

Standard Form of Agreement Between Owner and Architect

for Special Services

1988 Edition

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Recommended for use with current editions of standard AIA Agreement forms and documents.

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AGREEMENT

made as of the 13th day of April in the year of 2004

BETWEEN the Owner:

(Name and address)

City of Rapid City

Engineering Division

300 6th Street

Rapid City, SD 57701

and the Architect:

(Name and address)

TSP Three, Inc.

600 Kansas City Street

Rapid City, SD 57701

For the following Project:

(Include detailed description of Project, location, address and scope.)

Chapel Lane Bridge Widening

Rapid City, South Dakota

The Owner and the Architect agree as set forth below.

ARTICLE 1 ARCHITECT'S SERVICES

(Here list those services to be provided by the Architect under the Terms and Conditions of this Agreement. Note under each service listed the method and means of compensation to be used, if applicable, as provided in Article 8.)

See attached letter dated April 8, 2004 for complete list of services to be provided.

TERMS AND CONDITIONS OF AGREEMENT BETWEEN OWNER AND ARCHITECT

ARTICLE 2 OWNER'S RESPONSIBILITIES

2.1 The Owner shall provide full information regarding requirements for the Project. The Owner shall furnish required information as expeditiously as necessary for the orderly progress of the Work, and the Architect shall be entitled to rely on the accuracy and completeness thereof.

2.2 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

ARTICLE 3

© 1988 - THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK AVENUE, N.W., WASHINGTON, D.C., 20006-5292. AIA DOCUMENT B727 - OWNER-ARCHITECT AGREEMENT - 1988 EDITION - AIA® - WARNING: Unlicensed photocopying violates U.S. copyright laws and will subject the violator to legal prosecution. This document was electronically produced with permission of the AIA and can be reproduced in accordance with your license without violation until the date of expiration as noted below. expiration as noted below. User Document: chapel lane bridge widening.aia -- 4/12/2004. AIA License Number 1000475, which expires on 6/2/2004.

USE OF ARCHITECT'S DOCUMENTS

3.1 The documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's documents for the Owner's information, reference and use in connection with the Project. The Architect's documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under this Agreement, except by agreement in writing and with appropriate compensation to the Architect.

ARTICLE 4 ARBITRATION

~~4.1 Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise.~~

~~4.2 A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitations.~~

~~4.3 No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the Owner, Architect and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~4.4 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

ARTICLE 5 TERMINATION OR SUSPENSION

5.1 This Agreement may be terminated by either party

upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

5.2 If the Owner fails to make payment when due the Architect for services and expenses, the Architect may, upon seven days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Architect within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

5.3 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Paragraph 5.4.

5.4 Termination Expenses shall be computed as a percentage of the compensation earned to the time of termination, as follows:

- 1 For services provided on the basis of a multiple of Direct Personnel Expense, 20 percent of the total Direct Personnel Expense incurred to the time of termination; and
- 2 For services provided on the basis of a stipulated sum, 10 percent of the stipulated sum earned to the time of termination.

ARTICLE 6 MISCELLANEOUS PROVISIONS

6.1 Unless otherwise provided, this Agreement shall be governed by the law of the principal place of business of the Architect.

6.2 Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statute of limitations shall commence to run not later than the date payment is due the Architect pursuant to Paragraph 8.4.

6.3 The Owner and Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Architect shall assign this Agreement without the written consent of the other.

6.4 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

6.5 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 Architect.

6.6 Unless otherwise provided in this Agreement, the Architect and Architect's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

ARTICLE 7 PAYMENTS TO THE ARCHITECT

7.1 DIRECT PERSONNEL EXPENSE

7.1.1 Direct Personnel Expense is defined as the direct salaries of the Architect's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions, and similar contributions and benefits.

7.2 REIMBURSABLE EXPENSES

7.2.1 Reimbursable Expenses are in addition to the Architect's compensation and include expenses incurred by the Architect and Architect's employees and consultants in the interest of the Project for:

- .1 expense of transportation and living expenses in connection with out-of-town travel authorized by the Owner;
- .2 ~~long distance communications;~~

- .3 ~~fees paid for securing approval of authorities having jurisdiction over the Project;~~
- .4 reproductions;
- .5 postage and handling of documents;
- .6 ~~expense of overtime work requiring higher than regular rates, if authorized by the Owner;~~
- .7 ~~renderings and models requested by the Owner;~~
- .8 ~~expense of additional coverage or limits, including professional liability insurance, requested by the Owner in excess of that normally carried by the Architect and the Architect's consultants; and~~
- .9 ~~Expense of computer aided design and drafting equipment time when used in connection with the Project.~~

7.3 PAYMENTS ON ACCOUNT OF THE ARCHITECT'S SERVICES

7.3.1 Payments on account of the Architect's services and for Reimbursable Expenses shall be made monthly upon presentation of the Architect's statement of services rendered or as otherwise provided in this Agreement.

7.3.2 An initial payment as set forth in Paragraph 8.1 is the minimum payment under this Agreement.

7.4 ARCHITECT'S ACCOUNTING RECORDS

7.4.1 Records of Reimbursable Expenses and expenses pertaining to services performed on the basis of a multiple of Direct Personnel Expense shall be available to the Owner or the Owner's authorized representative at mutually convenient times.

