PW083011-12 REQUEST AUTHORIZATION FOR MAYOR AND FINANCE OFFICER TO SIGN PROFESSIONAL SERVICES AGREEMENT OR AMENDMENT

Date: September 6, 2011

Project Name & Numb	er: Kepp	s Reservoir (Control Valve	Station, Project No. W	10-1845	CIP #: 50784
Project Description:	To provide	e construction	n administrati	on services.		
Consultant: CETEC	Engineerin	g Services, l Orig		v.	Original	90 Days after
	58,790.00	Con	tract Date:	September 6, 2011	Completion Date:	Construction Completion
Addendum No: Amendment Descripti	on:					
Current Cor	ntract Amou	nt:		Current Com	pletion Date:	
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Funding Source This	Request:			· · · · · · · · · · · · · · · · · · ·		
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Project Manager Compliance Specialist		8/. 8/.	Date Date	Department Director	Mus Mus	8 - 24 - 1) Date & - 24 - 1/ Date
City Attorney			Date			
Route two originals of the A Finance Office - Rete Project Manager - Re cc: Public Works Engineering Project Mana	ain one original etain second origin	ew and signatures.	nsultant	Appropriation	FINANCE OFFICE USE ONLY date of Agreement in appropriate since the Date.	pace in the Agreement document) S Approved Y N

Agreement Between City of Rapid City and CETEC Engineering Services, Inc. for Professional Services for Kepps Reservoir Control Valve Station, Project No. W10-1845 / CIP No. 50784

AGREEMENT made September 6, 2011, between the City of Rapid City, SD (City) and CETEC Engineering Services, Inc., (Engineer), located at 1560 Concourse Drive, Rapid City, SD 57703. City intends to obtain construction administration services for Kepps Reservoir Control Valve Station, Project No. W10-1845, CIP No.50784. The scope of services is as described in Exhibits A and B.

The City and the Engineer agree as follows:

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

1.2 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 Exhibits A and B.)

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 be paid for any authorized, necessary 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 subcontractors and subconsultants, predictable 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 NonDiscrimination Policy Statement

This section shall be binding on all subcontractors or suppliers.

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.



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 rate schedule. (See Exhibit C.)

5.2 **Fee**

The maximum amount of the fee for the services as detailed in Section 1.2 shall not exceed \$58,790.00 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 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 mark up subconsultant or subcontractor 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 at the rates 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 contract is completed.

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 Engineer agrees to hold the City harmless from any liability, including additional premium due because of the Engineer'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, in the amount of \$1,000,000 each occurrence and \$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, 7th 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	CETEC ENGINEERING SERVICES, INC.
DATE:	DATE: 8 189111
ATTEST:	
FINANCE OFFICER	
Reviewed By:	
KLARE SCHROEDER, PROJECT MANAGER	
DATE: 8/23/11	·
City's Designated Project Representative:	Engineering Firm's Designated Project Representative:
NAME Klare Schroeder PHONE 605-394-4154 EMAIL klare.schroeder@rcgov.org	NAME Ted Schultz PHONE 341-7800 EMAIL teds@cetecengineering.com



EXHIBIT A

Scope of Services

4. BASIC CONSTRUCTION SERVICES

- 4.1 Notice to Proceed preparation.
- 4.2 Preconstruction Conference (agenda and minutes in City format)
- 4.3 Written Clarification in Response to Plans and Specifications questions
- 4.4 Recommendations for Changed and Unknown Conditions on Construction
- 4.5 Shop drawing, Submittal and Test Results Reviews and Action
- 4.6 As-Built Plans and Specifications Preparation

5. EXPANDED CONSTRUCTION SERVICES

- 5.1 Mark Removal Limits.
- 5.2 Public Service Announcement Preparation
- 5.3 Property Owner notification as needed.
- 5.4 Progress Meetings and Minutes
- 5.5 Provide Daily Construction Observation
- 5.6 Daily Reports
- 5.7 Storm water Inspections and Reports
- 5.8 Soil Compaction Testing
- 5.9 Assurance Testing according to Standard Specifications
- 5.10 Monthly Pay Request Preparation and Submittal to City Project Manager
- 5.11 Change Order Preparation
- 5.12 Punch List Preparation
- 5.13 Construction Closeout Checklist
- 5.14 Certification of Project Completion
- 5.15 Notification of Project Completion to SDDENR

