

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

**Project Name & Number:** Countryside Subdivision Water System Conversion  
Project No. 15-2257

**CIP #:** 51086

**Project Description:** To provide construction administration services.

**Consultant:** Advanced Engineering and Environmental Services Inc.

**Original Contract Amount:** \$12,182.00

**Original Contract Date:** September 8, 2015

**Original Completion Date:** 90 Days after Construction Completion

**Addendum No:**

**Amendment Description:**


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

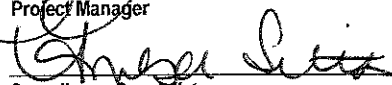
**Current Completion Date:** \_\_\_\_\_  
**New Completion Date:** \_\_\_\_\_

**Funding Source This Request:**


Amount	Dept.	Line Item	Fund	Comments
\$12,182.00	933	4223	602	
	<b>Total</b>			

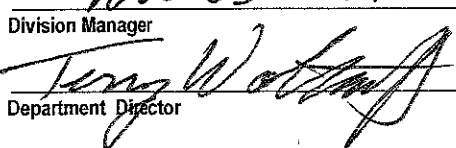
**Agreement Review & Approvals**

 8/19/15  
Project Manager Date

 8/24/15  
Compliance Specialist Date

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

 8-25-15  
Division Manager Date

 8-25-15  
Department Director 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
<u>8/27/15</u>	<u>DW</u>	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N
Appropriation		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N
Cash Flow		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N

**Agreement Between City of Rapid City and Advanced Engineering and  
Environmental Services Inc. for Construction Professional Services for  
Countryside Subdivision Water System Conversion  
Project No. 15-2257 / CIP No. 51086**

AGREEMENT made \_\_\_\_\_, 20\_\_\_\_, between the City of Rapid City, SD (City) and Advanced Engineering and Environmental Services Inc., (Engineer), located at 1560 Concourse Drive, Rapid City SD 57703. City intends to obtain construction administration services for Countryside Subdivision Water System Conversion, Project No. 15-2257 / CIP No. 51086. The scope of services is as described within this document and as further described in Exhibits A, B, and C (attached).

The City and the Engineer agree as follows:

The Engineer shall provide professional engineering services for the City in all phases of the Project and as further defined in Exhibits A, B, and C (attached), 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.



- 1.1.4 The contract will be based on an hourly rate and reimbursable fee schedule with a maximum not-to-exceed amount.

## 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 Exhibit A.)

## 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 not be paid for any 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 sub-contractors and sub-consultants, unpredictable occurrences including without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults by suppliers of materials or services, process shutdowns, acts of God, or the public enemy, or acts 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 Non Discrimination Policy Statement**

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.

This section shall be binding on all subcontractors or suppliers.



## **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 and reimbursable rate schedule described in Exhibit C.

### **5.2 Fee**

The maximum amount of the fee for the services as detailed in Section 1.2 shall not exceed \$12,182.00 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 observation/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 markup sub-consultant or sub-contractor 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 per the hourly rates and allowable reimbursable as 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 is complete based on an award date of September 8, 2015.

## **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 Contractor agrees to hold the City harmless from any liability, including additional premium due because of the Contractor'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, of not less than \$1,000,000 each occurrence and not less than \$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, 7<sup>th</sup> 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

\_\_\_\_\_  
ADVANCED ENGINEERING &  
ENVIRONMENTAL SERVICES INC.

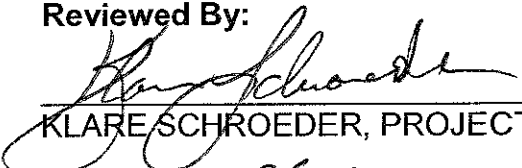
DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
FINANCE OFFICER

**Reviewed By:**

  
\_\_\_\_\_  
KLARE SCHROEDER, PROJECT MANAGER

DATE: 8/19/15

CITY'S DESIGNATED PROJECT  
REPRESENTATIVE

ENGINEERING FIRM'S DESIGNATED  
PROJECT REPRESENTATIVE

NAME Klare Schroeder  
PHONE 605-394-4154  
EMAIL klare.schroeder@rcgov.org

NAME Rich Marsh  
PHONE 605-341-7800  
EMAIL rich.marsh@ae2s.com



**EXHIBIT A**  
**SCOPE OF SERVICES – TASK 4H**

**Countryside Subdivision Water System Conversion**  
**Project No. 15-2257 / CIP 51086**

The City of Rapid City has requested professional services for Task 4H-(Hybrid) Basic Construction Services for the Countryside Subdivision Water System Conversion project.

The proposed project consists of converting the Countryside Homeowners Association Water System into the City of Rapid City Water System. In general, the project includes several water main connections to the City of Rapid City Water System in both the Carriage Hills pressure zone and the Selador pressure zone. The project was bid July 28, 2015 and this task list is for professional consulting services for a hybrid task 4 that includes coordination efforts necessary for the conversion of the existing water system.

The City requested that Advanced Engineering and Environmental Services, Inc. submit a proposal for the proposed project for Task 4H.

