

March 8, 2005

City of Rapid City – Public Works Department  
300 Sixth Street  
Rapid City, SD 57701

Attention: Mr. Dan Coon, Project Manager

RE: Engineering Services Agreement  
Construction Fee Determinations  
Consultant Agreement

City Project No.: SSW04-1429

Dear Mr. Coon:

Banner Associates is pleased to submit this letter agreement for providing Consulting Engineering Services for technical assistance for: Water and Sewer Construction Fee Determinations associated with various City projects and/or City-funded oversize costs related to private development projects. Our understanding of the requested services by the City is based on the City's "Request for Proposals, Construction Fee Determinations", our Proposal submitted February 22, 2005, and a meeting with City staff on March 2, 2005 that further expanded several scope items at the City's request. The purpose of this agreement is to provide the City of Rapid City with an hourly rate schedule for our services and a commitment to provide those services upon your request. For purposes of clarification of this document, City shall refer to the City of Rapid City, SD, and Consultant shall refer to Banner Associates, Inc.

This agreement and scope of services is based on the City's and subsequent conversations and meetings to more clearly identify task goals, information available that will be provided by the City, and coordination items and supporting subtasks to be performed by the City staff. The scope of services, as defined by our Proposal and by the referenced meeting on March 2 meeting can be summarized under the following two categories:

Category 1. Construction Fee Determinations – Amounts & Areas.

In general, the Consultant will perform the requested services and provide the technical analysis to determine Water and Sanitary Sewer Construction Fees for the nine identified areas in

conformance with the City's RFP and Consultants Proposal, and as per scope expansion discussed in the referenced meeting with the City on March 2, 2005.

The Consultant shall, upon specific written authorization from the City, provide services which are intended to determine and establish Construction Fees for properties benefiting from construction of water and/or sanitary sewer infrastructure, including pipe lines and pumping stations. The tasks generally include review of City files to establish the completed project costs including engineering services, determine that portion of the project that is oversized costs or other costs not otherwise recovered or attributable to base development costs, determine the service boundaries and develop a benefiting properties map for each project, and finally establish a Construction Fee for parcels within the defined boundaries. For some of the areas, the Construction Fee may be established on a per acre basis, per front footage basis, or a combination of those rather than establishing a specific fee for a given parcel. In the case of private developments, construction cost data is typically not available within City files, and the Consultant will be required to coordinate and obtain this information from the developer and his engineer. The Consultant will also be required to coordinate with City Finance Office to determine what, if any, estimated fees have been collected to date in the project areas, and to coordinate the establishment of Object Codes to track the recovery of utility costs through the Construction Fees. Once the Construction Fees have been determined, the Consultant shall coordinate with City staff, particularly the City Attorneys Office, to assist the City's drafting of appropriate resolutions to present to the appropriate City Committees and City Council for final adoption of the Construction Fee for each project area (task) below. City Staff at the March 2 meeting requested the Consultant budget 10 hours to be available for the Public Works Committee and the City Council for presentation and response to questions regarding the proposed resolutions to establish water and sewer construction fees, with the assumption the various resolutions would be grouped to limit the number of meetings to the Committee and Council. An aggregate of 10 hours has been budgeted for Committee and Council meetings where questions are anticipated, or complexities may require further explanation. Attendance by the Consultant at Committee or Council meetings in excess of this allowance is to be paid as additional services.

Tasks requested under this category include:

- Moon Ridge Water Main Extension
- Moon Ridge Sanitary Sewer Extension
- Red Rocks Estates
  - Sheridan Lake Road Sanitary Sewer
  - Red Rocks Sewage Lift Station
  - Sanitary Sewer Oversize Costs within Red Rocks Estates
  - Water fees within Red Rocks to recover oversized & booster pump stations costs required to serve this area
  - Water mains extension to Red Rocks – oversized and off-site cost recovery above developer's responsibility
- Highway 16 Water Main Extension (Ridco Agreement)
- Heartland I-90 Business Park

- MJK Subdivision
- Southeast Area Sanitary Sewer
  - Catron Blvd Sanitary Sewer
  - SE Connector Utilities Relocation
  - Fifth Street Utilities Extension
- Golden Eagle Drive Water Main Extension
- Auburn Hills Subdivision (Water)

Consultant shall prepare a Final Report and draft Resolution for each Construction Fee Determination to document procedures used and assumptions made, and include as an appendix appropriate cost information and spreadsheets used to establish fees. All final documents shall be submitted in hardcopy and electronic format. Consultant shall submit three (3) hardcopies of each report to the City.

