

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

Date:

Project Name & Number: Mall Drive Utility Reconstruction Project – Haines Ave. to LaCrosse St. CIP#: 50646
Project No.: ST08 - 1753

Project Description: This project is the reconstruction of Mall Drive from Haines Ave. to Lacrosse St. The street and drainage design components are to be contracted under DOT Project #1608(04) & (05). The utility construction components are being addressed under this contract. Project component addressed under this contract consists of adjustments to the existing water transmission main and construction of sanitary sewer main.

Consultant: Ferber Engineering Company, Inc.

Original Contract Amount:

Original Contract Date:

Original Completion Date:

Addendum No:

Amendment Description:

Current Contract Amount: \$27,555.00

Current Completion Date: DOT P1608(04) & (05)

Change Requested: _____

New Contract Amount: \$27,555.00

New Completion Date: DOT P1608(04) & (05)

Funding Source This Request:

Amount	Dept.	Line Item	Fund	Comments
\$27,555.00	834	4223	604	Sewer Expansion Project
\$27,555.00	Total			

Agreement Review & Approvals

Step J. Tuttle FOR TOWN P. 6/19/09
 Project Manager Date
M. Smith 6/21/09
 Compliance Specialist Date
J. P. Ke... 6-22-09
 City Attorney Date
 Pw Dir.

John J. ... 6-19-09
 Division Manager Date
Paul ... 6-23-09
 Department Director Date
 Division Manager Date

ROUTING INSTRUCTIONS

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

FINANCE OFFICE USE ONLY

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

	Date	Initials	Approved
Appropriation	6/24/09	JS	(Y) N
Cash Flow			(Y) N

**AGREEMENT
FOR
PROFESSIONAL SERVICES**

This Agreement is made and entered into this ____ day of _____, 2009, by and between the City of Rapid City, hereinafter called the **OWNER**, and Ferber Engineering Company, Inc., a South Dakota Corporation, hereinafter called the **CONSULTANT**.

WHEREAS, the **OWNER** has determined the need to procure professional engineering services for the **Mall Drive Utility Reconstruction Project – Haines Ave to LaCrosse St, PROJECT ST08-1753, CIP 50646**, as identified herein; and,

WHEREAS, the **CONSULTANT** has satisfied the **OWNER** that **CONSULTANT** is capable of providing those services and **CONSULTANT** has entered into agreements with the SDDOT for the Survey, Traffic Study and Street Design portions of the **PROJECT**;

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

PROJECT DESCRIPTION

This **PROJECT** is the reconstruction of Mall Drive from Haines Avenue to LaCrosse Street and will be under City CIP 50646 and DOT Project # P 1608(04) & (05). There may also be modification to the alignment of Seger Drive and installation of the associated utility infrastructure. There is a 14" water main within the Mall Drive R.O.W. that was constructed in 2008, and work on the main will be limited to minor adjustments and future stub outs. There currently are no sewer mains in Mall Drive. Sewer mains will be installed with this project and sewer main sizing will be completed utilizing flow information from the East Mall Drive Preliminary Design Report previously prepared by **CONSULTANT**. Water and sewer services will be stubbed out to prevent cutting into the street after completion of the project.

DESIGN CRITERIA

The **PROJECT** will be evaluated and designed in conformance with the following Design Criteria:

- *City of Rapid City Standard Specifications for Public Works Construction, 2007.*
- *City of Rapid City Infrastructure Design Criteria Manual (2008 Draft), including:*
- *Recommended Standards for Wastewater Facilities (Ten States Standards)*
- *Recommended Standards for Water Works (Ten States Standards)*
- *Handbook of PVC Pipe Design*

If conflicts are identified between standards to be used or design criteria documents they shall be resolved in favor of the more stringent requirement as determined by the Director of Public Works.

