

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

Date:

Project Name & Number: Solid Waste Management Plan, Project No. SWO09-1778

CIP #: 50749

Project Description: Provide engineering services for the development of a landfill management plan for Rapid City

Consultant: HDR Engineering

Original
Contract Amount: \$178,000

Original
Contract Date: 4/1/09

Original
Completion Date:

Addendum No:

Amendment Description:

Current Contract Amount: \$178,000.00

Current Completion Date: _____

Change Requested: _____

New Contract Amount: \$178,000.00

New Completion Date: _____

Funding Source This Request:

Amount	Dept.	Line Item	Fund	Comments
70,800	7102	4223	0615	
106,200	7103	4223	0616	
\$178,000.00	Total			

Agreement Review & Approvals

Jerry Wright

Project Manager

Date

Division Manager

Date

Toni Broom

Compliance Specialist

Date

Department Director

Date

City Attorney

Date

Division Manager

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	4/9/09	JB	Y	N
Cash Flow			Y	N

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

As Modified by the Parties Hereto (all changes shown in redline/strike-out format)

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. C-700, 2002 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, No. E-001, 2002 Edition.

Issued and Published Jointly by



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

National Society of Professional Engineers
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American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400

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**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of April 14 , 2009 ("Effective Date") between
City of Rapid City, South Dakota ("Owner") and
HDR Engineering, Inc. ("Engineer").
 Owner intends to Provide engineering services for the development of a landfill management plan for Rapid City, SD.
 ("Project").

Owner and Engineer agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 General

A. Owner shall have the responsibilities set forth herein and in Exhibit B.

B. Owner shall pay Engineer as set forth in Exhibit C.

C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 - SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

A. Engineer shall begin rendering services as of the Effective Date of the Agreement.

3.02 Time for Completion

A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.

B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.

E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of direct damages resulting from such failure.

ARTICLE 4 - INVOICES AND PAYMENTS

4.01 Invoices

A. *Preparation and Submittal of Invoices.* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 45 days of receipt.

4.02 Payments

A. *Application to Interest and Principal.* Payment will be credited first to any interest owed to Engineer and then to principal.

B. *Failure to Pay.* If Owner fails to make any payment due Engineer for services and expenses within 45 days after receipt of Engineer's invoice, then:

1. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

C. *Disputed Invoices.* If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion. Owner shall promptly notify Engineer of the disputed item and request either clarification or that remedial action be taken. After a disputed item has been settled, Engineer shall include the disputed item on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

ARTICLE 5 - OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials,

equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner wishes greater assurance as to probable Construction Cost, Owner shall employ an independent cost estimator as provided in Exhibit B.

5.02 Reserved

5.03 Opinions of Total Project Costs

A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 - GENERAL CONSIDERATIONS

6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.

B. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

D. Subject to the standard of care set forth in paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. Engineer and Owner shall comply with applicable Laws and Regulations and Owner-mandated

standards that Owner has provided to Engineer in writing. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, and compensation.

G. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.

H. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition) unless both parties mutually agree to use other General Conditions by specific reference in Exhibit J.

I. Engineer shall not at any time supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.

J. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner without consultation and advice of Engineer.

6.02 Design without Construction Phase Services

A. If Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, then (1) Engineer's services under this Agreement shall be deemed complete no later than the end

of the Bidding or Negotiating Phase; (2) Engineer shall have no design or shop drawing review obligations during construction; (3) Owner assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services; and (4) Owner waives any claims against the Engineer that may be connected in any way thereto.

6.03 Use of Documents

A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.

B. A party may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.

D. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.

E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a license to use the Documents on the Project, extensions of the Project, and other projects of Owner, subject to the

following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project or on any other project without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants; (3) Owner shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by Engineer; (4) such limited license to Owner shall not create any rights in third parties.

F. If Engineer at Owner's request verifies or adapts the Documents for extensions of the Project or for any other project, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 Insurance

A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

B. Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and Engineer's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by Owner which are applicable to the Project.

C. Owner shall require Contractor to purchase and maintain general liability and other insurance in accordance with the requirements of paragraph 5.04 of the "Standard General Conditions of the Construction Contract," (No. C-700, 2002 Edition) as prepared by the Engineers Joint Contract Documents Committee and to cause Engineer and Engineer's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and Engineer's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds or additional insureds thereunder.

F. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

A. *Suspension.*

By Owner: Owner may suspend the Project upon seven days written notice to Engineer.

By Engineer: If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement.

B. *Termination.* The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate under paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination.* The terminating party under paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files. Upon payment due for services performed prior to the effective date of termination, Engineer shall deliver or otherwise make available to Owner all documents, data, drawings, specifications, reports, estimates, summaries, notes, and other information and materials as may have been produced or accumulated by Engineer in performing this Agreement.

D. *Payments Upon Termination.*

1. In the event of any termination under paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of paragraph 6.03.E.

2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items

identified in paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.06 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

6.07 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, claims arising out of this Agreement or moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

3. Owner agrees that the substance of the provisions of this paragraph 6.07.C shall appear in the Contract Documents.

6.08 Dispute Resolution

A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights under law.

B. If the parties fail to resolve a dispute through negotiation under paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.

6.09 Environmental Condition of Site

A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.

B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.

C. If Engineer encounters an undisclosed Constituent of Concern, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.

D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.

F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 Indemnification and Mutual Waiver

A. *Indemnification by Engineer.* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, partners, employees, or Consultants. The indemnification provision of the preceding sentence is subject to and limited by the provisions agreed to by Owner and Engineer in Exhibit I, "Allocation of Risks," if any.

B. *Indemnification by Owner.* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer, Engineer's officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

C. *Environmental Indemnification.* In addition to the indemnity provided under paragraph 6.10.B of this Agreement, and to the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs,

losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (i) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

D. *Percentage Share of Negligence.* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

E. *Mutual Waiver.* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.11 Miscellaneous Provisions

A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

C. *Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

D. *Waiver.* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement. One or more waivers by either party of any provision, term, condition or covenant shall not be constructed as a waiver of a subsequent breach of the same by the other party

E. *Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 - DEFINITIONS

7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above or in the exhibits; in the following provisions; or in the "Standard General Conditions of the Construction Contract," prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition):

1. *Additional Services*--The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 2, of this Agreement.

2. *Basic Services*--The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 1, of this Agreement.

