



AGREEMENT

FOR PROFESSIONAL ENGINEERING SERVICES

This is an Agreement which shall become effective on _____, 2005, between The City of Rapid City, South Dakota (Owner), whose address is 300 Sixth Street, City of Rapid City, South Dakota, 57701, and Kadrmas, Lee & Jackson, Inc., (Engineer), whose address is 330 Knollwood Drive, Suite A, City of Rapid City, South Dakota, who hereby agrees to provide professional engineering services for SS05-_____ Red Rock Meadows Lift Station and (project) consisting of:

PRELIMINARY AND DESIGN ENGINEERING PHASE

Acting as the PW Consultant as per the attached "Agreement to Accept Red Rock Meadows Lift Station as a City Lift Station".

Item 8.h. of said contract shall be clarified to note that the signing and approval of the plans is for general compliance with the contract documents only. No liability is accepted for the design and construction of the project.

CONSTRUCTION ENGINEERING PHASE

Acting as the PW Consultant as per the attached "Agreement to Accept Red Rock Meadows Lift Station as a City Lift Station".

Item 10.i. of said contract shall be clarified to note that any services requested by the Owner during the Warranty Period after the acceptance by the City of the completion of any Punch List items shall be provided on an hourly basis as agreed upon by the Owner and the Engineer prior to the Engineer providing said requested services.

Payment for the above work for the Preliminary, Design and Construction Engineering Phases is to be made on the basis of hourly rates to a maximum fee of \$18,856.75.

Additional services available include: preparation of Change Orders; permitting, zoning, platting, and annexation fees; aerial photography; shop, field or laboratory tests or review of material or equipment; appearances before courts or boards on matters of litigation related to the project; assistance in the spreading of Special Assessments; and preparation of record drawings. These services will be provided on an hourly basis as agreed upon by the Owner and the Engineer prior to the Engineer providing said requested services.

Payment shall be made upon receipt of billings statement. Any portion of payment not received within 30 days of billings date shall be subject to a 12% per year late payment charge.

The Engineer shall furnish to the Owner, upon request, up to two copies of all reports, maps, plans and specifications pertaining to the project. Original documents, survey notes, drawings and maps prepared by the Engineer shall remain the sole property of the Owner. The Engineer shall be held harmless by Owner or any other person for use of any plans or drawings not signed by Engineer, or for use of plans or drawings on any project other than the one set forth in this Agreement. The Engineer shall not be held responsible for any changes made in plans or specifications by the Owner or other person.

Any opinion of the construction cost prepared by the Engineer represents his judgment as a design professional and is supplied for the general guidance of the client. Since the Engineer has no control over the cost of labor and material or over competitive bidding or market conditions, the Engineer does not guarantee the accuracy of such cost opinion as compared to contractor bids or actual cost to the Owner.

Unless notified by the Owner in writing that the Owner will provide for construction engineering (field review), the Engineer will provide said service on a part time basis as per the attached documents.

The Engineer's undertaking hereunder shall not relieve the contractor of contractor's obligation to perform the work in conformity with the drawings and specifications and in a workmanlike manner; shall not make the Engineer an insurer of the contractor's performance; and shall not impose upon the Engineer any obligation to see that the work is performed in a safe manner.


The Engineer shall be held harmless from delays caused by strikes, lockouts, accidents, acts of God, labor shortages, failure of Owner to furnish information or approve or disapprove the Engineer's work, faulty performance by the Owner or his agents, other contractors or governmental agencies. In the case of such delays, the time for completion of the engineering work shall be extended accordingly.

Engineer's liability to the Owner for injury or damage to persons or property arising out of work performed for the Owner and for which legal liability may be found to rest upon Engineer, other than professional errors and omissions, will be limited to Engineer's general liability insurance coverage which Engineer maintains in limits of at least \$2,000,000.

Owner's acceptance of this proposal as indicated by signature below will constitute an Agreement between Owner and Engineer and be Engineer's authority to proceed with the work. Owner agrees that there are no understandings or agreements except as herein expressly stated.

ENGINEER:

OWNER:



RODNEY A. SENN - PARTNER
KADRMAS, LEE & JACKSON, INC.

JIM SHAW - MAYOR
CITY OF RAPID CITY, SOUTH DAKOTA



WITNESS

Date: _____

Date: 2-25-05

DEVELOPER:

OWNER:

RED ROCKS MEADOWS, LLC.