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PROJECT NO. ST08-1753, CIP No. 50646

ARTICLE I SCOPE OF SERVICES**A. TASK 1 PRELIMINARY DESIGN SERVICES**

- A.1. Kick-off Conference: The consultant shall meet with City staff to detail project concept and scope. The consultant shall prepare an agenda, take minutes, and distribute minutes.
- A.2. Review background information listed in the RFP, and any other resources as necessary.
- A.3. Prepare Project Design Report: The consultant shall establish and indicate project specific design criteria and standards within the Project Design Report. The consultant shall submit design assumptions, design life, design criteria, and reference of design resources. Establish pipe sizes. Provide justification for the facility and analysis of alternatives. Use the City Draft Utility Design Criteria Manual to establish design criteria and standards. The project's geotechnical report shall be included within the Project Design Report, and include soil classifications, N values, water levels, proctors, CBR's, pavement design, and testing recommendations. Submit three (3) copies of the Project Design Report and preliminary plans and specifications to City of Rapid City's project manager for review and comment.
- A.4. Identify permanent and temporary construction easements acquisition needs. Include size and extent of such easements and contact information of property owners.
- A.5. Prepare preliminary opinion of probable construction costs for the project.
- A.6. Prepare preliminary plan and profile sheets including locations of existing and new utilities. Show existing utilities locations with probable depths.
- A.7. Attend submittal review meeting with City staff, if necessary.
- A.8. Attend Public Works and Council meetings as necessary.
- A.9. Meet with individual property owners regarding permanent and temporary easement needs and regarding specific project issues and components.

B. TASK 2 FINAL DESIGN SERVICES

- B.1. Address City comments from the Task 1 City review and finalize Project Design Report.
- B.2. Assist the City with easement acquisition, and obtain property owner contact information, prepare easement exhibits as necessary, conduct property owner meetings for easement acquisition, and document acquisition meetings.
- B.3. Determine removal limits with approval of City of Rapid City representative.
- B.4. Provide three (3) copies of the finalized Project Design Report,
- B.5. Provide five (5) copies of an approximately 65% submittal. The submittal shall consist of plans, specifications, contract documents, and opinion of probable construction cost to the City of Rapid City's project manager for review.
- B.6. Address City comments from the City review of 65% submittal.
- B.7. Provide three (3) copies of the Final Design Services submittal (95% submittal). The submittal shall consist of complete plans, specifications, contract documents, and opinion of probable construction cost to the City of Rapid City's project manager for review. The Final Design Services submittal will be made to the City when the consultant believes the plans, specifications, contract documents, and opinion of probable construction cost are 100% complete.
- B.8. Address 100% submittal staff comments as necessary.

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- B.9. Provide complete plans and specifications for a unit price construction contract. Plan sheets shall be prepared utilizing the latest City of Rapid City Drafting Standards.
- B.10. Plans documents shall adhere to current City of Rapid City and/or SDDOT guidelines.
- B.11. Staking information shall include either of the following formats:
On the Plans
- Station offsets for all items of work requiring field staking. In tabular form on a plan sheet (schedule).
 - Coordinates and description of inter-visible control points.
 - Coordinates of all items of work requiring field staking.
 - Benchmark information shall be provided on each sheet.
- B.12. Coordinate directly with utility companies' engineering divisions to ensure that all existing utilities are completely and accurately identified and located in the field; that pertinent information regarding depth, material, size, etc. are noted on the plans; and that conflicts requiring relocation of utilities or special construction techniques are fully specified in the contract documents. Preliminary plans shall be provided to the pertinent utilities for comment at the time they are complete followed by a specific private utility coordination meeting in two to three weeks.
- B.13. If desiring exceptions from City requirements or specifications, it is the Consultant's responsibility to request and secure exceptions. Failure by the City to comment on a nonconforming item during a review does not constitute the granting of an exception.
- B.14. Provide detailed specifications supplementing the City of Rapid City Standard Specifications and/or SDDOT Specifications, as necessary.
- B.15. Prepare final "Engineer's Estimate" of probable construction cost for the project.
- B.16. Deliver the following:
- Provide the required number of bid documents including complete plans, specifications, contract documents, and Engineer's Estimate of probable construction cost to the SDDOT for bid letting.
 - Provide (to the City of Rapid City) complete plans on CD compatible with AutoCAD Release 2006 to 2008 format.
 - Provide all topographic, control, and design points in the .dwg file and in tabular format, both on CD and on hard copy printout.
 - Provide complete specifications and contract documents on CD in Microsoft Word XP or previous versions.
 - Provide a unit price cost estimate on CD in Microsoft Excel XP or previous version.
- B.17. Submit plans and specifications to the Department of Environment and Natural Resources for approval, and address any comments or corrections required.