Category 2. Identify Other Potential Construction Fee Determinations, and summarize Construction Fee Determination Procedure.

After completion of above Fee Area tasks, investigate recent City files to identify other areas that possibly should also have Water and/or Sewer Construction Fees established. Typically, the projects would be associated with recent developments that have extended water and sewer utilities and have been paid oversize, or extended off-site utilities. Other areas may include City projects that have installed/replaced larger diameter pipes to developing areas. Those potential areas will be summarized in a report, however no fee determinations will be performed.

The City also requested at the March 2, 2005 meeting that the Consultant develop a suggested procedure for future Construction Fee Determinations based on the experience gained under this agreement. Those procedures will also include a map generalizing the percentage of land that can be expected to be developed within City "zones" (anticipate 3 to 4), based on experience gained from determinations under this agreement. Additionally, the Consultant will suggest policies that may need to be established to aid in implementation of establishing the Construction Fee Areas.

For additional definition of the scope of services intended through this agreement, refer to the attached scope of services document.

**TIME FOR PERFORMANCE.**

The time for performance of the services described herein is within 181 days from the date of written Notice To Proceed (including NTP date) for the tasks associated with the determination of Construction Fee areas. Milestone Dates for each task is identified in Attachment "A", Construction Fee Determination Schedule. Assuming NTP is issued on March 22, 2005, the tasks as described herein would be complete on or before September

19, 2005. In order to perform the services, timely delivery or availability to access of project records and cost data is essential. Additionally, meetings will be required with City staff, including Engineering, Attorney's Office, and Finance Office to determine procedures acceptable to the City, and concurrence of fee area boundaries and proposed fee structure. Drafting of exhibits and preparation, copying, and distribution of any Resolutions to Council shall be the responsibility of City staff. Consultant reserves the right to request additional time if contacted entities, including City staff, are not timely in their response to information requests or meeting schedule requests from Consultant, or for delays in the preparation of exhibits and documents through no fault of the Consultant.

### **COST OF SERVICES.**

The cost of services for such work shall be hourly at the Consultant standard rate plus reimbursements for mileage and other related project expenses (per diem, postage, etc.). The cost of services is based on performing all of the requested tasks outlined herein. The hours are based on the efficiency inherent in combining meetings, utilizing similar databases where appropriate, and similar calculation procedures for many of the tasks. If the City elects to delete some of the requested tasks, the Consultant reserves the right to re-negotiate the hours and fees for the remaining tasks, if necessary. The total for this Agreement is estimated to cost \$34,412. Project billings are not to exceed this amount without prior written approval of the City. This represents approximately 390 hours of services provided for the project tasks. Progress reports will be prepared and submitted with the monthly billings. At such time the work of this Agreement becomes approximately 80% of the total cost, the Consultant shall revisit the progress, remaining fee and schedule of the work with the City.

Total manhours and a breakdown by position and associated rate is included as Attachment "B". The Consultant will deliver to the City's Project Manager at the "kick-off" meeting an hourly estimate breakdown by task for the City's Project Managers use in monitoring progress. The Consultant may shift hours between tasks as is deemed necessary to complete the tasks, with the City's Project Manager's concurrence. The total hours and total limiting fee shall govern this agreement. If additional tasks are assigned to the Consultant, a modification of the above listed limiting fee will be made to reflect the costs associated with the additional services requested. Attached is also Banner's standard "Schedule of Labor Rates and Expenses".