3. *Construction Cost*--The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

4. *Constituent of Concern*--Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et

seq. ("CERCLA"); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §§1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

5. *Consultants*--Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.

6. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

7. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

8. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

9. *Reimbursable Expenses*--The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.

10. *Resident Project Representative*--The authorized representative of Engineer, if any, assigned to assist Engineer at the Site during the Construction Phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.

11. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems,

standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

12. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits Included

A. Exhibit A, "Engineer's Services," consisting of fifteen pages.

B. Exhibit B, "Owner's Responsibilities," consisting of one pages .

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of two pages.

D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of one pages.

E. Exhibit E, "Notice of Acceptability of Work," consisting of NA pages.

F. Exhibit F, Reserved.

G. Exhibit G, "Insurance," consisting of one pages.

H. Exhibit H, "Dispute Resolution," consisting of one pages.

I. Exhibit I, "Allocation of Risks," consisting of one pages.

J. Exhibit J, "Special Provisions," consisting of one pages.

K. Exhibit K, "Amendment to Standard Form of Agreement," consisting of one pages.

8.02 Total Agreement

A. This Agreement (consisting of pages 1 to 41 inclusive, together with the exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit K to this Agreement.

8.03 Designated Representatives

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner:

By: _____

Title: _____

Date Signed: _____

Engineer:

HDR Engineering, Inc.

By: William W. Brinker *William W Brinker*

Title: Senior Vice President

Date Signed: 4/14/09

Engineer License or Certificate No. 3109

State of: South Dakota

Attest:

By: _____

Title: City Finance Officer

Date Signed: _____

Address for giving notices:

Address for giving notices:

3820 Jackson Blvd, Suite 1

Rapid City, SD 57702

Designated Representative (see paragraph 8.03.A):

Title: _____

Phone Number: _____

Facsimile Number: _____

E-Mail Address: _____

Designated Representative (see paragraph 8.03.A):

J. Mike Coleman

Title: Project Manager

Phone Number: 605 977 7740

Facsimile Number: 605 977 7747

E-Mail Address: j.mike.coleman@hdrinc.com

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT A**, consisting of fourteen pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

Engineer's Services

PART 1 -- REFER TO ATTACHED EXHIBIT, SCOPE OF WORK (eleven pages)

PART 2 -- ADDITIONAL SERVICES

A2.01 Additional Services Requiring Owner's Written Authorization

A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond Engineer's control.
4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in paragraph A1.01.A.4.
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
8. Furnishing services of Engineer's Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in paragraph A1.03.C.
10. Services during out-of-town travel required of Engineer other than for visits to the Site or Owner's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.

12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.
14. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
15. Providing construction surveys and staking to enable Contractor to perform its work other than as required under paragraph A1.05.A.5, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
16. Providing Construction Phase services beyond the original date for final completion of the Work.
17. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
18. Preparing and furnishing to Owner Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.
19. Preparation of operation and maintenance manuals.
20. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
21. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
22. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 Additional Services Not Requiring Owner's Written Authorization

A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.
2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Contract in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.
3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) the presence at the Site of any Constituent of Concern, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.

5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.
6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.
7. Services during the Construction Phase rendered after the date stated in A1.05.B.

The following pages present HDR's approach to each Task in this scope of services. In identifying HDR's approach, we have organized each Task to address in detail HDR's objective; deliverables; meetings and key understandings. The consolidation of information and decisions from each of the first three tasks will be used to formulate the Solid Waste Management Plan.

Task 1 – Technical Memorandum #1: Program Needs Assessment and Issues Identification

Objective:

To summarize current and projected system needs in terms of capacity and define the operational issues and program changes to be addressed in the next 20 years.

HDR Activities:

Subtask 110 – Program Management Plan

- Prepare agenda and attend a project initiation meeting with staff to discuss major issues, goals and objectives.
- Prepare agenda and attend a Public Meeting to discuss the general process and topics of the master plan. This Public Meeting is to allow public input. HDR will prepare a simple presentation on the planning process.
- Attend a follow-up meeting with staff to discuss comments and questions from the Public Meeting.
- Attend and make presentation at City Council Meeting that discusses the general planning process and topics to be evaluated.
- Attend a meeting with the Solid Waste Committee to review goals & objectives

Subtask 120 – Background Data Collection & Review

- Concurrent with Task 110, meet with City to establish the waste stream composition and demographic information that will be used to provide the foundations for planning efforts.
- Compile, evaluate and summarize information provided by the City on the following:
 - Service area population & employment (historic & projections)
 - Historic waste quantities and types
 - Solid waste composition based on visual observation and literature reviews
- Meet with SDDENR regarding issues specific to Rapid City as it relates to Solid Waste (Meet in Pierre).

Subtask 130 – Data Evaluation and Needs Evaluation

- Based on population and employment projections, prepare estimates of future solid waste by quantity and type
- Compile and summarize information provided by the City on existing collection & disposal practices
 - Review local collection procedures and hauler practices
 - Identify available landfills, transfer stations, composting facilities, recycling/waste diversion facilities in economic proximity to the City service area
 - Identify capacities and current tip fee structures
- Review traffic volumes (counts) provided by the City at City's current landfill/SW Management Site.
- Prepare estimates of future traffic volumes based on historic vehicle delivery patterns and projected future waste quantities.
 - Prepares estimates based on type of vehicle and waste type.

Subtask 140 - Needs Assessment Technical Memorandum

- Prepare a summary Needs Assessment in Draft and Final Form
- Meet with the City to Review Task 1 Memorandum and related Findings

Meetings:

- A total of 6 meetings with 1 HDR person in Rapid City and 1 meeting with 1 HDR person in Pierre. The duration of the meetings are anticipated to 1/2 day each and will be attended by HDR's Project Manager.

Deliverables:

- Public Meeting Agenda
- Public Planning Process Presentation
- City Council Presentation
- Solid Waste Subcommittee Meetings Agenda and Presentation Material
- Needs Assessment (Tech Memo No. 1) to include:
 - Waste Composition Summary
 - Demographic information
 - Information on Existing Collection & Disposal Practices
 - Competing facilities in economic proximity to the City service area, including their disposal rate structures.
 - Traffic volumes at City's current landfill/SW Management Site.
 - Estimates of future traffic volumes.
 - Estimates of future solid waste.
- PDF copy of Technical Memorandum, Draft and Final, which will address subtasks 110, 120 and 130.