EXHIBIT B

Scope of Services

Construction Phase Consultant shall:

- I. Consult with Client and act as Client's representative as provided in Section 1. The extent and limitations of the duties, responsibilities, and authority of Consultant as assigned in the Agreement shall not be modified, except as Consultant may otherwise agree in writing. All of Client's instructions to Contractor will be issued through Consultant, which shall have authority to act on behalf of Client in dealings with Contractor to the extent provided in this Agreement, except as otherwise provided in writing.
- 2. Provide the services of a Resident Project Representative (RPR) at the site to assist the Consultant and to provide more extensive observation of Contractor's work.
- 3. Conduct a Preconstruction Conference prior to commencement of Work at the site.
- Receive, review and determine the acceptability of any and all schedules that Contractor is required to submit
 to Consultant, including the Progress Schedule, Schedule of Submittals and Schedule of Values.
- 5. Make visits to the Site at intervals appropriate to the various stages of construction, as Consultant deems necessary, to observe as an experienced and qualified design professional the progress and quality of Contractor's executed Work. Such visits and observations by Consultant, and the RPR, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to Consultant in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling and similar methods of general observation of the Work based on Consultant's exercise of professional judgment as assisted by the RPR, if any. Based on information obtained during such visits and observations, Consultant will determine in general if the Work is proceeding in accordance with the Contract Documents, and Consultant shall keep Client informed of the progress of the Work.
 - a. The purpose of Consultant's visits to, and representation by the RPR, if any, at the Site, will be to enable Consultant to better carry out the duties and responsibilities assigned to an undertaken by Consultant during the Construction Phase, and, in addition, by the exercise of Consultant's efforts as an experienced and qualified design professional, to provide for Client a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct or have control over Contractor's Work, nor shall Consultant have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected or used by Contractor, for security or safety on the Site, for safety precautions and programs incident to the Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- 6. Have the authority to recommend to Client that Contractor's Work be rejected while it is in progress if, on the basis of Consultant's observations, Consultant believes that such Work will not produce a completed Project that conforms generally to the Contract Documents or that it will threaten the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents:
- 7. Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of

- and reasonably inferable from the Contract Documents. Consultant may issue Field Orders authorizing minor variations in the Work from the requirements of the Contract Documents.
- 8. Recommend Change Orders and Work Change Directives to Client, as appropriate, and prepare Change Orders and Work Change Directives as required.
- 9. Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data with Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. Consultant shall meet any Contractor's submittal schedule that Consultant has accepted.
- 10. Assist the Client in evaluating and determining the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
- 11. Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests and approvals required by laws and regulations or the Contract Documents. Consultant's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests or approvals comply with the requirements of the Contract Documents. Consultant shall be entitled to rely on the results of such tests.
- 12. Rend formal written decisions on all duly submitted issues relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance or progress of the Work; review each duly submitted Claim by Client or Contractor, and in writing either deny such Claim in while or in part, approve such Claim, or decline to resolve such Claim if Consultant in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Consultant shall be fair and not show partiality to Client or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
- 13. Based on Consultant's observations as an experienced and qualified design professional and on review of Application for Payment and accompanying supporting documentation:
 - a. Recommend the amounts the Contractor be paid. Such recommendations of payment will be in writing and will constitute the Consultant's representation to Client, based on such observations and review, that, to the best of Consultant's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the quality of such Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Consultant's responsibility to observe Contractor's Work. In the case of unit price work, Consultant's recommendations of payment will include final determination of quantifies and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).
 - b. By recommending any payment, Consultant shall not thereby be deemed to have represented that observations made by Consultant to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Consultant in this Agreement and the Contract Documents. Neither Consultant's review of Contractor's Work for the purposes of recommending payments nor Consultant's recommendation of any payment including final payment will impose on Consultant responsibility to supervise, direct or control Contractor's Work in progress of for the means, methods, techniques, sequences or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on

Consultant to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials or equipment has passed to Client free and clear of any liens, claims, security interests or encumbrances, or that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.

