

CONTRACT FOR PROFESSIONAL SERVICES

This Agreement, effective when signed by both parties, by and between The City of Rapid City, South Dakota (hereinafter called the "Client") and RE/SPEC Inc., a corporation with offices in Rapid City, SD (hereinafter called RESPEC).

The Client engages RESPEC to perform professional services to provide a Reclamation Plan for the Biosolids Land Application Site Water Reclamation Facility for the City of Rapid City, SD.

The Client and RESPEC hereby agree to enter into this Agreement in furtherance of the performance of the work subject to the terms and conditions as follows:

1. Statement of Work

RESPEC agrees to perform all services and furnish all materials, equipment, and labor to promptly commence and complete the Statement of Work as set forth in Attachment A –

2. Consideration

RESPEC will perform the professional services as described in the Statement of Work and the Client agrees to pay RESPEC according to the cost estimate as set forth in Attachment B – Cost Estimate.

3. Terms of Payment

Invoices will be submitted monthly or as agreed upon with the Client, and payment shall be made by the Client within 30 days after receipt of the invoice. Invoices that are not paid will bear interest at the rate of one and one-half percent (1.5%) per month from the due date until paid.

4. Period of Performance

Performance of the Statement of Work is authorized to proceed when agreed upon and signed by both parties.

5. Confidentiality

RESPEC and the Client shall treat as confidential property and not disclose to others any information (*including technical information, experience, or data*) regarding either party's

plans, programs, plants, processes, products, costs, equipment, operations, or customers which may come within the knowledge of the parties, without in each instance securing the prior written consent of the other party, unless such disclosure is required by statute or administrative rule.

However, nothing shall prevent either RESPEC or the Client from disclosing to others or using in any manner information which either party can show:

- Has been published or has become part of the public domain other than by acts of RESPEC or the Client; or
- RESPEC has been furnished or made known to RESPEC or the Client by third parties without restrictions on its disclosure; or
- Was in either party's possession prior to the disclosure thereof by the Client or RESPEC to each other.

6. Default, Force Majeure, Termination

Except as provided in the paragraph below, if, during the term of this Agreement, either party shall become delinquent in settling its account or shall be in default of any provisions of the Agreement, the other party may suspend its performance hereunder until such delinquency or default has been corrected; provided, however, that no suspension shall be effective unless and until the complaining party has given written notice of default to the other party allowing at least ten (10) days thereafter to cure such default.

Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God, strikes, action of regulatory agencies, fire, flood, windstorm, explosion, riot, war, sabotage, court injunction or order, loss of permits, and cause or causes beyond the reasonable control of the party affected provided that a prompt notice of such delay or failure is given by such party to the other and each of the parties hereto shall be diligent in attempting to remove such cause or causes.

Either party may terminate this Agreement if the other party: (1) has been adjudicated a bankrupt, or (2) has filed a voluntary petition in bankruptcy, or (3) has made an assignment for the benefit of creditors, or (4) a receiver has been appointed for such party. Termination pursuant to this paragraph shall be effective for performance remaining under the Attachments.

Termination hereunder shall operate to discharge all obligations which are to be performed in the future by either party on or after the effective date of termination, but any right of a party, based on performance or a breach of this agreement prior to the effective date of termination, shall survive.

The right of termination hereunder is in addition to, and not in lieu of, any right of a party to cancel this Agreement for breach of its terms or conditions.

7. Assignment

Neither party shall assign this Agreement, and any attempts to shall be void, without prior written consent of both parties. Any delegation or assignment shall not operate to relieve either party of its responsibilities hereunder. However, nothing in this Agreement shall prohibit RESPEC from subcontracting to a qualified subcontractor.

8. Notice

Any notice, correspondence, or billing required to be given by the terms of this Agreement shall be delivered to the address of the respective parties as stated below.

Client:

U.S. Mail

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

Parcel or Express (FedEx, UPS)

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

RESPEC:

U.S. Mail

RESPEC
P.O. Box 725
Rapid City, SD 57709-0725

Parcel or Express (FedEx, UPS)

RESPEC
3824 Jet Drive
Rapid City, SD 57701

9. General Provisions

This Agreement is subject to the RESPEC Standard Terms and Conditions, attached hereto, and made a part hereof.

10. Integration

This Agreement constitutes the entire agreement between the parties. No modification shall be binding on RESPEC or the Client unless it shall be in writing and signed by both parties. In no event shall the preprinted terms or conditions found on any RESPEC or Client purchase order be considered an amendment or modification to this Agreement.

11. Applicable Law

This Agreement shall be governed in all respects by the laws of the state of South Dakota.

In witness whereof, the parties hereto have caused this Agreement to be executed by its duly authorized representative on the day and year set forth.

