

PW041211-13

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

Date: April 19, 2011

Project Name & Number: 2011 Environmental Monitoring Contract Landfill/MRF

CIP #:

Project Description: 2011 Environmental monitoring contract for landfill and MRF. Contract includes monitoring of groundwater, wastewater, compost, methane, soils, and similar environmental monitoring required under the City's solid waste permit. This is final year of a five year renewable contract.

Consultant: American Engineering and Testing, Inc.

Original Contract Amount: \$54,315.92

Original Contract Date: April 19, 2011

Original Completion Date: December 31, 2011

Addendum No:

Amendment Description:


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



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

Funding Source This Request:

Amount	Dept.	Line Item	Fund	Comments
\$54,315.92	7102	4223	615	
	Total			

### Agreement Review & Approvals

John Leahy \_\_\_\_\_ March 31, 2011  
 Project Manager Date  
 \_\_\_\_\_ 4-3-11  
 Compliance Specialist Date

 \_\_\_\_\_ 4-4-11  
 Division Manager Date  
 \_\_\_\_\_ 4-4-11  
 Department Director Date

\_\_\_\_\_  
 City Attorney Date

**ROUTING INSTRUCTIONS**

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

**FINANCE OFFICE USE ONLY**

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

Date	Initials	Approved
		Y N
Appropriation		Y N
Cash Flow		Y N

**AN AGREEMENT BETWEEN THE CITY OF RAPID CITY AND AMERICAN  
ENGINEERING TESTING, INC. FOR SAMPLING, ANALYSIS, AND REPORTING  
RELATED TO 2011 ENVIRONMENTAL MONITORING FOR THE RAPID CITY  
MUNICIPAL LANDFILL**

This Agreement is made and entered into this 19<sup>th</sup> day of April, 2011, by and between the City of Rapid City, located at 300 Sixth Street, Rapid City, South Dakota 57701, herein after referred to as the "City," and American Engineering Testing, Inc., located at 1745 Samco Road, Rapid City, South Dakota 57702, herein after referred to as the "Consultant."

WHEREAS, the City is in need of a firm for sampling, analysis, and reporting related to 2011 environmental monitoring for the Rapid City municipal landfill; and

WHEREAS, the Consultant has the necessary technical expertise to perform such services on behalf of the City; and

WHEREAS, the City wishes to retain the Consultant to perform the professional services so desired; and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions of the Consultant's scope of services and the compensation it is to be paid for those services.

NOW THEREFORE, the parties hereby agree as follows:

1. The Consultant agrees to perform the work identified in the Scope of Work, which has been attached hereto and incorporated herein as Exhibit A.
2. The City agrees to compensate the consultant in an amount not to exceed \$54,315.92 for the work performed under this Agreement. The City shall not compensate the Consultant for any work in excess of this amount unless the Consultant first obtains prior permission from the City.
3. The Terms and Conditions attached to the Scope of Work are modified from their original form to reflect removal of the portions which have been crossed out.
4. The parties' rights and obligations under the Agreement shall be governed by, and construed in accordance with, the laws of the State of South Dakota. Any dispute concerning this Agreement shall be litigated, and venued, in Pennington County, South Dakota, in the Circuit Court of the Seventh Judicial Circuit for the State of South Dakota.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

AMERICAN ENGINEERING TESTING, INC.

\_\_\_\_\_  
Date

THE CITY OF RAPID CITY, SOUTH DAKOTA

By \_\_\_\_\_  
Alan Hanks, Mayor Date

ATTEST:

By \_\_\_\_\_  
Pauline Sumption, Finance Officer Date

(SEAL)

**PROPOSAL FOR SAMPLING, ANALYSIS AND REPORTING  
RELATED TO 2011 ENVIRONMENTAL MONITORING  
RAPID CITY LANDFILL, RAPID CITY, SOUTH DAKOTA**

**JANUARY 21, 2011**

**PURPOSE AND SCOPE OF WORK TO BE PERFORMED**

The purpose of our work on the project will be to assist the City of Rapid City in Compliance with the Administrative Rules of South Dakota and Environmental Protection Agency regulations specified in 40 CFR Parts 257 and 258, "Solid Waste Disposal Facility Criteria," October 9, 1991.

