

**AGREEMENT  
FOR  
PROFESSIONAL SERVICES**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the City of Rapid City, South Dakota, hereinafter called **OWNER**, and Ferber Engineering Company, a South Dakota Corporation, hereinafter called **CONSULTANT**.

**WHEREAS, OWNER** has determined the need to procure Professional Engineering services for the preliminary and final design, construction administration, construction observation and construction staking services for the **PROJECT** as identified herein; and,

**WHEREAS, CONSULTANT** has satisfied **OWNER** that **CONSULTANT** is capable of providing those services;

**NOW, THEREFORE, OWNER** and **CONSULTANT** in consideration of the payments and agreements herein contained, do hereby agree as follows:

**PROJECT DESCRIPTION**

The **PROJECT** includes the design of the Knollwood Drainage Centre Street crossing, as defined as Element 90 in the Knollwood Drainage Basin Design Plan. This **PROJECT** includes preliminary design of the future upstream improvements between Centre Street and the DM&E Railroad.

The Pennington County Commission recently let a drainage project on the south side of Centre Street that will serve to convey flows from this **PROJECT** to Rapid Creek. The County's drainage configuration is a buried 24-inch RCP with three Type C area inlets with asphalt surfacing to serve as a parking lot.

**DESIGN CRITERIA**

This Project will be designed in conformance with the following Design Criteria:

1. Knollwood Drainage Basin Design Plan, FMG, Inc., 1994.
2. Drainage Criteria Manual, City of Rapid City, 1989.
3. Standard Specifications for Public Works Construction, City of Rapid City, 2002.

## **ARTICLE I SCOPE OF SERVICES**

### **A. DESIGN DATA ACQUISITION**

- A.1. **CONSULTANT** will obtain copies of existing street and utility plans.
- A.2. **CONSULTANT** will perform Field Design Survey including:
  - A.2.1. Control survey to tie County project to City coordinate base.
  - A.2.2. Topographic survey approximately 50 feet in width along the proposed alignment.
  - A.2.3. Topographic survey in the vicinity of any storm drainage outfalls.
- A.3. **CONSULTANT** will download the field survey files, reduce the files on the computer, and create topographic maps.
- A.4. **CONSULTANT** will perform Legal Survey services including establishing ties to lot corners, section corners and existing right-of-way monuments.
  - A.4.1. Prepare legal descriptions and exhibits for easement acquisition for permanent and construction easements.

### **B. PRELIMINARY DESIGN**

- B.1. **CONSULTANT** will prepare a preliminary horizontal alignment for storm drainage facilities.
- B.2. **CONSULTANT** will prepare preliminary vertical alignment for storm drainage facilities.
- B.3. **CONSULTANT** will investigate potential future City utility conflicts.
- B.4. **CONSULTANT** will prepare preliminary engineer's opinion of probable construction cost.
- B.5. **CONSULTANT** will meet with the **OWNER** to present/review the preliminary design and an engineer's opinion of probable construction cost.

### **C. FINAL DESIGN**

- C.1. **CONSULTANT** will prepare Final Plans and Detailed Technical Specifications, as needed, for all construction to the limits identified in the preliminary design. All plans will be produced using AutoCAD. The construction specifications will be based upon the City of Rapid City Standard Specifications for Public Works Construction, most recent edition.
- C.2. The Final Plans are expected to include the following:
  - C.2.1. Title Sheet
  - C.2.2. Summary of Quantities and Quantity Tabulations
  - C.2.3. General Notes and Tables
  - C.2.4. Traffic Control Plan
  - C.2.5. Details

C.2.6. 40 Scale Storm Drainage Plan and Profile on 11"x17" Sheets including the following information:

- C.2.6.1. Existing Topography
- C.2.6.2. Proposed Contours
- C.2.6.3. Property Lines and Ownership and Easements
- C.2.6.4. Proposed Alignment
- C.2.6.5. Structures to be demolished or removed
- C.2.6.6. Temporary Erosion and Sediment Control Devices
- C.2.6.7. Proposed Surface Restoration Improvements

C.3. **CONSULTANT** will submit copies of the Final Bid Documents to the City of Rapid City for Review.

#### **D. BID ASSISTANCE**

D.1. **CONSULTANT** will prepare construction bid documents for use by **OWNER** in obtaining competitive bids.

D.2. **CONSULTANT** will be available to answer bidding questions.

#### **ARTICLE II. OWNER'S RESPONSIBILITY**

Except as otherwise provided herein, **OWNER** shall do the following in a timely manner so as not to delay the services of **CONSULTANT**, and shall bear all costs incident thereto:

- A. Designate in writing a person to act as **OWNER'S** representative with respect to the services to be performed or furnished by **CONSULTANT** under this Agreement.
- B. Provide all criteria and full information as to **OWNER'S** requirements for the **PROJECT**, including design objectives and constraints, capacity and performance requirements, and any budgetary limitations.
- C. Assist **CONSULTANT** by placing at **CONSULTANT'S** disposal all available information pertinent to the **PROJECT** including previous design reports and any other data relative to design or construction of the **PROJECT**.
- D. Arrange for access to and make all provisions for **CONSULTANT** to enter upon public and private property as required for **CONSULTANT** to perform services under this Agreement.

