

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

Date:

Project Name & Number: 28-Acre Landfill Cell Closure, Project No. LF09-1844

CIP #: 50783

Project Description: Design and construction of closure of landfill cell #12.

Consultant: Renner & Associates LLC

Original Contract Amount: \$23,150.00

Original Contract Date: 11/17/2009

Original Completion Date: 2/1/2010

Addendum No:

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	Fund	Comments
\$23,150.00	7102	4223	615	
	Total			

Agreement Review & Approvals

Jerry Wright 11/4/09
 Project Manager Date

 Division Manager Date

 Compliance Specialist 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

Agreement Between City and Engineer For Professional Services

AGREEMENT made November 17, 2009, between the City of Rapid City, SD (City) and Renner & Associates, LLC (Engineer), 616 Sixth Street, Rapid City, SD 57701. City intends to obtain services for 28-Acre Landfill Cell Closure, Project No. LF09-1844, CIP No. 50783. The scope of services is as described in Exhibit A.

The City and the Engineer agree as follows:

The Engineer shall provide professional engineering services for the City in all phases of the Project, 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.
- 1.1.2 All work shall be performed by or under the direct supervision of a professional Engineer licensed to practice in South Dakota.

1.2 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 Exhibit A.)
- 1.2.3 Conduct a location survey of the Project to the extent deemed necessary to provide adequate site information.
- 1.2.4 Prepare a report presenting the results of the study as outlined in the scope of services.

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 not be paid for any 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 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 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 by agreement or otherwise. In such case, the Engineer shall be liable to the City for any additional cost occasioned thereby.
- 4.1.11 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.
- 4.1.12 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.
- 4.1.13 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.
- 4.1.14 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.
- 4.1.15 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.

4.1.16 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.

4.1.17 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

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.

This section shall be binding on all subcontractors or suppliers.

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 B.)

5.2 Fee

The maximum amount of the fee for the services as detailed in Section 1.2 shall not exceed \$23,150.00 unless the scope of the project is changed as outlined in Section 4. If expenses exceed the maximum amount, the Engineer shall complete the design 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.

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.

Section 6—Completion of Services

The Engineer shall complete services on or before February 1, 2010.

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 Contractor agrees to hold the City harmless from any liability, including additional premium due because of the Contractor'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; including Coverage B—Employer's Liability—not less than \$1,000,000 each accident, \$1,000,000 disease—policy limits. The required limit may be met by excess liability (umbrella) coverage.

- 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—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

RENNER & ASSOCIATES, LLC

DATE: _____

DATE: _____

ATTEST:

FINANCE OFFICER

Reviewed By:

PROJECT MANAGER

DATE: _____

RENNER & ASSOCIATES, LLC.

616 SIXTH STREET, RAPID CITY, SOUTH DAKOTA 57701 - 605-721-7310
 FAX 605-721-7313 GARY@RENNERASSOC.COM EXT-11, CELL 605-381-2808
 SPEARFISH OFFICE 605-717-0016

October 26, 2009

EXHIBIT A

City of Rapid City
 Solid Waste Operations
 Jerry Wright, PE, Manager
 5555 South Highway 79,
 Rapid City, SD 57701

Re: Professional Design and Survey Proposal: 28-acre Landfill Cell Closure

Dear Jerry,

We are pleased to provide the following fee proposal and scope of work for Civil Design and Surveying as needed to provide plans and specifications for the closure of the approximately 28-acre area.

The basic scope of work as we understand it consists of the following services:

- Topographic survey including utilities, if any
- Create base map
- Design grading and stormwater routing
- Design 18"-inch cohesive cap with 6" topping of topsoil
- Include an application of MSW compost over the topsoil with mixing, fertilizing and seeding
- Provide final plans and specifications for construction on CD in .pdf format and .dwg format.

Expanded services as needed:

- Bidding services
- Construction staking
- Borrow area grading and stabilization plan
- Construction observation
- Construction administration

We propose to provide the basic services for a not-to-exceed amount of \$11,335.00. We can provide the expanded services on an as-needed basis, for the fees listed on the attached Task-Manhour Estimate, which contains a detailed breakdown of all the services

CIVIL ENGINEERING - COMMERCIAL AND RESIDENTIAL SITE DESIGN - MUNICIPAL ENGINEERING -
 STREET DESIGN - UTILITY DESIGN - DRAINAGE DESIGN & FLOOD CERTIFICATES - WETLAND/404 -
 TRACK & FIELD DESIGN

offered. Please let us know if you wish to revise the scope of work or services needed.
We would be happy to provide a revised proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Renner". The signature is written in a cursive style with a large initial "G" and "R".

