

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

Date: July 20, 2011

Project Name & Number: East North Street Reconstruction – ST08-1511

CIP #: 50142

Project Description: Water/Sewer Construction Administration Contract

Consultant: Kadrmass Lee and Jackson

Original
Contract Amount: \$112,282.84

Original
Contract Date: 8/1/2011

Original
Completion Date:

Addendum No:

Amendment Description:

Current Contract Amount: _____

Current Completion Date: _____

Change Requested: _____

New Contract Amount: _____ \$0.00

New Completion Date: _____

Funding Source This Request:

| Amount* | Dept. | Line Item | Fund | Comments |
|--------------|-------|-----------|------|----------|
| \$3,368.49 | 833 | 4223 | 604 | |
| \$14,596.77 | 933 | 4223 | 602 | |
| \$80,843.64 | 8910 | 4223 | 505 | |
| \$13,473.94 | 8911 | 4223 | 505 | |
| \$112,282.84 | Total | | | |

Agreement Review & Approvals

Kay Schward 7/20/11
Project Manager Date

Ann Loren For 7/20/11
Division Manager Date
Dele Tech

Amber White 7/20/11
Compliance Specialist Date

City Attorney Date

ROUTING INSTRUCTIONS

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

FINANCE OFFICE USE ONLY

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

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

Kadrmass
Lee &
Jackson

Engineers Surveyors
Planners

July 12, 2011

Mr. Klare Schroeder, P.E.
Engineering Services Division
Rapid City Public Works Department
300 Sixth Street
Rapid City, SD 57701

RE: East North Street Reconstruction
Water/Sewer Construction Administration Contract
Project No. ST08-1511/CIP No. 50142

Dear Klare,

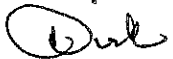
Enclosed is the contract for Water/Sewer Improvements Construction Administration. The fees have been revised to reflect what was discussed regarding testing requirements for this portion of the project.

I do not have access to the contract form so the Fee amount on page 6 is hand written. Feel free to insert that amount into the form or forward the form to me and I will do it and return to you.

Thank you for your assistance in the development of this contract. Feel free to contact me with any questions or comments.

Sincerely,

Kadrmass, Lee & Jackson



Dirk Jablonski, PE
Municipal Manager
Rapid City

605 721 5553

330 Knollwood Drive

PO Box 3416

Rapid City, SD 57709-3416

Fax 605 721 5575

kljeng.com

Kadrmass, Lee & Jackson, Inc.

A KLJ Solutions Company

RECEIVED

JUL 12 2011

ENGINEERING DIVISION

**Agreement Between City of Rapid City and Kadrmas, Lee and Jackson, Inc.
for Professional Services for East North Street Reconstruction
Pine Street to Cambell Street, Project No. ST08-1511 / CIP No. 50142**

AGREEMENT made August 1, 2011, between the City of Rapid City, SD (City) and Kadrmas, Lee and Jackson, Inc., (Engineer), located at 330 Knollwood Drive, Rapid City, SD 57701. City intends to obtain construction administration services for East North Street Reconstruction, Pine Street to Cambell Street, Project No. ST08-1511 / CIP No. 50142. The scope of services is as described in Exhibits A and B.

The City and the Engineer agree as follows:

The Engineer shall provide professional engineering services for the City in all phases of the Project as defined in Exhibits A and B, serve as the City's professional engineering representative for the Project, and give professional engineering consultation and advice to the City while performing its services.

Section 1—Basic Services of Engineer

1.1 General

- 1.1.1 The Engineer shall perform professional services described in this agreement, which include customary engineering services. Engineer intends to serve as the City's professional representative for those services as defined in this agreement and to provide advice and consultation to the City as a professional. Any opinions of probable project cost, approvals, and other decisions provided by Engineer for the City are rendered on the basis of experience and qualifications and represent Engineer's professional judgment.
- 1.1.2 All work shall be performed by or under the direct supervision of a professional Engineer licensed to practice in South Dakota.
- 1.1.3 All documents including Drawings and Specifications provided or furnished by Engineer pursuant to this Agreement are instruments of service in respect of the Project and Engineer shall retain an ownership therein. Reuse of any documents pertaining to this project by the City on extensions of this project or on any other project shall be at the City's risk. The City agrees to defend, indemnify, and hold harmless Engineer from all claims, damages, and expenses including attorney's fees arising out of such reuse of the documents by the City or by others acting through the City.



1.2 Scope of Work

The Engineer shall:

- 1.2.1 Consult with the City, other agencies, groups, consultants, and/or individuals to clarify and define requirements for the Project and review available data.
- 1.2.2 Perform the tasks described in the Scope of Services. (See Exhibits A and B.)