JAMES F. PRESTON – FINANCE OFFICER
CITY OF RAPID CITY, SOUTH DAKOTA

BY: _____

Date: _____

ITS: _____

REVIEWED BY:

WITNESS


STACEY TITUS – PROJECT MANAGER
CITY OF RAPID CITY, SOUTH DAKOTA

Date: _____

Date: 02/25/05

DESIGN REVIEW & CONSTRUCTION ENGINEERING FEE SUMMARY

**RED ROCK MEADOWS LIFT STATION
SS05-**

KL&J Project No. 10405101

STAFF TYPE	Principal Engineer	Engineer III	Engineer II	Engineer I	Engineering Technician II	Engineering Technician I	Environmental Scientist I	Surveyor III	Surveyor II	Surveyor I	Administrative Assistant II	Per Diem	DIRECT	PER DIEM ¹	DIRECT ²	TASK
Project Assignment																
Labor Code	100	100	100	300	300	300	100	200	200	200	500					
TASK																
Kickoff Meeting			4								1		\$ 425.00	\$ -		\$ 425.00
DESIGN ENGINEERING																
City Scoping & Design Criteria Review, Supplement & Comment on Design Criteria & Standards			4	6							2		\$ 963.50			
Review Preliminary Design Report			4	6							2		\$ 963.50	\$ -		\$ 963.50
Review Revised Preliminary Design Report			2	4							1		\$ 564.00	\$ -		\$ 564.00
50% Design Review			4	8							1		\$ 1,083.00	\$ -		\$ 1,083.00
95% Design Review			4	8							1		\$ 1,083.00	\$ -		\$ 1,083.00
100% P&S Approval			2	4							1		\$ 564.00	\$ -		\$ 564.00
Miscellaneous Meetings (MAX. OF 3 MEETINGS)			6	4							2		\$ 989.00	\$ -		\$ 989.00
Bid Phase - Prebid, Bid Opening and Bid Review			3	3							2		\$ 621.75			
CONSTRUCTION ENGINEERING (9 WEEKS)																
Preconstruction & Weekly Progress Meetings			10			10					4		\$ 1,810.00	\$ -		\$ 1,810.00
Shop Drawing & Submittal Review			4			8					1		\$ 924.00	\$ -		\$ 924.00
Construction Observation			12			60							\$ 5,220.00	\$ -		\$ 5,220.00
Startup Services			2			6					2		\$ 688.00			\$ 688.00
Review As-constructed Documents			2			4							\$ 462.00			\$ 462.00
Closeout Services			2			16					2		\$ 1,368.00			\$ 1,368.00
													\$ -	\$ -		\$ -
Total Hours	0	69	51	0	104	0	0	0	0	0	23		\$ 18,856.75	\$ -	\$ -	
LABOR	\$ -	\$ 6,555.00	\$ 4,194.75	\$ -	\$ 7,072.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,035.00		\$ 18,856.75			

SUBCONTRACTORS		
FIRM NAME	ACTIVITY	FEE
TOTAL SUBCONTRACTORS:		\$ -

Summary of Costs:

Total Labor	\$ 18,856.75
Direct Expenses	\$ -
Subcontractors	\$ -
Per Diem	\$ -
Total Estimated Engineering Costs	\$ 18,856.75



¹ To be billed at actual with an \$90 maximum

² Includes equipment rental, etc.

**AGREEMENT TO ACCEPT RED ROCK MEADOWS LIFT STATION AS A
CITY LIFT STATION.**

THIS AGREEMENT, is made and entered into on this 21st day of February, 2005, by and between Red Rocks Meadows, LLC., hereinafter referred to as "Developer," and the City of Rapid City, a municipal corporation and political subdivision of the State of South Dakota, hereinafter referred to as "City."

WHEREAS, Developer is building a housing area known as Red Rock Meadows that will require a lift station in order to pump the sewage generated by the new homes into the City's sewer system; and

WHEREAS, the Developer is willing to pay for the cost of constructing the new lift station that is necessary for the development to proceed; and

WHEREAS, the City is willing, under certain conditions, to accept the ownership and maintenance for the proposed lift station after it is constructed; and

WHEREAS, the City's acceptance of ownership of this lift station, along with the costs of operating and maintaining it, will provide the Developer with a significant future benefit.

