

OPERATING AGREEMENT

Between Laramie County Community College and the Laramie County Community College Foundation

THIS AGREEMENT is made on this ___ day of _____, 2015, between THE TRUSTEES OF LARAMIE COUNTY COMMUNITY COLLEGE (hereinafter “LCCC” or “the College”) and THE LARAMIE COUNTY COMMUNITY COLLEGE FOUNDATION (hereinafter the “Foundation”) and created by the parties by mutual consent.

RECITALS

WHEREAS, Laramie County Community College District is the body corporate established by statute as a subdivision of Laramie County, Wyoming that established and maintains LCCC. See WYO. STAT. ANN. § 21-18-102(a) (viii) (2009); and

WHEREAS, LCCC is the institution established under the “Wyoming Community College System Code” by the Laramie County Community College District. See WYO. STAT. ANN. § 21-18-102(a)(xiii) (2009); and

WHEREAS, the LCCC Board of Trustees is the elected “Governing board” of Laramie County Community College District. See WYO. STAT. ANN. § 21-18-102(a)(vii) (2009); and

WHEREAS, the Foundation is a private, nonprofit organization, tax-exempt in accordance with 26 U.S.C.A. § 501(c)(3) (2010) of the Internal Revenue Code of 1986, as amended, established for the primary purpose of generating, receiving, holding, investing, managing and allocating funds for the benefit and advancement of the College, and is operated separately and independently of LCCC; and

WHEREAS, the Foundation Board of Directors is a group of individuals elected by the entire Foundation to govern the Foundation; and

WHEREAS, the parties desire to formalize their relationship to achieve an efficient coordination between them to foster the educational and cultural programs and services of the College; and

WHEREAS, the purpose of this Agreement is to define the nature of the relationship and exchange of services between LCCC and the Foundation. LCCC’s obligations hereunder constitute compensation to the Foundation for services to be performed for the benefit of LCCC in accordance with WYO. STAT. ANN. § 21-18-303(a)(ix) (2009);

NOW, THEREFORE, in consideration of the mutual covenants and commitments of LCCC and the Foundation (“Parties”) contained herein, the mutual benefits to be gained by the performance hereof, and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

TERMS OF AGREEMENT

1.0 Term

This Agreement shall commence on the ___ day of _____, 2015 and shall continue in effect for a period of three (3) years with an option for automatic renewal of another three (3) years upon approval of both parties, unless earlier terminated as provided hereinafter (the "Term"). This Agreement may be reviewed annually by the Parties, however the Parties must review this Agreement in the spring of the third year to formally approve continuance for the second three (3) years. Either party may terminate this Agreement at any time without penalty, provided that written notice of such termination is furnished to the other party at least sixty (60) days prior to the effective date of termination. All services shall be completed until the termination of this Agreement.

2.0 LCCC Name, Seal and Logotype

Consistent with its mission to help advance the plans, priorities, and objectives of the College, the Foundation is granted the use of the name Laramie County Community College and is granted the use of the LCCC logo until such time as the Foundation dissolves, the Foundation ceases to be recognized as a tax exempt organization, or LCCC's Board of Trustees withdraws its designation of the Foundation pursuant to Section 4.0 below. The Foundation may also select and approve a logo as its own identifying mark.

3.0 The Foundation's Relationship to LCCC

The Foundation's Board of Directors is responsible for the control and management of all assets of the Foundation, including the prudent management of all gifts made to the Foundation consistent with donor intent and according to all applicable laws.

The Foundation is responsible for the performance and oversight of all aspects of its operations based on a comprehensive set of bylaws that clearly address the board's fiduciary responsibilities, including expectations of individual board members based upon legal and ethical guidelines and policies.

As described below, the Foundation shall support various College units and the College in general through the services outlined in Section 7.0 unless the parties agree otherwise by a written addendum to this Agreement.

4.0 LCCC's Relationship to the Foundation

LCCC formally designates the Foundation as the principal fundraising organization for LCCC.

LCCC President is responsible for communicating LCCC's priorities and long-term plans to the Foundation.

LCCC recognizes that the Foundation is a private corporation with the authority to keep all records and data confidential consistent with the law. As such, LCCC will create, maintain, and adhere to policies and procedures that protect the confidential nature of the Foundation's data and foster the individual reasonable expectation of privacy attendant to that data as allowed by law.

LCCC President, and three members of the LCCC Board of Trustees, shall serve as ex-officio, non-voting members of the Foundation board of directors and shall assume a prominent role in fundraising activities on behalf of LCCC.

5.0 Foundation Staffing

LCCC and the Foundation Board will jointly hire an Associate Vice President of Institutional Advancement that reports directly to the LCCC President, who will have as a significant portion of his/her job description the responsibility for the oversight of the Foundation staff and operations. This position will serve as the Foundation's executive staff.

In collaboration, the Foundation and LCCC, through its executive staff (the Associate Vice President of Institutional Advancement) will be responsible for the assignment of duties and positions, supervision, and evaluation of all staff assigned to the Foundation. In addition, the Foundation shall be a part of the selection committee for employees hired to staff the Foundation. In the event an employee assigned to staff the Foundation by LCCC is found by the Foundation to be unable to fulfill the assigned responsibilities, the Foundation shall notify LCCC in order for LCCC to evaluate the information received by the Foundation and determine the future employment, discipline and/or termination of said employee. Notwithstanding the foregoing, neither LCCC nor Foundation will make a major decision or change regarding any employee assigned to the Foundation without consultation with each other in a spirit of mutual agreement.

LCCC is responsible for paying for all employee related costs, including but not limited to employee searches, salaries, taxes, benefits and any costs related to termination of said employee(s). The Foundation shall reimburse LCCC for all employee related costs, including but not limited to employee searches, salaries, taxes, benefits and any costs related to termination of said employee(s) based upon the percentages as more fully described in Exhibit B, attached hereto and fully incorporated herein.

If LCCC terminates the employment of an employee assigned to the Foundation in accordance with established LCCC policies and procedures, the Foundation will reimburse LCCC for any and all costs associated with said termination. If it is found later that LCCC did not terminate said employee in accordance with LCCC policies and procedures, LCCC will reimburse any and all costs associated with said termination.

Employees assigned to staff the Foundation shall receive the same benefits as LCCC benefited employees.