ARTICLE 8 BASIS OF COMPENSATION

The Owner shall compensate the Architect as follows:

8.1 AN INITIAL PAYMENT OF zero Dollars (\$ 0.00) shall be made upon execution of this Agreement and credited to the Owner's account at final payment.

8.2 COMPENSATION FOR THE ARCHITECT'S SERVICES, as described in Article 1, Architect's Services, shall be computed as follows:
(Insert basis of compensation, including stipulated sums multiples or percentages, and identify the services to which particular methods of compensation apply, if necessary.)
For Design Services on an hourly basis with hourly rates in accordance with the attached "Manhour Projections" with a not-to-exceed amount of Thirty Two Thousand and Nine Hundred and Thirty Five Dollars (\$32,935.00) including expenses but not including taxes.

As an alternate and only if accepted in writing by the City of Rapid City for construction administration services on an hourly basis with hourly rates in accordance with the attached "Manhour Projections" with a not-to-exceed amount of

Fifteen Thousand and Ninety Dollars (\$15,090.00), including expenses but not including taxes.

8.3 FOR REIMBURSABLE EXPENSES, as described in Article 7, and any other items included in Article 9 as Reimbursable Expenses, a multiple of one point one (1.1) times the expenses incurred by the Architect, the Architect's employees and consultants in the interest of the Project.

8.4 Payments are due and payable thirty (30) days from the date of the Architect's invoice. Amounts unpaid thirty-one (31) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof, at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of interest agreed upon.)

Rate of interest - ten percent (10%)

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Architect's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Specific legal advice should be obtained with respect to deletions or modifications, and also regarding other requirements such as written disclosures or waivers.)

8.5 IF THE SCOPE of the Project or of the Architect's services is changed materially, the amounts of compensation shall be equitably adjusted.

ARTICLE 9
OTHER CONDITIONS

This Agreement entered into as of the day and year first written above.

OWNER City of Rapid City

ARCHITECT TSP Three, Inc.



(Signature)

Robert A. Morcom, Principal

(Printed name and title)

(Signature)

(Printed name and title)

DATE:04/07/04

RE: Chapel Lane Bridge Widening ST04-1359

MANHOOUR / FEE PROPOSAL

PREPARED BY: TSP THREE, INC.

TSP NO. #03030244.PP

PREPARED FOR: City of Rapid City Engineering Division

TSP

DESCRIPTION	PM/PE1 \$120.00	PE2 \$90.00	Dept. Head \$100.00	CADD \$50.00	Clerical \$35.00
A. DESIGN					
Bridge Plans					
Coordination/Review Meetings w/City of Rapid	2	4			
Deck Inventory and Preliminary Cost Estimate		6			
Existing Girder Analysis		8	4		
Bridge Removal Plan		8		6	
Abutment Plans		32		16	
Superstructure Plans		32		8	
Main Span Deck Plans		16		8	
Approach Span Deck Plans		32		12	
Joint Plans		12			
Railing Plans		4		12	
Overlay Plans		8		8	
Notes		16			
Structural Review			4		
Quantities/Bid Items		8			
Roadway Plans					
Removal Plan		4		4	
Typical Section		1		4	
Plan/Profile		16		8	
Cross Sections		2		8	
Erosion Control Plan		16		4	
Traffic Control Plan		4		4	
Details		4		8	
Notes		12			
Quantities/Bid Items		8		2	
Cost Estimate		2			
Sub-Total hours	2	255	8	112	0
					377
Subtotal	\$240.00	\$22,950.00	\$800.00	\$5,600.00	\$0.00
Design Subtotal Costs					\$29,590.00
B. FINAL DESIGN (100%)					
Meetings	2	2			
Revisions		2		4	
Final Estimate		3			
Contract Documents/Bid Proposal		3			
Pre-Bid Meeting		1			
Sub-Total hours	2	11	0	4	0
					17
Subtotal	\$240.00	\$990.00	\$0.00	\$200.00	\$0.00
Final Design Subtotal Costs					\$1,430.00
Total Labor-Surveys, Design, and Final Design					\$31,020.00

DESCRIPTION	PM/PE1	PE2	Dept. Head	CADD	Clerical
	\$120.00	\$90.00	\$100.00	\$50.00	\$35.00
D. TSP EXPENSES	Amount	Rate	Total		
Precision Surveying	1	\$1,800.00	\$1,800.00		
Printing(LS)	1	\$30.00	\$30.00		
Plotting(LS)	1	\$30.00	\$30.00		
Copies(LS)	1	\$25.00	\$25.00		
Mileage(LS)	1	\$20.00	\$20.00		
Photography(LS)	1	\$10.00	\$10.00		
Total Expenses			\$1,915.00		
Total Estimate Design					\$32,935.00

DESCRIPTION	PM/PE1	PE2	Dept. Head	CADD	Clerical
E. Construction Administration					
Approx Construction Time =26 Weeks					
Pre-Construction Meeting		2			
Weekly Coordination Meetings	2	26			
Shop Drawing Review		8			
Periodic Inspections 3/wk @ 1.5 Hr. x 26		117			
Payment Application Processing		6			
Final Document Prep/Transmit to City		6			
	2	165	0	0	0
Subtotal	\$240.00	\$14,850.00	\$0.00	\$0.00	167
Total Construction Administration Costs					\$15,090.00