In order to accomplish the above purpose we propose to provide professional services to the City of Rapid City in the form of labor, equipment, supplies, insurance, and other necessary work components necessary to perform the following tasks for Rapid City's Solid Waste Operations Division:

1. Field sampling surface water discharges, wastewater discharges, and groundwater monitoring wells;
2. Laboratory analysis of surface water samples, wastewater samples, groundwater samples, petroleum contaminated soil samples, and yard waste compost samples;
3. Quarterly screening of permanent and existing temporary methane monitoring wells.
4. Limited soils work in calculating permeability and compaction; and
5. Completion and submission of the 2010 annual environmental monitoring report;

**Anticipated Work Items**

***Surface Water:***

1. Providing qualified personnel for surface water discharge sampling with a minimum of one-hour notice. This is estimated to occur eight times per year during high precipitation months;
2. Picking up prepared sample bottles, trip blanks, etc. from a state-certified lab and returning all to that lab upon completion of sampling with a properly completed chain-of-custody;
3. Grab samples will be collected weekly during discharge from Outfall 001. Analytes include: TSS, pH, BOD<sub>5</sub>, Cd, Cu, Pb, Hg, Zn, As, CrIII, CrVI, Se, Ag, Ni, Selenate, Selanite, hardness, phenol, toluene, TPH, ammonia, DO, temperature and livestock suitability testing;
4. Sampling for whole effluent toxicity testing if requested or required. *For the purposes of this proposal we have budgeted for two whole effluent toxicity tests per year;*
5. Measuring field pH and temperature at time of sampling. Temperature will be measured with a thermistor or a mercury-filled or dial type thermometer. Readings

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- will be recorded to the nearest whole degree Celsius. The date and time will be recorded on field logs and chain-of-custody;
6. pH will be taken within 15 minutes of sample collection with a pH meter. The pH meter will be read to 0.01 SU, be equipped with a temperature compensation adjustment, and be capable of simultaneous calibration to two points on the pH scale bracketing the expected pH;
  7. Metals analysis will be performed on a "Total Recoverable" basis and hardness will be measured in the laboratory;
  8. Analytical results will be reported to Solid Waste Operations. Any concentrations exceeding discharge permit limits will be reported directly to the Solid Waste Operations Superintendent as soon as known;
  9. Copies of the field logs, including visual observations and field measurements, will be forwarded to Solid Waste Operation within 72 hours of the sampling event; and
  10. A summary of the surface water sampling will be incorporated into the annual report.

***Wastewater:***

1. Providing qualified personnel for required wastewater testing with a minimum of two hours notice of a discharge. This is estimated to occur 15 times per year. Occurrence may increase with greater precipitation or future operational changes;
2. Picking up prepared sample bottles, trip blanks, etc. from a state-certified lab and returning all to the lab upon completion of sampling with a properly completed chain-of-custody;
3. Grab samples to be collected once per batch discharge from the aerated leachate pond. Analytes include: total As, Cd, Cr, CrVI, Cu, Pb, Hg, Ni, Se, Ag, Zn, O&G, BOD, TSS, field pH, and temperature. Batch discharges are usually complete within 12 hours of start;
4. Field pH will be taken within 10 minutes after sample collection;
5. Analytical results will be reported in mg/l, except for pH in standard units. Analysis will include the date of analysis, the analyst's initials, and a list of analysis method numbers used, as approved by 40 CFR 136;
6. Notifying the Solid Waste Operations Superintendent immediately if field pH readings are 5.0 SU or less;
7. Notifying the Solid Waste Operations Superintendent, as soon as known, if any concentrations exceed discharge permit limits;
8. Analysis results will be reported to Solid Waste Operations in the units listed in the