Section 2—Information Provided by City

The City will provide any information in its possession for the project at no cost to the Engineer.

Section 3—Notice to Proceed

The City will issue a written notification to the Engineer to proceed with the work. The Engineer shall not start work prior to receipt of the written notice. The Engineer shall be paid for any authorized, necessary work performed prior to receiving the Notice to Proceed.

Section 4—Mutual Covenants

4.1 General

- 4.1.1 The Engineer shall not sublet or assign any part of the work under this Agreement without written authority from the City.
- 4.1.2 The City and the Engineer each binds itself and partners, successors, executors, administrators, assigns, and legal representatives to the other party to this agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, regarding all covenants, agreements, and obligations of this agreement.
- 4.1.3 Nothing in this agreement shall give any rights or benefits to anyone other than the City and the Engineer.
- 4.1.4 This agreement constitutes the entire agreement between the City and the 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.



- 4.1.5 The Engineer shall make such revisions in plans which may already have been completed, approved, and accepted by the City, as are necessary to correct Engineer's errors or omissions in the plans, when requested to do so by the City, without extra compensation therefore.
- 4.1.6 If the City requests that previously satisfactorily completed and accepted plans or parts thereof be revised, the Engineer shall make the revisions requested by the City. This work shall be paid for as extra work.
- 4.1.7 If the City changes the location from the one furnished to the Engineer, or changes the basic design requiring a new survey for the portions so changed, the redesign will be paid for as extra work.
- 4.1.8 The City may at any time by written order make changes within the general scope of this Agreement in the work and services to be performed by the Engineer. Any changes which materially increase or reduce the cost of or the time required for the performance of the Agreement shall be deemed a change in the scope of work for which an adjustment shall be made in the Agreement price or of the time for performance, or both, and the Agreement shall be modified in writing accordingly. Additional work necessary due to the extension of project limits shall be paid for as extra work.
- 4.1.9 Extra work, as authorized by the City, will be paid for separately and be in addition to the consideration of this Section.
- 4.1.10 For those projects involving conceptual or process development services, activities often cannot be fully defined during the initial planning. As the project does progress, facts and conditions uncovered may reveal a change in direction that may alter the scope of services. Engineer will promptly inform the City in writing of such situations so that changes in this agreement can be renegotiated.
- 4.1.11 This Agreement may be terminated (a) by the City with or without cause upon seven days' written notice to the Engineer and (b) by the Engineer for cause upon seven days' written notice to the City. If the City terminates the agreement without cause, the Engineer will be paid for all services rendered and all reimbursable expenses incurred prior to the date of termination.

If termination is due to the failure of the Engineer to fulfill its agreement obligations, the City may take over the work and complete it. In such case, the Engineer shall be liable to the City for any additional cost to the extent directly resulting from Engineer's action.



- 4.1.12 The City or its duly authorized representatives may examine any books, documents, papers, and records of the Engineer involving transactions related to this agreement for three years after final payment. All examinations will be performed at reasonable times, with proper notice. Engineer's documentation will be in a format consistent with general accounting procedures.
- 4.1.13 The City shall designate a representative authorized to act on the City's behalf with respect to the Project. The City or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Engineer in order to avoid unreasonable delay in the orderly and sequential progress of the Engineer's services.
- 4.1.14 Costs and schedule commitments shall be subject to renegotiation for delays caused by the City's failure to provide specified facilities or information or for delays caused by other parties, excluding subcontractors and subconsultants, predictable occurrences including without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults by suppliers of materials or services, process shutdowns, acts of God, or the public enemy, or acts of regulations of any governmental agency or any other conditions or circumstances beyond the control of the City or Engineer. Temporary delays of services caused by any of the above which results in additional costs beyond those outlined may require renegotiation of this agreement.
- 4.1.15 The City will give prompt written notice to the Engineer if the City becomes aware of any fault or defect in the Project or nonconformance with the Project Documents.
- 4.1.16 Unless otherwise provided in this Agreement, the Engineer and the Engineer's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos products, polychlorinated biphenyl (PCB), or other toxic substances.
- 4.1.17 In the event asbestos or toxic materials are encountered at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may affect the performance of Engineer's services, Engineer may, at their option and without liability for consequential or any other damages, suspend performance of services on the project until the City retains



appropriate specialist consultant(s) or contractor(s) to identify, abate, and/or remove the asbestos or hazardous or toxic materials.