## **RESPONSIBILITIES OF CITY**

Through execution of this agreement, it is understood that the City agrees to provide the following items to the Consultant:

1. Access to City files, including electronic files, containing construction cost information, correspondence, and any existing agreements associated with the requested tasks, and files of previously approved Construction Fees and Oversize Reimbursements.
2. Access to City utility maps, approved development plans, and Record Drawings for the utility construction projects associated with the requested tasks.
3. Periodic access, at Consultant's request, to a workstation (or work space) at the City School Administration Complex (CSAC), including access to a City computer with the City's latest version of GIS (ArcView/ArcMap) software and network access to the GIS information and Engineering files. The GIS application shall include "kiosk" or "cool tools" utility program (or latest version) to assist in the compilation of acreages and property ownership lists for the proposed fee areas. The work space and computer access to accomplish the requested tasks outlined in this agreement shall be provided at no cost to Consultant for the duration of this agreement. The City will not make these files and programs available outside of CSAC.
4. All drafting associated with this agreement shall be performed by City staff. City staff shall prepare the Exhibits for the Construction Fee Resolutions with direction and coordination provided by Consultant. City staff shall also be available to prepare and plot working maps of the service areas during the course of the analysis as directed by Consultant. Requested GIS plots will typically include the following layers: aerial, streets, topography, parcels, and water and sanitary sewer utilities as available. Costs associated with drafting, preparation, and printing of exhibits and plots shall be the direct responsibility of the City.
5. City Attorney's Office shall prepare the written resolutions to establish the Construction fees, and other legal documents that may be necessary for final adoption of the fees, however Consultant will prepare the draft resolutions for the Construction Fees based on the format and information contained in previously approved construction fee resolutions. Consultant will provide these draft resolutions, both hardcopy and electronically, to the City Attorney's Office

for final preparation. City staff shall prepare, print, and distribute the resolution packets to the appropriate City Committees and City Council.

6. Except as noted elsewhere in this agreement, City staff shall, if required, make presentations and respond to questions regarding the proposed Construction fees at Committee and City Council meetings.
7. Consultant will schedule and meet with the involved developers and the developer's engineer as necessary to obtain the information required to process the construction fee requests. The City will make available a conference room at CSAC for these meetings, provided the Consultant gives adequate lead time for coordination and scheduling.

### **ADDITIONAL SERVICES**

Under the Basic Services Agreement as outlined herein, the City has indicated their desire (per RFP) to complete all drafting and exhibit preparation utilizing their staff. Banner has ArcGIS 9.0, and could prepare exhibits if all appropriate GIS layers are made available to Consultant outside of CSAC and at no cost to Consultant, as is often done with other consultants that have contracts with the City. The City has requested a manhour and cost estimate if those services are added as an amendment to this agreement. We estimate 288 manhours at an estimated cost of \$13,500 (plus reimbursables and applicable taxes) if these service are amended into the agreement as additional services. The cost of drafting services by the Consultant IS NOT included as a part of this agreement.

Banner Assoc. Inc. is licensed to do business in South Dakota under Certificate C-136, issued by the South Dakota Board of Technical Professions. The individual assigned to the project and the principle contact will be Sigurds Zvejnieks, a licensed Professional Engineer in the State of South Dakota. He can be reached at 605-343-0700.

Services to be provided under this agreement will be billed based on the attached "Schedule of Hourly Rates & Expenses" dated July 1, 2004. Services will be provided at the specific request of the City and billings for those services will be submitted to City of Rapid City, SD (c/o Public Works Department).

We look forward to serving as a technical resource and local contact for you as you move forward with the work tasks outlined in the Scope of Services. If this agreement is acceptable to you, please complete the acknowledgment below and return one copy to our office. If you have any questions, please do not hesitate to call our office.

Banner Associates, Inc.  
Consulting Engineers & Architects  
Brookings, SD 57006

City Staff Concurrence:

*[Signature]* 3/8/05  
Dan Coon, Project Manager *for DAN COON*

*[Signature]*  
Sigurds R. Zvejnieks, PE  
Vice-President

**ACKNOWLEDGMENT OF ACCEPTANCE**

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2005

For: City of Rapid City

Attest:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: Mayor, City of Rapid City

Title: Finance Officer, City of Rapid City

Attachments:

- Scope of Services
- Attachment "A" – Schedule
- Attachment "B" – Estimated Manhours
- Banner Assoc. Inc. "Schedule of Hourly Rates & Expenses"

SCOPE OF SERVICES  
Consultant Agreement between  
City of Rapid City and Banner Associates, Inc.