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- waste water discharge permit;
9. Copies of the field logs, including visual observations and field measurements, will be forwarded to Solid Waste Operations within 72 hours of the sampling event; and
  10. A summary of the waste water sampling will be incorporated into the annual report

***Groundwater:***

1. Providing qualified personnel for semi-annual groundwater monitoring. Fourteen (14) to sixteen (16) wells will be sampled during the April and October events;
2. Picking up prepared sample bottles, trip blanks, etc. from state-certified lab and returning all to the lab upon completion of sampling with a properly completed chain-of-custody;
3. Utilizing all appropriate QA/QC practices for field sampling of groundwater.
4. Measuring and recording groundwater elevations during both semi-annual sampling events for all site monitoring wells;
5. Collecting samples from each well using low flow sampling techniques;
6. Sampling wells **1-8-19dab2** (if insufficient water sample dab1), **1-8-19dd**, **1-8-19ddd2** (if insufficient water sample ddd1), **1-8-19dc**, **1-8-19cdd2** (both cdd1 and cdd2 are historically dry), **1-8-19cab1**, **1-8-19ad1**, **1-8-19ad2R**, **1-8-19ca2**, **1-8-19da1**, **1-8-19da2**, **1-8-19da4**, **1-8-19da5**, and **1-8-19dda** *semiannually* for 40 CFR Appendix I volatile organic compounds (VOCs) and the alternative list to metals - biochemical oxygen demand (BOD), chemical oxygen demand (COD), total organic carbon (TOC), chloride, ammonia, sulfate, sulfide, dissolved iron and manganese, methane, nitrate, and major cations (calcium, sodium, potassium). Field measurements for temperature, pH, conductivity, dissolved oxygen (DO), and oxidation-reduction potential will be performed at each well during sampling using a low flow purging method via a flow-through cell. All groundwater monitoring will be done in accordance with the approved groundwater monitoring program (GWMP) for the Rapid City Landfill, as approved by the South Dakota Department of Environment and Natural Resources (SD DENR). *For the purposes of this proposal we have budgeted for the above referenced wells, plus one, as requested by Mr. John Leahy of the Rapid City Municipal Landfill;*
7. Sampling wells **1-8-19ddR** and **1-8-19adc** *semiannually* for 40 CFR Appendix I volatile organic compounds (VOCs) and the alternative list to metals - biochemical oxygen demand (BOD), chemical oxygen demand (COD), total organic carbon (TOC), chloride, ammonia, sulfate, sulfide, dissolved iron and manganese, methane,

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nitrate, and major cations (calcium, sodium, potassium). Field measurements for temperature, pH, conductivity, dissolved oxygen (DO), and oxidation-reduction potential will be performed at each well during sampling using a low flow purging method via a flow-through cell. All groundwater monitoring will be done in accordance with the approved groundwater monitoring program (GWMP) for the Rapid City Landfill, as approved by the South Dakota Department of Environment and Natural Resources (SD DENR). *The analytical results from these wells will not be reported to the SD DENR in the annual report, but under separate cover;*

8. Forwarding analytical results and field measurements for the semiannual monitoring events to Solid Waste Operations upon completion;
9. Notifying the Solid Waste Operations Superintendent, as soon as known, if any concentrations exceed regulatory limits;
10. Compiling and completing a statistical analysis of the new data and entering the data into the annual groundwater report. The statistical analysis procedure will comply with 40 CFR Part 258.53, Sections e through i;
11. Completing an annual report summarizing the groundwater monitoring data for the year 2010 with appropriate statistical comparison to prior data. An initial report will be completed and submitted to Solid Waste Operations no later than the last day of February of 2011 and two final copies (one to Solid Waste Operations and one to SD DENR) by April 1, 2011. This report will discuss the applicable items in 40 CFR Part 258.53, Sections a through i;
12. Forwarding copies of field logs, including visual observations, field measurements, and analytical results to Solid Waste Operations; and
13. Electronic files related to the groundwater monitoring statistical analysis and annual report will be maintained and provided to Solid Waste Operations upon request.