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C. GEOTECHNICAL INVESTIGATION

- C.1. **CONSULTANT** will subcontract with American Engineering Testing, Inc (AET) to conduct a Geotechnical Investigation for the project.
- C.1.1. The Geotechnical Investigation will include 10 borings along the alignment of Mall Drive to depths of 10 feet. Two additional borings will be drilled along the alignment of Seger Drive to depths of 10 feet.
- C.1.2. The subsurface conditions will be logged at each location and groundwater levels taken at each boring location following drilling. The borings will be advanced using either 4.25" I.D. Hollow Stem Auger or 4-inch flight auger. Soil samples will be collected in accordance with the procedures outlined in ASTM D3550.
- C.1.3. AET will perform a nominal amount of laboratory testing in accordance with the appropriate ASTM procedures to classify the soils in order to estimate the engineering and index properties, as well as strength properties of the soils. Lab testing will likely include natural moisture content, dry density, modified Proctors and California Bearing Ratio.
- C.1.4. AET will provide a report summarizing the results of the field work, and laboratory data with engineering conclusions and recommendations regarding soil/bedrock profiles, groundwater levels, utility excavation/backfilling, compaction requirements, subgrade preparation and applicable concrete and asphalt pavement sections.

D. MEETINGS

- D.1. **CONSULTANT** will attend Public Works Committee and Rapid City Common Council meetings as necessary during the completion of the **PROJECT**.
- D.2. **CONSULTANT** will be available to answer individual questions from property owners throughout project.
- D.3. **CONSULTANT** will meet with CITY staff as necessary during the completion of the **PROJECT**.

ARTICLE II OWNERS 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:

- 2.1 Designate a person to act as **OWNER'S** representative with respect to the services to be performed or furnished by **CONSULTANT** under this Agreement.
- 2.2 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.
- 2.3 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**.
- 2.4 Assist **CONSULTANT** by furnishing for **CONSULTANT'S** use Digital Files of Topographic Base Maps and Digital Terrain Models for the **PROJECT** area.

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2.6 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**. Unless specific periods of time or specific dates for providing services are specified in this Agreement, **CONSULTANT'S** obligation to render services hereunder will extend for a period which may reasonably be required for the preparation of the deliverables as described above or amended hereafter, including extra work and required extensions thereto.

- 3.1 The **CONSULTANT** will begin work upon receipt of a signed Notice to Proceed.
- 3.2 Preliminary Design Information and Final Bid Documents will be submitted consistent with **CONSULTANT'S** work orders with the SDDOT for Projects P 1608(04) & (05).
- 3.3 The **CONSULTANT** will retain copies of all payroll and expense records for a period of three (3) years after completion of the **PROJECT**.

ARTICLE VI PAYMENTS TO CONSULTANT FOR SERVICES

- 4.1 **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 **CONSULTANTS** hourly rates.
- 4.2 In addition to payments provided for in paragraph 4.1, **OWNER** shall pay **CONSULTANT** for Reimbursable Expenses incurred by **CONSULTANT** including mileage at the rates identified in Exhibit A.
- 4.3 The **CONSULTANT** will invoice the **OWNER** monthly for the services provided. Net payment for these services is due within thirty (45) days.
- 4.4 The maximum estimated fee for Article I, Items A-D, is **\$27,555**.
- 4.5 The **CONSULTANT** will not exceed the amount stipulated in paragraph 4.4 without prior authorization by the **OWNER**.

ARTICLE V ADDITIONAL SERVICES

- 5.1 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 the **CONSULTANT**.

ARTICLE VI OPINIONS OF COST

- 6.1 **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**

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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 Contractors 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

- 7.1 All services will be performed in accordance with the **CONSULTANT'S GENERAL TERMS AND CONDITIONS-RAPID CITY**, dated May 8, 2008, which are attached hereto and incorporated into this agreement by reference.
- 7.2 This Agreement represents the entire and integrated agreement between the **OWNER** and the **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 the **CONSULTANT**.