- 14. The Consultant, RPR and subconsultants will perform quality control testing of materials during the construction in accordance with the requirements and frequencies set forth in the construction documents and the latest edition of the City of Rapid City Standard Specifications for Public Works Construction.
- 15. Receive, review and transmit maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, and the amend record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment.
- 16. Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, the Consultant will, in company with Client and Contractor, conduct an inspection to determine if the Work is substantially complete. If after considering any objections of Client, Consultant considers the Work substantially complete, Consultant shall deliver a certificate of Substantial Completion to Client and Contractor.
- 17. Promptly after notice from Contractor that the Work is complete, the Consultant will, in company with Client and Contractor, conduct an inspection to determine if the Work is complete. Consultant shall deliver a certificate of final Completion to Client and Contractor, including the date for the start of the warranty period.
- 18. The Construction Phase will commence with the execution of the first construction Contract for the Project or any part thereof and will terminate upon written recommendation by Consultant for final payment to Contractors.
- 19. Shall not be responsible for the acts or omissions of any Contractor, or of any subcontractors, suppliers or other individuals or entities performing or furnishing any of the Work. Consultant shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

EXHIBIT C

Labor Rate Schedule - 2011

2011 Labor Rates

Principal	\$106.00/hr.
Project Manager	
Project Engineer	
Survey Crew Chief, RLS	
Field Manager	
Construction Observer/Technician	
Survey Party Chief/Technician	\$66.00/hr.
Senior Engineering Technician	
CADD Manager	\$68.00/hr.
Survey Assistant	\$44.00/hr.
Clerical	\$42.00/hr.

Reimbursable Expenses

Project Travel	\$0.60/mile
Telephone, Perdiem	
Blueline Printing	
Outside Printing	
Subconsultants	



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	X ANYAUTO						(Ea accident) BODILY INJURY (Per person)	\$ - /	,
	ALLOWNED SCHEDULED			BA-2088M124	03/27/2011	03/27/2012	BODILY INJURY (Per accident)	\$	
A	AUTOS AUTOS NON-OWNED	Y	Y	,			PROPERTY DAMAGE	\$	
	HIRED AUTOS AUTOS					1	(Per accident)	s	
	UMBRELLA LIAB X OCCUR		 			1	EACH OCCURRENCE	, 1	000,000
A	X EXCESS LIAB CLAIMS-MADE	Y	Y	CUP-004078R647	03/27/2011	03/27/2012	AGGREGATE		000,000
	DED X RETENTION \$ 10,000	1	+	·	1		neonegane	s	•
	WORKERS COMPENSATION				r .		X WC STATU- TORY LIMITS OTH- ER	. ,	
	AND EMPLOYERS' LIABILITY Y/N			UB-9698Y470	03/27/2011	03/27/2012	E.L. EACH ACCIDENT		000,000
A	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A	Y	05 30301470		1	E.L. DISEASE - EA EMPLOYEE		000,000
	If yes, describe under			\$.			E.L. DISEASE - POLICY LIMIT		000,000
	DESCRIPTION OF OPERATIONS below						L.C. DIODIOL OLIO! LIIII	1 /	
в	Professional Liab.	N	V	V15QWU110301	01/30/2011	01/30/2012	Per Claim \$	1,000	000.0
_		-'					i .	1,000	,
DESC	RIPTION OF OPERATIONS /LOCATIONS /VEHICLES	(Attac	h ACO	RD 101, Additional Remarks Schedule, if r	norespace is required)	J	1 <u></u> 99. 1		
For	r professional liabili	.ty	CO	verage, the aggr	egate lim:	it is th	ne total insur	ance	
ava	ailable for all covere	ed o	cla	ims presented wi				.mit	
may	y be reduced by paymen	ıts	of	indemnity & exp	ense. 30	day not	cice of		
	ncellation to certific						os Reservoir		
Cor	ntrol Valve Station.	Pro	је	ct Number: W10-1	.845 / CIP	#50784			
	·								
CER	TIFICATE HOLDER			. · C	ANCELLATION				
	City of Rapid Ci	+17							
	300 Sixth Street	-					ESCRIBED POLICIES BE (REOF, NOTICE WILL B		
	Rapid City, SD,		101		ACCORDANCE W		·	- OLLIV	
	Ph) 605-394-4165		VΙ						
	Env 605-354-4103			At	UTHORIZED REPRESE	NTATIV	/	ورو درو می اور	

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Fee Proposal for Construction Phase Engineering Services

CETEC Engineering Services, Inc. Kepps Reservoir Control Valve Station, City of Rapid City Project No. W10-1845 / CIP 50784