***Quarterly Methane Monitoring:***

1. Providing qualified personnel and equipment for quarterly field screening for methane from permanent and existing temporary methane monitoring wells;
2. Submitting a summary of the results of the above activities within the annual report; and
3. Advising the Solid Waste Operations Superintendent of any significant issues related to methane.

***Petroleum Contaminated Soils:***

1. Analyzing soil samples for total petroleum hydrocarbons. Samples may contain

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- gasoline, diesel, JP4 or JP8. There are estimated to be 24 samples per year for analysis;
2. Forwarding results to Solid Waste Operations; and
3. Faxing results, upon request, to Solid Waste Operations within 15 calendar days of sample receipt.

***Yard Waste Compost Samples:***

1. Analyzing yard waste compost samples for carbon to nitrogen ratio. There are estimated to be 60 samples per year for analysis;
2. Faxing preliminary results to Solid Waste Operations within 15 calendar days of sample receipt; and
3. Forwarding all final results to Solid Waste Operations.

***Greenhouse Gas Emissions Calculations:***

1. Utilizing historical scale data to calculate GHG Emission through 2010, to provide information on whether the Rapid City Municipal Landfill is likely to exceed the 25,000 metric ton GHG Emissions limit that would trigger the requirement to perform the mandatory reporting of GHG Emissions to the EPA at the end of 2011. The work will be performed in accordance with 40 CFR 98, Subparts A and HH; and
2. Utilizing the historical scale data through the end of 2010 to calculate GHG Emissions for the Rapid City Municipal Landfill. This information will be provided to the City of Rapid City for their records. If the GHG emissions are calculated to exceed the mandatory reporting limit, providing the GHG Emissions information to the City of Rapid City in a format required for submittal to either the SDDENR or EPA.

***Soils Testing:***

1. Providing qualified personnel and equipment to perform permeability, proctor, gradation and atterberg limits testing, as requested; and
2. Reporting results of the above tests within five working days of the test completion.



## 2011 SAMPLING, ANALYSIS AND REPORTING FOR RAPID CITY LANDFILL (analysis by Energy Labs & Test America)

### SURFACE WATER (Outfall 001)

#### Surface Water- Outfall 001 (8 events)

Preparation, Loading/Unloading	1 hours @	\$60.00 =	\$60.00
Pickup Mileage	17 miles @	\$0.75 =	\$12.75
Travel Time	1 hours @	\$60.00 =	\$60.00
Site Time	1 hours @	\$60.00 =	\$60.00
Sample Prep. (pickup/return samples to lab)	0.3 hours @	\$60.00 =	\$15.00
Sampling Equipment (gloves, ice)	1 events @	\$5.00 =	\$5.00
Equipment rental (pH/temp)	1 events @	\$25.00 =	\$25.00
Reporting	1 hours @	\$65.00 =	\$65.00
Project Management	0.5 hours @	\$70.00 =	\$35.00
Laboratory Services Subcontractor-Energy Labs			
As, Cd, Cr, Cu, Pb, Hg, Se, Ag, Zn, Ni, Ammonia, CrIII, CrVI, Hardness, BOD, DO, pH, Phenol, TSS, Toluene			
Selenate, Selenite	1 sample: @	\$325.00 =	\$325.00
TPH (if visual sheen is observed during sampling)	1 sample: @	\$45.00 =	\$45.00
Livestock Suitability Testing	1 sample: @	\$45.50 =	\$45.50
Chemistry Markup (includes invoice processing fee, interest on fees paid)		=	\$20.78
SUB TOTAL - Surface Water-Outfall 001 Per Event			\$774.03
<b>TOTAL - Surface Water-Outfall 001 (8 events)</b>			<b>\$6,192.20</b>

### SURFACE WATER - Outfall 001 - Whole Effluent Toxicity Testing (if requested)

Whole Effluent Toxicity Testing (if requested or required)	2 sample: @	\$700.00 =	\$1,400.00
Chemistry Markup (includes invoice processing fee, interest on fees paid)		=	\$70.00
<b>TOTAL - Surface Water-Outfall 001 - Whole Effluent Toxicity Testing</b>			<b>\$1,470.00</b>