Key Understandings:

- City will schedule and provide facilities for all meetings.
- City and HDR will develop waste composition assumptions based on visual observation rather than testing.
- No traffic counts are required. City has all required historic traffic information in a simple usable format.
- City will concur with Tech Memo No. 1 before substantial services are completed on Tasks 2 and 3.

Information and/or Services by Others:

- City will be responsible for establishing Solid Waste Committee.
- City will be responsible for providing clerical note taking and minutes development for all meeting activities.
- City will furnish demographic information from local planning organizations or other sources routinely used by the City.
- City will furnish information on historic waste quantities and types and collection practices.
- City will be responsible for distribution of all documents
- City will be responsible for compiling all comments from Committee members and obtaining concurrence from all City stakeholders.

Task 2 – Technical Memorandum #2: Operations Assessment and Program Options Analysis**Objective:**

To assess current operational practices and future requirements; to evaluate site use alternatives; and to evaluate technologies and waste management activities for possible inclusion in the Solid Waste Management Plan.

HDR Activities:

Subtask 210 – Review of Operational Methods

- Evaluate current landfill traffic patterns and customer access requirements at City’s current landfill/SW Management Site.
- Identify possible roadway and traffic patterns changes that may improve the safety and increase traffic handling for current and future operations.
- Review scale transaction practices and identify possible improvements in data collection and record keeping practices.
- Conduct a visual review and assessment of waste screening and special waste handling methods and provide possible recommendations for improvement.

Subtask 220 – Review of Site Nuisance Control Program Assessment

- Concurrent with Task 1 meetings HDR will review and conduct cursory evaluation of existing landfill operational methods, equipment, procedures, plans, and control methods related to the following topics, including:
 - Odor control
 - Litter control
 - Vector control
 - Dust control
 - Leachate disposal
- Discuss and identify changes, practices in other locations and enhancements that might be considered.

Subtask 240 – Program Options Assessment

- Identify major strategy options for resource conservation, reduction, reuse, volume reduction and elements often associated with “Zero Waste” management philosophies/strategies. Options will be summarized and discussed at a meeting with the City. Options deemed technically viable and appropriate by the City will be presented as candidates for further consideration in the Solid Waste Plan. A detailed technical and economic evaluation of alternatives is not anticipated.
- Identify major diversion or management options for special wastes (household hazardous waste, electronic waste, pharmaceutical waste, and medical waste). Provide a general assessment of options applicable to City. Identify other trends nationally that may result in funding for these management options. Items to be addressed in the evaluation include the following:
 - Conceptual/General Costs
 - Possible on- and off-site management options
 - Possible relationship to City’s current landfill/SW Management Site
 - Storage and disposal issues and options.
 - Public education programs and opportunities to inform the general public.
- Evaluate mandatory recycling. Prepare a technical paper which addresses the following:
 - Overall costs.
 - Revenue potential.
 - Affects on landfill site life.
- Prepare a brief summary of technologies available for waste volume reduction. Identify the current status of these technologies as either proven or under development based on number of operational facilities and years in service as a municipal solid waste disposal alternative. Summarize key elements necessary to implement such technologies in City, e.g. energy markets. Technologies to be addressed include traditional waste-to-energy (mass burn or RDF), anaerobic digestion, and alternative combustion systems (plasma arc or gasification). City will prioritize options for further consideration. Based on the technology(s) identified for further consideration, identify one or more facilities that might be visited by members of the Solid Waste Subcommittee. If requested, and as an additional service, HDR personnel would attend site visits as deemed necessary by the City.

- Complete a peer review of existing Reuse Center Options (study completed by others).
- Prepare a peer review of existing Landfill Gas Management Program (study completed by others)
 - Identify possible synergy with other solid waste management options.
 - Provide input, upon request of City, on possible utilizations options and contracting strategies to market the energy resource.
- Evaluate City's property management and landfill expansion/acquisition program. Summarize current practices and identify options to optimize available landfill space. The key focus of this effort will be to examine two major areas of future considerations:
 - Neighboring property and associated visual impacts
 - Efficiency in site layout as it relates to future expansion.

Subtask 250 – System Operational Plan Technical Memorandum

- Summarize the Operations Assessment and Program Options Analysis in a Technical Memorandum in Draft and Final form
- Meet with the City to review Task 2 Memorandum and related findings

Meetings:

- A total of 2 meetings with 2 HDR personnel in Rapid City. The duration of the meetings are anticipated to 1/2 day and will be attended by HDR's Project Manager.

Deliverables:

- Summary memorandum on Review of Operational Methods, including the following:
 - Traffic and scale transaction practices.
 - Facilities Upgrade Assessment
 - Equipment Assessment
 - Existing Reuse Center Options
 - General Landfill Gas Management Program
 - property management and landfill expansion/acquisition program
- Summary of memorandum on Program Options, including the following:
 - Identify key strategies for resource conservation, reduction, reuse, volume reduction
 - Identify diversion or management alternatives for special wastes
 - Evaluate mandatory recycling.
 - Summary of technologies available for waste volume reduction.
- Identify one or more facilities that might be visited by members of the Solid Waste Subcommittee
- PDF copy of Technical Memorandum, Draft and Final that address subtasks 210 through 240.

Key Understandings:

- City will schedule and provide facilities for meeting.
- Level of effort to complete Subtasks 210 through 240 is anticipated to be minimal.
- City would furnish available background information in a usable format and most evaluations of existing operations/facilities will be performed jointly by HDR and City based on site visits and visual observations.
- Strategies for resource conservation, reduction, reuse, volume reduction and alternatives for special wastes will be presented in a brief summary with City or the Committee using summary information to identify strategies for inclusion in the Solid Waste Plan.
- Evaluate mandatory recycling will use publicly available cost information from similar programs and will not involve a detailed economic evaluation.

- Summary of technologies available for waste volume reduction will be brief. If it is determined that a new technology or approach may be feasible and additional assessment is requested, this will be provided as an additional service,
- HDR's participation in site visits, if requested, would be as an additional service.

Information and/or Services by Others:

- City will provide LFG study completed by others.
- City will provide Re-Use Center study completed by others.
- All data required to perform these tasks is readily available and will be furnished to HDR in a summarized and usable format and City will assist in interpretations.
- City will be responsible for distribution of all documents
- City will be responsible for compiling all comments from Committee members and obtaining concurrence from all City stakeholders.

