

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

Date: June 3, 2008

**Project Name & Number:** West Boulevard Area Sewer Reconstruction Project #SS08-1728 **CIP #:50422**

**Project Description:** Provide evaluation of Sanitary Sewer and Storm Sewer systems in the West Boulevard neighborhood area. Evaluation will include assessment of existing facilities, sewer flow measurements during wet and dry weather, public input, and preliminary design of improvements, with final design and construction of improvements under future phases (not included in this contract).

**Consultant:** Ferber Engineering Company, Inc.

**Original Contract Amount:** \$84,606.25      **Original Contract Date:** June 16, 2008      **Original Completion Date:** July 31, 2009

**Amendment Number:**

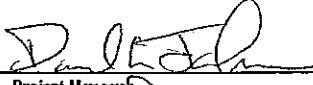
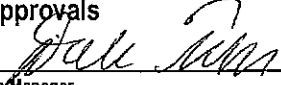
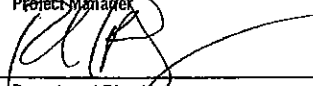
**Amendment Description:**

**Current Contract Amount:** \_\_\_\_\_      **Current Completion Date:** \_\_\_\_\_  
**Change Requested:** \_\_\_\_\_  
**New Contract Amount:** \_\_\_\_\_ \$0.00      **New Completion Date:** \_\_\_\_\_

**Funding Source This Request:**

Amount	Dept.	Line Item	Fund	Comments
\$48,606.25	833	4223	604	Wastewater Replacement/Impr. - Prof. Services (Engineering)
\$36,000.00	8911	4223	505	CIP Drainage - Professional Services (Engineering)
\$84,606.25	<b>Total</b>			

**Agreement Review & Approvals**

 Project Manager	JUN 3 2008 Date	 Division Manager	6-5-08 Date
 Department Director	6-5-08 Date	City Attorney	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
Appropriation	6/5/08	<input checked="" type="radio"/> Y <input type="radio"/> N
Cash Flow		<input type="radio"/> Y <input checked="" type="radio"/> N

**AGREEMENT  
FOR  
PROFESSIONAL SERVICES**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between the City of Rapid City, hereinafter called the **OWNER**, and Ferber Engineering Company, Inc., a South Dakota Corporation, hereinafter called the **CONSULTANT**.

**WHEREAS**, the **OWNER** has determined the need to procure professional engineering services for the **WEST BOULEVARD AREA SEWER RECONSTRUCTION - PROJECT SS08-1728, CIP 50422** , as identified herein; and,

**WHEREAS**, the **CONSULTANT** has satisfied the **OWNER** that **CONSULTANT** is capable of providing those services;

**NOW, THEREFORE**, the **OWNER** and **CONSULTANT** in consideration of the payments and agreements herein contained, do hereby agree as follows:

**PROJECT DESCRIPTION**

This **PROJECT** involves conducting a study and evaluation of stormwater runoff and sanitary sewer improvements in the West Boulevard neighborhood of Rapid City, South Dakota. This neighborhood is generally located southwest of Rapid City's Central Business District within the area bounded by Saint Joseph Street, West Boulevard, Saint Patrick Street, and Skyline Drive (Study Area).

The **CONSULTANT** will provide services related to data collection, investigation, research analysis, and conceptual design of storm runoff and sanitary sewer system evaluation. The **CONSULTANT** will evaluate the size, service area, and current condition of the storm runoff and sanitary sewer system within the study area. The evaluation will include performing measurements and physical evaluations of sanitary sewer flows, storm conditions, and drainage facilities during wet and dry conditions to evaluate infiltration and inflow (I & I) to the sanitary sewer system, and the need for improvements to the storm drainage system to improve local drainage within the study area. The **CONSULTANT** will provide recommendations and construction cost estimates for cost effective remedial actions or infrastructure improvements.

Following the evaluation, the **CONSULTANT** may be contracted to prepare designs and bidding documents for selected sanitary sewer improvements; it is anticipated that the construction of improvements will be completed over a period of approximately three years, with individual contracts issued for applicable engineering services (for design or construction phases) for each year or project phase. The **PROJECT**, as defined in the original project scope, will include at a minimum the following Phases:

**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

- PHASE 1 - (CIP 50422) West Boulevard Neighborhood Sanitary Sewer and Storm Drainage System Evaluation.
- PHASE 2 – (CIP 50422) Sanitary Sewer Reconstruction between West Boulevard and 11<sup>th</sup> Street.
- PHASE 3 – (CIP 50414) Sanitary Sewer Main Reconstruction between 11<sup>th</sup> Street and 12<sup>th</sup> Street.
- PHASE 4 – (CIP 50377) Sanitary Sewer Main Reconstruction along and south of Fulton Street from 11<sup>th</sup> Street to Tompkins Street.