- 4.1.18 This agreement, unless explicitly indicated in writing, shall not be construed as giving Engineer the responsibility or authority to direct or supervise construction means, methods, techniques, sequences, or procedures of construction selected by any contractors or subcontractors or the safety precautions and programs incident to the work of any contractors or subcontractors.
- 4.1.19 Neither the City nor the Engineer, nor its Consultants, shall hold the other liable for any claim based upon, arising out of, or in any way involving the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, or gases, waste materials, or other irritants, contaminants, or pollutants.
- 4.1.20 Neither the City nor the Engineer, nor its Consultants, shall hold the other liable for any claim based upon, arising out of, or any way involving the specification or recommendation of asbestos, in any form, or any claims based upon use of a product containing asbestos.
- 4.1.21 Engineer hereby represents and warrants that it does not fail or refuse to collect or remit South Dakota or City sales or use tax for transactions which are taxable under the laws of the State of South Dakota.

4.2 **City of Rapid City NonDiscrimination Policy Statement**

This section shall be binding on all subcontractors or suppliers.

In compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination act of 1975, the Americans with Disabilities Act of 1990, and other nondiscrimination authorities it is the policy of the City of Rapid City, 300 Sixth Street, Rapid City, SD 57701-5035, to provide benefits, services, and employment to all persons without regard to race, color, national origin, sex, disabilities/handicaps; age, or income status. No distinction is made among any persons in eligibility for the reception of benefits and services provided by or through the auspices of the City of Rapid City.

Engineer will permit access to any and all records pertaining to hiring and employment and to other pertinent data and records for the purpose of enabling the Commission, its agencies or representatives, to ascertain compliance with the above provisions.



Section 5—Payments to the Engineer

5.1 Schedule of Pay Rates

The City will pay the Engineer for services rendered or authorized extra work according to the Engineer's hourly rate schedule. (See Exhibit C.)

5.2 Fee

The maximum amount of the fee for the services as detailed in Section 1.2 shall not exceed \$112,282.84 unless the scope of the project is changed as outlined in Section 4. If expenses exceed the maximum amount, the Engineer shall complete the construction administration as agreed upon here without any additional compensation. Sub task dollar amounts may be reallocated to other tasks as long as the total fee is not exceeded. Prime consultant may not mark up subconsultant or subcontractor services.

5.3 Progress Payments

Monthly progress payments shall be processed by the City upon receipt of the claim as computed by the Engineer based on work completed during the month at the rates established in Section 5.1 and approved by the City.

Net payment to the Engineer shall be due within forty-five (45) days of receipt by the City.

Section 6—Completion of Services

The Engineer shall complete services on or before 90 days after construction contract is completed.

Section 7—Insurance Requirements

7.1 Insurance Required

The Engineer shall secure the insurance specified below. The insurance shall be issued by insurance company(s) acceptable to the City and may be in a policy or policies of insurance, primary or excess. Certificates of all required insurance including any policy endorsements shall be provided to the City prior to or upon the execution of this Agreement.

7.2 Cancellation

The Engineer will provide the City with at least 30 days' written notice of an insurer's intent to cancel or not renew any of the insurance coverage. The Engineer agrees to hold the City harmless from any liability, including



additional premium due because of the Engineer's failure to maintain the coverage limits required.

7.3 City Acceptance of Proof

The City's approval or acceptance of certificates of insurance does not constitute City assumption of responsibility for the validity of any insurance policies nor does the City represent that the coverages and limits described in this agreement are adequate to protect the Engineer, its consultants or subcontractors interests, and assumes no liability therefore. The Engineer will hold the City harmless from any liability, including additional premium due, because of the Engineer's failure to maintain the coverage limits required.

7.4 Specific Requirements

- 7.4.1 Workers' compensation insurance with statutory limits required by South Dakota law. Coverage B-Employer's Liability coverage of not less than \$500,000 each accident, \$500,000 disease-policy limit, and \$500,000 disease-each employee.
- 7.4.2 Commercial general liability insurance providing occurrence form contractual, personal injury, bodily injury and property damage liability coverage with limits of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, and \$2,000,000 aggregate products and completed operations. If the occurrence form is not available, claims-made coverage shall be maintained for three years after completion of the terms of this agreement. The policy shall name the City and its representatives as an additional insured.
- 7.4.3 Automobile liability insurance covering all owned, nonowned, and hired automobiles, trucks, and trailers. The coverage shall be at least as broad as that found in the standard comprehensive automobile liability policy with limits of not less than \$1,000,000 combined single limit each occurrence. The required limit may include excess liability (umbrella) coverage.
- 7.4.4 Professional liability insurance providing claims-made coverage for claims arising from the negligent acts, errors or omissions of the Engineer or its consultants, in the amount of \$1,000,000 each occurrence and \$1,000,000 annual aggregate. Coverage shall be maintained for at least three years after final completion of the services.



Section 8—Hold Harmless

The Engineer hereby agrees to hold the City harmless from any and all claims or liability including attorneys' fees arising out of the professional services furnished under this Agreement, and for bodily injury or property damage arising out of services furnished under this Agreement, providing that such claims or liability are the result of a negligent act, error or omission of the Engineer and/or its employees/agents arising out of the professional services described in the Agreement.