### WASTE WATER - Leachate Pond (15 events)

Preparation, Loading/Unloading	1 hours @	\$60.00 =	\$60.00
Pickup Mileage	17 miles @	\$0.75 =	\$12.75
Travel Time	1 hours @	\$60.00 =	\$60.00
Site Time	1 hours @	\$60.00 =	\$60.00
Sample Prep. (pickup/return samples to lab)	0.3 hours @	\$60.00 =	\$15.00
Sampling Equipment (gloves, ice)	1 events @	\$5.00 =	\$5.00
Equipment rental (pH/temp)	1 events @	\$25.00 =	\$25.00
Reporting	1 hours @	\$65.00 =	\$65.00
Project Management	0.5 hours @	\$70.00 =	\$35.00
Laboratory Services Subcontractor-Energy Labs			
As, Cd, Cr, Cu, Pb, Hg, Ni, Se, Ag, Zn, CrVI, O & G, BOD, TSS, TPH	1 sample: @	\$232.00 =	\$232.00
Chemistry Markup (includes invoice processing fee, interest on fees paid)		=	\$11.60
SUB TOTAL - Waste Water- Per Event			\$581.35
<b>TOTAL - Waste Water (15 events)</b>			<b>\$8,720.25</b>

### GROUND WATER (April/October events and annual report)

#### Semi-Annual Event (April)

Preparation, Loading/Unloading (two-man crew)	1 hours @	\$120.00 =	\$120.00
Pickup Mileage	50 miles @	\$0.75 =	\$37.50
Travel Time (two man crew)	2.5 hours @	\$120.00 =	\$300.00
Site Time (two man crew)	14 hours @	\$120.00 =	\$1,680.00
Sample Prep. for Shipping	1 hours @	\$60.00 =	\$60.00
Shipping, FEDEX	1 each @	\$700.00 =	\$700.00

Sampling Equipment (gloves, ice, tubing, peristaltic pump, flow cell)	16 sample: @	\$12.00 =	\$192.00
Equipment rental (pH/temp/conductivity, interface probe)	1 event @	\$75.00 =	\$75.00
Project Management	2 hours @	\$70.00 =	\$140.00
<b>Laboratory Services Subcontractor-Test America</b>			
Appendix I VOCs and Alternative List to Metals	16 sample: @	\$316.19 =	\$5,059.04
Trip Blank, VOCs	1 sample: @	\$0.00 =	\$0.00
Equipment Blank, VOCs	2 sample: @	\$90.95 =	\$181.90
Chemistry Markup (includes invoice processing fee, interest on fees paid)		=	\$262.05
SUB TOTAL - Semi Annual Event (April)			\$8,807.49

**Semi-Annual Event (October)**

Preparation, Loading/Unloading (two-man crew)	1 hours @	\$120.00 =	\$120.00
Pickup Mileage	50 miles @	\$0.75 =	\$37.50
Travel Time (two man crew)	2.5 hours @	\$120.00 =	\$300.00
Site Time (two man crew)	14 hours @	\$120.00 =	\$1,680.00
Sample Prep. for Shipping	1 hours @	\$60.00 =	\$60.00
Shipping, FEDEX	1 each @	\$700.00 =	\$700.00
Sampling Equipment (gloves, ice, tubing, peristaltic pump, flow cell)	16 sample: @	\$12.00 =	\$192.00
Equipment rental (pH/temp/conductivity, interface probe)	1 events @	\$75.00 =	\$75.00
Project Management	2 hours @	\$70.00 =	\$140.00
<b>Laboratory Services Subcontractor-Test America</b>			
Appendix I VOCs and Alternative List to Metals	16 sample: @	\$316.19 =	\$5,059.04
Trip Blank, VOCs	1 sample: @	\$0.00 =	\$0.00
Equipment Blank, VOCs	2 sample: @	\$90.95 =	\$181.90
Chemistry Markup (includes invoice processing fee, interest on fees paid)		=	\$262.05
SUB TOTAL - Semi Annual Event (October)			\$8,807.49