Although CIP project identification numbers and budgets have been prepared by the **CITY** for Phases 2 through 4, the actual scope of reconstruction for these Phases will be developed within Phase 1 of this **PROJECT**. Preliminary and Final Design of Phases 2 through 4 of this **PROJECT** will be developed under separate contracts for each of the Phases. Additionally, the **CITY** may choose to add Construction Related Services to each of Phase 2 through 4. Construction Related Services will also be completed under separate contracts.

This Agreement is for the completion of **PHASE 1 - West Boulevard Neighborhood Sanitary Sewer and Storm Drainage System Evaluation**.

#### **DESIGN CRITERIA**

The **PROJECT** will be evaluated and designed in conformance with the following Design Criteria:

- *City of Rapid City Standard Specifications for Public Works Construction, 2007.*
- *City of Rapid City Stormwater Quality Manual*
- *City of Rapid City Design Criteria, including*
  - *Street Design and Right-of-Way Criteria (DRAFT)*
  - *Utility Design Criteria (DRAFT)*
  - *Stormwater Design Criteria (DRAFT)*
- *City of Rapid City Drafting Standards.*
- *Recommended Standards for Wastewater Facilities (Ten States Standards)*

**ARTICLE I SCOPE OF SERVICES**

**A. DESIGN DATA ACQUISITION**

A.1. **CONSULTANT** will obtain GIS information and associated metadata from the **CITY**, to include but not be limited to the following:

- A.1.1. Sanitary Sewer Common Service Line information
- A.1.2. Parcel Data
- A.1.3. Sanitary Sewer Geodatabase
- A.1.4. Water System Geodatabase
- A.1.5. Drainage Inventory Geodatabase
- A.1.6. Topographic Information (Contours)
- A.1.7. Orthographic Information (Photos)

A.2. **CONSULTANT** will obtain from the **CITY** additional information, to include but not be limited to the following:

- A.2.1. Sanitary Sewer Service and Water Service Cards
- A.2.2. Street and Drainage As-built Plans
- A.2.3. 2008 Utility System Master Plan Documentation
  - A.2.3.1. Wade & Associates, Inc., *Final Report of Flow Monitoring Program*
- A.2.4. 5-years of Winter Water Use by address
- A.2.5. Street Condition Reports
- A.2.6. Water Main Break History
- A.2.7. Utility Service Call Logs
- A.2.8. Current Water, Sewer, Street and Drainage CIP information
- A.2.9. Drainage Basin Design Plans and other infrastructure studies completed within the area.

A.3. **CONSULTANT** will collect rainfall data during completion of PHASE 1, as weather dictates.

**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

- A.3.1. **CONSULTANT** will coordinate “local” gauge location(s), retrieve and evaluate collected data.
- A.3.2. **CONSULTANT** will additionally obtain rainfall data from the National Weather Service.
- A.4. **CONSULTANT** will coordinate sanitary sewer flow monitoring locations with **CITY**, as weather dictates.
  - A.4.1. **CONSULTANT** will specify meter locations and length of monitoring time for each setup.
  - A.4.2. **CITY** will be responsible for physically setting, maintaining and downloading data from the flow meters.
  - A.4.3. **CITY** will forward data to **CONSULTANT** for review and evaluation.
- A.5. **CONSULTANT** will coordinate sanitary sewer videotaping with **CITY**.
  - A.5.1. **CITY** will perform all work to videotape and archive to digital video disk (DVD) sanitary sewer mains within the Study Area.
  - A.5.2. **CONSULTANT** will review videos and document problem areas.
- A.6. **CONSULTANT** will perform periodic qualitative sanitary sewer assessments to verify flow meter data validity and to track possible locations of inflow and infiltration, as weather dictates.
- A.7. **CONSULTANT** will perform periodic qualitative surface water assessments to determine flowpaths and measure flow depths at specific locations to assist in calibration of hydraulic modeling, as weather dictates.
  - A.7.1. **CONSULTANT** will collect field surveyed cross section information of selected streets within the Study Area.
  - A.7.2. **CONSULTANT** will utilize cross section information to develop calibration information for surface water drainage analysis.
- A.8. **CONSULTANT** will obtain copies of maps and plans of existing utility infrastructure in the **PROJECT** area from Qwest Communications, Golden West Communications, Black Hills Power and Light, Montana Dakota Utilities, Midcontinent Communications and PrairieWave Communications.
- A.9. **CONSULTANT** will send a questionnaire to all property owners within the Study Area.
  - A.9.1. **CONSULTANT** will request information on sanitary sewer services.
  - A.9.2. **CONSULTANT** will request information regarding drainage issues related to the property.
  - A.9.3. **CONSULTANT** collate questionnaire responses.