Task 3 - Technical Memorandum #3: System Definition and Future Program Refinement/Rate Assessment

Subtask 3A – System Definition and Future Program Refinement

Objective:

To work with City and the Committee to prepare a system definition based on the evaluation of technical and economic factors, decisions, features, and the integration of those features described in Tasks 1 and 2. Define the need for additional land, future development requirements, and the organization of those features into a functionally efficient strategy.

HDR Activities:

Subtask 310 – Define and Evaluate Program Alternatives

- Meet with City and the Committee to consolidate findings in Technical Memorandums 1 and 2 and select the preferred waste management practices, alternatives and strategies for incorporations into the Solid Waste Plan.
- Refine prior evaluation of selected system alternatives, including consideration of the following:
 - Pre-disposal material recovery strategies.
 - Volume change (volume requirements) implications on landfill capacity requirements.
 - General land and on-site space requirements for waste management programs and future site areas to be set aside for these programs.
 - Timing and need for additional land acquisition.
 - Identify staffing, equipment and facility needs.

Subtask 320 – Prepare Market Analysis

- Prepare a summary of current markets for pre-disposal recovered materials
- Review options for marketing compost currently produced by City. Identify additional marketing strategies to be incorporated into the Solid Waste Plan. (A detailed marketing plan is not included in this Scope of Services)
- Review options to sell waste derived energy to local markets. Assist City to identify major energy users and users with demands matching or exceeding those produced by landfill gas or waste combustion alternatives. If appropriate, and concurrent with other meetings meet with local energy markets to identify interest and possible revenues from energy sales. Market price information, if available will be included in Task 2 as part of the waste reduction technology evaluation.

Subtask 330 – System Definition

- Meet with City and the Committee to define an initial system strategy for solid waste management. Initial strategy may include both short- and long-term system strategies. The strategy will be used to refine

estimates of future land requirements (space allocation needs) and to prepare general economic evaluations.

- Meeting in Omaha of Sioux Falls with the City to refine initial system strategy into a preferred strategy for incorporation into the Solid Waste Plan. HDR will assist City and the Committee by providing summaries of advantages and disadvantages, general cost information and land resource impacts. Land resource impacts will include an assessment of the needs and overall site life for various management strategies.
- Prepare a System Definition in Draft and Final form for incorporation into the Solid Waste Plan

Subtask 3B – Rate Assessment Review

Subtask 340 – Refined Opinion of Probable Costs - Assistance

- Prepare conceptual estimates (summary) of general construction costs for the selected System (System Definition).
- Identify a schedule of expenditures for System components.
- Assist the City in incorporating cost opinions into a rate assessment using current City budgeting spreadsheets and economic modeling practices.
- Assist the City in comparing costs of proposed System with current solid waste management costs and tipping fee rate projections.
- Assist the City in identifying cost centers and cost allocations associated with major System components.

Subtask 350 – Municipal Solid Waste User/Tip Fee/Rate Analysis

- Review current City spreadsheet model used to estimate existing rate structure.
- Assist the City in incorporating changes to their forecasting system to reflect Needs Assessment values
- Assist the City in evaluating impact of waste diversion programs on landfill rates.
- Review City's rate/tipping fee forecasts based for key waste user and services
- Assist the City in preparing rate structure sensitivity analysis based on variations in waste quantities or other key cost variables or System assumptions.
- Review Equipment Component of Fee as prepared by the City.
- Compare estimated rates to competing facilities in economic proximity to the City service area.
- Summarize estimates of future rates projections

Subtask 360 – Financial Management Technical Memorandum

- Prepare a summary of Program Alternatives and System Definition, including market assessments, conceptual capital cost opinions, and rate analysis. Summarize information in a Financial Management Technical Memorandum. Memorandum will be issued in Draft and Final form
- Meet with the City to Review Task 3 Memorandum and related Findings.

Meetings:

- A total of 3 meetings with 1 HDR person in Rapid City. An initial kickoff meeting will also be attended by one person 1 HDR person from Omaha. The duration of the meeting is anticipated to be 1/2 day and will be attended by HDR's Project Manager.

Deliverables:

- Summary memorandum on preferred Program Alternatives
- Summary memorandum on System Definition
- Summary memorandum on Market Analysis including:
- Summary of concept level opinion of probable costs and schedule of capital expenditures
- Summary of City evaluations on Municipal Solid Waste User/Tip Fee/Rate analysis

- PDF copy of Technical Memorandum, Draft and Final.

Key Understandings:

- City will schedule and provide facilities for all meetings.
- Market assessment will not be comprehensive and will provide only general estimates of revenue, unless specific price quotes are available from identified markets.
- City's financial spreadsheet is adequate and adaptable to forecasting future rates, based on System selected.
- Opinions of Probable Cost will be conceptual in nature and will not be based on detailed design, or extensive evaluations or cost estimates.

Information and/or Services by Others:

- City will provide current solid waste management costs and budget projections.
- City will undertake rate assessments and HDR will review and comment on City assessments and modeling techniques.
- City and Committees will make decisions based on alternatives identified. Decisions will be made in a timely manner so as not to impact the overall project schedule.
- City will be responsible for distribution of all documents
- City will be responsible for compiling all comments from Committee members and obtaining concurrence from all City stakeholders.

Task 4 – Solid Waste Management Plan

Objective:

To provide a short-and long-term plan for solid waste management, incorporating the City and public inputs and including an implementation plans for the key elements.

HDR Activities:

Subtask 410 – Compile Plan

- Compile information from previous technical memorandums and summary reports into a final Solid Waste Management Plan. Components of the Solid Waste Management Plan include:
 - Executive Summary
 - Introduction
 - Waste Evaluation and Needs Assessment
 - Operations Assessment
 - Waste Management Alternatives
 - Reduction
 - Energy Recovery
 - Special Waste
 - Landfilling
 - Overall System Definition
 - Financial and Rate Assessment
 - Appendices, Figures and Table
 - Conclusions and Recommendations

- Meet with the City and Committee to review a working Draft of the Solid Waste Plan, obtain input and recommended modifications. Following this meeting HDR will compile a second Draft for use in subsequent tasks.

Subtask 420 – Implementation Plan

- Prepare an Implementation Strategy/Plan for the elements contained in the Solid Waste Management Plan, including:
 - Schedule
 - Capital Cost Summary
 - Key Actions
- Identify process for plan update and modifications.
- Concurrent with Task 410, meet with the City and Committee to review a working Draft of the Implementation Plan, obtain input and recommended modifications. Following this meeting HDR will compile a second Draft for use in subsequent tasks.