The Foundation Board, in consultation with the LCCC President and the LCCC Human Resources office, shall establish the salaries for Foundation staff that are reimbursed 100% by

Foundation in accordance with Exhibit B. The salaries for Foundation staff partially reimbursed by the Foundation shall be established in accordance with LCCC salary schedules. LCCC will provide Foundation with information pertaining to salary or benefit increases that are applicable to LCCC employees. The Foundation may pay additional compensation to one or more of its staff if it deems such payment appropriate.

The Foundation retains the right to evaluate annual salary increases for staff funded 100% by the Foundation. For staff partially funded by the College and partially funded by the Foundation, the LCCC President will consult the Foundation Board President with respect to the evaluation of annual salary increases. A determination will be made as to whether or not there is adequate unrestricted income to cover the increase, or the Foundation's share of the increase for partially-funded staff. Should the Foundation determine that the unrestricted income is insufficient to cover such increase, the Foundation shall determine an equitable salary increase that is both fiscally responsible to the Foundation and deemed fair and reasonable for the staff based upon their individual job performance evaluations and market analysis. This decision shall be documented and approved by Foundation Board President and the LCCC President.

The Foundation retains the right to submit requests, through the Associate Vice President of Institutional Advancement and appropriate College channels, to fill or add staff positions. The Foundation may submit requests at any time during the year for positions funded 100% by the Foundation. The Foundation shall submit requests through the annual LCCC budget process for positions to be funded partially or in full by LCCC. In cases of an emergency, the Foundation may submit a request to the President's Cabinet for LCCC President's approval.

All employees assigned to staff Foundation shall be required to abide by the policies and procedures of LCCC.

6.0 LCCC's Responsibilities

LCCC shall provide all services and attendant fees to the Foundation as outlined below:

6.1 – Funding Priorities.

At least annually, the LCCC President will present to the Foundation Board of Directors a written list of LCCC's current development priorities. LCCC shall rely upon the Foundation, or its designee, to assist in determining the priorities and the funding feasibility of each.

More specifically, in the spring of each fiscal year, LCCC shall, in conjunction with the Foundation, develop annual development goals that shall account for LCCC-wide development priorities for the upcoming fiscal year. These priorities and goals shall consider LCCC's strategic needs, as defined by LCCC, as well as the Foundation's resources, personnel and capacity.

6.2 – Integrated Advancement.

LCCC will actively coordinate its communications, internal relations, and external relations activities with the Foundation to develop a programmatic culture within the College's student, alumni, and private support constituencies that encourages increased philanthropic support, constituent engagement, and private advocacy in support of the LCCC.

LCCC shall cooperate with the Foundation in development of its fundraising programs and campaigns, including provision of information, data, plans, facilities for meetings on the LCCC campuses, and such other materials and services as may reasonably be necessary for the successful conduct of fundraising programs and campaigns.

6.3 – Development Services Compensation.

In consideration for the Foundation's fundraising services including but not limited to the responsibilities listed in Section 7.0 (Foundation Responsibilities), LCCC will provide the Foundation with fair and reasonable compensation as payment for services. The amount of compensation may be renegotiated at any time within the Term if mutually agreed by both parties in writing as an amendment pursuant to 9.1 of this Agreement. The compensation and payment dates for each of the six (6) fiscal years immediately following the date of this Agreement are included as Exhibit A and may be modified upon approval of both parties.

LCCC may request the Foundation participate in development activities falling outside of those listed in Section 7.0 (Foundation Responsibilities), however, the Foundation reserves the right to negotiate for additional compensation for those services falling outside of Section 7.0, or to deny the College's request to take on the additional responsibilities.

6.4 – Fundraising.

LCCC shall establish and enforce policies that support the Foundation's ability to coordinate all fundraising activities that seek and solicit private support for the benefit of LCCC.

LCCC President, appropriate administrators, other LCCC officials, and LCCC-selected or LCCC-sanctioned volunteers shall work in conjunction with the Foundation staff and Foundation Board of Directors to identify, cultivate, solicit, and steward donors and prospective donors of private gifts. In so doing, LCCC President, appropriate administrators, and volunteers shall adhere to all applicable Foundation policies and procedures.

Additionally, LCCC acknowledges that the Foundation has sole responsibility for fundraising on behalf LCCC. All LCCC representatives will coordinate fundraising initiatives, including major gifts solicitations, with the Foundation.

LCCC recognizes the Foundation exists for the benefit of LCCC and not for the benefit of individuals within LCCC.

6.5 – Provision of Data.

When allowed by law, LCCC shall provide to the Foundation data reasonably requested by the Foundation and deemed necessary by the Foundation for the maintenance and support of fundraising efforts.

6.6 – Other Considerations.

LCCC and the Foundation reserve the right to reject any gift. If mutual agreement of the parties cannot be reached for the acceptance or rejection of a gift, the default decision will be to reject the gift.

LCCC agrees to make office space available to Foundation and to provide the following utilities and resources in conjunction with the office space at no cost to the Foundation: electrical, gas and water service, telephone service, computer network access and office furnishings. This list is not intended to be an exhaustive list, and LCCC agrees to provide such other reasonable office amenities and resources as are customary and consistent with the offices of LCCC.

LCCC agrees to provide access to Foundation of LCCC services, including consumable office supplies, mail services, use of audiovisual equipment and services, computer services, duplicating, personnel and payroll services, printing and public relation services, management of property owned by Foundation, and other services and supplies available to LCCC departments in accordance with normal LCCC procedures.

7.0 Foundation Responsibilities

The Foundation shall provide LCCC with fundraising and asset investment services, which shall include all services related to the following activities:

7.1 – Fundraising.

In a coordinated and cooperative effort with LCCC, the Foundation shall create an environment conducive to increasing levels of private support for the mission and priorities of LCCC as established by LCCC, as follows:

- (a) *Donor Development, Relations and Stewardship.* The Foundation is responsible for planning and executing comprehensive fundraising and donor-acquisition programs designed to encourage prospective and current donors to support LCCC's mission and programs. Activities include donor identification and cultivation, donor research, donor solicitation, periodic updates and/or reports to donors to assure that donor intent is being fulfilled, and appropriate acknowledgment, receipting and documentation of donor gifts to the Foundation.
- (b) *Fundraising Programs.* Pursuant to the Foundation's policies on gift acceptance and constituent relations, the Foundation shall plan, coordinate, and execute activities

designed to identify, cultivate, and solicit support of all types from private entities including, but not limited to, individuals, corporations, and other foundations.