**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

**B. SANITARY SEWER EVALUATION**

B.1. **CONSULTANT** will develop a GIS point feature class representing sanitary sewer service taps within the Study Area.

B.1.1. The feature class developed for this **PROJECT** will be the basis for the City sanitary sewer service database and will be incorporated into the recently developed Sanitary Sewer geodatabase.

B.1.2. The feature attribute information will include, at a minimum:

B.1.2.1. Year Constructed

B.1.2.2. Material Type

B.1.2.3. Common Service Line or Individual Service Line

B.1.3. **CONSULTANT** will analyze the sewer service database for potential sources of inflow and infiltration into the City's sanitary sewer collection system.

B.2. **CONSULTANT** will complete an inflow and infiltration analysis of the sanitary sewer system within the Study Area.

B.2.1. **CONSULTANT** will determine base flow.

B.2.2. **CONSULTANT** will determine dry weather flows using winter water use data obtained from the **CITY**.

B.2.3. **CONSULTANT** will determine the inflow and infiltration within the various areas where flow monitoring is completed.

B.2.4. **CONSULTANT** will identify the possible sources of both inflow and infiltration by reviewing videotapes, GIS analysis of sewer service data, questionnaire responses and smoke testing.

B.2.4.1. Smoke testing will be limited to three (3) distinct City blocks of sanitary sewer system within the Study Area.

B.2.4.2. **CONSULTANT** will coordinate smoke testing locations with the **CITY** and will reflect various ages of home construction.

B.2.4.3. **CONSULTANT** will notify residents and property owners of smoke testing. **CONSULTANT** will provide personnel to assist with smoke testing.

B.2.4.4. **CITY** will conduct smoke test.

B.2.4.5. **CONSULTANT** will qualitatively evaluate smoke testing results to assist in identification of inflow and infiltration sources.

B.3. **CONSULTANT** will develop a Capital Improvements Project list of sanitary sewer reconstruction / rehabilitation projects within the Study Area.

**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

- B.3.1. **CONSULTANT** will prepare a GIS exhibit of appropriate size and scale to show the location and extents of the proposed sanitary sewer Capital Improvements Projects.
- B.3.2. **CONSULTANT** will provide GIS-compatible sanitary sewer Capital Improvements Projects feature classes to **CITY** for incorporation into City GIS.
- B.4. **CONSULTANT** will prepare 11"x17" Conceptual Plan and Profile drawings at appropriate scale for use in PHASE 2, as defined in the Project Description section of this contract.
- B.5. **CONSULTANT** will prepare conceptual project costs for each Capital Improvement Project recommended.
- B.6. **CONSULTANT** will prepare a Sanitary Sewer Evaluation report section for inclusion in the PHASE 1 - West Boulevard Neighborhood Sanitary Sewer and Storm Drainage System Evaluation Report.

