

# REQUEST AUTHORIZATION FOR MAYOR AND FINANCE OFFICER TO SIGN PROFESSIONAL SERVICES AGREEMENT OR AMENDMENT

Date: 1/17/2007

Project Name & Number: 2007 Geotechnical Investigations

CIP #: 50592

*507-1605*

Project Description: Provide geotechnical soils investigations for various projects in and around the City of Rapid City. Services include soils drilling, field and lab testing, and pavement section design recommendations.

Consultant: American Engineering Testing, Inc.

Original Contract Amount: \$20,000.00

Original Contract Date: January 2007

Original Completion Date: 12/31/2007

Amendment Number:

Amendment Description:

Current Contract Amount: _____	\$20,000.00	Current Completion Date: _____	December 31, 2007
Change Requested: _____			
New Contract Amount: _____	\$20,000.00	New Completion Date: _____	

**Funding Source This Request:**

Amount	Dept.	Line Item	Comments
\$5,000.00	833	<i>4223</i>	sewer
\$10,000.00	8910	<i>4223</i>	streets
\$5,000.00	933	<i>4223</i>	water
\$20,000.00	<b>Total</b>		

**Agreement Review & Approvals**

 _____ Project Manager	1/24/2007 _____ Date	 _____ Division Manager	1/24/07 _____ Date
 _____ Department Director	1/24/07 _____ Date	 _____ City Attorney	1/25/07 _____ Date

**ROUTING INSTRUCTIONS**

Route two originals of the Agreement for review and signatures.  
 Finance Office - Retain one original  
 Project Manager - Retain second original for delivery to Consultant  
 cc: Public Works  
 Engineering  
 Project Manager

**FINANCE OFFICE USE ONLY**

(Note to Finance: Please write date of Agreement in appropriate space in the Agreement document)

Date	Initials	Approved
1/25/07	<i>DS</i>	(Y) N
Cash Flow		Y N



**AMERICAN  
ENGINEERING  
TESTING, INC.**

CONSULTANTS  
- GEOTECHNICAL  
- MATERIALS  
- ENVIRONMENTAL

December 28, 2006

Mr. Joe Jagodzinski  
City of Rapid City  
Public Works Department-Engineering Division  
300 Sixth Street  
Rapid City, South Dakota 57701

Subject:       Confirming Agreement  
                  Geotechnical Exploration Program  
                  2007 City Wide Geotechnical Investigations  
                  Rapid City, South Dakota

Dear Joe:

## **INTRODUCTION**

American Engineering Testing Inc. (AET) is pleased to provide this confirming agreement for conducting the 2007 City Wide Geotechnical Investigations for the City of Rapid City. This agreement defines the general scope and completion schedule for the upcoming projects. A copy of AET's 2007 Fee Schedule is also included for your review.

## **PROJECT INFORMATION**

We understand the 2007 City Wide Geotechnical project list is currently being prepared. As the projects become available AET will be provided with a description of the project details. AET will then provide the City with a detailed Scope of Work and the associated fees. Based on past work, we anticipate a typical project will include the drilling of test borings, the associated lab/field work and a report with recommendations for excavation, backfilling, reuse of site soils, subgrade prep and/or stabilization and both asphalt and concrete pavement sections. Individual reports will be submitted after each project with a year end submittal of all projects in a three ring binder.

## **PROJECT FEES**

The fees for each project will be in accordance with the hourly and unit rates as presented on the 2007 AET Fee Schedule included at the end of this agreement. Invoicing will be submitted monthly for those projects completed within that time frame.

**SCHEDULE**

Project field work will be scheduled following review of the project details and requirements. Weather permitting, AET will schedule the field work to begin within one week after receiving the project information. Once authorized to proceed, AET will set up the required utility locates at least 48 hours in advance of the field work. Required laboratory testing can typically be completed within one week with a preliminary report issued within one week upon completing the lab testing.

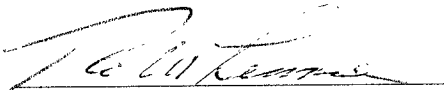
**ACCEPTANCE**

Please indicate your acceptance of this agreement by signing on the space provided and returning one copy for our files. A copy of AET's Service Agreement - Terms and Conditions, modified as mutually agreed upon with the City on past work, is included for your review.

**CLOSING**

Thank you for considering American Engineering Testing (AET) for this project. If you have any questions please call our office at (605) 388-0029.