- (c) Campaigns. The Foundation shall be responsible for planning and executing comprehensive, multi-year campaigns and developing fundraising goals and methodologies for obtaining support for LCCC's strategic objectives as defined in collaboration with the LCCC Board of Trustees, LCCC President, and other LCCC officials. In performing this service, the Foundation shall also provide LCCC with counsel and direction as to the feasibility of certain goals, projects, and initiatives for which LCCC is soliciting or would like to solicit support.
- (d) Educational Programs. To effectively implement the Foundation's fundraising initiatives, the Foundation shall provide educational programs for LCCC officials and personnel who may be involved in fundraising with information about fundraising strategies and techniques, as well as information about the resources provided by the Foundation's programs, policies, and procedures.
- (e) Development Events. All events that are considered to be for the purpose of cultivating, stewarding, and/or recognizing donors and prospective donors of LCCC shall be cleared through the Foundation to ensure coordination of fundraising activities. The Foundation is not responsible for directing or coordinating events for LCCC that are not for the purposes outlined in this section.

7.2 – Gift Acceptance and Acknowledgment.

The Foundation will establish, adhere to, and periodically assess its gift acceptance and fund management policies and procedures. The Foundation will promptly acknowledge and issue receipts for all gifts made to the Foundation and provide appropriate recognition and stewardship of such gifts. If gifts are received by LCCC instead of the Foundation, the Foundation will provide appropriate recognition for such gifts when properly notified by LCCC. By law, the Foundation cannot acknowledge or provide receipts for gifts made directly to LCCC.

The Foundation, on behalf of LCCC, shall routinely accept gifts-in-kind of equipment and supplies intended for LCCC use.

7.3 – Donor Records.

The Foundation shall establish and enforce policies and procedures to comply with all applicable laws and regulations and to protect the confidentiality of Foundation information and the reasonable expectation of privacy attendant to donor and prospective donor data.

7.4 – Asset Investment.

If LCCC deposits gifts with the Foundation for investment purposes, the Foundation may pool those funds with the Foundation's funds and other funds held by the Foundation in a pooled investment portfolio ("Pooled Investments"). In doing so, it is mutually understood that:

- LCCC retains ownership of LCCC funds;
- The Foundation is authorized to invest LCCC funds in the same manner as other Foundation funds;
- LCCC funds are subject to the Foundation's administrative fees in accordance with the Foundation's policies;
- LCCC funds may be pooled with the Foundation's institutional funds and other funds for the purpose of participating in the Pooled Investments;
- There is no trust relationship between the Foundation and LCCC express or implied;
- Pooled Investments shall be invested in accordance with the Foundation's investment policy;
- There is an inherent risk involved with investing that is beyond the control of the Foundation, including the potential for loss of LCCC's principal in the initial investment, loss of subsequent deposits, loss of interest or appreciation, and loss of other financial gains;
- Neither party is obligated to offer or accept investment advice to or from the other party;
- The Foundation has not and does not hold itself out as an investment advisor or as a professional investment corporation;
- LCCC's representative for all matters relating to the investment of LCCC funds by the Foundation is the LCCC President or his/her designee.

For all LCCC funds invested by the Foundation, the Foundation shall provide periodic summaries and confirmations of balances of LCCC funds as may be requested or required. Additionally, the Foundation shall provide LCCC with a copy of the most recent investment policy.

Upon written notice from LCCC requesting withdrawal of LCCC funds from the Pooled Investments, the Foundation will withdraw the funds within a reasonable length of time such that removal of the funds may be completed without adversely affecting the remaining investment portfolio.

7.5 – Asset Management.

The Foundation will establish and, from time to time, modify asset-allocation, disbursement, and spending policies and procedures that adhere to all current and future applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Prudent Management of Institutional Funds Act (UPMIFA), as amended or modified from time to time.

The Foundation will receive, hold, manage, invest, and disburse contributions of cash, securities, and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments.

The Foundation's board of directors is responsible for the control and management of all assets of the Foundation, including the prudent management of all gifts consistent with donor intent.

The Foundation's responsibilities shall include management of assets received, held by or entrusted to the Foundation, in support of LCCC and in accordance with this Agreement. Support of LCCC shall include, but shall not be limited to, providing scholarships for students

and providing funds for educational activities and programs, cultural programs and athletic programs. The Foundation shall endeavor to preserve and enhance the value of the assets at all times and shall not intentionally cause any devaluation of the assets.

The Foundation funds include all funds raised by the Foundation for the benefit of LCCC through its various fundraising activities. The Foundation funds also include the restricted and unrestricted endowments and other funds, the ownership and title of which have been, or are in the future transferred to, or received by the Foundation.

The Foundation will provide effective and prudent management of the Foundation funds, including investment of the Foundation funds through qualified investment firms, according to a well-designed and Foundation Board approved investment policy.

The Foundation will receive, hold, manage, invest, and disburse contributions, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred gift instruments.

The Foundation shall maintain individually named endowments free and clear of any liens, charges, encumbrances and other restrictions other than those restrictions imposed by the original donors.

7.6 – Fund Administration and Distribution.

The Foundation will administer private gifts to benefit LCCC and will transfer funds to the designated entity within LCCC in compliance with applicable laws, LCCC policies, and fund agreements.

The Foundation’s disbursements on behalf of LCCC must be for reasonable expenses that support LCCC and its programs, are consistent with donor intent, and do not conflict with any applicable laws and regulations.

When establishing a new account, the Foundation will disclose any terms, conditions, or limitations legally imposed by the donor or legal determination on the gift. LCCC will abide by such restrictions and provide appropriate acknowledgment of such terms, conditions, or limitations and documentation of compliance.

When distributing funds to LCCC, the Foundation will disclose any terms, conditions, or limitations imposed by the donor or legal documentation of the gift. LCCC will abide by such restrictions and provide appropriate documentation when required.

7.7 –Foundation Operations.

The Foundation is responsible for establishing a financial plan to pay the costs of Foundation programs, operations, and services. The Foundation has the right to impose a reasonable fee on funds the Foundation manages.