**C. DRAINAGE EVALUATION**

- C.1. **CONSULTANT** will identify existing surface water drainage paths within the Study Area.
- C.2. **CONSULTANT** will review existing Downtown Area Drainage Basin Design Plan (DBDP), amendments and other drainage studies.
- C.2.1. **CONSULTANT** will convert the existing CUHP / UDSWMM hydrologic and hydraulic models to HEC-HMS.
- C.2.1.1. **CONSULTANT** will validate converted model to published DBDP model results for the 10-year and 100-year rainfall events.
- C.3. **CONSULTANT** will modify converted existing conditions HEC-HMS model to include additional detail that incorporates the field-verified drainage flowpaths.
- C.3.1. **CONSULTANT** will create existing condition 2-year, 10-year and 100-year hydrologic model scenarios.
- C.4. **CONSULTANT** will evaluate existing drainage system from Rapid Creek along the Ninth Street Outfall and the West Boulevard Storm Sewer System. In addition, **CONSULTANT** will evaluate the existing drainage system along the 11<sup>th</sup> Street Outfall from Rapid Creek to Saint Joseph Street.
- C.5. **CONSULTANT** will develop proposed drainage system hydrologic models.
- C.5.1. **CONSULTANT** will create 2-year, 10-year and 100-year hydrologic model scenarios.
- C.5.2. **CONSULTANT** will develop drainage system improvement alternative models to reduce localized flooding of the Study Area.

**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

- C.5.3. **CONSULTANT** will develop and evaluate water quality treatment facilities within the proposed drainage improvements, as appropriate.
- C.6. **CONSULTANT** will develop a Capital Improvements Project list of drainage construction / reconstruction / rehabilitation projects within the Study Area.
- C.6.1. **CONSULTANT** will prepare a GIS exhibit of appropriate size and scale to show the location and extents of the proposed drainage Capital Improvements Projects.
- C.6.2. **CONSULTANT** will provide GIS-compatible drainage Capital Improvements Projects feature classes to **CITY** for incorporation into City GIS.
- C.7. **CONSULTANT** will prepare conceptual project costs for each Capital Improvement Project recommended.
- C.8. **CONSULTANT** will prepare a Drainage Evaluation report section for inclusion in the *PHASE 1 - West Boulevard Neighborhood Comprehensive Infrastructure Planning Report.*

**D. EVALUATION REPORT**

- D.1. **CONSULTANT** will coordinate the recommended drainage and sanitary sewer CIPs with existing street and water CIPs.
- D.2. **CONSULTANT** will prioritize the ultimate CIPs according to criticality, cost-effectiveness and benefit.
- D.3. **CONSULTANT** will prepare the *PHASE 1 - West Boulevard Neighborhood Comprehensive Infrastructure Planning Report.*

**E. MEETINGS**

- E.1. **CONSULTANT** will attend Public Works Committee and Rapid City Common Council meetings as necessary during the completion of this **PROJECT**.
- E.2. **CONSULTANT** will hold two (2) public information meetings during the summer of 2008 with coordination of dates made with the **CITY**.
- E.2.1. **CONSULTANT** will be available to answer individual questions from property owners outside of scheduled meeting times.
- E.3. **CONSULTANT** will meet with **CITY** staff as necessary during the completion of this **PROJECT**.

**ARTICLE II OWNERS RESPONSIBILITY**

Except as otherwise provided herein, **OWNER** shall do the following in a timely manner so as not to delay the services of **CONSULTANT**, and shall bear all costs incident thereto:



**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

- 2.1 Designate a person to act as **OWNER'S** representative with respect to the services to be performed or furnished by **CONSULTANT** under this Agreement.
- 2.2 Provide all criteria and full information as to **OWNER'S** requirements for the **PROJECT**, including design objectives and constraints, capacity and performance requirements, and any budgetary limitations.
- 2.3 Assist **CONSULTANT** by placing at **CONSULTANT'S** disposal all available information pertinent to the **PROJECT** including previous design reports and any other data relative to design or construction of the **PROJECT**.
- 2.4 Assist **CONSULTANT** by furnishing for **CONSULTANT'S** use Digital Existing Conditions Water System Geodatabase, including calibration information, as created during the Rapid City Utility System Master Plan.
- 2.5 Assist **CONSULTANT** by furnishing for **CONSULTANT'S** use Digital Files of Topographic Base Maps and Digital Terrain Models for the **PROJECT** area.
- 2.6 Arrange for access to and make all provisions for **CONSULTANT** to enter upon public and private property as required for **CONSULTANT** to perform services under this Agreement.

**ARTICLE III TIMES FOR RENDERING SERVICES**

**CONSULTANT'S** services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the **PROJECT**. Unless specific periods of time or specific dates for providing services are specified in this Agreement, **CONSULTANT'S** obligation to render services hereunder will extend for a period which may reasonably be required for the preparation of the Plans and Bidding Documents, including extra work and required extensions thereto.