Subtask 430 – Rate Structure Summary

- Work with City furnished economic modeling to prepare a five year rate structure summary evaluation.
- Identify to the City contingency funding that might be appropriate to set-aside for rate stabilization and fund adequacy.
- Assist the City in preparing sensitivity analysis for up to 3 revenue alternatives for use by the City in rate modeling, revenue estimates and waste generation estimates.
- Concurrent with Task 410 and 420 meet with the City and Committee to review a working Draft of the Rate Structure Summary, obtain input and recommended modifications. Following this meeting HDR will compile a second Draft for use in subsequent tasks.

Meetings:

- A total of 1 meeting with 2 HDR personnel in Rapid City. The duration of the meeting is anticipated to be 1/2 day.

Deliverables:

- PDF copy of the compiled Solid Waste Management Plan in Draft form for City distribution.
- PDF copy of the Implementation Plan in Draft form for City distribution.
- PDF copy of the Rate Structure Summary in Draft form for City distribution.
-

Key Understandings:

- City will schedule and provide facilities for all meetings.
- The Solid Waste Management Plan outline and content will generally be modeled after the Rapid City 1992 Solid Waste Management Plan but will not include an assessment of the City Solid Waste Collection Program, regional waste management or waste sorting programs.
- The Solid Waste Management Plan, Implementation Plan and Rate Structure Assessment will be finalized after Task 5.
- Not all technical papers will be fully reproduced in the Solid Waste Plan, rather the plan will be a compilation of information, decisions and strategies derived from the prior summary reports, meetings, and Technical Memoranda.
- City's rate model is adequate for forecasting future rates.

Information and/or Services by Others:

- City will provide HDR will an electronic copy of their rate model

- City and Committee will make decisions based on plan content and identify recommended changes to the DRAFT plans.
- Decisions will be made in a timely manner so as not to impact the overall project schedule.
- City will undertake rate assessments and HDR will review and comment on City assessments and modeling techniques.
- City will be responsible for distribution of all documents
- City will be responsible for compiling all comments from Committee members and obtaining concurrence from all City stakeholders.

Task 5 – Present Draft Management Plan to City Council and Public

Objective:

To present a summary of the Draft Solid Waste Management Plan to the City Council and the Public.

HDR Activities:

Subtask 510 – Prepare Presentation

- Prepare a PowerPoint or similar presentation summarizing the planning process, the Draft Solid Waste Management and Implementation plan content, key recommendation, stakeholder input, future program changes, cost implications and program benefits.

Subtask 520 – Meeting Presentation

- Present the Draft Solid Waste Management Plan, Implementation Plan and related rate structure information at the City Council Meeting. Answer City Council member questions at that meeting.
- Present the Draft Solid Waste Management Plan at a Public Open House. Accept input and answer simple questions at that meeting. Compile a summary of questions and answers for delivery to the City. This meeting will be held after the presentation of the Plan at City Council.

Subtask 530 – Follow-up Investigations

- Provide follow-up investigations and analysis to address City Council or Public questions and concerns.
- Revise Draft Solid Waste Management Plan based on City input and City Council direction.

Meetings:

- A total of 2 meetings with 2 HDR person in Rapid City. The duration of the meeting is anticipated to be 1/2 day and will be attended by HDR's Project Manager.

Deliverables:

- PowerPoint Presentation or similar presentation
- Displays or similar informational presentations for a Public Meeting
- Summary of questions and responses to Public Input
- Additional information based on follow-up investigations and analysis, if required.
- Revised/Final Solid Waste Management and Implementation Plan. Documents will also be furnished to the City in PDF format for City distribution.

Key Understandings:

- City will schedule and provide facilities for meetings.
- City to provide HDR direction on subsequent investigations and level of effort required. For purpose of this Scope HDR has assumed 18 hours to conduct follow-up investigations and analysis.

Information and/or Services by Others:

- Final Solid Waste Management Plan and Implementation Plan will be based on City input and City Council direction.
- City will be responsible for distribution of all documents

- City will be responsible for compiling all comments from Committee and City Council members and obtaining concurrence from all City stakeholders.

Task 6 – Present Final Management Plan to City Council for Approval

Objective:

To present a summary of the Final Solid Waste Management Plan to the City Council

HDR Activities:

Subtask 610 – Prepare Presentation

- Prepare a PowerPoint presentation summarizing the Final Solid Waste Management Plan. Presentation will focus on additional information that was requested by the City Council in Task 5.

Subtask 620 – Meeting Presentation

- Present the Final Solid Waste Management Plan at the City Council Informational Meeting. Answer City Council member questions at that meeting.

Subtask 630 – Final Plan Submittal

- Submit the Final Solid Waste Management Plan to the City.

Meetings:

- A total of 1 meeting with 1 HDR person in Rapid City. The duration of the meeting is anticipated to be 1/4 day and will be attended by HDR's Project Manager.

Deliverables:

- For purposes of this scope it is assumed that HDR will print 15 copies of the Final Solid Waste Management Plan. The Final Solid Waste Management Plan will also be furnished to the City in PDF format for City distribution.
- PowerPoint Presentation on Final Solid Waste Management Plan

Key Understandings:

- City will schedule and provide facilities for all meetings.
- No changes to the Final Solid Waste Management Plan are anticipated as a result of the City Council meeting/presentation.