The Foundation shall maintain, at its own expense, copies of the plans, budgets, and donor and alumni records developed in connection with the performance of its obligations.

The Foundation will expend unrestricted funds and/or the income or gains therefrom and/or assess fees for services for its operating expenses, including payment of reasonable compensation for services actually rendered in the operation of the Foundation.

The Foundation will design, adopt, and may amend as necessary, the budget and/or strategic plan for the Foundation. The annual budget shall identify expected revenue and proposed expenditures from undesignated funds for the Foundation operating expenses.

The Foundation may engage the services of outside legal counsel for the review of contracts and other legal issues as necessary.

Any sub-contractor hired by the Foundation is the sole legal and financial responsibility of the Foundation. The Foundation fully indemnifies LCCC from any and all liability for injuries, damages, claims, penalties, actions, demands or expenses arising from or in connection with work performed by a sub-contractor on behalf of the Foundation.

7.8 – Other Responsibilities.

The Foundation will engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records and will provide LCCC with a copy of the annual audited financial statements. Copies of the final reports, including the financial statements, opinion letter, management letter, internal control letter, and other documents prepared by such auditor, shall be furnished to the LCCC Board of Trustees.

With the explicit approval of the Foundation Board, the Foundation may from time to time serve as an instrument for entrepreneurial activities for LCCC, including but not limited to the purchasing, developing, or managing of real estate for LCCC, as well as LCCC-related improvements or expansion.

The Foundation may accept licensing agreements and other forms of intellectual property, borrow or guarantee debt issued by third parties, or engage in other activities to increase Foundation revenue consistent with its mission.

7.9 – Compliance.

In fulfilling these obligations, the Foundation shall comply with applicable state and federal law and its own policies and procedures, including maintenance of a conflict of interest policy for board members and staff.

8.0 – Land Transfer

As part of the mutual obligations as found in 6.0 and 7.0 of this Agreement, the Foundation agrees for and in consideration of the covenants made to LCCC and the Foundation as hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Sale of Property. Foundation as the Seller hereby agrees to sell 216.5 acres of real property, and LCCC as the Buyer agrees to purchase, on the terms and conditions set forth hereinafter, the real property situated in the County of Laramie and State of Wyoming, known and described in the attached legal description marked as Exhibit C, attached hereto and fully incorporated herein.
2. Purchase Price and Payment Terms. The total purchase price for the property described above is eighty-five thousand dollars and no cents (\$85,000.00), which shall be paid immediately upon signing this Agreement.
3. Possession and Execution. The execution of this sale shall take place upon signing this Agreement. All documents shall be executed, and exclusive possession and use of the property shall be delivered to LCCC.
4. Property Taxes. The 2014 Taxes have been paid by the Foundation. LCCC agrees to pay the remainder of the 2015 property tax. The parties acknowledge that LCCC is exempt pursuant W.S. § 39-11-105.
5. Insurance. As of the date of this Agreement, LCCC shall be solely responsible for obtaining any and all insurance for the subject property.

Entitlement to Warranty Deed. Upon payment in full of the purchase price hereunder, Foundation shall deliver a Warranty Deed to LCCC, conveying the above-described property. Such Warranty Deed shall convey any remaining oil, gas and minerals on and under the above described real property to LCCC. Additionally, the Warranty Deed shall be subject to all easements, right-of-ways, protective covenants and mineral reservations of record, if any.

8.1- Commercial Development

As part of this Agreement, LCCC hereby agrees that should it develop or sell the 115.6 acres of land bordering the northern and western boundaries of LCCC known and described in the attached legal description marked as Exhibit D, attached hereto and fully incorporated herein, for commercial purposes, any net proceeds from the commercial development or sale of the property shall be allocated between LCCC and the Foundation as follows. LCCC shall retain eighty percent (80%) and the Foundation shall receive twenty percent (20%) of the net proceeds associated with the commercial development or sale of said property. This provision does not create any additional rights or reversionary interests in the land for the Foundation.

9.0 - Confidentiality and Access to Information by Non-Foundation Employees

The Foundation will provide copies or provide access to all public documents of the Foundation including:

- Policies and procedures documentation, including:
 - Gift Acceptance Policy
 - Investment Policies
 - Disbursement Guidelines
- Organizational documents, including articles of incorporation and corporate bylaws
- Audited financial statements
- Form 990, Return of Organization Exempt from Income Tax

The parties agree that confidential information that is not available for public inspection includes, but is not limited to, the following:

- Information relating to donors and prospective donors:
 - Contact information including, but not limited to, addresses, phone numbers, and email addresses
 - Portions of records that disclose a donor's or prospective donor's personal, financial, estate planning or gift planning matters
 - Records received from a donor or prospective donor regarding such donor's prospective gift or pledge
 - Records containing information about a donor or a prospective donor in regard to the appropriateness of the solicitation and dollar amount of the gift or pledge
 - Portions of records that identify a prospective donor and that provide information on the appropriateness of the solicitation, the form of the gift or dollar amount requested by the solicitor, and the name of the solicitor
 - Portions of records disclosing the identity of a donor or prospective donor, including the specific form of gift or pledge that could identify a donor or prospective donor, directly or indirectly, when such donor has requested anonymity in connection with the gift or pledge. This does not apply to a gift or pledge from a publicly held business corporation.
- Information relating to fundraising plans and strategies
- Trade secret information and information relating to the business of any foundation subsidiary which, if released, could create a competitive disadvantage
- Individual employee information other than name, title and salary
- Individual student information
- Information relating to trusts and annuities administered by the Foundation, except as to actual gifts to the Foundation from such a trust or annuity
- Other information protected by law

When necessary or beneficial to the efficient execution of fundraising activities, the Foundation may provide access to Foundation data and records to select LCCC personnel on a limited, need-to-know basis in accordance with applicable laws, Foundation policies, and guidelines. Providing such access shall not negate the confidential nature of the Foundation's information and records or the classification of such information and records as trade secrets. Additionally, providing such access does not undermine the reasonable expectation of privacy of donors and prospective donors with respect to the information provided to and/or maintained by

the Foundation. Any non-Foundation employee with access to Foundation information shall be held to the highest standard of confidentiality and sign a confidentiality agreement specifically governing such access.

10.0 General Provisions

10.1 – Amendments.