Sincerely,



Robert Temme, P.E.  
South Dakota Manger

APPROVED:  
CITY OF RAPID CITY

BY \_\_\_\_\_

DATE: \_\_\_\_\_

**AMERICAN ENGINEERING TESTING, INC.**

RAPID CITY, SOUTH DAKOTA

Short Form Fee Schedule

Effective January 1, 2007

**GEOTECHNICAL ENGINEERING & TESTING SERVICES**

<u>PERSONNEL</u>	<u>UNIT</u>	<u>RATE</u>
Senior Geotechnical Engineer	HR	\$110.00
Geotechnical Engineer	HR	\$82.00
Senior Engineering Technician	HR	\$60.00
Engineering Technician	HR	\$48.00
2-Man Drill Crew & CME 75 Rig	HR	\$160.00
Draft Person	HR	\$58.00
Clerical	HR	\$40.00
Rig Mileage	Mile	\$3.00
Pickup Mileage	Mile	\$0.60
 <b><u>SOILS TESTING</u></b>		
Proctor (Standard or Modified)	EACH	\$125.00
One Point Proctor Check	EACH	\$85.00
Moisture Content / Dry Density	EACH	\$18.00
Atterburg Limits (LL & PL)	EACH	\$65.00
Gradation (Including #200)	EACH	\$65.00
#200 only	EACH	\$52.00
Consolidation/Swell	EACH	\$100.00
CBR (1 point)	EACH	\$125.00
Soundness (5 cycles)	EACH	\$200.00
Fractured Faces	EACH	\$55.00
Lightweight Particles (sp gr >1.95)	EACH	\$150.00
LA Abrasion	EACH	\$210.00
Relative Density of Cohesionless Soils	EACH	\$235.00
Direct Shear (3 points)	EACH	\$250.00
Permeability	EACH	\$150.00
Electrical Resistivity	Each	\$75.00
 <b><u>CONCRETE TESTING</u></b>		
Curing/Testing of 6" X 12" Cylinders	EACH	\$20.00
Trimming of Cylinder End (if required)	EACH	\$32.00
Curing/Testing of Mortar/Grout Cubes	EACH	\$46.00
Compression Tests of Cores	EACH	\$36.00
Compression Tests of Masonry Prisms	EACH	\$105.00
Flexural Beam Strength	EACH	\$40.00
 <b><u>BITUMINOUS TESTING</u></b>		
Marshall Density (set of 3)	EACH	\$125.00
Extraction / Gradation	EACH	\$155.00
Coring Machine	PER DAY	\$60.00
Bit Wear	PER INCH	\$1.00
Density of Cores	EACH	\$32.00
Flow and Stability (set of 3)	EACH	\$125.00
Rice Density	EACH	\$155.00

AMERICAN ENGINEERING TESTING, INC.SERVICE AGREEMENT  
TERMS AND CONDITIONSSECTION 1 - RESPONSIBILITIES

1.1 - The party to whom the proposal/contract is addressed is the Client of American Engineering Testing, Inc. (AET).

1.2 - Prior to AET performing work, Client will provide AET with all information that may affect the cost, progress, safety and performance of the work. This includes, but is not limited to, information on proposed and existing construction, all pertinent sections of contracts between Client and property owner, site safety plans or other documents which may control or affect AET's work. If new information becomes available during AET's work, Client will provide such information to AET in a timely manner. Also, Client will provide a representative for timely answers to project-related questions by AET.

1.3 - Work by AET will not relieve other persons of their responsibility to perform work according to the contract documents or specifications, and AET will not be held responsible for work or omissions by Client and other persons. AET will not be responsible for directing or supervising the work of others, unless specifically authorized in writing.

1.4 - Work by AET often includes sampling at specific locations. Inherent with such sampling is variation between sampling locations. Client recognizes this uncertainty and the associated risk, and acknowledges that opinions developed by AET, based on the samples, are qualified to that extent.

1.5 - AET is not responsible for interpretations or modifications of AET's recommendations by other person.

1.6 - Should changed conditions be alleged, Client agrees to notify AET before evidence of change is no longer accessible for evaluation.

SECTION 2 - SITE ACCESS AND RESTORATION

2.1 - Client will furnish AET safe and legal site access.

2.2 - It is understood by Client that in the normal course of the work, some damage to the site or materials may occur. AET will take reasonable precautions to minimize such damage. Restoration of the site is the responsibility of the Client.

SECTION 3 - SAFETY

3.1 - Client shall inform AET of any known or suspected hazardous materials or unsafe conditions at the work site. If, during the course of AET's work, such materials or conditions are discovered, AET reserves the right to take measures to protect AET personnel and equipment or to immediately terminate services. Client shall be responsible for payment of such additional protection costs.

3.2 - AET shall only be responsible for safety of AET employees at the work site. The Client or other persons shall be responsible for the safety of all other persons at the site.

SECTION 4 - SAMPLES

4.1 - Client is responsible for informing AET of any known or suspected hazardous materials prior to submittal to AET. All samples obtained by, or submitted to, AET remain the property of the Client during and after the work. Any known or suspected hazardous material samples will be returned to the Client at AET's discretion.