			Principal	Project Engineer	Construction Observer		CADD Tech	Ö	Clerical
TASK	X								
	Conduct Preconstruction Conference including Agend	nda	<u>-</u>	9	7	: 		-	2
2	Review and take action on shop drawings, submittals,	s, test results, etc.		12	12		-·· • ·	•	ý
θ,	Prepare As-Built plans and specifications. Submit hard copy and electronic format within 30 days of project completion	ard copy and on		∞	į.	ı	. 2		73
4	20 Progress Meetings and Minutes (Note 2)		÷	40		4 (00)0000000			. 01
s,	Construction Observation (Note 3)		, KH	50	400	an ex seco			
9.	Daily Reports					inter-franci	•		
7.	Stormwater Inspections and Reports	·			:	el adata			7
∞	Soil Compaction Testing (Note 5)				storest S	and the	•	_	
6	Assurance Testing		;	,	(§)	and the			
10.	10 Monthly Pay Request Preparation	·		10	1 4	Kristeria:	•	·	7
Ξ.	Change Order Preparation		+	∞ ÷			-		4
12.	Punch List Preparation and Follow-Up	and south		∞ .		delyponets			7
13,	Construction Closeout		:	∞		dayalayə (di			_
14.	Certification of Project Completion	-		(1)		Selectivists;	• •		-
15.	Notification of Project Completion to SDDENR	1		-					.
	The state of the s	Total Hours	2	153	414		12		33
		Rate per Hour	\$ 108.00	\$ 108.00	\$ 71.00	5 49	70.00	\$	44.00
		l abor Totale	\$216.00	\$ 16.524.00	\$ 29,394.00	64	840.00	4	1 452 00

\$ 48,426.00 \$ 1,200.00	\$ 925.00	\$ 2,374.00	\$ 1,375.00	\$ 4,490.00	\$ 58,790.00
Labor Subtotal Travel Expenses - 2,000 miles @ .60/mile	Subconsultant Fees American Technical Services, Inc.	Fennell Design, Inc.	Albertson Engineering, Inc.	West Plains Engineering, Inc.	Total Construction Services Fee

Notes:

- 1) Assumed construction period August 15, 2011 to June 1, 2012, approximately 40 weeks, 200 working days.
- 2) Assume bi-weekly progress meetings, 20 total, 2 hours each.
- 3) Construction observer time average 10 hours per week for 40 weeks, including reports and administrative activities. Assume bi-weekly site visits for Engineer, 2 hours per visit, and Start-Up services monitoring and documentation at approximately 10 hours.
 - 4) Does not include work on weekends, holidays or extended construction time due to Contractor delays and adverse weather.
 - 5) Soil Compaction Testing by Subconsultant, ATS.

Staff Assignments:

Principal:	Ted Schultz, P.E.
Project Engineer:	Project Engineer: Greg Wierenga, P.E.
Field Services Manager:	Mike Riker
Construction Observer:	
CAD Technician:	Rick Fox

RECEIVED

American Technical Services, inc

JUL I 3 2011

CETEC Engineering

8105 Black Hawk Rd • PO Box 558 • Black Hawk, SD 57718-0558 • Phone (605) 787-9303 • FAX (605) 787-9515 140 Pine Needle Drive • Spearfish, SD 57783 • Phone (605) 642-2742 • Mobile 390-3768

CETEC ENGINEERING SERVICES, INC.

July 12, 2011

1560 Concourse Drive Rapid City, SD 57703

Attn: Greg Wierenga, P.E.

ATS No. 11-11259

Subj: Proposal for Materials Testing

Kepps Reservoir Control Valve Station

Rapid City, SD

Thank you for the opportunity to provide you with this proposal for materials testing and inspection services to be performed for the above referenced project. This proposal consists of the narrative, scope of work, unit rates and estimated fees, and general conditions. This proposal is valid for 90 calendar days from the date of issuance. Execution of a work agreement after that date would require review and possible revision of the proposal.

SCOPE OF WORK

American Technical Services will provide the necessary tools, equipment and personnel to perform soils field and laboratory testing and concrete laboratory testing for the aforementioned project in Rapid City, South Dakota.