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

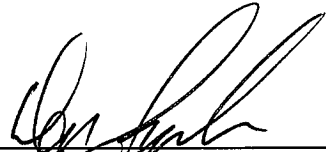
THE CITY OF RAPID CITY, SOUTH DAKOTA

Alan Hanks, Mayor

ATTEST:

Date: _____
James F. Preston
Finance Officer

FERBER ENGINEERING COMPANY, INC.

BY: 

Dan P. Ferber, President

Date: 6/18/09





GENERAL TERMS AND CONDITIONS- RAPID CITY

1. Ferber Engineering Company, Inc., herein referred to as FEC, will bill the Client monthly with net payment due in thirty ⁴⁵~~30~~ days. In addition, FEC 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.
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. FEC 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. FEC will maintain insurance coverage for: Workers Compensation, General Liability, Professional Liability, and Automobile Liability. FEC shall at all times during the term of this Agreement maintain its General Liability insurance with a minimum of a One Million Dollar (\$1,000,000) limit per occurrence or equivalent. FEC shall furnish the Client with a certificate of insurance acceptable to the Client. Such certificate shall be attached hereto and incorporated herein along with a statement generally describing the coverage therein contained. Said insurance shall name the City of Rapid City as an additional insured.
5. It is acknowledged by both parties that FEC's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event FEC 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 FEC's services, FEC 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 FEC shall be effective upon seven (7) days written notice to the other party. The written notice shall include the reasons and details for termination. FEC 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 FEC and the Client or if the Client fails to carry out any of the duties contained in these terms and conditions, FEC 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 FEC. If FEC violates any of the agreements entered into between the Client and FEC or if FEC fails to carry out any of the duties contained in these terms and conditions, Client may upon seven (7) days written notice, suspend payment without further obligation or liability to FEC unless, within such seven (7) day period, FEC remedies such violation to the reasonable satisfaction of the Client.
8. All documents including Drawings and Specifications provided or furnished by FEC pursuant to this Agreement are instruments of service in respect of the Project and FEC 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 FEC 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. FEC will endeavor to provide all services in accordance with generally accepted professional practices. FEC 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, FEC 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



GENERAL TERMS AND CONDITIONS- RAPID CITY - (CONT)

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. FEC 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 FEC for the Client are rendered on the basis of experience and qualifications and represent FEC's professional judgment.
11. This agreement shall not be construed as giving FEC 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.
12. The parties agree that the terms of this Agreement shall be governed by the laws of the State of South Dakota. In the event of any conflict of laws, the law of the State of South Dakota shall be controlling. Any legal action arising out of or relating to this agreement shall be brought only in the Circuit Court of the State of South Dakota, Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.
13. In the event that any section(s), or provision(s) of this Agreement is declared invalid for any reason whatsoever by any competent court, such invalidity shall not affect any other section(s) or provision(s) of this Agreement if it can be given effect without the invalid section(s) or provision(s).