4.2 - Non-hazardous samples will be held for 30 days and then discarded unless, within 30 days of the report date, the Client provides a written request that AET store or ship the samples, at the Client's expense.

SECTION 5 - PROJECT RECORDS

The project records prepared by AET will remain the property of AET. AET shall retain these records for a period of three years following submission of the report, during which period the project records can be made available to the Client at AET's office at reasonable times.

SECTION 6 - STANDARD OF CARE

AET will perform services consistent with the level of care and skill normally performed by other firms in the profession at the time of this service and in this geographic area, under similar budgetary constraints. No other warranty is implied or intended.

SECTION 7 - INSURANCE

~~All cases of Workers Compensation, Property Damage and Professional Liability insurance. AET will furnish certificates of insurance to Client upon request.~~

SECTION 8 - DELAYS

~~If AET work delays are caused by Client, work of others, strikes, natural causes, weather, or other items beyond AET's control, a reasonable time extension for performance of work shall be granted, and AET shall receive an equitable fee adjustment.~~

SECTION 9 - PAYMENT, INTEREST AND BREACH

9.1 - Invoices are due on receipt. Client will inform AET of invoice questions or disagreements within 15 days of invoice date; unless so informed, invoices are deemed correct.

9.2 - Client agrees to pay interest on unpaid invoice balances at a rate of 1.5% per month, or the maximum allowed by law, whichever is less, beginning 30 days after invoice date.

9.3 - If any invoice remains unpaid for 60 days, such non-payment shall be a material breach of this agreement. As a result of such material breach, AET may, at its sole option, terminate all duties to the Client or other persons, without liability.

9.4 - Client will pay all AET collection expenses and attorney fees relating to past due fees which the Client owes under this agreement.

SECTION 10 - LITIGATION REIMBURSEMENT

deleted

SECTION 11 - MUTUAL INDEMNIFICATION

11.1 - AET agrees to hold harmless and indemnify Client from and against liability arising out of AET's negligent performance of the work, subject to any limitations, other indemnifications or other provisions Client and AET have agreed to in writing.

11.2 - Client agrees to hold harmless and indemnify AET from and against liability arising out of Client's negligent conduct, subject to any limitation, other indemnifications or other provisions Client and AET have agreed to.

11.3 - If Client has indemnity agreement with other persons the Client shall include AET as a beneficiary.

SECTION 12 - LIMITATION OF LIABILITY

Client agrees to limit AET's liability to Client arising from professional acts, errors or omissions, such that the total aggregate liability of AET shall not exceed AET's required limits of insurance.

SECTION 13 - TERMINATION

After seven days written notice, either party may elect to terminate work for justifiable reasons. In this event, the Client shall pay for all work performed, including demobilization and reporting costs to complete the file.

SECTION 14 - SEVERABILITY

Any provisions shall continue in force. However, Client and AET will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

SECTION 15 - ENTIRE AGREEMENT

This agreement, including attached appendices, is the entire agreement between AET and Client. This agreement nullifies any previous written or oral agreements, including purchase/work orders. Any modifications to this agreement must be in writing.

AMERICAN ENGINEERING TESTING, INC.SUBSURFACE BORING SUPPLEMENT  
TO TERMS AND CONDITIONSSECTION 16 - UNDERGROUND UTILITY AND STRUCTURE CLEARANCE

16.1 - It is necessary that borings, excavations and other penetrations be located such that they maintain a minimum safe distance from underground utilities or other man-made improvements. AET will contact state notification centers, where available, or individual utility owners where a state notification centers are not available prior to drilling.

16.2 - Public utility owners may not provide the locating service on private property. In such situations, the Client is responsible for location of such utilities prior to drilling.

16.3 - The property owner may have private underground improvements which cannot be cleared through the state notification center or public utility owners. The Client is responsible for location of these improvements.

16.4 - AET will not be responsible for any damages to "non-located" or incorrectly located underground utilities or other man-made improvements.

SECTION 17 - CONTAMINATION

deleted

SECTION 18 - LOST EQUIPMENT

deleted

SECTION 19 - LIMITATIONS OF SUBSURFACE EXPLORATION

Client recognizes that unavoidable risks occur whenever engineering or related disciplines are applied to identify subsurface conditions. Even a comprehensive sampling and testing program performed in accordance with a professional standard of care may fail to detect certain conditions, because they are hidden. For similar reasons, actual environmental, geologic and geotechnical conditions that AET characterizes to exist between sampling points may differ significantly from those that actually exist. The passage of time also must be considered, and Client recognizes that, due to natural occurrences or direct or indirect human activities at the site or distant from it, actual conditions discovered may change. Client recognizes that nothing can be done to eliminate the risks associated with these limitations.