Field sampling and testing, as well as laboratory testing, will be conducted by experienced and qualified Engineering Technicians under the direct supervision of a Professional Engineer. The proposed services will include on-site and laboratory testing as requested and specified to determine conformance of the following construction parameters with the project specifications:

- Soil field and laboratory testing, and
- Concrete laboratory testing.

Services provided by the Professional Engineers of American Technical Services will consist of professional opinions and recommendations made in accordance with generally accepted engineering practices.

The on-site presence of field representatives of American Technical Services will be for the purpose of providing our Client with a continuing source of information relative to materials and operations and will not include any superintending, supervision, direction or responsibility for safety of the actual work of the Contractor or the Contractor's workmen.

UNIT RATES AND ESTIMATED FEES

ITE	<u>M</u>	UNITS	RATE		EXTENSION
Α.	EARTHWORK: Field and Laborato	ry Testing			
	Proctors	1 ea	\$100.00/ea	*	\$ 100.00
	Density Tests	10 ea	\$10.00/ea		\$ 100.00
	Engineering Technician	10 hr	\$ 42.00/hr		\$ 420.00
	Geotechnical Engineer	3 hr	\$ 85.00/hr		\$ 255.00
				Subtotal A =	\$ 875.00
В.	CONCRETE: Laboratory Testing Break Cylinders	4 sets	\$ 45.00/set		\$180.00
	Engineering Technician (Lab)	4 hrs	\$ 42.00/hr	C. Matter	\$ 168.00 \$ 348.00
	(BY 60	NTRACTO	(2)	Subtotal B =	\$ 348,00
C.	MOBILIZATION:				
	Trip Charge	5 ea	\$ 10.00/ea	Subtotal C =	\$ 50.00 \$ 50.00

Total Estimated Fees:

We will increase or decrease frequencies of testing upon request. Please note that any or all of the above quoted services can be contracted. Retests will be conducted as necessary and billed per the contract documents. **The actual fee will reflect the services requested and performed.** South Dakota Gross Receipts Taxes will be billed according to South Dakota Law.

We look forward to working with you. If you have any questions or comments, we will be happy to discuss them with you.

CETEC ENGINEERING SERVICES, INC. Proposal for Materials Testing Kepps Reservoir Control Valve Station

ATS No. 11-11259 Rapid City, SD

If this proposal meets with your approval, please sign below and return a signed copy for our records.

Sincerely, AMERICAN TECHNICAL SERVICES, INC.	
And	
Dave G. Bressler, P.E. Director of Engineering	Justin Foster Project Manager
The foregoing proposal narrative and all attachments h	ave been read and are hereby accepted.
(COMPANY/ORGANIZATION)	·
(AUTHORIZED REPRESENTATIVE)	
(TITLE)/(DATE)	

GENERAL CONDITIONS

MOITAMACRNITOSLORG INCOMATION

- Client will make available to ATS all known information regarding existing and proposed requirements which affects the work, including but not limited to: specifications contracts, recommendations, plans and change orders.
- Client will immediately transmit to ATS any new information that becomes available to it or its subcontractors, so that recommended actions can be reviewed.
- Client will provide a representative to answer questions about the project when required by ATS, upon 24-hour notice
- 1.4 ATS will not be liable for any incorrect advice, judgement, or decision based on any inaccurate information furnished by Client, and Client will indemnify ATS against liability arising out of or contributed to by such information.

SECTION 2: SAMPLES

ATS will retain representative samples for 14 days after submission of ATS report. Upon request by Client, samples can be shipped, charges collect, to destination selected by Client; or ATS can store them for an agreed upon storage charge.

SECTION 3: FEE PAYMENT

- 3.1 ATS will submit invoices to client monthly, and a final invoice upon completion of services. Invoices will show charges based on current ATS Fee Schedule or other agreed upon basis. A detailed separation of charges and backup data will be at Clients request.
- 3.2 The Client will pay the balance stated on the invoices unless Client notifies ATS in writing of the particular item that is alleged to be incorrect within fifteen (15) days from the invoice date.
- 2.3 Payment is due upon receipt and is past due thirty (30) days from invoice date. On past due accounts, Client will pay a late charge of 1.5 (%) per month, or the maximum allowed by law. In the event of litigation, resulting from Client's refusal to make payment, without just cause, then all warranties and representations, expressed or implied, by ATS shall be void.
- 3.4 In the event Client fails to pay ATS within sixty (60) days following invoice date, ATS may consider the default a total breach of this agreement and all duties of ATS under this agreement will be terminated.