This agreement envisions the following work:

Water and/or Sanitary Sewer Construction Fee Determination

- Moon Ridge Water Main Extension (along Hwy 16 from Catron Blvd to Moon Meadows Road) – the developer has constructed a 14” diameter water main to and through his site. A supplement tap fee for this area will encompass two components – an oversize component from 10” to 14”, and off-site improvements between Catron Blvd and the start of the developer’s site.
  
- Moon Ridge Sanitary Sewer Extension - The developer is in the process of finishing an 8” sanitary sewer to the site that will require establishment of a Construction fee for off-site improvements. The construction fee cannot be established until a project is complete and final costs established. These final costs should be established by the spring of 2005 and will be part of the services for fee determination.
  
- Red Rocks Estates – The Red Rocks development will include five separate resolutions as outlined below. This development has both oversize and off-site components, as well as pumping facilities for both water and sewer. Additionally, the Construction fee analysis for this development will be complicated by the variety of funding mechanisms that were utilized including Infrastructure Development Partnership Fund (IDFP) and Tax Increment Financing (TIF), which may have to be excluded or adjusted from the project costs. Other City / Developer agreements are associated with this development, and the associated extension of utilities to serve this area. Oversize payments previously made to the developer also need to be reviewed (with possible recommendations for adjustments) and incorporated into the analysis, including costs of developing utility access on section line to the development. Also, estimated Construction fees have been collected from some properties, and those will need to be tracked and adjusted for the final determined fees. This task is comprised of several subtasks:
  - Construction Fee associated with Sheridan Lake Road Sanitary Sewer extension;
  - Construction Fee associated with Red Rocks Sewage Lift Station;
  - Construction Fee associated with sanitary sewer oversize costs within Red Rocks Subdivision;
  - Construction Fees within Red Rocks Subdivision for oversize and booster station costs to service this area (create flat per lot fee, and not base on frontage &/or acreage);
  - Construction Fee for areas outside Red Rocks benefiting from oversize and offsite water main construction in route to Red Rocks.



- Highway 16 Water Main Extension (Rushmore Road from Fairmont south to Fox Run) – Council has previously entered into an agreement with Ridco to construct this water line so a new multi-story motel could be constructed. The agreement was done prior to final design and construction, and does not adequately address the final constructed project (oversize component – upsized to 12” at City’s request). Additionally, the previous agreement needs to be amended to reflect additional properties that could benefit from this construction, specifically the Medical Center property on the east side of Highway 16 across the street from the Ridco properties. Assist in determining cost split & modifying existing agreement for cost recovery, and develop revised service area map.
- Heartland I-90 Business Park (I-90 & Elk Vale Rd) – As this development was moving towards approval, the City accelerated it’s plans to construct a 24” sanitary sewer trunk line heading west out of the Elk Vale lift station. The first half mile of the trunk sewer has been constructed as a City project through this development. The development also includes oversized water mains (12”) constructed by the developer. The developer is obligated for the costs he would have incurred for an 8-inch sewer, and the City is obligated to pay the oversize water. This task includes reviewing the costs and determining the funding balance between the City and the developer. The second portion of this task is to establish Construction fees for both the water and the sewer to recover the City’s oversize contribution.
- MJK Subdivision (NW corner of Hwy 79 & SE Connector) – This task is very similar to the Heartland Business Park described above. In this instance, the City constructed oversized (12”) water main as part of the SE Connector Utility Relocation Project, and the developer is constructing oversized (15”) sanitary sewer as requested by the City. This task also includes reviewing the costs and determining the funding balance between the City and the developer. The second portion of this task is to establish Construction fees for both the water and the sewer to recover the City’s oversize contribution.
- Southeast Area Sewer – This task will include the development of four separate resolutions as outlined below. New sanitary sewers have recently been completed under three City projects – The SE Connector Utility Relocations (18”), which also included a separate agreement for construction of an 8” sewer main on the east side of Highway 79 south of Minnesota Street, Catron Boulevard Sanitary Sewer (18”), and Fifth Street construction. This task overlaps to some degree with the 15” sanitary sewer in MJK Subdivision discussed above. This task is complicated by the inter-relationships of the multiple projects and the multiple funding mechanisms. Additionally, some areas contributing to this trunk line that benefit from the oversized main are existing homes on currently “dry” sewers or on relatively new