**Annual Report**

Report Preparation (annual report with statistical analysis)			
Project Manager	4 hours @	\$70.00 =	\$280.00
Staff Professional (annual report)	50 hours @	\$65.00 =	\$3,250.00
Statistical Analysis - Lump Sum Subcontractor- LBG	1 each @	\$2,000.00 =	\$2,000.00
Draftsperson	16 hours @	\$55.00 =	\$880.00
Clerical	4 hours @	\$35.00 =	\$140.00
Senior Review	2 hours @	\$90.00 =	\$180.00
SUB TOTAL - Annual Report			\$6,730.00

**TOTAL - Groundwater - Apr/Oct events and Annual Report****\$24,344.97****QUARTERLY METHANE MONITORING****Four Quarterly Events (Field Screening for Methane)**

Preparation, Loading/Unloading	4 hours @	\$60.00 =	\$240.00
Pickup Mileage	76 miles @	\$0.75 =	\$57.00
Travel Time	4 hours @	\$60.00 =	\$240.00
Site Time	24 hours @	\$60.00 =	\$1,440.00
Equipment rental (Combustible Gas Indicator)	4 events @	\$75.00 =	\$300.00
Project Management	2 hours @	\$70.00 =	\$140.00
SUB TOTAL - Four Quarterly Events			\$2,417.00

**Reporting**

Report Preparation (summary of results in annual report)			
Project Manager	2 hours @	\$70.00 =	\$140.00
Staff Professional	6 hours @	\$65.00 =	\$390.00
Draftsperson	4 hours @	\$55.00 =	\$220.00
Clerical	0.5 hours @	\$35.00 =	\$17.50
Senior Review	0.5 hours @	\$90.00 =	\$45.00

SUB TOTAL - Reporting				\$812.50
<b>TOTAL - Quarterly Methane Monitoring</b>				<b>\$3,229.50</b>
<b>PETROLEUM CONTAMINATED SOILS (24 samples)</b>				
Laboratory Services Subcontractor-Energy Labs				
Laboratory analysis (TPH-G,BTEX,MTBE,Naph or TPH-FO,Naph)	1	sample @	\$65.00 =	\$65.00
Chemistry Markup (includes invoice processing fee, interest on fees paid)			=	\$3.25
SUB TOTAL - Petroleum Contaminated Soils -Per Sample				\$68.25
<b>TOTAL - Petroleum Contaminated Soils (24 samples)</b>				<b>\$1,638.00</b>
<b>YARD WASTE COMPOST SAMPLES (60 samples)</b>				
Laboratory Services Subcontractor-Energy Labs				
C-N Ratio	1	sample @	\$35.00 =	\$35.00
Chemistry Markup (includes invoice processing fee, interest on fees paid)			=	\$1.75
SUB TOTAL - Yard Waste Compost Samples-Per Sample				\$36.75
<b>TOTAL - Yard Waste Compost Samples (60 samples)</b>				<b>\$2,205.00</b>
<b>GREENHOUSE GAS EMISSIONS CALCULATIONS</b>				
Project Manager	5	hours @	\$70.00 =	\$350.00
Staff Professional	24	hours @	\$65.00 =	\$1,560.00
Senior Review	1	hours @	\$90.00 =	\$90.00
<b>TOTAL - GREENHOUSE GAS EMISSION CALCULATIONS</b>				<b>\$2,000.00</b>
<b>SOILS TESTING</b>				
Permeability Tests	10	tests @	\$175.00 =	\$1,750.00
Proctor Tests	10	tests @	\$130.00 =	\$1,300.00
Gradation Tests	1	tests @	\$68.00 =	\$68.00
Atterberg Limits	1	tests @	\$68.00 =	\$68.00
Field Technician	14	hours @	\$50.00 =	\$700.00
Reporting	5	hours @	\$41.00 =	\$205.00
Project Management	5	hours @	\$85.00 =	\$425.00
<b>TOTAL - Soils Testing</b>				<b>\$4,516.00</b>
<b>TOTAL COST</b>				<b>\$54,315.92</b>