NOW THEREFORE, the parties agree as follows:

1. The Developer will pay for the design and the construction of a lift station to be constructed as part of the Red Rock Meadows development.
2. The Developer shall prepare and deliver to the City a Warranty Deed transferring the lift station lot to the City prior to awarding the contract for construction of the lift station.
3. The City will hold the deed until the project has been completed and accepted by the City. After the project has been completed and accepted, the City will record the deed with the Pennington County Register of Deeds.
4. In order to facilitate a timely and responsive review of the proposed public lift station for this development, the Public Works Dept. (PW) will select a 3rd party engineering consultant (PW consultant) to manage this project for the City. The Developer shall have the opportunity to concur with the selection of the PW consultant. The City will contract for the PW consultant's services and the Developer will reimburse the City for these services upon receipt of requests for reimbursement from the City. The Developer shall also sign the PW Consultant Agreement for concurrence. These costs will be considered as a Developer responsibility and part of TIF for Red Rock Meadows.
5. The City Public Works Dept. will request that the selected PW consultant prepare a proposed scope of services and negotiate a fee for these services.

6. The PW Consultant shall review, supplement, and comment on the proposed design criteria and standards proposed for use by the designer retained by the Developer. The designer retained by the Developer shall design the lift station in accordance with these agreed upon criteria.

7. It is understood by the Developer that the ultimate service area for this lift station maybe larger than what is needed to provide service for the Red Rock Meadows development. Other lift stations maybe constructed in the future that will pump to this lift station. The PW Consultant will review the Preliminary Design Reports prepared by the Developer's designer and comment as to the future service area for this lift station. The potential service area shall be delineated and agreed upon by the City and Developer. The lift station shall be designed so that it can handle sewage from the potential future sewage area.

8. The Developer has retained Dream Design International, Inc. (DDI) to design the proposed lift station. The Design Services provided by DDI shall in general consist of the following:

- a. DDI and the PW consultant shall conduct a kickoff meeting for the project to outline submittal schedules, preliminary service area delineation and the design criteria.
- b. Prior to the kickoff meeting, DDI shall submit a proposed project schedule. The schedule shall detail submittal dates, milestones, advertising of the project, bid openings, and construction period.
- c. The PW Consultant shall at a minimum have five working days, after receipt of the submittals, to review and comment on all submittals.
- d. After the kickoff meeting DDI shall submit a Revised Preliminary Design Report outlining service areas and proposed design criteria for the lift station. The PW consultant shall review and comment on the Revised Preliminary Design Report.
- e. DDI shall submit a 50% Design submittal consisting of plans, specifications, and other information necessary to evaluate the proposed lift station. The PW consultant shall review and comment on the 50% Design submittal.
- f. DDI shall submit a 95% Design submittal consisting of plans, specifications, and other information necessary to evaluate the proposed lift station. The PW consultant shall review and comment on the 95% Design submittal.
- g. DDI shall submit 100% plans and specifications. The PW consultant shall review the 100% plans and specifications and if in agreement with the plans shall approve them. After the PW consultant has reviewed the plans and specifications, and approved them, DDI shall prepare mylars and submit them to the PW consultant. The PW consultant shall sign and approve the plans for construction on behalf of PW. The PW consultant will then deliver these mylars to the City for PW's concurrence and signatures on the mylars.
- h. The Project may not be advertised for bid prior to PW's approval of the plans and specifications and signature.

- i. The PW consultant may request that force main and lift station components be upsized to handle future lift stations and additional service areas. In the event the PW consultant requests these upsizes then the Developer shall pay for the costs of upsizing. Oversize reimbursement will not be considered.
 - j. The PW consultant may at times request additional data or information be submitted for review. DDI shall prepare and submit such data as requested.
 - k. The PW consultant may request and need to meet with DDI to exchange information and to ask questions. DDI shall accommodate these requests.
9. The Developer shall contract with DDI to provide Bidding and Construction Services. The Bidding Services provided by DDI shall consists of the following:

BIDDING SERVICES:

- a. Attend Pre-bid Conference
- b. Issue addenda and interpretations to the bid documents if required
- c. Review pre-qualification submittals if required
- d. Conduct the Bid Opening per TIF requirements.
- e. Assist the Developer and City in evaluating bids
- f. Bid tabs will be prepared by DDI and submitted to Public Works for concurrence.