Section 9—Independent Business

The parties agree that the Engineer operates an independent business and is contracting to do work according to his own methods, without being subject to the control of the City, except as to the product or the result of the work. The relationship between the City and the Engineer shall be that as between an independent contractor and the City and not as an employer-employee relationship. The payment to the Engineer is inclusive of any use, excise, income or any other tax arising out of this agreement.

Section 10—Indemnification

If this project involves construction and Engineer does not provide consulting services during construction including, but not limited to, onsite monitoring, site visits, site observation, shop drawing review and/or design clarifications, City agrees to indemnify and hold harmless Engineer from any liability arising from the construction activities undertaken for this project, except to the extent such liability is caused by Engineer's negligence.

Section 11—Controlling Law and Venue

This Agreement shall be subject to, interpreted and enforced according to the laws of the State of South Dakota, without regard to any conflicts of law provisions. Parties agree to submit to the exclusive venue and jurisdiction of the State of South Dakota, 7th Judicial Circuit, Pennington County.

Section 12—Severability

Any unenforceable provision herein shall be amended to the extent necessary to make it enforceable; if not possible, it shall be deleted and all other provisions shall remain in full force and effect.

Section 13—Funds Appropriation

If funds are not budgeted or appropriated for any fiscal year for services provided by the terms of this agreement, this agreement shall impose no obligation on the City for payment. This agreement is null and void except as to annual payments herein agreed upon for which funds have been budgeted or appropriated, and no right of action or



damage shall accrue to the benefit of the Engineer, its successors or assignees, for any further payments. For future phases of this or any project, project components not identified within this contract shall not constitute an obligation by the City until funding for that component has been appropriated.

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

City of Rapid City:

Engineer:

MAYOR



KADRMAAS, LEE & JACKSON, INC.

DATE: _____

DATE: July 18, 2011

ATTEST:

FINANCE OFFICER

Reviewed By:



KLARE SCHROEDER, PROJECT MANAGER

DATE: 7/20/11

City's Designated Project Representative:

Engineering Firm's Designated Project Representative:

NAME Klare Schroeder
PHONE 394-4154
EMAIL klare.schroeder@rcgov.org

NAME _____
PHONE _____
EMAIL _____



EXHIBIT A

KADRMAS, LEE & JACKSON

SCOPE OF SERVICES
FOR
TASK 4 – BASIC CONSTRUCTION SERVICES
TASK 5- EXPANDED CONSTRUCTION SERVICES
EAST NORTH STREET RECONSTRUCTION
Project No. ST08-1511/CIP No. 50142

GENERAL

Professional services included under this contract amendment are Task 4- Basic Construction Services and Task 5 – Expanded Construction Services.

Individual tasks and subtasks to complete the work are shown in Exhibit C – Task Schedule. The list of tasks will not be necessarily limited to those shown. Tasks will be added or deleted as needed to complete the project.

TASK 4 – BASIC CONSTRUCTION SERVICES

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

- 4.1 Record Pre-Construction conference minutes and distribute to all attendees.
- 4.2 Provide written clarification for plan and specification questions.
- 4.3 Provide recommendations to address changed or unknown conditions that may appear during construction.
- 4.4 Review and take action on shop drawings, product submittals, test results, and other submittals.
- 4.5 Prepare “As-Built” plans and specifications. “As-Built” plans and specifications shall be submitted as a hard copy and on CD compatible with AutoCAD. Submit to Engineering Services within 30 days of project completion.