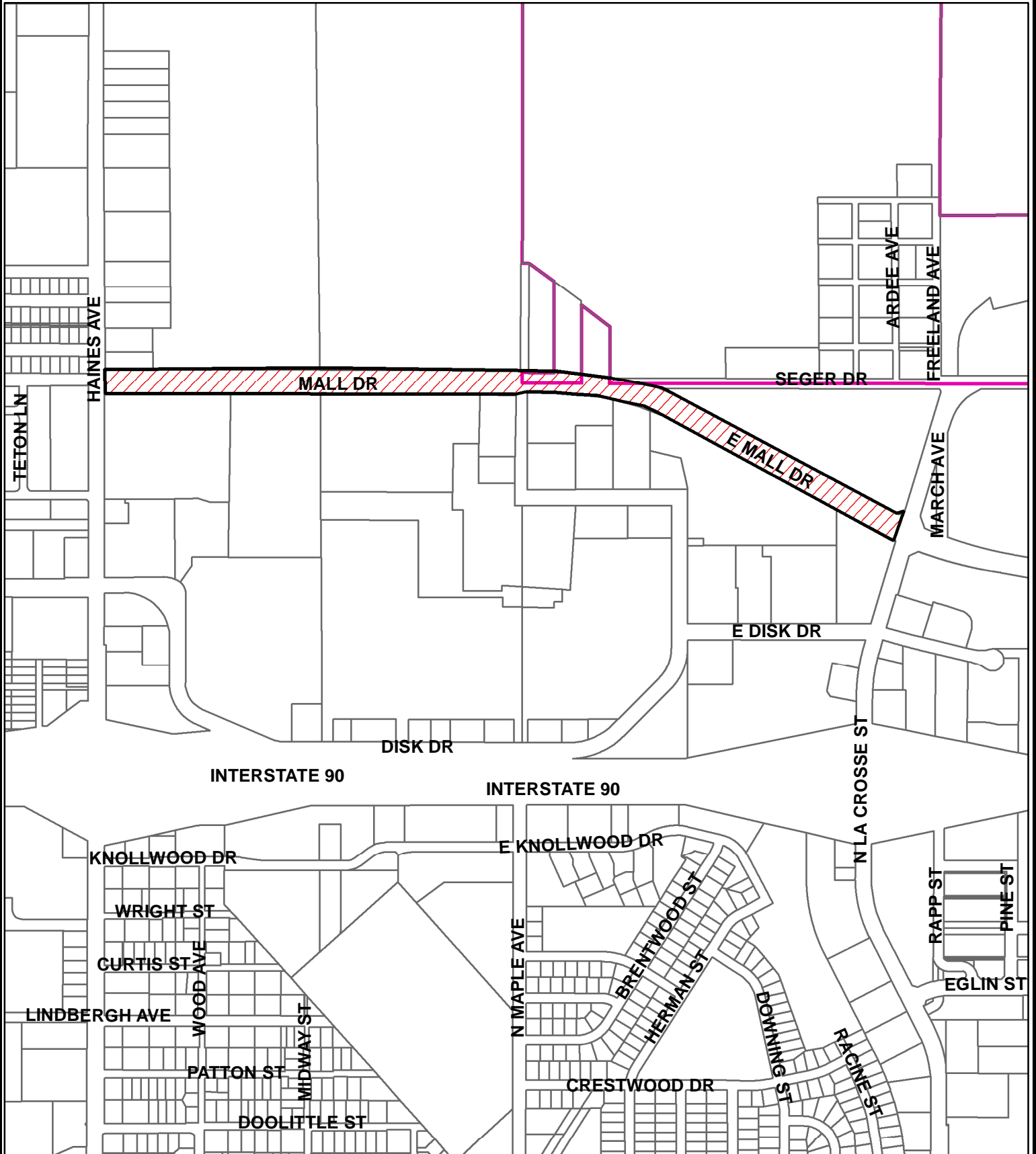
**EXHIBIT A****2009 SCHEDULE OF CHARGES**

EMPLOYEE CLASSIFICATION	HOURLY RATE
Principal-In-Charge	\$115.00
Registered Land Surveyor	\$115.00
Principal Professional Engineer	\$105.00
Professional Engineer I	\$75.00
Graduate Engineer IV	\$70.00
Graduate Engineer III	\$65.00
Senior Technician II	\$70.00
Technician II	\$60.00
Technician I	\$55.00
Survey Crew 2-Man	\$95.00
Drafter	\$60.00
Clerical	\$55.00
Mileage	\$.55
GPS Survey	\$20.00 + Tech*
*Tech includes hourly rate of employee plus expenses	

PRINTING CHARGES

Bond	\$.20/sq ft
Vellum	\$.30/sq ft
Mylar	\$.50/sq ft
Clear Film	\$.50/sq ft
Photocopies, 8 ½" x 11" (BW)	\$.10
Photocopies, 8 ½" x 11" (Color)	\$.50
Binding (up to 1")	\$ 2.00





MALL DR. RECONSTRUCTION
HAINES AVE. TO LaCROSSE ST.
PROJECT NO. ST08-1753 CIP # 50646

800 400 0 800 1,600 Feet