Any changes, modifications, revisions, or amendments to this Agreement, which are mutually agreed upon by the parties to this Agreement, shall be incorporated by written instrument, executed and signed by both parties to this Agreement.

10.2 – Applicable Law and Venue.

The parties mutually understand and agree that the construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming. The foregoing provisions of this paragraph are agreed by the parties to be a material inducement to the Foundation and to LCCC in executing this Agreement. This provision is not intended nor shall it be construed to waive LCCC's sovereign/governmental immunity as provided in Wyo. Stat. Ann. §§ 1-39-101 (2009), *et seq.*, and all other applicable laws.

10.3 – Assignment.

Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Agreement without the prior written consent of the other party. The Foundation shall not use this Agreement, or any portion thereof, as collateral for any financial obligation without the prior written permission of LCCC.

10.4 – Audit/Access to Records.

LCCC shall have access to any books, documents, papers, and records of the Foundation which are pertinent to this Agreement and not protected by a legal privilege or the confidentiality provisions above.

The Foundation shall, immediately upon receiving written instruction from LCCC, provide to any independent auditor, accountant, or accounting firm, all books, documents, papers, and records of the Foundation which are pertinent to this Agreement and not protected by a legal privilege or the confidentiality provisions above. The Foundation shall cooperate fully with any such independent auditor, accountant, or accounting firm during the entire course of any audit authorized by LCCC.

10.5 – Availability of Funds.

LCCC's payment obligation is conditioned upon the availability of funds, which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services provided by the Foundation, the Agreement may be terminated or modified by LCCC at the end of the period for which funds are available. LCCC shall notify the Foundation at the earliest possible time of the services, which will be or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect services or payment of claims if LCCC knows of the shortage at least thirty (30) days in advance. No penalty shall accrue to LCCC in the event this provision is exercised, and LCCC shall not be obligated or liable for any future payments due or for any damages as a result of termination under this provision. This provision shall not be interpreted or construed to permit LCCC to terminate this Agreement in order to acquire similar services from another party.

10.6 – Compliance with Laws.

The Foundation shall keep informed of and comply with all applicable federal, state or local laws and regulations in the performance of this Agreement.

10.7 – Entirety of Agreement.

This Agreement consisting of eighteen (18) pages, Exhibit A, consisting of one (1) page; and Exhibit B, consisting of one (1) page, Exhibit C, consisting of one (1) page, Exhibit D, consisting of one page, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, statements, representations and agreements, whether written or oral.

10.8 – Force Majeure.

Neither party shall be liable to perform under this Agreement if such failure arises out of causes beyond the control, and without the fault or the negligence of the nonperforming party. Such causes may include, but are not restricted to, Acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall only become effective 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. The parties intend and agree that LCCC does not waive sovereign/governmental immunity by entering into this Agreement and specifically retains immunity and all defenses available to it pursuant to Wyo. Stat. Ann. §§ 1-39-101 (2009), *et seq.*, and all other applicable laws.

10.9 – No Indemnification.

Except as specifically set forth herein, there shall be no indemnification by one party of the other and each party agrees to be responsible and assume liability for its own wrongful or

negligent acts or omissions, or those of its officers, agents or employees, to the fullest extent allowed by law.

Each party agrees to maintain reasonable coverage for such liabilities either through commercial insurance or a reasonable self-insurance mechanism, and the nature of such insurance coverage or self-insurance mechanism will be reasonably provided to the other upon request.

10.10 – Notices.

All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, facsimile, e-mail, or delivery in person. A party may change its address for notice hereunder by giving written notice to the other party.

10.11 – Severability.

If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, or if LCCC is advised of any such actual or potential invalidity or unenforceability, such holding or advice shall not invalidate or render unenforceable any other provision hereof. It is the express intent of the parties that the provisions of this Agreement are fully severable. Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

10.12 – Sovereign/Governmental Immunity.

LCCC does not waive its Governmental/Sovereign Immunity by entering into this Contract and specifically retains all immunities and defenses available to it as a governmental entity pursuant to Wyo. Stat. Ann. §§ 1-39-101 (2009), *et seq.*, and all other applicable laws. LCCC fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign/governmental immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign/governmental immunity shall be construed in favor of sovereign/governmental immunity.

10.13 – Termination.

This Agreement may be terminated (a) by either party at any time without penalty, provided that written notice of such termination is furnished to the other party at least sixty (60) days prior to the effective date of termination. All services shall be completed during this sixty (60) day term.

10.14 – 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 Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to the Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

10.15 – Titles Not Controlling.

Titles of paragraphs are for reference only and shall not be used to construe the language in this Agreement.

10.16 – Waiver.

The waiver of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach. Failure to object to a breach shall not constitute a waiver.

10.17 – Statement of Coordination.

This Agreement is intended to contribute to the coordination of the mutual activities of the Foundation and LCCC. To ensure effective achievement of the objectives of this Agreement, LCCC and the Foundation officers and LCCC board representatives shall hold periodic meetings to foster and maintain productive relationships and to ensure open and continuing communications and alignment of priorities.

10.18 – Implied Covenants.

By entering into this Agreement, the Parties acknowledge and accept that this Agreement includes the covenant of good faith and fair dealing. Furthermore, the Parties agree that the responsibilities and duties set forth herein are to be completed in a professional manner and in accordance with applicable professional standards.

10.19 – Winding Up Upon Foundation Dissolution.

Consistent with the provisions of the Foundation's Bylaws and its Articles of Incorporation, should the Foundation cease to exist or cease to be an IRC § 501 (c)(3) organization, the Foundation will transfer its assets and property to LCCC or LCCC's assignee. For purposes of this section, a corporate reorganization, merger, or consolidation or a renaming of the Foundation shall not constitute a cessation of existence provided the Foundation, or its successor, is recognized as the affiliated foundation of LCCC.

**OPERATING AGREEMENT
LARAMIE COUNTY COMMUNITY COLLEGE DISTRICT, STATE OF WYOMING /
LARAMIE COUNTY COMMUNITY COLLEGE FOUNDATION**

Signature Page

The parties to this Agreement, through their duly authorized representatives, have executed this Agreement on the dates set out below, and certify that they have read, understand, and agree to the terms and conditions of this Agreement.

