

PROFESSIONAL SERVICES AGREEMENT
March 15, 2011



ARTICLE 1 Parties to the Contract

1.1 This Agreement between Skyline Engineering, LLC. (hereinafter "Skyline") and Rapid City Area Schools (hereinafter "Client"), for services described herein, on the following project: Common Energy Plant Retrofit (Hereinafter "Project").

ARTICLE 2 Project Description

The Common Energy Plant (CEP) serves the 500,000 SF Rushmore Plaza Civic Center (RPCC) and the 291,000 SF Rapid City Central High School (CHS). CHS is currently undergoing a major expansion that will eventually add approximately 206,000 SF, triggering the requirement to augment the existing CEP capacity after numerous expansions at the RPCC.

The project contemplated under this proposal consists of retrofitting the CEP with new equipment to increase energy efficiency, augment system capacity, and replace aging equipment. The CEP retrofit will incorporate recommendations provided in a life cycle cost study recently commissioned by the City of Rapid City and will also include other recommendations based on our recent experience with other large scale energy plants.

In general, the CEP retrofit will incorporate new boilers and electric water-cooled chillers as recommended by the life cycle cost study. Equipment capacity will be based on historical operation and input from CEP staff. The new plant will also incorporate a control system which will allow variable speed (capacity) plant operation. New underground heating and chilled water lines will be installed to CHS and the condition of the existing lines serving RPCC will be evaluated and replaced as required.

An emergency generator will be installed for life safety systems within the CEP building and emergency power to the heating water equipment within the CEP building only (heating water pumps, boilers, and related controls). Note that this will allow heating water to be supplied to CHS and RPCC, but will not provide emergency power to any heating equipment at CHS or RPCC. Provisions for the analysis or installation of emergency power for equipment at CHS or RPCC are not included within the scope of work under this contract.

The retrofit project will also require modifications to piping and valve configurations at CHS and RPCC. Services associated with these two buildings will be limited to modifications to the hydronic piping systems to improve energy distribution to the air handling equipment within the buildings. This proposal explicitly recognizes the limited budget available for improvements under this project and, therefore, no modifications to air handling systems within CHS or RPCC are contemplated or will be included with the bid documents for this project. In addition, the bid documents will maintain separation between the work at CHS and RPCC such that costs can be segregated and allocated as required.

Although the project will be bid under a single contract, the retrofit will require phased construction since neither facility can be shut down for an extended period of time. The first phase of construction will involve chiller replacement during the winter of 2011-2012 and boiler replacement will follow

under the second phase during the summer of 2012. The project is anticipated to be completed and operational at the start of the school year and completion of the CHS expansion project (September 2012).

Skyline Engineering will function as the prime consultant for the project and will utilize in-house staff for the mechanical and electrical engineering on the project. Although the work contemplated within this proposal will be primarily mechanical and electrical in nature, ancillary services from other disciplines will be required. The services of these sub-consultants will be limited to only the work essential for expansion and retrofit of the CEP (e.g. architectural services will not include the development of a new façade for the CEP). Skyline anticipates inclusion of the following sub-consultants as required:

Architecture: Neumann Monson Wictor Architects
Structural Engineering: Hermanson Egge Engineering
Civil Engineering: Renner and Associates
Code Consulting: Code Works

A Civil Site Survey will also be required in order to locate utilities and determine construction requirements for the new underground utility lines to CHS and RPCC (if required). We anticipate this survey will be completed by Renner and Associates under a separate contract with RCAS.

The project has an overall budget of \$7,000,000, including fees and contingency. Design will begin in March 2011 and we anticipate the project will bid in the fall of 2011. Construction is anticipated to begin in the fall of 2011 and completion is anticipated to coincide with the completion of the CHS expansion project in the fall of 2012.

ARTICLE 3 Project Basic Services

3.1 Skyline shall function as the prime consultant and will prepare schematic documents, design development documents, construction documents including drawings and specifications for the Project. In particular, Skyline shall undertake the following services for the Project:

3.2 MECHANICAL BASIC DESIGN SERVICES

3.2.1 Heating and Cooling Systems

1. Cooling and heating load analysis of CHS and RPCC. It is understood this will not be an exhaustive effort, but will consist of review of historical operational trends, deficiencies, and known future expansion possibilities at CHS and RPCC. General agreement on load parameters and equipment size will be made between the CEP operational staff and design team prior to initiating detailed design drawings.
2. Basic analysis and recommendation for boiler and chiller system selection.
3. CEP equipment layout and plans.
4. Piping distribution within the CEP.
5. Underground chilled and heating water piping distribution to CHS and RPCC, as required.
6. HVAC systems for environmental control of the CEP, as required.
7. Equipment schedules indicating physical characteristics, capacities, electrical capacities and manufacturer used as the basis for the design.