SECTION 4: OWNERSHIP OF DOCUMENTS

- 4.1 All documents prepared by ATS as instruments of service will remain the property of ATS.
- 4.2 Client agrees that all reports and other work furnished to the Client or his agents, which are not paid for, will be returned upon demand and will not be used by the Client for any purpose.
- 4.3 ATS will retain all pertinent records concerning services performed for a period of two (2) years after the report is sent; during that time the records will be made available to the Client during ATS's normal business hours.

SECTION 5: DISPUTES

5.1 If ATS institutes suit against the Client to enforce any part of this agreement, then all litigation.

expenses or collection expenses, including attorney's fee, will be paid to the prevailing party

5.2 If the Client institutes a suit against ATS, which is dismissed, or a verdict rendered for ATS, client agrees to pay ATS for all cost of defense, including attorney's fees, expert witness fees and court costs.

SECTION 5: STANDARD OF CARE

- ATS will perform consistent with the level of care and skill ordinarily exercised by members of the geotechnical materials, structural, and forensic testing profession currently practicing under similar conditions. No other warranty expressed or implied, is made.
- 6.2 ATS will be responsible for its data, interpretation, and recommendations, but will not be responsible for interpretation by others.

SECTION 7: LIMITATION OF LIABILITY

- 7.1 ATS's liability to the Client and all contractors and subcontractors on the project, for damages due to professional negligence, negligence or breach of any other obligation to Client or others, will be limited to an amount not to exceed \$20,000 or the ATS fee, whichever is less.
- 7.2 Client will notify any contractor or subcontractor who performs work in connection with any work done by ATS of the limitation of liability for design defects, errors, omissions, or professional negligence, and to require as a condition precedent to their performing their work, a like Indemnity and limitations of liability on their part as against ATS. In the event the Client fails to obtain a like limitation and indemnity, Client agrees to indemnify ATS for any liability to any third party.

SECTION 8: INSURANCE

ATS will carry worker's compensation insurance and public liability, property damage, and errors and emissions insurance policies, which ATS considers adequate. ATS will not be responsible for liability beyond the limits and conditions of the insurance. ATS will not be responsible for any loss or liability arising from negligence by client or by other consultants employed by Client.

SECTION 9: TERMINATION

- This agreement may be terminated by either party upon seven (7) days written notice if there is substantial failure by the other part to perform. Termination will not be effective if substantial failure is remedied before expiration of the seven days. Upon termination, ATS will be paid for services rendered plus reasonable termination expenses.
- If the contract is terminated prior to completion of all reports contemplated by the agreement, or suspended for more than three (3) months, ATS may complete analysis and records as are necessary to complete its files and my complete a report on the services performed. Termination or suspension expenses will include direct costs of completing analysis, records and reports.

SECTION 10: ASSIGNS

10.1 Neither party may assign duties or interest in the agreement without the written consent of the other party. Fermel Desizu.
7-19-11

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	Original Property of the Control of	Architort	Project	Doctoror	Decigner	History	CAD Toch	Cloring
AUE AIRD IAON	rincipal	אורווופרו	wanaga	UCSIBILGI	PC31Bilet	וותפרושורסו	משם ובנוו	רובוורמו
Review unresolved issues from B&N Phase	0.5							
Update project directory & schedule					3			
Create CA files to include: (see comment)								FF
Review C's list of subs & suppliers w/ O	0.25							
Review C's submittal schedule					-			
Pre-Construction meeting	0.75							
Establish prj mtg schedule & site observations								
Notify O to submit utility applications (as rgrd)								
Review construction budget & contingencies w/O								
Review O supplied labor & materials								
Keep O informed on progress/reports as rqrd		-	•					
Review C's pay apps & respond appropriately								
Submit periodic invoices to O w/ reimbursables								
Review submittals, take action & return to C	9							4
Site Observation/Project Meetings	7							
Review C's prop. changes cost & recommend								
Review punch list and confirm Substantial Compl.	,-1							2
Prepare Substantial Completion Certificate								
Review C close-out docs for completeness								
Verify C obtained Certificate of Occupancy								
Perform Final Inspection/prepare report	더							2
Review & process C's final pay app/liens/etc.								
Complete project cost records for const & prof svc								
Archive project files								r
Prior to 1 year inspect property for C rgrd work								
Total Hours	16.50	0.00	0.00	0.00	0.00	0.00	0.00	9.00
Labor Rate	\$115.00	\$100.00	\$100.00	\$90.00	\$95.00	\$85.00	\$65.00	\$50.00
Total Labor	\$1,897.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$450.00
Miles	45.00						-	4 1
Mileage Cost (0.60/mile)	\$27.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
			240	Canadan Administration Convirac	neion Comit			つい タイク たつ

