

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

**Date:**

**Project Name & Number:** Universal Drive Reconstruction  
ST08-1701

**CIP #:** 50398

**Project Description:** Construction Services Agreement will include re-bidding the project and Basic Construction Services for the project.

**Consultant:** Ferber

**Original Contract Amount:** \$ 14,790.00

**Original Contract Date:**

**Original Completion Date:**

**Amendment Number:**

**Amendment Description:**

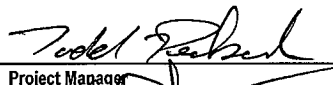
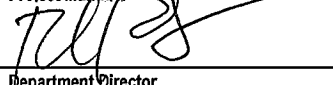
**Current Contract Amount:** \_\_\_\_\_  
**Change Requested:** \_\_\_\_\_  
**New Contract Amount:** \_\_\_\_\_ **\$0.00**

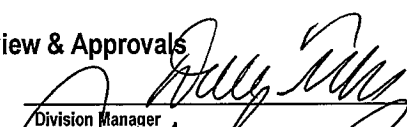

**Current Completion Date:** \_\_\_\_\_  
**New Completion Date:** \_\_\_\_\_

**Funding Source This Request:**

Amount	Dept.	Line Item	Comments
\$14,790.00	8910	4223	
\$14,790.00	Total		

## Agreement Review & Approvals

  
Project Manager \_\_\_\_\_ Date 10/6/08  
  
Department Director \_\_\_\_\_ Date 10-8-08

  
Division Manager \_\_\_\_\_ Date 10-7-08  
  
City Attorney \_\_\_\_\_ Date 10-6-08

### 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			Y N
Cash Flow			Y 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 preparation of bid documents and basic construction related services for the **UNIVERSAL DRIVE RECONSTRUCTION - PROJECT ST08-1701, CIP#50398** 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** is the reconstruction of Universal Drive from Deadwood Avenue northwest to the Rapid City Limits. The total length of the project is approximately 1600 feet.

**CONSULTANT** has previously completed Design and Bidding Services for the **PROJECT**. Bids were rejected by **OWNER**. Under this agreement, **CONSULTANT** will make modifications to the plans and specifications, re-bid and provide basic construction related services for the **PROJECT**.

### **ARTICLE I SCOPE OF SERVICES**

#### **TASK 2R – PLANS AND SPECIFICATIONS MODIFICATIONS:**

This task consists of all services necessary to modify plans and specifications.

- 2.1 Modify Construction Documents to reflect changed construction schedule.
- 2.2 Modify Plans to reflect revised topsoil and watering concepts.
- 2.3 Modify Plans to change pavement marking type for asphalt portion of project.
- 2.4 Remove the water main extension from the project and specify sleeve(s) for future water extension as necessary.
- 2.5 Make modifications to project approaches as determined by negotiations between the City and landowners adjacent to the project.

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**TASK 3 – BIDDING SERVICES:**

This task consists of all services necessary for the administration of the Bidding Services of the project, and may include the following itemized services.

- 3.1 Submit sufficient information to the City of Rapid City project manager for completion of City Advertising Authority form.
- 3.2 Print and issue plans and specifications to bidders, and five (5) copies to the City of Rapid City. Maintain a plan holders list.
- 3.3 Print and distribute five (5) copies plans/ drawings to the City of Rapid City at 11" x 17" scale for construction services personnel.
- 3.4 Arrange and conduct a Pre-bid Conference. Record attendance and minutes. Distribute copies to all attendees.
- 3.5 Issue addenda to the bid documents as required.
- 3.6 Attend the bid opening (to be held at the City Finance Office).
- 3.7 Attend Public Works Committee and Council Meetings as required.
- 3.8 Prepare the Bid Tab in City of Rapid City Microsoft Excel project book format and submit electronic Bid Tab and a printed hard copy to Engineering Services within one (1) working day of the bid opening. Forward a copy of the final bid tab to all bidders and project manager.
- 3.9 Present award recommendation to City of Rapid City project manager.

**TASK 4 – BASIC CONSTRUCTION SERVICES:**

This task consists of all services necessary for the administration of the Basic Construction Services of the project construction stage, and may include the following itemized services.

- 4.1 Prepare Notice of Award letter for City of Rapid City project manager signature and distribution to contractor for execution.
- 4.2 Prepare contracts and submit to contractor for execution.
- 4.3 Review construction contract documents and other submittals from the contractor and submit to City of Rapid City project manager for distribution to City Attorney's for approval and signatures of the Mayor and Finance Officer.
- 4.4 ~~Prepare Notice to Proceed for City of Rapid City project manager signature and distribution to contractor for execution.~~
- 4.5 ~~Attend Preconstruction Conference. Arrange and conduct a Pre-Construction Conference including agenda. Record minutes and distribute to all attendees.~~
- 4.6 Provide written clarification regarding drawing and specification questions. Provide recommendations to address changed or unknown conditions that may appear during construction.
- 4.7 Review and take action on shop drawings, product submittals, test results, and other submittals.

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- 4.8 Prepare "Record Drawing" plans and specifications. "Record Drawing" plans and specifications shall be submitted as a hard copy and on CD compatible with AutoCAD Release 2006 format. Submit to Engineering Services within 30 days of project completion. The City shall forward construction record documents for preparing the "Record Drawing" plans and specifications.