Information and/or Services by Others:

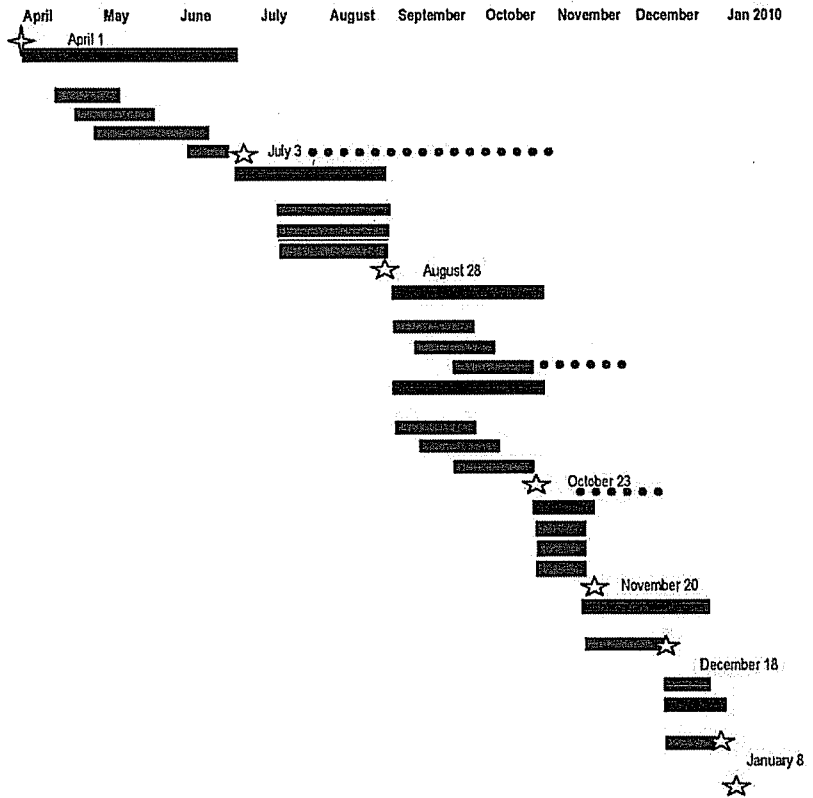
- City will be responsible for distribution of all documents




Project Schedule

Based on the proposed Scope of Services (series of tasks and activities necessary to complete these services) the following schedule has been established.

Notice to Proceed

- Task 1 - Program Needs Assessment and Issues Identification**
- Task Series 100 - Program Needs Assessment*
- Subtask 110 - Program Management Plan
- Subtask 120 - Background Data Collection & Review
- Subtask 130 - Data Evaluation and Needs Evaluation
- Subtask 140 - Needs Assessment Technical Memorandum # 1
- Task 2 - Operations Assessment and Program Options Analysis**
- Task Series 200 - System Operational Assessment*
- Subtask 210 - Review of Operational Methods
- Subtask 220 - Site Nuisance Control Program Assessment
- Subtask 240 - Program Expansion Option Comparisons
- Subtask 250 - System Operational Plan Technical Memorandum #2
- Task 3A - System Definition and Future Program Refinement**
- Task Series 300A - Future System Definition*
- Subtask 310 - Define and Evaluate Program Alternatives
- Subtask 320 - Market Analysis
- Subtask 330 - System Definition
- Task 3B - Rate Assessment**
- Task Series 300B - Financial Management Evaluation*
- Subtask 340 - Refined Opinion of Probable Costs
- Subtask 350 - Municipal Solid Waste User/Tip Fee Analysis
- Subtask 360 - CIP Program
- Subtask 370 - Financial Management Technical Memorandum #3
- Task 4 - Solid Waste Management Plan**
- Task Series 400 - Solid Waste Plan*
- Subtask 410 - Complete Plan
- Subtask 420 - Implementation Plan
- Subtask 430 - Rate Structure Recommendations
- Task 5 - Present Management Plan at Council Informational**
- Task Series 500 - Council Informational Presentation*
- Subtask 510 - Prepare Presentation
- Subtask 520 - Meeting Presentation
- Subtask 530 - Follow-up Investigations
- Task 6 - Present Management Plan to City Council for Approval**
- Task Series 600 - Presentation of Final Plan for Approval*
- Subtask 610 - Prepare Presentation
- Subtask 620 - Meeting Presentation
- Subtask 630 - Final Plan Submittal



Subtask Duration 
 Refinement 
 Deliverables 

RAPID CITY SOLID WASTE MANAGEMENT PLAN ENGINEERING FEE ESTIMATE

	Total Hours	Totals Labor \$\$\$	Total Expense\$	TOTAL \$\$\$
Task 1 - Tech Memorandum #1: Program Needs Assessment & Issues Identification				
Subtask 110 - Program Management Plan				
Prepare Agenda and Attend Project Initiation Meeting with City (1 person)	5	\$770	\$89	\$858
Prepare Agenda, Prepare Presentation, and Attend Public Meeting (1 person)	15	\$2,090	\$206	\$2,296
Attend Follow-up Meeting With Staff (1 person)	4	\$587	\$65	\$652
Prepare Presentation and Attend City Council Meeting (1 person)	14	\$1,828	\$152	\$1,980
Prepare for and Attend Meeting with Solid Waste Committee (1 person)	22	\$3,095	\$201	\$3,297
Project Management Requirements and Invoicing	8	\$1,033	\$30	\$1,063
Subtask 120 - Background Data Collection and Review				
Meeting with City to Establish Waste Stream Composition and Demographics (co	6	\$989	\$42	\$1,031
Compile, Evaluate and Summarize Data	32	\$4,069	\$138	\$4,208
Meeting with SDDENR (1 person)	4	\$587	\$95	\$682
Subtask 130 - Data Evaluation and Needs Evaluation				
Compile, Evaluate, and Summarize Existing Collection and Disposal Practices De	20	\$2,371	\$139	\$2,510
Prepare Future Waste Estimates	8.5	\$1,374	\$31	\$1,406
Prepare Future Traffic Estimates	3.5	\$469	\$33	\$502
Subtask 140 - Needs Assessment Technical Memorandum				
Prepare Needs Assessment Draft and Final	38	\$5,272	\$186	\$5,458
Meeting with City to Discuss Technical Memorandum and Related Findings (1 pe	6	\$866	\$72	\$938
Meeting Contingency				
Task 100 Subtotal	242	\$31,557	\$1,478	\$33,036
Task 2 - Technical Memorandum #2: Operations Assessment & Program Opti				
Subtask 210 - Review of Operational Methods				
Evaluate Traffic Patterns and Customer Access	16	\$1,446	\$99	\$1,546
Identify Roadway and Traffic Patterns Changes	21	\$2,749	\$118	\$2,867
Review Scale Transaction Practices and Identify Improvements in Record Keepir	2	\$430	\$37	\$468
Visual Review and Assessment of Waste Screening and Special Waste Handling	7	\$965	\$26	\$991
Subtask 220 - Review of Site Nuisance Control Program Assessment				
Evaluate Existing Operational Methods and Equipment and Identify Enhancemen	7	\$1,094	\$46	\$1,139
Subtask 240 - Program Expansion Option Comparisons				
Identify Major Strategy Options for Resource Conservation, Reduction, Reuse, Vi	22	\$3,017	\$101	\$3,118
Meeting	20	\$4,030	\$600	\$4,630
Identify and Evaluate Special Waste Diversion Alternatives	14	\$1,827	\$127	\$1,954
Evaluate Mandatory Recycling and Prepare Technical Paper	16	\$2,257	\$79	\$2,337
Prepare Brief Summary of Technologies Available for Waste Volume Reduction (54.5	\$9,552	\$272	\$9,824
Identify Facilities For Possible Site Visit	2	\$353	\$7	\$360
Complete Peer Review of Existing Reuse Center Options	6	\$1,003	\$42	\$1,045
Prepare Peer Review of Existing LFG Management Program	6	\$1,001	\$42	\$1,043
Evaluate Property Management and Landfill Expansion/Acquisition Program	4	\$516	\$35	\$551
Subtask 250 - System Operational Plan Technical Memorandum				
Prepare Operations Assessment and Program Options Summary Technical Mem	22	\$4,013	\$101	\$4,115
Meeting with City to Discuss Technical Memorandum and Related Findings (2 pe	22	\$4,396	\$681	\$5,077
Task 200 Subtotal	241.5	\$38,650	\$2,415	\$41,065
Task 3 - Technical Memorandum #3: System Definition and Future Program Refinement/Rate Assessment				
SUBTASK 3A - SYSTEM DEFINITION AND FUTURE PROGRAM REFINEMENT				
Subtask 310 - Define and Evaluate Program Alternatives				
Meet With City to Consolidate Findings and Select Preferred Waste Mgmt Practices	26	\$5,055	\$756	\$5,811
Evaluate Selected Alternatives	14	\$2,270	\$62	\$2,332
Subtask 320 - Prepare Market Analysis				
Prepare Summary of Current Markets for Pre-Disposal Recovered Materials	18	\$2,125	\$97	\$2,221
Review Options for Marketing Compost and Identify Additional Marketing Strategies	7	\$996	\$36	\$1,032
Review Options to Sell Waste Derived Energy to Local Markets and Identify Major L	28	\$4,396	\$234	\$4,630
Subtask 330 - System Definition				
Meet With City to Define System Strategies (In Omaha or Sioux Falls)	28	\$4,833	\$264	\$5,096