- 3.1 The **CONSULTANT** will begin work upon receipt of a signed Notice to Proceed.
- 3.2 The *PHASE 1 - West Boulevard Neighborhood Comprehensive Infrastructure Planning Report* will be submitted in DRAFT form by September 12, 2008.
- 3.3 The *PHASE 1 - West Boulevard Neighborhood Comprehensive Infrastructure Planning Report* will be submitted in FINAL form by July 10, 2009.
- 3.4 The **CONSULTANT** will retain copies of all payroll and expense records for a period of three (3) years after completion of the **PROJECT**.

**ARTICLE IV PAYMENTS TO CONSULTANT FOR SERVICES**

4.1 **OWNER** shall pay to **CONSULTANT** for services performed in accordance with **ARTICLE I** on a per-diem basis in accordance with the attached Exhibit A, the **CONSULTANTS** hourly rates.

**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

- 4.2 In addition to payments provided for in paragraph 4.1, **OWNER** shall pay **CONSULTANT** for Reimbursable Expenses incurred by **CONSULTANT** including mileage at the rates identified in Exhibit A.
- 4.3 The **CONSULTANT** will invoice the **OWNER** monthly for the services provided. Net payment for these services is due within thirty (30) days.
- 4.4 The maximum estimated fee for Article I, Items A-E, is **\$84,606.25**
- 4.5 The **CONSULTANT** will not exceed the amount stipulated in paragraph 4.4 without prior authorization by the **OWNER**.

**ARTICLE V ADDITIONAL SERVICES**

- 5.1 If additional services beyond those contained in the scope of services must be performed, this agreement will be amended to identify the change in scope and the compensation due to the **CONSULTANT**.

**ARTICLE VI OPINIONS OF COST**

- 6.1 **CONSULTANT'S** opinions of probable Construction Cost provided for herein are to be made on the basis of **CONSULTANT'S** experience and qualifications and represent **CONSULTANT'S** best judgment as an experienced and qualified professional engineer generally familiar with the construction industry. However, since **CONSULTANT** has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractors methods of determining prices or over competitive bidding or market conditions, **CONSULTANT** cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by **CONSULTANT**.

**ARTICLE VII GENERAL TERMS AND CONDITIONS**

- 7.1 All services will be performed in accordance with the **CONSULTANT'S GENERAL TERMS AND CONDITIONS-RAPID CITY**, dated May 8, 2008, which are attached hereto and incorporated into this agreement by reference.
- 7.2 This Agreement represents the entire and integrated agreement between the **OWNER** and the **CONSULTANT** covering the services set forth herein and supersedes any prior negotiations, representations, or agreements therefore, either written or oral. This Agreement may be amended only by written instrument signed by both the **OWNER** and the **CONSULTANT**.

**WEST BOULEVARD AREA SEWER RECONSTRUCTION PROJECT**  
**City Project No. SS08-1728/ CIP No. 50422**

---

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the date and year first above written.

THE CITY OF RAPID CITY, SOUTH DAKOTA

\_\_\_\_\_  
Alan Hanks, Mayor

ATTEST:

\_\_\_\_\_  
Date: \_\_\_\_\_

James F. Preston  
Finance Officer

FERBER ENGINEERING COMPANY, INC.