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

LARAMIE COUNTY COMMUNITY COLLEGE DISTRICT, STATE OF WYOMING

_____ Date _____
Ed Mosher, Chairman, Laramie County Community College
Board of Trustees

ATTEST:
_____ Date _____

LARAMIE COUNTY COMMUNITY COLLEGE FOUNDATION

_____ Date _____
George McIlvaine, President, LCCC Foundation

ATTEST:
_____ Date _____

REVIEWED AND APPROVED AS TO FORM ONLY:

Tara Nethercott
LCCC Counsel
Woodhouse Roden Nethercott, LLC
1912 Capitol Avenue Ste. 500
Cheyenne, WY 82001
Office: 307.432.9399

Gregory C. Dyekman
LCCC Foundation Counsel
Dray, Dyekman, Reed & Healey, P.C.
204 E. 22nd Street
Cheyenne, WY 82001-3799
Office: 307.634.8891

Year Three Review Signature Page

By their signatures, LCCC and the Foundation agree to exercise the option to formally approve continuance of this agreement for the second three (3) year duration in accordance of the terms as outlined in this Agreement.

LARAMIE COUNTY COMMUNITY COLLEGE DISTRICT, STATE OF WYOMING

Ed Mosher, Chairman, Laramie County Community College
Board of Trustees

Date _____

ATTEST:

_____ Date _____

LARAMIE COUNTY COMMUNITY COLLEGE FOUNDATION

George McIlvaine, President, LCCC Foundation

Date _____

ATTEST:

_____ Date _____

REVIEWED AND APPROVED AS TO FORM ONLY:

Tara Nethercott
LCCC Counsel
Woodhouse Roden Nethercott, LLC
1912 Capitol Avenue Ste. 500
Cheyenne, WY 82001
Office: 307.432.9399

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204 E. 22nd Street
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Office: 307.634.8891

Exhibit A

Development Services Compensation Agreement

LCCC and the Foundation, hereby agree that the direct compensation to be paid by LCCC to the Foundation for services provided as outlined in Section 6.0 of the Agreement dated _____ shall be as follows:

- Total for FY 2016 - \$306,000
- Total for FY 2017 - \$313,650
- Total for FY 2018 - \$321,491
- Total for FY 2019 - \$329,529
- Total for FY 2020 - \$337,767
- Total for FY 2021 - \$346,211

One-fourth (1/4) of the annual payment due to the Foundation will be paid by LCCC on the first day of each calendar quarter beginning on July 1 of each year. The Foundation will invoice LCCC accordingly.

LARAMIE COUNTY COMMUNITY COLLEGE, STATE OF WYOMING

Joe Schaffer, President, Laramie County Community College

Date _____

LARAMIE COUNTY COMMUNITY COLLEGE FOUNDATION

George McIlvaine, President, LCCC Foundation Board of Directors

Date _____

Exhibit B

Employee Agreement

LCCC and the Foundation, hereby agree to pay employee related costs as outlined in Section 5.0 of the Agreement dated _____ in the following manner:

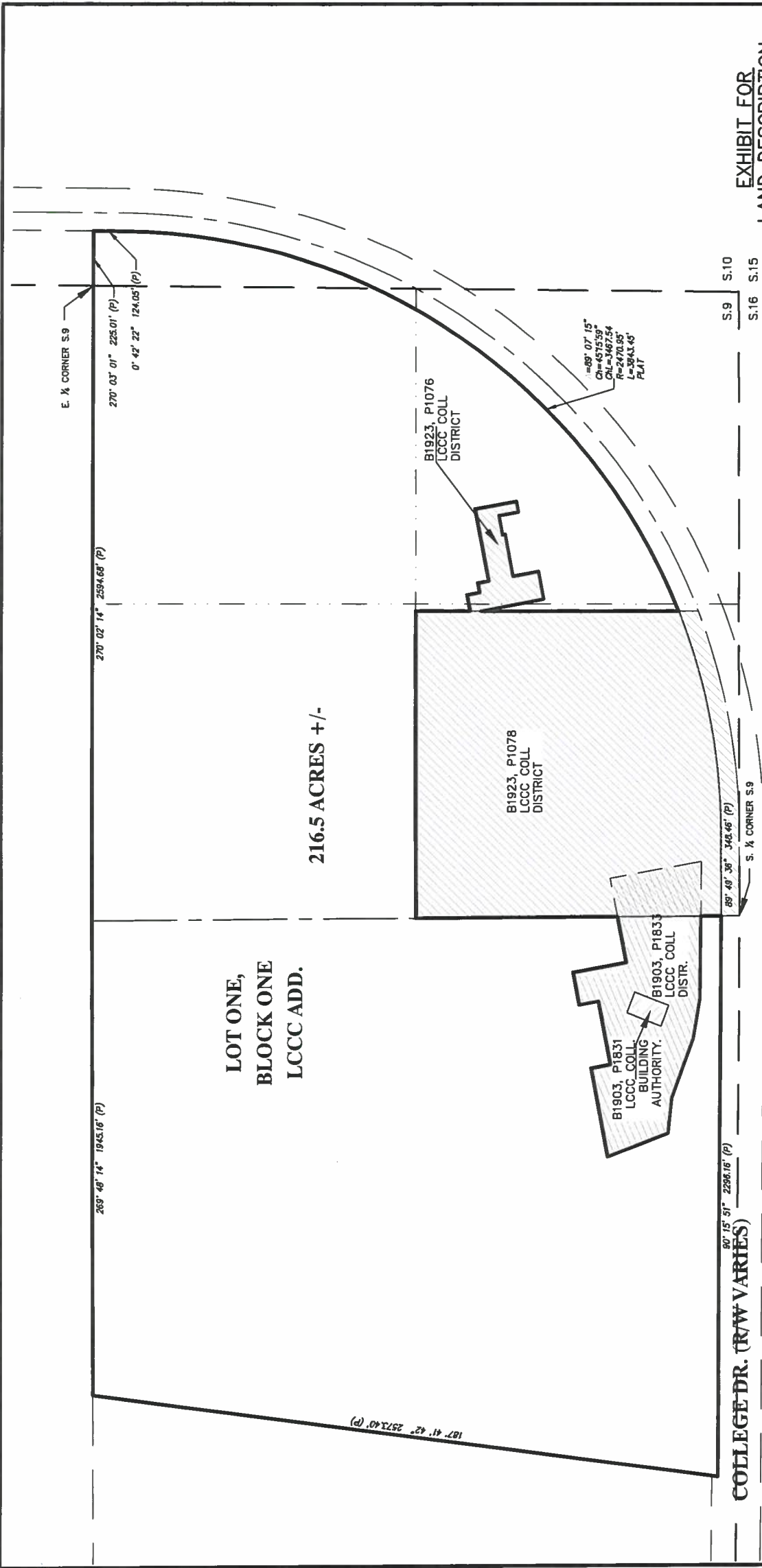
| Position | Percentage Paid | Responsible Party |
|---|------------------------|--------------------------|
| Associate Vice President of Institutional Advancement | 20% / 80% | Foundation / LCCC |
| Director of Scholarships & Annual Giving | 100% | Foundation |
| Director of Corporate Giving and Campaigns | 100% | Foundation |
| Director of Alumni Affairs & Event Planning | 100% | Foundation |
| Director of Finance, Budget and Foundation Operations | 100% | Foundation |
| LCCC Foundation Administrative Assistant | 100% | Foundation |

