

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

**Date: February 19, 2008**

Project Name & Number:

CIP #:

Project Description: Stormwater Quality Design and Plan Preparation Training

Consultant: RE/SPEC, Inc.

Original Contract Amount: \$ 34,490.00

Original Contract Date:

Original Completion Date:

April 30, 2008

Amendment Number:

Amendment Description:

Current Contract Amount: \_\_\_\_\_  
Change Requested: \_\_\_\_\_  
New Contract Amount: \_\_\_\_\_ \$0.00

Current Completion Date: \_\_\_\_\_  
New Completion Date: \_\_\_\_\_

Funding Source This Request:

Amount	Dept.	Line Item	Comments
\$34,490.00	108	4294	Stormwater Phase II - Drainage Funds
\$34,490.00	Total		

## Agreement Review & Approvals

\_\_\_\_\_  
Project Manager Date

\_\_\_\_\_  
Division Manager Date

\_\_\_\_\_  
Department Director Date

\_\_\_\_\_  
City Attorney 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			Y	N
Cash Flow			Y	N

## CONTRACT FOR PROFESSIONAL SERVICES

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

The Client engages RESPEC to perform professional services to provide training related to *Stormwater Quality Design and Plan Preparation Training* including the new Stormwater Quality ordinances recently adopted by the City of Rapid City.

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. Scope of Services

RESPEC agrees to perform all services and furnish all materials, equipment, and labor to promptly commence and complete the Scope of Services as set forth in Attachment A – Scope of Services and Cost Breakdown.

### 2. Consideration

RESPEC will perform the professional services as described in the Scope of Services and the Client agrees to pay RESPEC according to a Time and Materials estimate as set forth in Attachment A – Scope of Services and Cost Breakdown.

### 3. Terms of Payment

Invoices will be submitted at completion of work related to this contract, and payment shall be made by the Client within 30 days after receipt of the invoice.

### 4. Period of Performance

Performance of the Scope of Services 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

Engineering Services Division  
300 Sixth Street  
Rapid City, South Dakota 57701

Parcel or Express (FedEx, UPS)

Same

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 57703

**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. Any proceedings shall be venued in Circuit Court for the Seventeenth Judicial Circuit in Pennington County, 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, SD 57703

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

By: JASON LOVE

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

Title: Manager, Water & Natural Resources

Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

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

Title: Finance Officer

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.

#### **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**

**SCOPE OF SERVICES AND COST BREAKDOWN**

**City of Rapid City, Engineering Services Division –  
Stormwater Quality Design and Plan Preparation Training  
February 15, 2008**



## SCOPE OF SERVICES FOR STORMWATER QUALITY DESIGN AND PLAN PREPARATION TRAINING

**Project:** P-2437

**Client:** City of Rapid City, Engineering Services Division

**Title:** Stormwater Quality Design and Plan Preparation Training

This scope of services is for the *Stormwater Quality Design and Plan Preparation Training Project*. This work was proposed to Engineering Services Division of the City of Rapid City (the City) on January 22, 2008. The total budget for this work is set at a Time-and-Materials Contract not to exceed \$34,490 and is scheduled to be completed by April 30, 2008. RESPEC will bill the City for the entire project upon completion of the project.

The scope of services for this project contains five deliverables for this project:

1. A technical memorandum providing feedback and comments on the Stormwater Quality Manual and the recently adopted Stormwater Ordinances.
2. A ½-day training session to area developers and City Council Members.
3. A ½-day training session to members of the Black Hills Home Builders Association.
4. A 1-day training session to City Staff.
5. A 1-day training session to consultant engineers.

To produce the above deliverables, we have identified the following tasks:

1. Review Stormwater Water Quality Manual and Stormwater Quality Ordinances.
2. Review and develop training outlines.
3. Develop training materials.
4. Deliver training
  - (a) Day 1 – Developers and City Council
  - (b) Day 2 – Black Hills Home Builders
  - (c) Day 3 – City Staff
  - (d) Day 4 – Consultant Engineers.

RESPEC will make all arrangements related to the training sessions, including training materials, reserving a location, sending invites to potential audience members as provided by the City, and provide any/all refreshments during training sessions. RESPEC will provide the technical memorandum providing the City feedback on their Stormwater program before the

first training session. The training outline, as stated in the Request for Quotation (RFQ), will be reviewed and modified by the RESPEC team and submitted to City Staff for review. Upon review by the City, we will meet with City Staff to review the changes and finalize the outline to ensure that the changes are acceptable by the City. The RESPEC team will work closely with City staff at all stages of this project.

Approved by:

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

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

By: JASON LOVE

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

Title: Manager, Water & Natural Resources

Title: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

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

Title: Finance Officer

Date: \_\_\_\_\_

Tasks	Principal Consultant		Staff Engineer		Landscape Architect		CADD Technician		Support Staff		Facility Costs (\$)	Total Cost (\$)
	Hours	Cost (\$)	Hours	Cost (\$)	Hours	Cost (\$)	Hours	Cost (\$)	Hours	Cost (\$)		
Review Stormwater Water Quality Manual and Stormwater Quality Ordinances	32	3,840.00	32	3,360.00	16	1,760.00			6	270.00		9,230.00
Review and develop training outlines	4	480.00	6	630.00	6	660.00						1,770.00
Develop training materials	40	4,800.00	60	6,300.00	20	2,200.00	24	1,584.00	8	360.00		15,244.00
Deliver training	4	480.00	4	420.00							326.00	1,226.00
Day 1 - Developers and City Council	4	480.00	4	420.00							236.00	1,226.00
Day 2 - Black Hills Home Builders	6	720.00	6	630.00	6	660.00					440.00	2,450.00
Day 3 - City Staff	8	960.00	8	840.00	8	880.00					664.00	3,344.00
Day 4 - Consultant Engineers												
<b>Total Costs</b>												<b>34,490.00</b>