septic systems – a decision will need to be made whether these will be excluded from the analysis since it may be difficult to collect the fees, or unlikely the new septic systems will convert to conventional sewer within the next 20 years unless directed by the City, which could trigger legal challenges. The Construction fee determination would include the properties served by the sanitary sewer (8") constructed in the rearage road on the east side of Hwy 79 south of Minnesota Street. Smokin' Joes restaurant will connect to this 8-inch sewer, and will require an individual agreement with the City prior to the establishment of the construction fee for other properties on this sewer.

- Golden Eagle Drive (Arlene Ham Burr)– A previous agreement for a construction fee was approved by Council prior to construction of this 10" water main. However, just prior to construction, an adjacent property owner involved decided not to grant an easement and the project was altered. The approved agreement needs to be amended to reflect actual construction, and oversize costs (8" to 10") need to reviewed, and reimbursed, if necessary. The City previously constructed a ten inch water main to serve the Rapid City Peace Officers Club and other properties to the west. Some of the costs of this earlier project should be considered in the establishment of the proposed construction fee.
- Auburn Hills Subdivision – This project consists of four distinct water improvements. The City paid to increase the size of the water mains in this area from twelve inch to fourteen inch. The City will be paying for this increase in water main size as an oversize cost and wishes to recover these costs by development of a construction fee.

Identify Other Potential Construction Fee Determinations, and summarize Construction Fee Determination Procedure.

- Investigate recent City files to identify other areas that possibly should also have Water and/or Sewer Construction Fees established. Typically, the projects would be associated with recent developments that have extended water and sewer utilities and have been paid oversize, or extended off-site utilities. Other areas may include City projects that have installed/replaced larger diameter pipes to developing areas. No fee determinations will be performed. If those identified areas are requested to have construction fees determined, the agreement would be amended to expand to scope to include those determinations.
- The City also requested at the March 2, 2005 meeting to develop a suggested procedure for future Construction Fee Determinations based on the experience gained under this agreement. Those procedures will also include a map generalizing the percentage of land that can be expected to be developed within City "zones", based on experience gained from determinations under

this agreement. Developable area is generally related to topography (steepness of slopes), drainage / floodplain concerns, land use and street networks. It is anticipated the zones would be generalize to 3 or 4 areas. Additionally, suggest policies that may need to be established to aid in implementation of establishing future Construction Fee Areas. Recommendations will include assisting City Attorney's Office to develop "will pay" agreements where future utility Construction Fee Areas collect estimated fees ahead of the actual fee resolution adoption by Council. Manhours for this task will not be developed separately, and will be incidental to hours for the Construction Fee Determination tasks.

### QA/QC Reviews

Reviews will be conducted by members of Banner's Brookings senior staff to affirm procedures and results are appropriate, and reports are written clearly as to assumptions made and conclusions reached. Banner's senior staff includes previous City Engineers for the cities of Brookings, SD and Marshall, MN – those individual will likely be used due to their familiarity to city government issues and involvement with municipal utilities. Estimated professional services fees were developed with their billing rate.

**ATTACHMENT "A"****CONSTRUCTION FEE DETERMINATION SCHEDULE****City Project No. SSW04-1429**

Assumes written Notice To Proceed (NTP) issued on March 22, 2005

[Completion Date 181 days after NTP, including date of notice; if NTP delayed, milestones dates will be adjusted accordingly]

Notice To Proceed	March 22, 2005
Kick-off Meeting	March 22, 2005

Following Milestone Dates are for draft Construction Fee Report submission to the Public Works Department and the City Attorney's Office for review and comments. The Final Report and Resolution for each area will be provided within 5 working days after review comments are received by Consultant from the Public Works Department and the City Attorney's Office.