Meet With City to Refine System Strategies (In Omaha or Sioux Falls)	16	\$2,895	\$169	\$3,065
Prepare a System Definition, Draft and Final	38	\$5,702	\$151	\$5,853
	0	\$0	\$0	\$0

SUBTASK 3B - RATE ASSESSMENT REVIEW (City to prepare Assessment)**Subtask 340 - Refined Opinion of Probable Costs - Assistance**

Conceptual Estimate of Probable Construction Costs for Selected System	20	\$3,414	\$84	\$3,498
Identify Schedule of Expenditures for System Components	6	\$932	\$47	\$980
Assist City in Incorporation of Cost Opinions into Rate Assessment	7	\$1,135	\$66	\$1,201
Assist City in Comparing Costs of Proposed System with Current Costs and Tipping	3.5	\$568	\$23	\$591
Assist City in Identifying Cost Centers and Cost Allocations Associated with Major Sy	6	\$932	\$62	\$995

Subtask 350 - Municipal Solid Waste User/Tip Fee Analysis

Review Existing Rate Model	6	\$1,136	\$32	\$1,169
Assist City in Incorporating Changes to Forecasting System to Reflect Needs Asses	3	\$494	\$11	\$505
Evaluate Impact of Waste Diversion Programs on Landfill Rates	5	\$923	\$44	\$966
Review Rate/Tipping Fee Forecasts by City	6	\$999	\$47	\$1,046
Review Equipment Component of Fee as prepared by City				
Prepare Rate Structure Sensitivity Analysis	5	\$923	\$69	\$991
Compare Estimated Rates to Competing Facilities	2	\$279	\$27	\$306
Summarize Estimates of Future Rates Projections	7	\$996	\$101	\$1,097

Subtask 360 - Financial Management Technical Memorandum

Prepare Financial Management Technical Memorandum, Draft and Final	16	\$2,420	\$259	\$2,679
Conference Call with City to Discuss Technical Memorandum and Related Findings	12	\$1,938	\$84	\$2,022

Task 300 Subtotal	279.5	\$45,364	\$2,724	\$48,088
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Task 4 - Solid Waste Management Plan**Subtask 410 - Compile Plan**

Compile Technical Memorandums and Summaries into Solid Waste Management P	82	\$11,581	\$403	\$11,984
Meeting with City to Review Working Draft, Obtain Input, and Recommended Modifi	30	\$4,956	\$811	\$5,767
Compile Second Draft of Solid Waste Management Plan (Concurrent with Subtask 4	13	\$1,719	\$98	\$1,817

Subtask 420 - Implementation Plan

Prepare Implementation Strategy	28	\$4,156	\$204	\$4,359
Identify Process for Plan Update and Modifications	2	\$355	\$7	\$362

Subtask 430 - Rate Structure Summary

Provide 5-year Rate Structure Evaluation	16	\$2,288	\$109	\$2,398
Identify Contingency Funding	5	\$773	\$19	\$792
Assist City in Prepare Sensitivity Analysis	7.5	\$999	\$78	\$1,077

Task 400 Subtotal	183.5	\$26,828	\$1,729	\$28,557
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Task 5 - Present Draft Management Plan to City Council and Public**Subtask 510 - Prepare Presentation**

Prepare Powerpoint Presentation	42	\$6,194	\$380	\$6,574
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Subtask 520 - Meeting Presentation

Present Plan at City Council Meeting (2 people)	24	\$4,246	\$789	\$5,035
Present Plan at Public Open House (concurrent with City Council Meeting)	16	\$2,500	\$159	\$2,659

Subtask 530 - Follow-up Investigations

Provide Possible Follow-up Investigations and Meeting Contingency	27	\$3,427	\$170	\$3,597
Revise Draft Plan accordingly	18	\$2,582	\$167	\$2,748

Task 500 Subtotal	127	\$18,948	\$1,665	\$20,613
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Task 6 - Present Final Management Plan to City Council for Approval**Subtask 610 - Prepare Presentation**

Prepare Powerpoint Presentation	11	\$1,718	\$201	\$1,919
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Subtask 620 - Meeting Presentation

Present Plan at City Council Meeting (1 person)	7	\$1,229	\$86	\$1,315
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Subtask 630 - Final Plan Submittal

Submit Final Plan to City	13	\$1,410	\$1,098	\$2,508
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Task 600 Subtotal	31	\$4,357	\$1,385	\$5,742
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TOTAL	1104.5	\$165,705	\$11,395	\$177,101
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SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT B**, consisting of two pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.