**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:

- 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**.

**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.

**SCHEDULE**

- 3.1 The **CONSULTANT** will complete Final Plans, Specifications, and Contract Documents by November 5, 2008.
- 3.2 The **CONSULTANT** will complete the preparation of Bid Documents for an anticipated bid opening of November 25, 2008.

**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.

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- 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 Tasks 2R, 3 and 4 is **\$14,790.00**.
- 4.5 The **CONSULTANT** will not exceed the amounts 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 6, 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**.

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**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

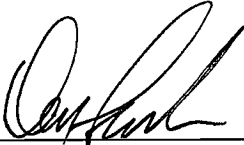
\_\_\_\_\_  
Alan Hanks, Mayor

ATTEST:

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

James F. Preston  
Finance Officer

FERBER ENGINEERING COMPANY, INC.

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

Date: Oct 3, 2008

## **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

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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).



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**EXHIBIT A**

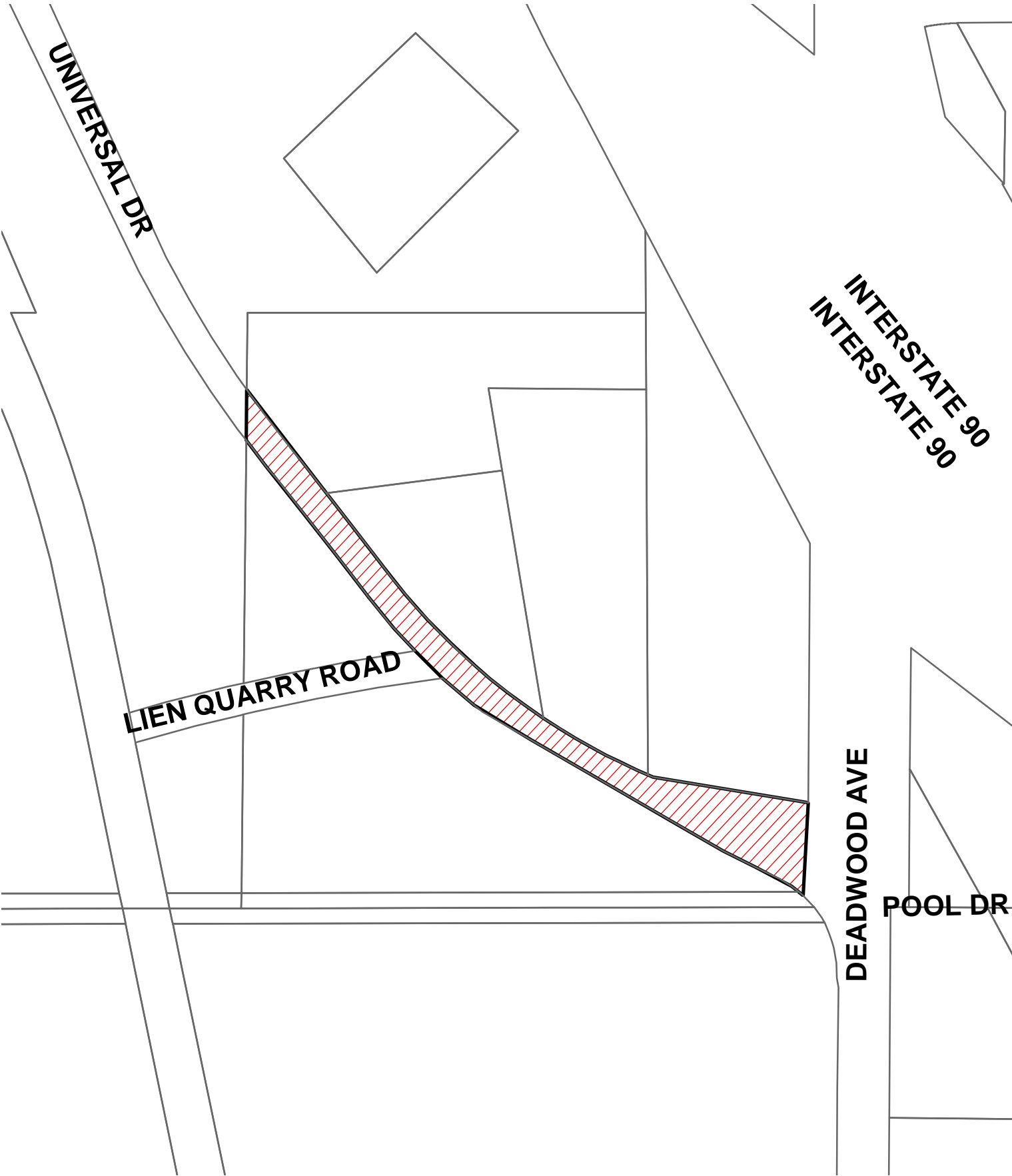
**2008 SCHEDULE OF CHARGES**

<b><u>EMPLOYEE CLASSIFICATION</u></b>	<b><u>HOURLY RATE</u></b>
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 1/2" x 11" (BW)	\$ .10
Photocopies, 8 1/2" x 11" (Color)	\$ .50
Binding (up to 1")	\$ 2.00

# EXHIBIT "A"



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