**MODIFICATIONS:**

**SECTION 7 - INSURANCE**

AET shall obtain and maintain at its expense the following minimum limits of occurrence-based insurance coverage for the duration of this Agreement.

<u>Type of Coverage</u>	<u>Minimum Limits of Coverage</u>
A. Workers' Compensation	Statutory
B. Comprehensive General Liability Bodily Injury and Property Damage Combined Single Limit	\$1,000,000 each occurrence \$1,000,000 aggregate
C. Professional Liability (when applicable) (on claims made basis)	\$1,000,000

Such insurance policies shall contain cross liability provisions and shall name the City of Rapid City as an additional insured to policy B above with respect to all activities arising out of the performance of the work and/or services under this Agreement. Such insurance shall be primary to any valid and collectible insurance maintained by Client. Acceptable Certificates of Insurance and Endorsements confirming the above coverage shall be filed with Client before commencing any work and/or services. Such Certificates shall afford Client thirty (30) days written notice of cancellation or of a material change in coverage. Client's failure to obtain from AET a Certificate of Insurance conforming to the foregoing requirements shall not be deemed a waiver of any of the foregoing requirements.

**SECTION 8 - DELAYS**

Neither AET nor Client shall have any liability for any breach caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, act of government, the other party or any other cause beyond such party's reasonable control.

**ADDITIONS:**

**SECTION 20 - COMPLIANCE WITH LAWS**

AET shall at all time comply with all applicable Federal, state, and local laws, regulations and ordinances, and terms of collective bargaining agreements in the performance of this Agreement.

**SECTION 21 - TAXES**

AET shall have full and exclusive liability for the payment of any and all taxes and contributions for unemployment insurance, retirement benefits, life insurance, pensions, annuities, and similar benefits, which may now or hereafter be imposed by law or collective bargaining agreements with respect to persons employed by AET for performance of work or services under this Agreement. Unless otherwise specifically provided, the compensation to be paid to AET includes, and AET shall be liable for, all taxes, excises, assessments, and other charges levied for by any government agency on, or because of the work and/or services performed hereunder, and any



materials, equipment, services, or supplies furnished or used in the performance of the work and/or services under this Agreement.

SECTION 22 -- APPLICABLE LAW AND VENUE

The parties agree that the terms of this Agreement shall be governed by the laws of the State of South Dakota. In the event of any conflict of laws, the law of the State of South Dakota shall be controlling. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court of the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

**ACORD CERTIFICATE OF LIABILITY INSURANCE**

OP ID BK  
AMERI-1

DATE (MM/DD/YYYY)  
12/29/06

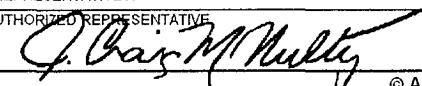
PRODUCER  St Paul Agency Inc 245 E Roselawn Ave Ste 31 St Paul MN 55117-1943 Phone: 651-488-0789 Fax: 651-488-0989	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURERS AFFORDING COVERAGE	NAIC #
INSURED  AMERICAN CONSULTING SERVICES INC / AMERICAN ENGINEERING TESTING INC / AM PETROGRAPHIC INC / AM EQUIPMENT LEASING INC 550 Cleveland Ave N St Paul MN 55114-1804	INSURER A <b>ST PAUL TRAVELERS</b>	24775
	INSURER B <b>CNA-CONTINENTAL CASUALTY CO</b>	02128
	INSURER C	
	INSURER D	
	INSURER E	

**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GENL. AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	P630539K8896COF07	01/01/07	01/01/08	EACH OCCURRENCE \$ 1000000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50000 MED EXP (Any one person) \$ 5000 PERSONAL & ADV INJURY \$ 1000000 GENERAL AGGREGATE \$ 2000000 PRODUCTS - COMP/OP AGG \$ 1000000
A		AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	P810797K9140TIL07	01/01/07	01/01/08	COMBINED SINGLE LIMIT (Ea accident) \$ 1000000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	POUB709K909307	01/01/07	01/01/08	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E L EACH ACCIDENT \$ 500000 E L DISEASE - EA EMPLOYEE \$ 500000 E L DISEASE - POLICY LIMIT \$ 500000
B		PROFESSIONAL LIAB INCL POLLUTION	ECH254066939 CLAIMS MADE	07/02/06	07/02/07	EA OCC 1000000 AGGREGATE 3000000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**THE CITY OF RAPID CITY IS ADDITIONAL INSURED UNDER THE GENERAL LIABILITY POLICY ON A PRIMARY & NON CONTRIBUTORY BASIS.**

<b>CERTIFICATE HOLDER</b>  RAPIDCO  CITY OF RAPID CITY 300 6TH ST RAPID CITY SD 57701	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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