B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.

E. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as Owner requires or deems appropriate, Contractor raises, or Engineer reasonably requests, including but not limited to the review of Contract Documents supplied by Engineer.
3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

K. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

L. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

M. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.

Q. Perform or provide the following additional services: as described in Exhibit A, Scope of Services.

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT C**, consisting of two pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 -- Owner's Responsibilities

C2.01 Compensation For Basic Services (other than Resident Project Representative and Post-Construction) – Direct Labor Costs Times a Factor Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer's Resident Project Representative and Post-Construction Phase services, if any, as follows:

1. An amount equal to Engineer's Direct Labor Costs times a factor of three point zero five (3.05) for the services of Engineer's employees engaged on the Project, plus Reimbursable Expenses, estimated to be eleven thousand three hundred ninety-five dollars (\$11,395), and Engineer's Consultant's charges, if any, estimated to be zero (\$0). Reimbursable Expenses and Engineer's Consultant's charges are included in the total compensation for services identified in section C2.01.A.3.
2. Engineer's Reimbursable Expenses Schedule is attached to this Exhibit C as Appendix 1.
3. The total compensation for services including expenses under paragraph C2.01 is estimated to be one hundred seventy eight thousand dollars (\$178,000) based on the following assumed distribution of compensation:

a. Study and Report Phase	<u>\$178,000</u>
b. Preliminary Design Phase	<u>\$NA</u>
c. Final Design Phase	<u>\$NA</u>
d. Bidding or Negotiating Phase	<u>\$NA</u>
e. Construction Phase	<u>\$NA</u>
4. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total compensation amount unless approved in writing by Owner.
5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in paragraph C2.01.A.3, incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Consultant's charges.
6. The portion of the amounts billed for Engineer's services which are related to services rendered on a Direct Labor Costs times a Factor basis will be billed based on the applicable Direct Labor Costs for the cumulative hours charged to the Project by Engineer's principals and employees multiplied by the above-designated factor, plus Reimbursable Expenses and Engineer's Consultant's charges incurred during the billing period.
7. Direct Labor Costs means salaries and wages paid to employees but does not include payroll related costs or benefits.
8. The Direct Labor Costs and the factor applied to Direct Labor Costs will be adjusted annually (as of January 1 of each year) to reflect equitable changes to the compensation payable to Engineer.

C2.02 Compensation For Reimbursable Expenses

A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.

B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A, and, if authorized in advance by Owner, overtime work requiring higher than regular rates. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for computer time and the use of other highly specialized equipment.

C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of one point zero five (1.05).

D. The Reimbursable Expenses Schedule will be adjusted annually (as of NA) to reflect equitable changes in the compensation payable to Engineer.

C2.03 Other Provisions Concerning Payment

A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of one point zero five (1.05).

B. Factors. The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

C. Estimated Compensation Amounts

1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof. Promptly thereafter Owner and Engineer shall review the matter of services remaining to be performed and compensation for such services. Owner shall either agree to such compensation exceeding said estimated amount or Owner and Engineer shall agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed.

D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

This is **Appendix 1 to EXHIBIT C**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

Reimbursable Expenses Schedule

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

Fax	\$at cost
8"x11" Copies/Impressions	<u>at cost</u>
Blue Print Copies	<u>at cost</u>
Reproducible Copies (Mylar)	<u>at cost.</u>
Reproducible Copies (Paper)	<u>at cost</u>
Mileage (auto)	\$0.505/mile
Field Truck Daily Charge	_____/day
Mileage (Field Truck)	\$0.505/mile
Field Survey Equipment	_____/day
Confined Space Equipment	<u>at cost/day plus expenses</u>
Resident Project Representative Equipment	_____/month
Computer CPU Charge	_____/hour
Specialized Software	_____/hour
Personal Computer Charge	_____/hour
CAD Charge	_____/hour
CAE Terminal Charge	_____/hour
VCR and Monitor Charge	_____/day, \$ _____/week, or \$ _____/month
Video Camcorder	_____/day, plus \$_____/tape
Electrical Meters Charge	_____/week, or \$_____/month
Flow Meter Charge	_____/week, or \$_____/month
Rain Gauge	_____/week, or \$_____/month
Sampler Charge	_____/week, or \$_____/month
Dissolved Oxygen Tester Charge	_____/week
Fluorometer	_____/week
Laboratory Pilot Testing Charge	_____/week, or \$_____/month
Soil Gas Kit	_____/day
Submersible Pump	_____/day
Water Level Meter	_____/day, or \$_____/month
Soil Sampling	_____/sample
Groundwater Sampling	_____/sample
Health and Safety Level D	_____/day
Health and Safety Level C	_____/day
Electronic Media Charge	_____/hour
Long Distance Phone Calls	at cost
Mobile Phone	_____/day
Meals and Lodging	at cost
Technology Charge	\$3.46/direct labor hour

This is **Appendix 2 to EXHIBIT C**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

Standard Hourly Rates Schedule

NA

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT D**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

RESERVED

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT E**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

RESERVED

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT F**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

RESERVED

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT G**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

Insurance

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 Insurance

A. The limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By Engineer:

- A. Commercial General Liability Insurance: CONSULTANT shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.
- B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance: CONSULTANT agrees to procure and maintain professional liability insurance or miscellaneous professional liability Insurance with a limit not less than \$1,000,000.00.

The insurance provided for general liability and errors and omissions shall be adequate for the liability presented, and shall be written by an admitted carrier in the State of South Dakota.

- C. Business Automobile Liability Insurance: CONSULTANT shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$500,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.
- D. Worker's Compensation Insurance: CONSULTANT shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT H**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

RESERVED

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT I**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

RESERVED

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT J**, consisting of one pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated April 14, 2009.

Special Provisions

Paragraph(s) NA of the Agreement is/are amended to include the following agreement(s) of the parties:

SUGGESTED FORMAT
(for use with E-500, 2002 Edition)

This is **EXHIBIT K**, consisting of one pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated April 14, 2009.

AMENDMENT TO OWNER-ENGINEER AGREEMENT

RESERVED