LARAMIE COUNTY COMMUNITY COLLEGE, STATE OF WYOMING

_____ Date _____
Joe Schaffer, President, Laramie County Community College

LARAMIE COUNTY COMMUNITY COLLEGE FOUNDATION

_____ Date _____
George McIlvaine, President, LCCC Foundation Board of Directors



COLLEGE DR. (R/W VARIES)

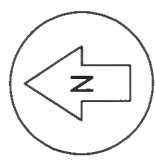
EXHIBIT FOR
LAND DESCRIPTION,
PORTION OF
LOT ONE, BLOCK ONE,
LCCC ADDITION,
LARAMIE COUNTY,
WYOMING.

PREPARED MARCH, 2015

LAND DESCRIPTION

All of Lot One, Block One, LCCC Addition, Laramie County, Wyoming, EXCEPT those portion of Lot One previously conveyed in:

- Book 1903, Page 1831;
 - Book 1903, Page 1833;
 - Book 1923, Page 1076;
 - Book 1923, Page 1078;
- Laramie County Clerk's Office



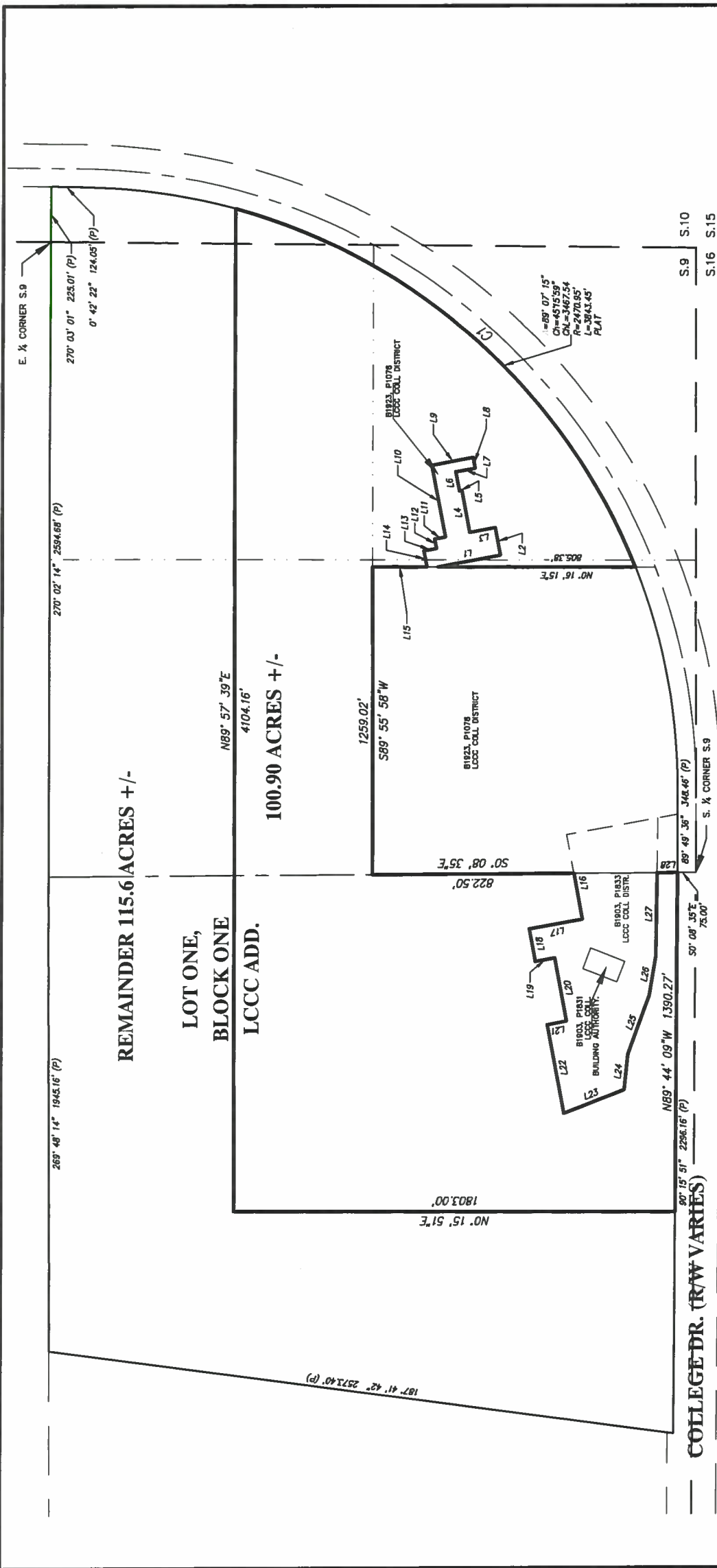
STEEL SURVEYING SERVICES, LLC
REGISTERED LAND SURVEYORS
1109 W. 19th ST. CHEYENNE, WY. 82001 (307)634-7878
768 GILCHRIST ST. WHEATLAND, WY. 82201 (307)322-9769

JOB NO. 15136 BENCHMARK LCCC DESCRIPTIONS

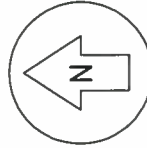
Blumberg No. 5208

EXHIBIT

C



**EXHIBIT FOR
 LAND DESCRIPTION
 PORTION OF
 LOT ONE, BLOCK ONE,
 LCCC ADDITION,
 LARAMIE COUNTY,
 WYOMING.**



0 400'
 Scale: 1" = 400'