### ARTICLE III TIMES FOR RENDERING SERVICES

CONSULTANT'S services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the PROJECT.

- A. CONSULTANT will begin work on the items identified in ARTICLE I, SECTION A DATA ACQUISITION and SECTION B PRELIMINARY DESIGN upon receipt of a signed copy of this Agreement. CONSULTANT will present the preliminary plans and an engineer's opinion of probable construction cost to the OWNER by June 11, 2004, if Notice-to-Proceed is provided no later than May 18, 2004. Adjustments in schedule will be made according to the date of Notice-to-Proceed.
- B. CONSULTANT will begin work on the items identified in ARTICLE I, SECTION C FINAL DESIGN and SECTION D BID ASSISTANCE upon receiving the Notice-to-Proceed for these phases of the work from the OWNER. The FINAL DESIGN schedule will be determined at that time.
- C. CONSULTANT will retain copies of all payroll and expense records for a period of three (3) years after completion of the PROJECT.

### ARTICLE IV. PAYMENTS TO CONSULTANT FOR SERVICES

The estimated fee for the PROJECT is included in this AGREEMENT.

- A. OWNER shall pay to CONSULTANT for services performed in accordance with ARTICLE I on a per-diem basis in accordance with the attached Exhibit A, the CONSULTANT'S hourly rates.
- B. In addition to payments provided for in Article IV Paragraph A, OWNER shall pay CONSULTANT for Reimbursable Expenses incurred by CONSULTANT including mileage at the rates identified in Exhibit A.
- C. CONSULTANT will invoice OWNER monthly for the services provided. Net payment for these services is due within thirty (30) days.
  - C.1 The maximum estimated fee for PHASE I services is \$5,405.

### ARTICLE V ADDITIONAL SERVICES

- A. If additional services beyond those contained in the scope of services must be performed, this agreement will be amended to identify the change in scope and the compensation due to CONSULTANT.

### ARTICLE VI OPINIONS OF COST

- A. CONSULTANT'S opinions of probable Construction Cost provided for herein are to be made on the basis of CONSULTANT'S experience and qualifications and represent CONSULTANT'S best judgment as an experienced and qualified professional engineer



generally familiar with the construction industry. However, since **CONSULTANT** has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices or over competitive bidding or market conditions, **CONSULTANT** cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of probable construction cost prepared by **CONSULTANT**.

## ARTICLE VII GENERAL TERMS AND CONDITIONS

- A. All services will be performed in accordance with the **CONSULTANT'S** General Terms and Conditions, dated April 29, 2002 that are attached hereto and incorporated into this agreement by reference.

This Agreement represents the entire and integrated agreement between the **OWNER** and **CONSULTANT** covering the services set forth herein and supersedes any prior negotiations, representations, or agreements therefore, either written or oral. This Agreement may be amended only by written instrument signed by both the **OWNER** and **CONSULTANT**.

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

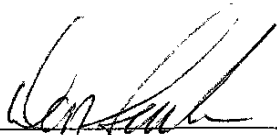
THE CITY OF RAPID CITY, SOUTH DAKOTA

BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Mr. Jim Shaw  
Mayor

ATTEST:

\_\_\_\_\_ Date: \_\_\_\_\_  
James A. Preston  
Finance Officer

FERBER ENGINEERING COMPANY

BY:  \_\_\_\_\_ Date: 4-3-04  
Dan Ferber, PE/LS  
President



**EXHIBIT A**

**FERBER ENGINEERING COMPANY**

**729 East Watertown Street  
Rapid City, SD 57701**

**CONSULTANTS SCHEDULE OF HOURLY RATES**

<b><u>EMPLOYEE CLASSIFICATION</u></b>	<b><u>HOURLY RATE</u></b>
Principal	\$90.00
Registered Professional Engineer I	\$70.00
Registered Professional Engineer II	\$65.00
Registered Professional Land Surveyor	\$90.00
Graduate Engineer	\$60.00
Technician	\$50.00
Survey Crew 2-Man	\$80.00
Drafter	\$40.00
Clerical	\$40.00
Mileage	\$ .36



**Ferber  
Engineering  
Company, Inc.**

**PROJECT:** Centre Street Drainage Crossing - in conjunction with County  
**CLIENT:** City of Rapid City  
**ADDRESS:** 300 Sixth Street, Rapid City SD 57701  
**DATE PREPARED:** 4/28/2004 (Revised)  
**ESTIMATOR:** Dave Muck, PE

TITLE	President	PM	PM	PM	Proj Eng	Tech	Survey	Drafting	Clerical	Direct Cost
NAME	Dan Ferber	Dave Muck	John Van Beek	Mitch Kertzman	Chris Ford					
LICENSURE	PE/LS	PE	PE	EIT						
2003 BILLING RATE	\$90.00	\$70.00	\$65.00	\$60.00	\$50.00	\$80.00	\$40.00	\$40.00		