BY: \_\_\_\_\_  
Dan P. Ferber, President

Date: \_\_\_\_\_

## GENERAL TERMS AND CONDITIONS- RAPID CITY

1. Ferber Engineering Company, Inc., herein referred to as FEC, will bill the Client monthly with net payment due in thirty (30) days. In addition, FEC may, after giving seven (7) days notice, suspend service under any agreement until the Client has paid in full all amounts due for services rendered and expenses incurred.
2. The stated fees and scope of services constitute our best estimate of the fees and tasks required to perform the services as defined. This agreement, upon execution by both parties hereto, can be amended only by written instrument signed by both parties. For those projects involving conceptual or process development services, activities often cannot be fully defined during the initial planning. As the project does progress, facts and conditions uncovered may reveal a change in direction that may alter the scope of services. FEC will promptly inform the Client in writing of such situations so that changes in this agreement can be renegotiated.
3. Costs and schedule commitments shall be subject to renegotiation for delays caused by the Client's failure to provide specified facilities or information or for delays caused by unpredictable occurrences including without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults by suppliers of materials or services, process shutdowns, acts of God, or the public enemy, or acts or regulations of any governmental agency. Temporary delays of services caused by any of the above which results in additional costs beyond those outlined may require renegotiation of this agreement.
4. FEC will maintain insurance coverage for: Workers Compensation, General Liability, Professional Liability, and Automobile Liability. FEC shall at all times during the term of this Agreement maintain its General Liability insurance with a minimum of a One Million Dollar (\$1,000,000) limit per occurrence or equivalent. FEC shall furnish the Client with a certificate of insurance acceptable to the Client. Such certificate shall be attached hereto and incorporated herein along with a statement generally describing the coverage therein contained. Said insurance shall name the City of Rapid City as an additional insured.
5. It is acknowledged by both parties that FEC's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event FEC or any other party encounters asbestos or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may affect the performance of FEC's services, FEC may, at their option and without liability for consequential or any other damages, suspend performance of services on the project until the Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate, and or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.
6. The Client agrees to provide such legal, accounting, and insurance counseling services as may be required for the project.
7. Termination of this agreement by the Client or FEC shall be effective upon seven (7) days written notice to the other party. The written notice shall include the reasons and details for termination. FEC will prepare a final invoice showing all charges incurred through the date of the termination. Payment is due as stated in Paragraph 1. If the Client violates any of the agreements entered into between FEC and the Client or if the Client fails to carry out any of the duties contained in these terms and conditions, FEC may upon seven (7) days written notice, suspend services without further obligation or liability to the Client unless, within such seven (7) day period, the Client remedies such violation to the reasonable satisfaction of FEC. If FEC violates any of the agreements entered into between the Client and FEC or if FEC fails to carry out any of the duties contained in these terms and conditions, Client may upon seven (7) days written notice, suspend payment without further obligation or liability to FEC unless, within such seven (7) day period, FEC remedies such violation to the reasonable satisfaction of the Client.
8. All documents including Drawings and Specifications provided or furnished by FEC pursuant to this Agreement are instruments of service in respect of the Project and FEC shall retain an ownership therein. Reuse of any documents pertaining to this project by the Client on extensions of this project or on any other project shall be at the Client's risk. The Client agrees to defend, indemnify, and hold harmless FEC from all claims, damages, and expenses including attorney's fees arising out of such reuse of the documents by the Client or by others acting through the Client.
9. FEC will endeavor to provide all services in accordance with generally accepted professional practices. FEC will not provide or offer to provide services inconsistent with or contrary to such practices nor make any warranty or guarantee, expressed or implied, nor to have any agreement or contract for services subject to the provisions of any uniform commercial code. Similarly, FEC will not accept those terms and conditions offered by the Client in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly accepted in writing. Written acknowledgement of receipt of the actual performance of



**GENERAL TERMS AND CONDITIONS- RAPID CITY - (CONT)**

services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

10. FEC intends to serve as the Client's professional representative for those services as defined in this agreement and to provide advice and consultation to the Client as a professional. Any opinions of probable project cost, approvals, and other decisions made by FEC for the Client are rendered on the basis of experience and qualifications and represent FEC's professional judgment.
11. This agreement shall not be construed as giving FEC the responsibility or authority to direct or supervise construction means, methods, techniques, sequences, or procedures of construction selected by any contractors or subcontractors or the safety precautions and programs incident to the work of any contractors or subcontractors.
12. 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.
13. In the event that any section(s), or provision(s) of this Agreement is declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision(s) of this Agreement if it can be given effect without the invalid section(s) or provision(s).



## EXHIBIT A

### 2008 SCHEDULE OF CHARGES

<u>EMPLOYEE CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal-In-Charge	\$110.00
Registered Land Surveyor	\$110.00
Registered Professional Engineer	\$100.00
Graduate Engineer III	\$65.00
Graduate Engineer II	\$60.00
Senior Technician II	\$65.00
Senior Technician I	\$60.00
Technician	\$45.00
Survey Crew 2-Man	\$90.00
Drafter	\$60.00
Clerical	\$50.00
Mileage	\$ .505
GPS Survey	\$20.00 + Tech*
*Tech includes hourly rate of employee plus expenses	