TASK 4H – (Hybrid) Basic Construction Services for PHASES 1 AND 2:

- 4H.1 Assist City personnel with property owner issues relating to agreements with landowners and the Countryside Homeowners Association.
- 4H.2 Provide water system coordination between the City of Rapid City and Countryside Homeowners Association. 8 hours of time has been provided for coordination efforts required by the construction project.
- 4H.3 Review and take action on shop drawings, product submittals, construction sequence, start-up procedures, test results, and other submittals.
- 4H.4 Provide As-Built Drawings resulting from City of Rapid City/Contractor furnished redline plans.
- 4H.5 Provide recommendations to address changed or unknown conditions that may appear during construction.
- 4H.6 Coordinate start-up conversion services for transition of Countryside to the City system. Help facilitate Contractor required water system conversion and water system flushing meeting and follow up on questions resulting from said meeting.

ANTICIPATED PROJECT SCHEDULE

The contract was bid based on several completion schedules. Project completion Schedule C was accepted and approved by the Rapid City Common Council. The intermediate milestone date for Schedule C is 08/19/2016 and final completion for Schedule C is 09/16/2016 and thus tasks 4H.1-4H.6 are estimated to be completed in coordination with the Contractors Schedule from Fall 2015 through September 2016.

## ADDITIONAL SERVICES

Additional Services Requiring Owner's Advance Written Authorization. If authorized in writing by Owner, Engineer shall furnish or obtain from others, additional services of the types listed below:

- A. 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 (which are not part of the scope of services).
- B. Preparation of traffic impact studies, traffic capacity analysis, or pedestrian studies.
- C. 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. Engineer will notify Owner within 48 hours once Engineer is aware of a change and will not proceed without written direction from Owner.
- D. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
- E. 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.
- F. Furnishing services of Engineer's Consultants for other than Services identified in Exhibit A.
- G. Preparing additional Bidding Documents or Contract Documents for work outside of the scope identified in Exhibit A requested by Owner for the Work or a portion thereof.
- H. Assistance in connection with renegotiating contracts for construction, materials, equipment, or services. Re-bidding or renegotiating contracts to reduce the contract costs to funds available shall be considered Additional Services.
- I. 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.
- J. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner other than those outlined in Exhibit A.
- K. Additional Services not identified at inception of project-Services resulting from changes in scope, extent, or character of the project are not included as part of the above Scope of Services. If required, or requested by the Client, AE2S will provide additional services on an hourly basis in accordance with Exhibit C.
- L. Private utility design services are not included.

## EXHIBIT B

CONSTRUCTION SERVICES for Task 4H  
Countryside Subdivision Water System Conversion  
Project No. 15-2257 / CIP 51086  
Advanced Engineering and Environmental Services, Inc.  
TASK SCHEDULE  
August 17, 2015

TASK	4H Hybrid Basic Construction	Task Cost
4H.1	Property owner issues	\$ 1,985.00
4H.2	Water system coordination	\$ 1,120.00
4H.3	Shop drawing review	\$ 2,220.00
4H.4	As-builts	\$ 2,042.00
4H.5	Changed or Unknown Conditions and clarifications	\$ 3,565.00
4H.6	Startup conversion of transition to City system	\$ 1,120.00
	Supplies, Mileage, Printing allowances	\$ 130.00
	<b>Subtotal Task 4H Hybrid Basic Construction</b>	<b>\$ 12,182.00</b>

<b>TOTAL FEE - Task 4H</b>	<b>\$ 12,182.00</b>
----------------------------	---------------------

## EXHIBIT C

### Countryside Subdivision Water System Conversion Project No. 15-2257 / CIP 51086

#### AE2S. Inc. Labor Rates

Position Title	Billing Rate
Operations Manager	\$175.00/hr.
Project Manager	\$140.00/hr.
Project Engineer	\$89.00/hr.
Construction Services Manager	\$121.00/hr.
Engineering Technician	\$83.00/hr.
Survey Manager	\$108.00/hr.
Surveyor I	\$89.00/hr.
Construction Technician II	\$78.00/hr.
Construction Technician III	\$92.00/hr.
Office Administrator	\$78.00/hr.
Administrative Assistant	\$65.00/hr.

#### Reimbursable Expenses

Project Travel – Transportation Vehicle .....	\$0.65/mile
Project Travel – ¾ Ton Vehicle .....	\$0.70/mile
Photocopies .....	\$0.10/page
Plots – Color Bond.....	\$1.25/sf
Plots – Monochrome Bond / Vellum .....	\$0.75/sf
Plots – Film/Photo High Gloss .....	\$2.00/sf
Total Station - Robotic .....	\$35.00/hour
Pro-XR GPS.....	\$15/hour
Fast Static/RTK GPS.....	\$50/hour
3D Laser Scanner.....	\$100/hour
Survey Monuments.....	\$5/each
Fence Posts .....	\$8/each
Survey Lath.....	\$22/bundle
Survey Stakes / Hubs.....	\$13/bundle
All Terrain Vehicle / Boat.....	\$100/day

NOTE: Labor Rates and Reimbursable Expenses subject to change January 1, 2016.