STEEL SURVEYING SERVICES, LLC
 REGISTERED LAND SURVEYORS
 1102 W. 101st ST. CHEYENNE, WY. 82001 (307)654-7273
 786 GILCHRIST ST. WHEATLAND, WY. 82201 (307)322-9769

EXHIBIT FOR LAND DESCRIPTION

| LINE TABLE | | |
|------------|---------------|---------|
| Line # | Bearing | Length |
| L1 | S10° 41' 00"E | 257.98' |
| L2 | N79° 19' 00"E | 115.83' |
| L3 | N10° 41' 00"W | 105.90' |
| L4 | N79° 19' 00"E | 175.99' |
| L5 | N10° 41' 00"W | 10.50' |
| L6 | N79° 19' 00"E | 79.09' |
| L7 | S10° 41' 00"E | 80.66' |
| L8 | N79° 19' 00"E | 44.99' |
| L9 | N10° 41' 00"W | 171.39' |
| L10 | S79° 19' 00"W | 300.08' |
| L11 | N10° 41' 00"W | 44.23' |
| L12 | S79° 19' 00"W | 39.20' |
| L13 | N10° 41' 00"W | 52.41' |
| L14 | S79° 19' 00"W | 67.76' |

| LINE TABLE | | |
|------------|---------------|---------|
| Line # | Bearing | Length |
| L15 | N0° 16' 15"E | 221.05' |
| L16 | S79° 20' 00"W | 192.09' |
| L17 | N10° 09' 23"W | 219.56' |
| L18 | S79° 20' 00"W | 135.92' |
| L19 | S10° 40' 00"E | 80.00' |
| L20 | S79° 20' 00"W | 263.77' |
| L21 | N10° 40' 00"W | 80.00' |
| L22 | S79° 20' 00"W | 369.72' |
| L23 | S21° 18' 04"E | 264.23' |
| L24 | S84° 20' 53"E | 143.68' |
| L25 | S70° 10' 16"E | 257.44' |
| L26 | S80° 41' 17"E | 166.32' |
| L27 | S89° 22' 56"E | 339.19' |
| L28 | S0° 08' 35"E | 83.66' |

| CURVE TABLE | | | | | |
|-------------|-------------|----------|---------------|--------------|------------|
| CURVE # | DELTA | RADIUS | CHORD BEARING | CHORD LENGTH | ARC LENGTH |
| C1 | 52° 54' 26" | 2470.95' | S41° 56' 27"W | 2201.48' | 2281.69' |

LAND DESCRIPTION

A tract of land being a portion of Lot One, Block One, LCCC Addition, Laramie County, Wyoming, more particularly described as follows:

Beginning at a point on the south line of Lot One, from which the south $\frac{1}{4}$ corner of Section 9, T.13N., R.66W., 6th P.M. bears S.00° 08' 35"E., a distance of 75.00 feet; thence N.89° 44' 09"W., along the south line of Lot One, a distance of 1390.27 feet; thence N.00° 15' 51"E., a distance of 1803.00 feet; thence N.89° 57' 39"E., a distance of 4104.16 feet to the east line of lot one being the beginning of a non-tangential curve to the right; thence 2281.69 feet along said curve and east line, through an angle of 52° 54' 26", having a radius of 2470.95 feet, and whose long chord bears S 41° 56' 27"W., a distance of 2201.48 feet the east line of Book 1923, Page 1078, Laramie County Clerk's Office; thence N.00° 16' 15"E., along said east line, a distance of 805.38 feet to the south line of Book 1923, Page 1076; thence along Book 1923, Page 1076 for the following 14 courses; thence S.10° 41' 00"E., a distance of 257.98 feet; thence N.79° 19' 00"E., a distance of 115.83 feet; thence N.10° 41' 00"W., a distance of 105.90 feet; thence N.79° 19' 00"E., a distance of 175.99 feet; thence N.10° 41' 00"W., a distance of 10.50 feet; thence N.79° 19' 00"E., a distance of 79.09 feet; thence S.10° 41' 00"E., a distance of 80.66 feet; thence N.79° 19' 00"E., a distance of 44.99 feet; thence N.10° 41' 00"W., a distance of 171.39 feet; thence S.79° 19' 00"W., a distance of 300.08 feet; thence N.10° 41' 00"W., a distance of 44.23 feet; thence S.79° 19' 00"W., a distance of 39.20 feet; thence N.10° 41' 00"W., a distance of 52.41 feet; thence S.79° 19' 00"W., a distance of 67.76 feet to the east line of said Book 1923, Page 1078; thence along said Book 1923, Page 1078 for the following 3 courses; thence N.00° 16' 15"E., a distance of 221.05 feet; thence S.89° 55' 58"W., a distance of 1259.02 feet; thence S.00° 08' 35"E., a distance of 822.50 feet to the north line of Book 1903, Page 1833; thence along said Book 1903, Page 1833 for the following 12 courses; thence S.79° 20' 00"W., a distance of 192.09 feet; thence N.10° 09' 23"W., a distance of 219.56 feet; thence S.79° 20' 00"W., a distance of 135.92 feet; thence S.10° 40' 00"E., a distance of 80.00 feet; thence S.79° 20' 00"W., a distance of 263.77 feet; thence N.10° 40' 00"W., a distance of 80.00 feet; thence S.79° 20' 00"W., a distance of 369.72 feet; thence S.21° 18' 04"E., a distance of 264.23 feet; thence S.84° 20' 53"E., a distance of 143.68 feet; thence S.70° 10' 16"E., a distance of 257.44 feet; thence S.80° 41' 17"E., a distance of 166.32 feet; thence S.89° 22' 56"E., a distance of 339.19 feet to the west line of Book 1923, Page 1078; thence S.00° 08' 35"E., along said west line, a distance of 83.66 feet to the point of beginning. Containing 100.90 acres, more or less, and subject to easements covenants and restrictions of record.

**EXHIBIT FOR
LAND DESCRIPTION,
PORTION OF
LOT ONE, BLOCK ONE,
LCCC ADDITION,
LARAMIE COUNTY,
WYOMING.**

