2016
Meeting with State staff to review scope and status	Date TBD for January 2016
Cost-share opportunities and additional information gathering	January 1 – March 31, 2016
Draft report provided to State for review	June 30, 2016
Meeting with State staff to review draft document (if needed)	Date TBD for July, 2016
Final comments due from State	July 31, 2016
Final document provided to State	August 31, 2016
*Date(s) TBD for attendance at Federal Natural Resource Management Committee Meetings but participation is assured.	
Period of Performance Ends	September 1, 2016

Acceptance Criteria

The acceptance of all deliverables will reside with Susan Child, Deputy Director, Office of State Lands and Investments. The Deputy Director will maintain a team of three (3) advisors in order to ensure the completeness of each stage of the project that the scope of work has been met. When a project phase is completed and Y2 provides their report/presentation for review and approval, the Deputy Director will either sign off on the approval for the next phase to begin, or reply to Y2 in writing, advising what tasks must still be accomplished.

Once all project tasks have been completed, the project will enter the handoff/closure stage. During this stage of the project, Y2 will provide their project closure report and project task checklist to the Deputy Director. The acceptance of this documentation by the Deputy Director will acknowledge acceptance of all project deliverables and that Y2 has met all assigned tasks.

Any discrepancies involving completion of the project tasks or disagreement by OSLI and Y2 will be referred to Bridget Hill, Director of the Office of State Lands and Investments and Brenda Younkin, Owner of Y2.