SECTION 1 - RESPONSIBILITIES

1.1 - The party to whom the proposal/contract is addressed is considered the Client of American Engineering Testing, Inc. (AET). The terms and conditions stated are binding, upon acceptance, on the Client, its successors, assignees, joint ventures and third-party beneficiaries. Oral proposal acceptance or authorizing purchase orders from the Client are considered formal acceptance of AET's terms and conditions.

1.2 - Prior to AET performing work, Client will provide AET with all information that may affect the cost, progress, safety and performance of the work. This includes, but is not limited to, information on proposed and existing construction; all pertinent sections of contracts between Client and property owner, site safety plans or other documents which may control or affect AET's work. If new information becomes available during AET's work, Client will provide such information to AET in a timely manner. Failure of client to timely notify AET of changes to the project including, but not limited to, location, elevation, loading, or configuration of the structure or improvement will constitute a release of any liability of AET. Client will provide a representative for timely answers to project-related questions by AET.

1.3 - Work by AET will not relieve other persons of their responsibility to perform work according to the contract documents or specifications, and AET will not be held responsible for work or omissions by Client and other persons. AET does not perform construction management, general contracting or surveying services and our presence on site does not constitute any assumption of those responsibilities. AET will not be responsible for directing or supervising the work of others, unless specifically authorized and agreed to in writing.

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

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

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

SECTION 2 - SITE ACCESS AND RESTORATION

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

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

SECTION 3 - SAFETY

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

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

SECTION 4 - SAMPLES

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

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

SECTION 5 - PROJECT RECORDS

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

SECTION 6 - STANDARD OF CARE

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

SECTION 7 - INSURANCE

AET carries Worker's Compensation, Comprehensive General Liability, Automobile Liability and Professional Liability insurance. AET will furnish certificates of insurance to Client upon request.

SECTION 8 - DELAYS

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

SECTION 9 - PAYMENT, INTEREST AND BREACH

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

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

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

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

SECTION 10 - MEDIATION

10.1 - Client and AET agree that any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

10.2 - Unless Client and AET mutually agree otherwise, mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Request for mediation shall be in writing and the parties shall share the mediator's fee and any filing fees equitably. The mediator shall be acceptable to both parties and shall have experience in commercial construction matters.

SECTION 11 - LITIGATION REIMBURSEMENT

Payment of AET costs for Client lawsuits against AET which are dismissed or are judged substantially in AET's favor will be the Client's responsibility. Applicable costs include, but are not limited to, attorney and expert witness fees, court costs, and AET costs.

SECTION 12 - MUTUAL INDEMNIFICATION

12.1 - AET agrees to hold harmless and indemnify Client from and against liability arising out of AET's negligent performance of the work, subject to Section 13 and any other limitations, other indemnifications or other provisions Client and AET have agreed to in writing.

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

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

SECTION 13 - LIMITATION OF LIABILITY

Client agrees to limit AET's liability to Client arising from negligent acts, errors or omissions, such that the total liability of AET shall not exceed \$10,000 or shall not exceed the project fee, whichever is greater.

*the limits of any insurance coverage*

SECTION 14 - TERMINATION

After 7 days written notice, either party may elect to terminate work for justifiable reasons. In this event, the Client shall pay for all work performed, including demobilization and reporting costs to complete the file.

SECTION 15 - SEVERABILITY

Any provisions of this agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, Client and AET will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

SECTION 16 - GOVERNING LAW

This Agreement shall be construed, and the rights of the parties shall be determined, in accordance with the Laws of the State of Missouri.

*South Dakota, 7th Judicial Circuit, Rapid City, Penn. Co.*

SECTION 17 - ENTIRE AGREEMENT

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