TASK 5 – EXPANDED CONSTRUCTION SERVICES

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

- 5.1 Prepare Public Service Announcements (P.S.A.'s) for Engineering Services. Engineering Services will be responsible for distribution to all local media. Copies of P.S.A.'s shall be distributed one week prior to start of work or change in operations that may significantly affect the public.
- 5.2 Appropriately notify affected Property Owners.
- 5.3 Conduct appropriate progress meetings. Record minutes and distribute to all attendees.
- 5.4 Provide daily on-site observation to assure that the methods and materials used by the contractor meet the intent of the plans and specifications. For buried installations such for sewer mains, water mains, and storm sewers the Consultant shall be on site all of the time the Contractor is installing buried installations.
- 5.5 Prepare daily reports. A daily record of activity will be maintained by the observer including weather conditions, construction progress, deviations from the plans and specifications, work performed, quantities installed and other pertinent information. Submit copies to Engineering Services weekly.
- 5.6 Perform storm water inspections, prepare reports, and verify the Contractor keeps the erosion and sediment control plans current as required by the ordinance regulating construction site runoff control, Chapter 8.46, and the Storm water Quality Manual.
- 5.7 Provide soil compaction testing according to the Standard Specifications. All test results shall be submitted to the City of Rapid City with 30 days of project completion.
- 5.8 Provide assurance testing (or witness Contractor testing) according to the Standard Specifications. All test results shall be submitted to the City of Rapid City within 30 days of project completion.
- 5.9 Prepare and submit monthly pay request information.
- 5.10 Prepare change orders, and extra work orders for contractors on City of Rapid City forms and make recommendations for their approval or denial.
- 5.11 Prepare and submit project completion punch list items to the Contractor and Engineering Services and oversee its completion.
- 5.12 Prepare and submit City of Rapid City project "construction Project Close-out Checklist" indicating compliance with Standards Specifications and acceptance of the various infrastructure components. The Consultant is responsible for coordinating completion of the checklist items with the Contractor.
- 5.13 Prepare letter of certification of project completion verifying compliance with plans and specifications and start of warranty period.
- 5.14 Prepare a letter to SDDENR notifying them of project completion.
- 5.15 Prepare and submit two-year warranty punch-list items to the Contractor and Engineering Services and oversee its completion.
- 5.16 Prepare letter of certification of warranty completion verifying compliance with plans and specifications and end of warranty period.

EXHIBIT B
SCHEDULE OF CHARGES
July, 2011

| <u>CLASSIFICATION</u> | <u>HOURLY RATE</u> |
|--------------------------------|--------------------|
| Principal | \$140.00 |
| Engineer III (Project Manager) | \$125.00 |
| Engineer II | \$105.00 |
| Engineer I | \$ 80.00 |
| Engineering Technician II | \$ 75.00 |
| Engineering Technician I | \$ 60.00 |
| Surveyor III | \$110.00 |
| Surveyor II | \$ 75.00 |
| Surveyor I | \$ 56.00 |
| Administrative Assistant | \$ 56.00 |

| | |
|----------|----------------------|
| Mileage | No Additional Charge |
| Per Diem | \$130.00/day |
| Printing | No Additional Charge |

EXHIBIT C

TASK SCHEDULE

EAST NORTH STREET RECONSTRUCTION

Project No. ST08-1511/CIP No. 50142

TASK 4 BASIC CONSTRUCTION SERVICES

| | | | |
|------------------|---|----|----------|
| 4.1 | Preconstruction meeting | \$ | 250.00 |
| 4.2 | Plans and Specification Clarifications | \$ | 900.00 |
| 4.3 | Recommendations for Changed or Unknown Conditions | \$ | 1,450.00 |
| 4.4 | Review Shop Drawings, Mix Designs, Materials and Other Submittals | \$ | 5,250.42 |
| 4.5 | Prepare As-built Drawings | \$ | 1,200.00 |
| Task 4 Sub-total | | \$ | 9,050.42 |

TASK 5 EXPANDED CONSTRUCTION SERVICES

| | | | |
|------------------|---|----|------------|
| 5.1 | PSA's | \$ | 2,200.00 |
| 5.2 | Notify Property Owners | \$ | 1,100.00 |
| 5.3 | Formal Weekly Progress Meetings Including Minutes | \$ | 1,750.00 |
| 5.4.1 | Full Time Observation (35 wks. @ 12 hrs/wk) | \$ | 37,015.42 |
| 5.4.2 | Part Time Observation (35 wks @ 6 hrs/wk) | \$ | 24,500.00 |
| 5.5 | Prepare Daily Reports | \$ | 6,750.00 |
| 5.6 | Storm Water Inspections | \$ | 1,150.00 |
| 5.7 | Compaction Testing | \$ | 13,242.00 |
| 5.8 | Assurance Testing | \$ | 500.00 |
| 5.9 | Prepare Pay Requests | \$ | 2,625.00 |
| 5.10 | Prepare Change Orders and Extra Work Orders | \$ | 4,550.00 |
| 5.11 | Prepare and Oversee Project Punch List | \$ | 4,325.00 |
| 5.12 | Prepare and Submit Construction Project Close-out Checklist | \$ | 1,850.00 |
| 5.13 | Prepare Letter of Certification of Project Completion | \$ | 500.00 |
| 5.14 | Prepare and Submit Completion Letter to DENR | \$ | 550.00 |
| 5.15 | Prepare and Submit Warranty Punch List - Oversee Completion | \$ | 225.00 |
| 5.16 | Prepare Letter of Certification of Warranty Completion | \$ | 400.00 |
| Task 5 Sub-total | | \$ | 103,232.42 |
| Task 4 & 5 Total | | \$ | 112,282.84 |

EXHIBIT D



AMERICAN
ENGINEERING
TESTING, INC.