Renner and Associates, LLC
Gary D. Renner, PE/LS

Attached: Task-Manhour Estimate Worksheet

RENNER & ASSOCIATES L.L.C.
 516 SIXTH STREET • RAPID CITY, SOUTH DAKOTA 57701 • 605/721-7310
 FAX: 605/721-7313 • E-MAIL: GARY@RENNERASSOC.COM MITCH@RENNERASSOC.COM

EXHIBIT B

**Professional Services
 Task/Man-hour Estimate**

Date: October 26, 2009
 Prepared by: Mitch Kertzman, PE

Project: **Rapid City Landfill Cell Closure**

Task Description	2009 Rates	TJ Prop.Research 55	Eric LS 75	T.JJ Crew Survey 120	Gary PE/LS 85	Mitch PE/LSIT 75	Jason ET/LSIT 55	Patti/Adam Drafting 45	Direct Cost	SUBTOTALS
Topographic Survey										
Plat data research										
Existing Utility Information		1		22		1				
Topographic Survey	110		1							
Survey Reduction			2							
Base Map								10		
SUBTOTAL		\$55.00	\$225.00	\$2,640.00	\$0.00	\$75.00	\$0.00	\$450.00	\$55.00	\$3,500.00
Design										
Grading/Drainage Design					16	2				
Coordinate Gas Venting as needed						2				
Coordinate Leachate Collection as needed						4				
Cap Design Coordination with Geotech					1	2	6			
Construction Cost Estimate						4				
Submit Final Plans to SDDENR for Required Review						2				
Provide Plans and Specifications on CD					4	4	4			
Attend Design Meetings as needed						8				
Write Specifications					1	1				
Review Soil Testing Reports										
Submittals:										
Plans and Specifications to SDDENR						3		1		
Final Plans and Specifications								48		
Construction Cost Estimate							12			
CD - pdf, dwg, xls						1				
SUBTOTAL		\$0.00	\$0.00	\$0.00	\$1,870.00	\$2,550.00	\$1,210.00	\$2,205.00	\$0.00	\$7,835.00
Borrow										
Borrow area Topo			1							
Borrow area grading and stabilization Plan					4		2	8		
Construction Staking as needed				8						
SUBTOTAL		\$0.00	\$75.00	\$960.00	\$340.00	\$0.00	\$110.00	\$360.00	\$0.00	\$1,845.00
Bidding										
Prepare Front-end Documents						4				
Provide Plans to Bidders							2	2	\$100.00	
Assist with Advertising						2				
Attend Pre-Bid / Write Addenda as needed						4				
Attend Bid Opening - Create Bid Tab - Recommend Award						7				
Coordinate Contract Signing / Bid Bond / Performance Bond						6				
SUBTOTAL		\$0.00	\$0.00	\$0.00	\$0.00	\$1,725.00	\$110.00	\$90.00	\$100.00	\$2,025.00
Construction Staking										
Calculation			4							
Grade Staking				16						
Mileage - 100									\$50.00	
SUBTOTAL		\$0.00	\$300.00	\$1,920.00	\$0.00	\$0.00	\$0.00	\$0.00	\$50.00	\$2,270.00
Construction Observation										
Attend Pre-con					1	1	1			
Answer Contractors Questions / RFI						1	4			
Construction Observation / Reporting							40			
Miles - 1000									\$500.00	
SUBTOTAL		\$0.00	\$0.00	\$0.00	\$85.00	\$150.00	\$2,475.00	\$0.00	\$500.00	\$3,210.00
Construction Administration										
Attend Pre-con					1	1	1			
Monthly Pay Estimates						6				
Weekly Meetings						12				
Walk-through inspections						4				
Project Closeout						8				
SUBTOTAL		\$0.00	\$0.00	\$0.00	\$85.00	\$2,325.00	\$55.00	\$0.00	\$0.00	\$2,465.00
GRAND SUBTOTALS		1	8	46	28	91	72	69	\$705.00	
		\$55.00	\$600.00	\$5,520.00	\$2,380.00	\$6,825.00	\$3,960.00	\$3,105.00	\$705.00	
Project Total:	\$23,150.00									
Tax Rate (Work for the Municipality)	0.00%									
Sales Tax	\$0.00									
Project Estimate:	\$23,150.00									

The costs associated with Geotechnical Exploration and Reporting, and soils testing are not included.