RE/SPEC Inc.
3824 Jet Drive
Rapid City, 57703

City of Rapid City
300 Sixth Street
Rapid City, SD 57701

By: Thomas J. Ziller
Title: PRESIDENT
Date: 1/11/01

By: _____
Title: _____
Date: _____

RESPEC STANDARD TERMS AND CONDITIONS

1. Independent Contractor

At all times during the term of this Agreement, RESPEC shall be considered an independent Contractor. Neither RESPEC nor anyone employed by RESPEC shall represent, act, purport to act, or be deemed to be an employee or agent of the Client.

2. Standard of Services

RESPEC represents that it will perform services for the Client using that degree of care and skill ordinarily exercised by and consistent with the standards applicable to persons performing similar services under similar conditions at the same time. Except to the extent expressly warranted herein, RESPEC makes no other warranties, whether express or implied.

3. Client Information

The Client understands that RESPEC is relying upon the completeness and accuracy of information supplied to it by the Client and others in connection with the performance of services without independent verification. The Client agrees to advise RESPEC of the existence of any conditions or information affecting the services performed hereunder.

4. Insurance

During the performance of the work, RESPEC shall maintain in effect at all times, Workers' Compensation and Employer's Liability Insurance in accordance with the requirements of the state in which the services are performed; comprehensive general liability insurance with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage; and automobile liability coverage, including owned and hired vehicles, with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage.

5. Indemnification

RESPEC shall indemnify, defend, and hold harmless the Client, its officers, directors, agents, employees, and affiliated and parent companies against claims, demands, and causes of action of third parties, including attorney's fees and costs of defense, for personal injury, disease or death, and damage of property arising during the performance of Services to the extent caused by the negligence or willful misconduct of RESPEC.

The Client shall indemnify, defend, and hold harmless RESPEC, its officers, directors, agents, employees, and affiliated and parent companies from all claims, demands, and causes of action, including attorney's fees and costs of defense, for personal injury, disease or death, and

loss or damage of property, arising out of or in any manner connected with or related to the performance of the Services except where such injury, loss, or damage shall have been caused by the negligence or willful misconduct of RESPEC.

Neither party, nor their parent, affiliated, or subsidiary companies, nor the officers, directors, agents, employees, or contractors of any of the foregoing, shall be liable to the other in any action or claim for incidental, indirect, special, collateral, consequential, exemplary or punitive damages arising out of or related to the Services, including without limitation, loss of profits, loss of opportunity, loss of production, or loss of use. Any protection or limitation against liability for any losses or damages afforded any individual or entity by these General Terms and Conditions shall apply whether the action in which recovery of damages is sought is based upon contract, tort (including, to the greatest extent permitted by law, the sole, concurrent, or other negligence and strict liability of any protected individual or entity), statute, or otherwise. At RESPEC's option, any dispute arising from or with respect to this contract, the Services shall be decided by arbitration by the American Arbitration Association in accordance with its Commercial Rules. At the request of either party, the arbitration proceedings will be conducted in secrecy. To the extent permitted by law, any statutory remedies inconsistent with these terms are waived.

6. Taxes

The quoted contract price for services does not include taxes, fees, or excises, which are now in effect or may be imposed (whether by federal, state, municipal, or other local public authority) with respect to the sales of any services to be rendered by RESPEC. The Client will be solely liable for any such taxes. RESPEC shall bill the Client for the amount of any such taxes, and upon payment from the Client, RESPEC shall remit such taxes to the state of South Dakota or other appropriate entity.

ATTACHMENT A
STATEMENT OF WORK



An Integrated Consulting and Services Company

3824 Jet Drive, P.O. Box 725
Rapid City, South Dakota 57709-0725
Phone: 605.394.6400 Fax: 605.394.6456

<http://www.respec.com>

January 11, 2001

Mr. Dan R. Coon
City of Rapid City
Public Works Department
300 6th Street
Rapid City, SD 57701

Dear Mr. Coon:

RESPEC provides this proposal for providing professional services for the city of Rapid City, South Dakota. The scope of these services will include groundwater modeling and characterization of the nitrate impacts at the city's Water Reclamation Facility Biosolids Land Application Site. The scope of these services will include:

- Evaluation of Current and Future Conditions
- Field Investigation and Soil Characterization
- Groundwater Modeling
- Preparation of a Final Report.

The total cost estimate as provided in Attachment B is \$27,555. If you have any questions regarding this cost estimate, please call me at 605.394.6400.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brett A. Stenson', written over a horizontal line.

Brett A. Stenson
Manager, Environmental Services

BAS:trd

Enclosure

cc: Project Central File 999 — Category A