CONSULTANTS
· GEOTECHNICAL
· MATERIALS
· ENVIRONMENTAL

July 11, 2011

Kadrmass, Lee, and Jackson
PO Box 3416
Rapid City, SD 57709

Attn; Mr. Dirk Jablonski

Subject: Cost Proposal– Compaction Testing; Trench Backfill; City Portion
East North Street Improvement Project Phase 1
Rapid City, South Dakota

Dear Sir:

INTRODUCTION

As requested, American Engineering Testing Inc. (AET) is pleased to provide this proposal for the Material Acceptance Testing (compaction testing) for the above referenced project. This proposal is intended to provide estimated costs for compaction testing the “Rapid City portion” of the above referenced project.

SCOPE OF WORK

This proposal includes compaction testing from 30 inches below grade to the bottom of the trench for the proposed sanitary sewer and water lines for the project, as this portion of the trenches will be the City’s responsibility. It is our understanding that compaction testing of approximately 5850 feet of water line, and 3630 feet of sewer line will be required (total of 9480 feet). SDDOT procedures will be required for the testing (“burn offs” for moisture content and “one points” for proctor checks”.

FEES

The following provides an estimate of the services and fees as we understand the project at this time, and is based upon our past experience with similar projects. Actual time required to complete the project may differ from the following estimate due to factors beyond our control.

The below estimate does not constitute a “bid” but rather a good faith estimate of the costs to perform the required testing. You will be invoiced only for the work actually performed. If you (the client) or your representative requests AET to spend additional time beyond the total estimated amount, the total estimated amount is changed accordingly and you will be invoiced for all additional services in accordance with the below units charges for this particular project.

COST PROPOSAL – MATERIALS ACCEPTANCE TESTING (CITY PORTION)
 EAST NORTH STREET PHASE I
 JULY 11, 2011
 PAGE 2 OF 2

AMERICAN
 ENGINEERING
 TESTING, INC

| | | |
|------------------------------------|---|--------------------|
| 1.) Utility Trench Backfill | | |
| Proctors(4 point) | 6ea @ \$130.00/ea | \$ 780.00 |
| Technician | 200hr @ \$52.00/hr | \$10,400.00 |
| | Subtotal | \$11,180.00 |
| | | |
| 2.) Admin and Clerical | | |
| Clerical | 20 hr @ \$40.00/hr | \$ 800.00 |
| Engineer | 6 hr @ \$82.00/hr | \$ 492.00 |
| Mileage | 1100 mi @ \$0.70/mi | \$ 770.00 |
| | Subtotal | \$ 2,062.00 |
| | | |
| | Total Estimate | \$13,242.00 |
| | (\$13,242.00/94=\$140.80 per "installation") | |

ACCEPTANCE

Please indicate your acceptance of this proposal by signing below. Please return one copy of the proposal to our office for our files.

CLOSING

Thank you for the opportunity to provide this proposal for the construction observation and testing services for this project. If you have any questions please call our office at (605) 388-0029.

Sincerely,



Ray M. Atkins, P.E.
 Construction Materials Engineer

ACCEPTANCE:

Signature _____

Company _____

Date _____

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. Verbal proposal acceptance or authorizing purchase orders from the Client are considered formal acceptance of AET's terms and conditions. By signing the proposal or verbally authorizing the services, the authorizing party attests that they have the authority to legally bind the Client to agreement.

1.2 - Prior to AET performing services, Client will provide AET with all information that may affect the cost, progress, safety and performance of the services. 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 services. If new information becomes available during AET's services, 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 - Services performed by AET will not relieve other persons of their responsibilities according to the contract documents or specifications, and AET will not be held responsible for work or omissions by Client or 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 - Services performed by AET often include 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 samples so taken, 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.

1.7 - AET reserves the right to charge for time to negotiate new terms and conditions from those portrayed in our proposal or should the Client require the use of their contract format. If mutually acceptable terms cannot be established, AET shall have the right to withdraw their proposal without any liability to the Client, Owner or other parties and assigns associated with the project. If Client requests use of their contract format after the services have already been authorized, AET will be compensated for services rendered prior to approval of the Client's contract by both parties according to the AET Terms and Conditions.

1.8 - The AET proposal accompanying these terms and conditions is valid for sixty (60) days after the proposal issuance date to the Client. If Client authorizes the services after the expiration date, AET reserves the right to review and revise the proposal as necessary.

SECTION 2 - SITE ACCESS, RESTORATION AND UTILITIES

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

2.2 - It is understood by Client that in the normal course of its services AET may unavoidably alter existing site conditions or affect the environment in the area being studied. AET will take reasonable precautions to minimize alterations to the site or existing materials. Restoration of the site is the responsibility of the Client.