<u>Study Area</u>	<u>Milestone Date</u>
Southeast Area + MJK Subdivision	May 5, 2005
Red Rocks Estates	June 17, 2005
Auburn Hills	July 1, 2005
Moon Ridge Water & Sewer	July 22, 2005
Highway 16	August 5 2005
Heartland I-90 Business Park	August 19, 2005
Golden Eagle Drive	September 2, 2005
Identify Other Potential Areas, Summarize Procedures & Guidelines Used, and Recommend Policy Items, Project Wrap-up & Closeout Meeting	September 19, 2005

**ATTACHMENT "B"****Estimated Hours by Position****BANNER ENGINEERING SERVICES FOR THE CITY OF RAPID CITY  
CONSTRUCTION FEE DETERMINATIONS City # SSW04-1429**

<u>Manhour Estimates</u>	<u>Manhours</u>	<u>Billing Rate</u>	
Senior Project Manager - Construction Fee Determinations Sigurds R. Zvejnieks	348	\$ 90.00	\$ 31,320.00
Senior Project Manager - QA/QC Reviews Gregg Jongeling, Rich Victor	24	\$ 98.00	\$ 2,352.00
Secretarial - report copying & assembly various	18	\$ 30.00	\$ 540.00
<b>TOTAL ESTIMATED HOURS</b>	<b>390</b>		<b>\$ 34,212.00</b>
Estimated Reimbursible Expenses			<b>\$ 200.00</b>
			<b>\$ 34,412.00</b>

**ESTIMATED TOTAL PROJECT COST****OPTIONAL ADDITIONAL SERVICES ESTIMATE - Not included in Basic Agreement**

City has requested option of Banner providing drafting services for Exhibits associated with Construction Fee Determinations Agreement, as presented, would need to be amended to include these services.

Senior Drafter Designer	288	\$ 46.00	\$ 13,248.00
Estimated drafting supplies / copies			\$ 252.00
			\$ 13,500.00

**SCHEDULE OF LABOR RATES AND EXPENSES****JULY, 2004**

<b>TECHNICIAN 1:</b>		<b>STAFF ENGINEER:</b>	
Survey Field Assistant.....	\$20.00 to \$30.00/Hour	Sr. Staff Engineer.....	\$50.00 to 65.00/Hour
Secretary		Sr. Designer	
<b>TECHNICIAN 2:</b>		Resident Engineer I	
Drafter.....	\$25.00 to \$40.00/Hour	Chief Construction Observer	
Survey Assistant		Land Surveyor	
Field Technician		Architect	
		CADD Dept. Head	
<b>SENIOR TECHNICIAN:</b>		<b>PROJECT ENGINEER:</b>	
Drafter/Designer .....	\$35.00 to \$55.00/Hour	Project Engineer .....	\$60.00 to \$75.00/Hour
Party Chief		Project Architect	
Instrument Person		Design Engineer	
Sr. Survey Assistant		Resident Engineer II	
Sr. Field Technician		<b>PROJECT MANAGER:</b>	
Administrative Assistant		Project Manager.....	\$70.00 to \$85.00/Hour
<b>ENGINEER:</b>		Architectural Project Manager	
Engineer in Training.....	\$35.00 to \$55.00/Hour	Resident Engineer III	
Staff Engineer		<b>DEPARTMENT HEAD:</b>	
Sr. Drafter/Designer		Sr. Project Manager.....	\$85.00 to \$110.00/Hour
Sr. Party Chief		Sr. Engineer	
Construction Observer		Sr. Architect	
Design Architect		Sr. Resident Engineer	
Architect Intern		<b>OFFICE/DIVISION MANAGER:</b>	
Computer Manager		Division Manager .....	\$120.00 to \$140.00/Hour
		Office Manager	

1. Transportation at \$0.35 per mile in addition to the above hourly rates.
2. Meals at State Rates.
3. Lodging at actual cost.
4. Reproduction:

Photocopy.....	\$0.05/Copy
Color Laser Copies .....	0.35/Copy
Black & White Laser Prints.....	0.10/Sheet
Vellabond & Plain Paper Plots/Copies.....	0.15/Sq.Ft.
Mylar Film Copies and Plots.....	0.60/Sq.Ft.
Large High Gloss Color Plots.....	0.60/Sq.Ft.
5. Subcontracts..... Cost Plus 10%
6. All other direct project expenses at actual cost of materials.

**The above rates are firm through June 30, 2005  
We reserve the right to adjust the rates annually, thereafter.**