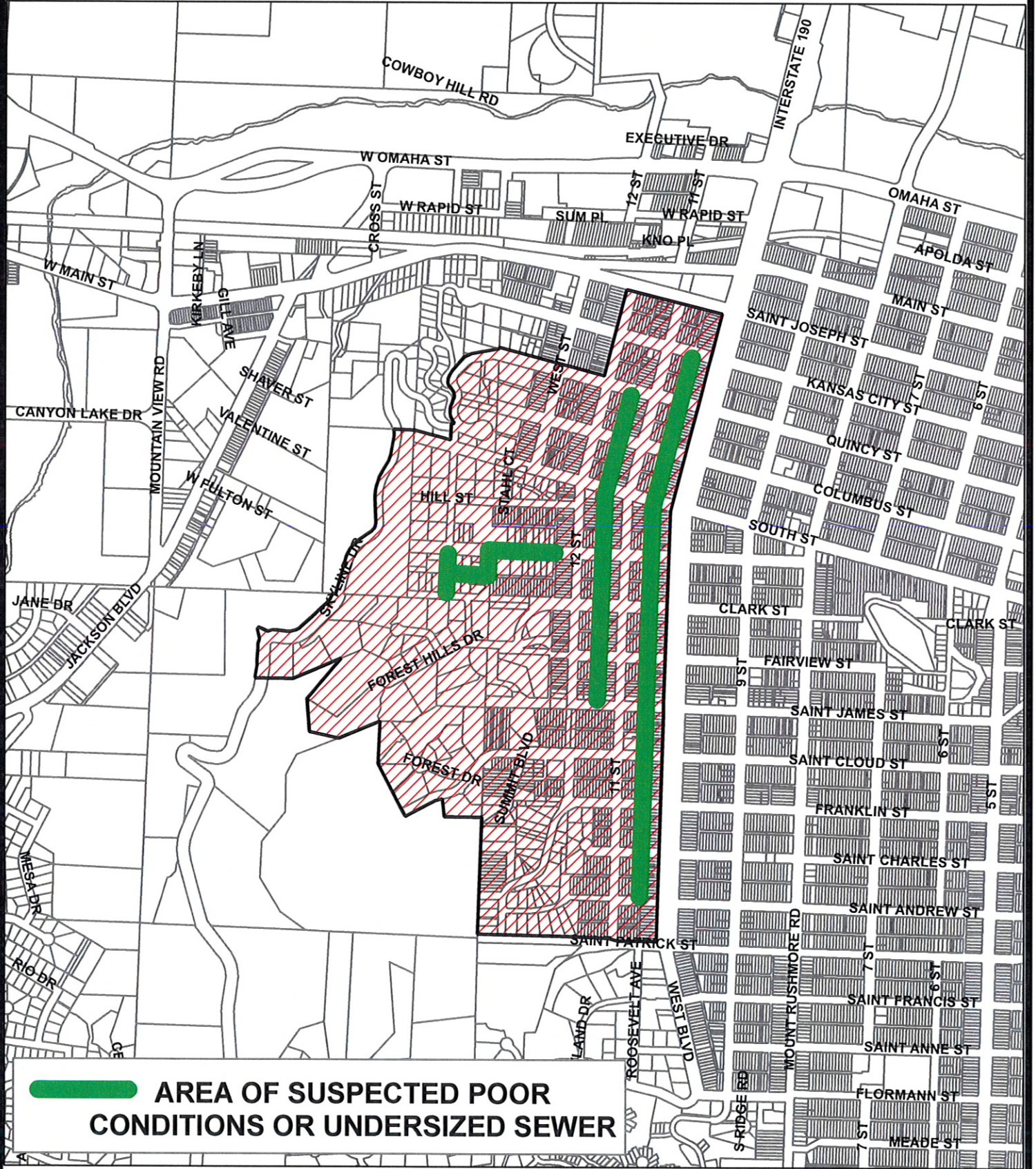
### **PRINTING CHARGES**


Bond	\$ .20/sq ft
Vellum	\$ .30/sq ft
Mylar	\$ .50/sq ft
Clear Film	\$ .50/sq ft
Photocopies, 8 ½" x 11" (BW)	\$ .10
Photocopies, 8 ½" x 11" (Color)	\$ .50
Binding (up to 1")	\$ 2.00





# EXHIBIT "A"



 AREA OF SUSPECTED POOR CONDITIONS OR UNDERSIZED SEWER

**WEST BLVD AREA SEWER RECONSTRUCTION  
PROJECT NO. SS08-1728 CIP NO. 50422**