2.3 - If AET is required to locate public or private underground utilities or subsurface structures ("hidden features") in its efforts to conform with reasonable standards of care, AET is entitled to rely on the location information provided by locating vendors. Client shall provide AET with any information available or reasonably obtainable to help prevent our services from encountering such hidden features. AET will not accept liability for encounters with hidden features.

SECTION 3 - SAFETY

3.1 - Client shall inform AET of any known or suspected hazardous materials or unsafe conditions at the site. If, during the course of AET's services, 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 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 services. 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 performs its 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.

SECTION 7 - INSURANCE

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

7.1 - Commercial General Liability insurance will include coverage for Products/Completed Operations (extending two (2) years after final acceptance of the Project by Owner or such longer period as the Contract Documents may require), Broad Form Property Damage including Completed Operations, Personal Injury, and Blanket Contractual Liability insurance applicable to AET's indemnity obligations under this Agreement.

7.2 - Automobile Liability insurance shall include coverage for all owned, hired and non-owned automobiles.

7.3 - Professional Liability Insurance is written on a claims-made basis and coverage will be maintained for two years after final acceptance of the Project by Owner or such longer period as the Contract Documents may require. Renewal policies during this period shall maintain the same retroactive date.

7.4 - AET can, if requested by client and permitted by AET's insurer, endorse its Commercial General Liability (including Products/Completed Operations coverage) to add Client and Owner as an "additional insured" with respect to liability arising out of the Services performed for Client or Owner by or for AET. Such insurance afforded to Client and Owner as an additional insured under AET's policies shall be primary insurance and not excess over, or contributing with, any insurance purchased or maintained by Client or Owner.

7.5 - AET will maintain in effect all insurance coverage required by this Agreement at its sole expense, provided such insurance is reasonably available, and with insurance carriers licensed to do business in the state in which the Project is located and having a current A.M. Best rating of no less than A minus (A-).

7.6 Upon request, prior to commencing the Services hereunder, AET will furnish Client with Certificates of Insurance evidencing that all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents.

7.7 - AET reserves the right to charge Client for additional coverage, coverage limits or policy modification including waiver of subrogation and other project specific requirements not known at the time of our proposal, subject to approval by AET's insurance providers.

SECTION 8 - DELAYS

If delays to AET's services are caused by Client or Owner, 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. In any case, Client shall pay for services of AET within 30 days of invoice.

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 as well as withhold any and all data from Client until such invoice payments are restored to a current status.

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 - Except for enforcement of AET's rights to payment for services rendered or to assert and/or enforce its lien rights, including without limitation assertion and enforcement of mechanic's lien rights and foreclosure of the same, 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; provided however that if either party should fail to respond to a request for mediation within 60 days after the request, this requirement for mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings shall be of no force and effect.

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 indemnify Client from and against liability arising out of AET's negligent performance of the services, 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 indemnify AET from and against liability arising from the negligent conduct of the Client, Owner, Client's Contractors/Subcontractors or other third parties, 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.

12.4 - AET's indemnification to the Client is limited solely to losses or damages caused by its failure to meet the standard of care and only to the extent of its negligence.

12.5 - AET will not accept any obligation to defend Client other than to meet the standard of care. If a court of competent jurisdiction rules that defense is implied or if required by law, AET's obligation for the costs of defense is only to the extent due to AET's negligent acts, errors or omissions.

SECTION 13 - LIMITATION OF LIABILITY

Client agrees to limit AET's liability to Client arising from AET's negligent acts, errors or omissions, such that the total liability of AET shall not exceed Select.

SECTION 14 - UNIONIZATION

AET reserves the right to renegotiate an appropriate fee increase or to terminate its contract on three (3) days written notice to Client and will not accept any liability for any penalties or costs from Client, Owner and their successors, assignees, joint-venturers, Contractors and Subcontractors, or any other parties involved with the project for claims, liabilities, damages or consequential damages directly or indirectly related to AET being required to provide unionized personnel on the project. Reservation of this right on the part of AET represents neither approval nor disapproval of unions in general or the use of collective bargaining agreements.

SECTION 15 - POSTING OF NOTICES ON EMPLOYEE RIGHTS

15.1 - Effective June 21, 2010, prime contracts with a value of \$100,000 or more and signed by federal contractors on projects with any agency of the United States government must comply with 29 CFR Part 471, which requires physical posting of a notice to employees of their rights under Federal labor laws. The required notice may be found at 29 Code of Federal Regulations Part 471, Appendix A to Subpart A. The regulation also has a "flow-down" requirement for subcontractors under the prime agreement for subcontracts with a value of \$10,000 or more. AET requires strict compliance of its subcontractors working on federal contracts subject to this regulation. The regulation has specific requirements for location of posting and language(s) for the poster.