CONSTRUCTION SERVICES:

- a. Attend pre-construction conference and periodic progress meetings;
- b. Review and take action on shop drawings, test results, and other submittals;
- c. Provide construction surveys under this contract or under the appropriate construction Contract bid item;
- d. Provide full time construction observation 4-8 hours per day.
- e. Review and recommend for payment the Contractors applications for payment;
- f. Coordinate and manage Start-up services, DDI shall coordinate and manage startup services for the project. The PW Consultant shall represent PW at start up.
- g. Coordinate and manage the "Lift Station Training and Transfer of Operations" as described in paragraph 13.
- h. Prepare as-constructed drawings and submit compilation of construction observation reports, photos, etc.;
- i. Issue a Statement of Substantial Completion;
- j. Provide Certification to the City that the project was constructed in accordance with the Plans and Specifications.
- k. Issue a start of Warranty Letter to contractor. The issuance of this letter shall be concurred by the PW Consultant.
- l. Coordinate and resolve all punch list and or warranty issues that may arise during the project and during the 2-year warranty period.

10. The PW consultant shall provide Construction Services in the form of quality assurance and quality control on behalf of the City. These services in general will consist of:

- a. Attend pre-construction conference and weekly progress meetings with DDI, the Contractor, and subcontractors.
- b. Review and Concur on shop drawings, test results, and other submittals;
- c. Provide QA&QC construction observation 8-12 hours per week and when critical construction activities are occurring.
- d. Participate in, observe, and represent the City's interest in startup services for the project including observation and participation in the "Lift Station Training and Transfer of Operations" as described in paragraph 13.
- e. Review as-constructed drawings and compilation of construction observation reports, photos, etc. prepared by DDI.
- f. Concur with the Issuances of Statement of Substantial Completion.
- g. Concur with issuance of letter starting warranty period for the project.
- h. Coordinate with DDI regarding Warranty Items.
- i. Coordinate and resolve all Punch List and or Warranty Issues that may arise during the project and during the 2-year warranty period.

11. In the event the Lift Station is not operational or accepted by Public Works prior to wastewater entering the sewer system (i.e. building permits issued and connections made to the sewer system) then the Developer shall be responsible for septage hauling of the wastewater. These services shall include pumping the wastewater from a manhole upstream of the Lift Station, and hauling the septage to a mutually agreed upon manhole that will gravity flow into the City collection system.

~~12.~~ In the event that the Developer wishes to operate the lift station prior to City acceptance of the facility, therrall power costs and operational issues shall rest solely with the Developer. These operational costs associated with operating the Lift Station and/or costs associated with hauling of septage shall be bore by the Developer and will not be considered as TIF eligible expenses as they are operational in nature and are not capital expenses.

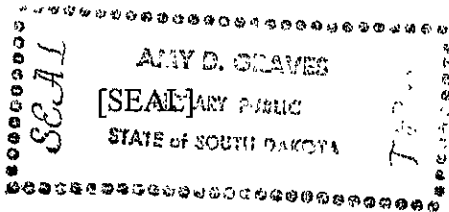
13. It is intended for the developer's contractor to run and maintain the lift station for approximately three (3) months after startup so that bugs and other operational issues can be resolved. After this time has lapsed a "Lift Station Training and Transfer of Operations" shall be completed where City staff are shown by the Developer how to operate, maintain, and run the Lift Station. The Contractor, suppliers, and subcontractors shall be in attendance at this time to instruct City personnel. DDI shall coordinate and manage these services. The 3rd party engineer shall also attend and provide input on the City's behalf. The PW consultant will participate in, observe and represent the City's interest in this phase as well.

14. This Agreement constitutes the entire agreement of the parties. No other writings or negotiations are part of this document.

STATE OF SOUTH DAKOTA)
)ss.
COUNTY OF PENNINGTON)

On this 23 day of February, 2005, before me, the undersigned officer, personally appeared Kevin Buttrick PC, who acknowledged himself to be the member/manager of Red Rock Meadows, LLC, and that as such, being duly authorized so to do, executed the foregoing instrument by signing the name of Red Rock Meadows, LLC as its member/manager

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Amy D. Graves
Notary Public, State of South Dakota
My Commission Expires: My Commission Expires
January 30, 2006