Greg Wierenga

From:

David Leppert [david@albertsonengineering.com]

Sent:

Tuesday, July 12, 2011 3:44 PM

To:

Grea Wierenga

Subject:

RE: Kepps Control Valve Station

Greg,

Estimated hours based on scope of work description is as follows:

Shop Drawings: 4½ Hours (Conc. Mix / Masonry Mortar / Masonry Grout / CMU / Reinforcing / Wood Trusses)

In Office Coordination: 2 Hours (General Allowance)

Site Visits (2) + Office Follow-up & Reports: 6 Hours (3 Hours Ea.)

Total Estimated = 12 ½ Hours at \$110/ Hour = \$1375

Again, we'll just use our original contract and charge time based on an hourly basis. Let me know if you need something more detailed or separate from this email. Thanks.



Dovid Leppert, PE Structural Engineer

Albertson Engineering Inc.

3202 West Main, Suite C Rapid City, SD 57701 (605) 343-9606 Phone (605) 341-7395 Fax david@albertsonengineering.com

From: Greg Wierenga [mailto:GreqW@cetecengineering.com]

Sent: Tuesday, July 12, 2011 10:44 AM

To: David Leppert

Subject: RE: Kepps Control Valve Station

I need an estimate as lump sum to include in our fee proposal to City. It is ok to use hourly rates and same job number for billing.

From: David Leppert [mailto:david@albertsonengineering.com]

Sent: Tuesday, July 12, 2011 10:01 AM

To: Greg Wierenga

Subject: RE: Kepps Control Valve Station

Greg – our original contract was on an hourly basis. Do you just want to keep it under that, or do you need a new contract and job number set up. Fee for a lump sum, hourly? Thanks.

West Plains Engineering Estimate of Manhours for Mechanical/Electrical Construction Phase Services Kepps Control Valve Station

7/18/2011

	Principal Manhours	Project Manager Manhours	El	enior ec Eng anhours	Senior Mech Eng Manhours	Drafting Manhours	Clerical Manhours
Construction Services Phase							
Site Review of Existing Conditions		0 -	0	0			0 0
Existing Plan Retreival - plan organization		0	0	0			0 0
Analysis of Options		0	0	0	1	- :	0 0
Utility Company Coordination		0	0	0	1		0 0
Design and Layout, Lighting/Power		0	0	0			0 0
Design and Layout, Instrumentation/Controls		0	0	0		-	0
Mechanical Design		0	0	0	<u> </u>	- ,	0 0
Demo plans		0	0	0			0 0
Drafting/CADD (miscellaneous)		0	0	0			0 0
Specification Writing		0	0	0			0 0
Cost Estimating		0	0	0			0 0
100% Review Meeting and Revisions	and the second s	0	0	C		~	0 0
Bidding Period Questions/Addenda		0	0	C			0 0
Prebid Meeting		0	0	C	1		0 0
Preconstruction Meeting		0	. 0	1			0 0
Shop Drawing Review		0	0	10			0 2
Construction Period In-house Questions		0	0	5			0 0
Site Visits during Construction (2plus final)		0	0	7			0 0
Start-Up and Owner Training (Communications)		0	0	2		<u> </u>	0 0
Operation and Maintenance Procedure Manuals	1	0	0	C			0 1
As-Built Drawings and Project Close-Out Report		0	0	2	:[2	2 1
Total Manhours		0	0	27	' 1	3	2 4
Total Manhours - 46							
Direct Labor Rate/hour	\$190.0	0 \$145	5.00	\$105.00	\$105.0	0 \$55,0	0 \$45.00
Subtotal Direct Labor Cost	\$0.0	0 \$0	0.00	\$2,835.00	\$1,365,0	0 \$110.0	0 \$180.00
Total This Phase -				•			\$4,490.00