SECTION 16 - TERMINATION

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

SERVICE AGREEMENT - TERMS AND CONDITIONS

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SECTION 17 - 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.

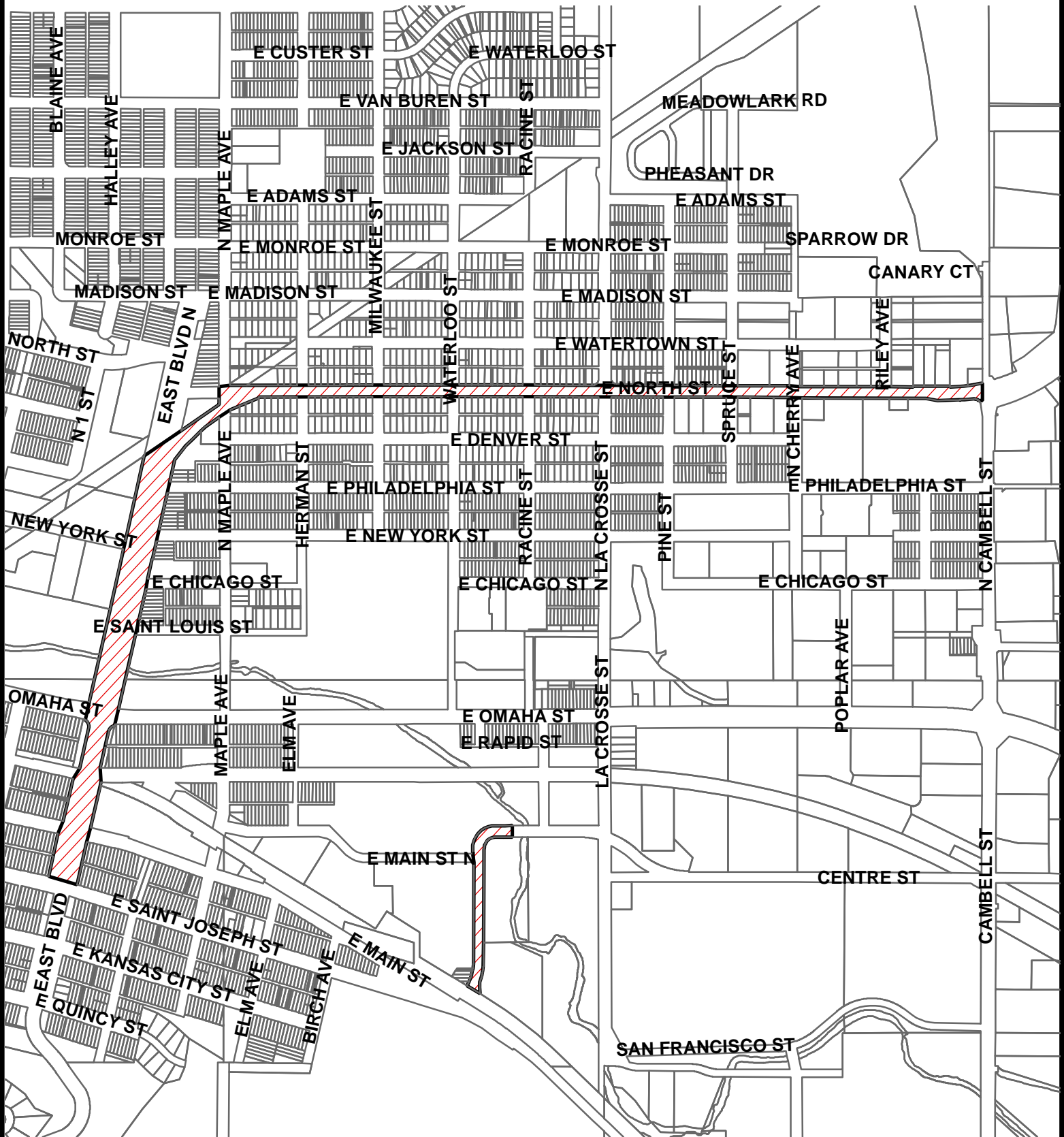
SECTION 18 - GOVERNING LAW

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

SECTION 19 - ENTIRE AGREEMENT

This agreement, including attached appendices, is the entire agreement between AET and Client. Regardless of method of acceptance of AET's proposal and general conditions by the Client, this agreement nullifies any previous written or oral agreements, including purchase/work orders. Any modifications to this agreement must be mutually acceptable to both parties and accepted in writing. No considerations will be given to revisions to AET's general conditions or alternate contract format submitted by the Client as a condition for payment of AET's accrued services.

EXHIBIT "A"



EAST BLVD. & E. NORTH ST. RECONSTRUCITON

CIP # 50142-1511 P 1774(3) PCN OIFN