**Task Description**

**DATA COLLECTION PHASE**

Additional Topo/Ctrl - Btwn Centre St and County Project							6			\$ 25.00
Create Revised Eagle Point Surface					2					
Get County Plans from Dale - Coordinate County/City Intentions		1								

**MEETINGS**

Coordination Meetings CORC Engineering		2								
Preliminary Design Review Meeting	2	2								

**DESIGN PHASE**

H&H - inlet and outlet ctrl check - size crossing		4								\$ 150.00
Determine Appropriate U/S and D/S Configurations		4								
Check Future Utility Conflicts	2			4						
Prepare Plan Set - 11x17										
Cover Sheet		2						4		
Gen Notes/Quantity Table		2						4		
Plan Sheet w/ grading and construction notes		2		4				4		
Profile Sheet		2						4		
Prepare Details - end treatments/road cut and patching		2			2			8		
Quantity Takeoff/Prepare Bidder's Proposal		1			4					
Prepare Detailed Specifications		1			4					
Answer Bidders Questions			2							
QA/QC	4									

Total Hours	8	27	0	18	2	6	24	0		
Estimated Cost Subtotal	\$ 720.00	\$ 1,890.00		\$ 1,080.00	\$ 100.00	\$ 480.00	\$ 960.00		\$	175.00

**Drainage Analysis Sub Total \$5,405.00**

**GENERAL TERMS AND CONDITIONS-RAPID CITY**

1. Ferber Engineering Company will bill the Client monthly with net payment due in thirty (30) days. Past due balances will be subject to a service charge at a rate of 1.5% per month. In addition, Ferber may, after giving seven (7) days notice, suspend service under any agreement until the Client has paid in full all amounts due for services rendered and expenses incurred, including service charges for past due invoices.
2. The stated fees and scope of services constitute our best estimate of the fees and tasks required to perform the services as defined. This agreement, upon execution by both parties hereto, can be amended only by written instrument signed by both parties. For those projects involving conceptual or process development services, activities often cannot be fully defined during the initial planning. As the project does progress, facts and conditions uncovered may reveal a change in direction that may alter the scope of services. Ferber will promptly inform the Client in writing of such situations so that changes in this agreement can be renegotiated.
3. Costs and schedule commitments shall be subject to renegotiation for delays caused by the Client's failure to provide specified facilities or information or for delays caused by unpredictable occurrences including without limitation, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults by suppliers of materials or services, process shutdowns, acts of God, or the public enemy, or acts or regulations of any governmental agency. Temporary delays of services caused by any of the above which results in additional costs beyond those outlined may require renegotiation of this agreement.
4. Ferber will maintain insurance coverage for: Workers Compensation, General Liability, Professional Liability, and Automobile Liability. Ferber will provide specific limits upon request. If the Client requires coverage's or limits in addition to those in effect as of the date of the agreement, the Client shall pay premiums for additional insurance.
5. It is acknowledged by both parties that Ferber's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event Ferber or any other party encounters asbestos or toxic materials at the jobsite, or should it become known in any way that such materials may be present at the jobsite or any adjacent areas that may affect the performance of Ferber's services, Ferber may, at their option and without liability for consequential or any other damages, suspend performance of services on the project until the Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate, and or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.
6. The Client agrees to provide such legal, accounting, and insurance counseling services as may be required for the project.
7. Termination of this agreement by the Client or Ferber shall be effective upon seven (7) days written notice to the other party. The written notice shall include the reasons and details for termination. Ferber will prepare a final invoice showing all charges incurred through the date of the termination. Payment is due as stated in Paragraph 1. If the Client violates any of the agreements entered into between Ferber and the Client or if the Client fails to carry out any of the duties contained in these terms and conditions, Ferber may upon seven (7) days written notice, suspend services without further obligation or liability to the Client unless, within such seven (7) day period, the Client remedies such violation to the reasonable satisfaction of Ferber.
8. All documents including Drawings and Specifications provided or furnished by Ferber pursuant to this Agreement are instruments of service in respect of the Project and Ferber shall retain an ownership therein. Reuse of any documents pertaining to this project by the Client on extensions of this project or on any other project shall be at the Client's risk. The Client agrees to defend, indemnify, and hold harmless Ferber from all claims, damages, and expenses including attorney's fees arising out of such reuse of the documents by the Client or by others acting through the Client.
9. Ferber will endeavor to provide all services in accordance with generally accepted professional practices. Ferber will not provide or offer to provide services inconsistent with or contrary to such practices nor make any warranty or guarantee, expressed or implied, nor to have any agreement or contract for services subject to the provisions of any uniform commercial code. Similarly, Ferber will not accept those terms and conditions offered by the Client in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly accepted in writing. Written acknowledgement of receipt of the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.
10. Ferber intends to serve as the Client's professional representative for those services as defined in this agreement and to provide advice and consultation to the Client as a professional. Any opinions of probable project cost, approvals, and other decisions made by Ferber for the Client are rendered on the basis of experience and qualifications and represent Ferber's professional judgment.
11. This agreement shall not be construed as giving Ferber 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.