8. Sequences of operation for CEP mechanical systems.
9. Piping diagrams for major central systems, as required for design clarification.
10. Fire and smoke dampers in partitions and fire walls within CEP, based on the fire and smoke separations as provided by the Code Consultant.
11. Integration of Hartmann Loop control algorithms for chilled water plant optimization.

3.2.2 Plumbing

1. Review of existing plumbing fixtures for suitability for reuse within the CEP only.
2. Addition of new fixtures and floor drains as required within the CEP.
3. Review and replacement of domestic hot water generation systems within the CEP, as required.
4. Domestic water distribution to plumbing fixtures within the CEP, as required.
5. Sanitary collection system within the CEP, as required.
6. Modifications to the existing CEP rainwater collection system, as required.

3.2.3 Fire Protection

1. Fire sprinkler design criteria, including hazard classifications and zoning (CEP only).
2. Suggested locations of fire sprinkler heads and pipe routing, as required for design team coordination (CEP only).

3.2.4 Special Systems

1. Coordination of natural gas requirements with Montana Dakota Utilities.
2. Natural gas distribution within the CEP.
3. Fuel oil piping to support dual fuel boilers and generator, as required.
4. Air conditioning condensate collection piping system, as required within the CEP.

3.3 ELECTRICAL BASIC DESIGN SERVICES

3.3.1 Electrical Service Provisions

1. Coordination with local utility to establish any additional service requirements for the CEP.
2. Short circuit analysis within the CEP, based on standard coordination tables.
3. Service transient voltage surge suppression for the CEP.

3.3.2 Electrical Distribution System

1. Electrical distribution system equipment selection for the CEP.
2. Electrical distribution system riser diagram, panelboard schedules, and load analysis for new and existing panels within the CEP.
3. Motor and equipment connections within the CEP.

3.3.3 Lighting System

1. Selection, layout, and specification of the CEP interior light fixtures.
2. Selection, layout, and specification of the CEP exterior light fixtures.
3. Egress and exit lighting based on egress routes within the CEP.
4. Special lighting control systems consisting of occupancy sensors, photocells and timeclock (CEP lighting only).

3.3.4 Emergency Power

1. Emergency generator sized for CEP life safety systems and CEP heating water equipment (pumps, boilers, and related controls). Note that only the heating water equipment within the CEP will be on emergency power and this emergency power will not extend to CHS or RPCC (i.e. the CEP will be capable of supplying heating water to CHS and RPCC under emergency power, but no provisions will be made for emergency power of heating equipment within CHS or RPCC).

3.3.5 Special Systems

1. Fire Alarm System layout and specification for the CEP.
2. Security system for the CEP - monitoring, access and control.
3. Telephone/data connectivity adjustments at the CEP.

3.4 ARCHITECTURAL BASIC DESIGN SERVICES

3.4.1 Building Envelope

1. Development of plans to remove and replace exterior walls to allow removal and installation of mechanical equipment within the CEP.
2. Patching of roofing materials as required for boiler stacks, etc. within the CEP.
3. Addition of window in Energy Plant Manager's office.

3.4.2 Interior Partitions

1. New partitions within the CEP as required for mechanical and code requirements.
2. Demolition and patching as required for mechanical requirements within CHS and RPCC.

3.4.3 Ceiling Systems

1. Removal and reinstallation of ceilings as required for mechanical requirements within CHS and RPCC.

3.4.4 ADA Toilet Room

1. Modifications of existing toilet room to accommodate ADA requirements.

3.5 STRUCTURAL ENGINEERING BASIC DESIGN SERVICES

3.5.1 Building Envelope

1. Development of plans to remove and replace exterior walls to allow removal and installation of mechanical equipment within the CEP.
2. Patching of roofing materials as required for boiler stacks, etc within the CEP.

3.5.2 Building Structure

1. Review of existing the CEP structural systems for suitability as support for new mechanical piping systems.
2. Equipment housekeeping pads, as required within the CEP.
3. Augmentation of existing the CEP structure as required for mechanical systems.

3.6 CIVIL ENGINEERING BASIC DESIGN SERVICES

3.6.1 Land Survey (Separate Contract)

1. Provided under separate contract direct with RCAS and incorporated into construction documents included with this project.

3.6.2 Excavation and Paving

1. Plans for cutting and patching of asphalt, sidewalk, curb and gutter to allow installation of new mechanical piping services to CHS and RPCC.

3.6.3 Utilities

1. Coordination of new mechanical piping services to CHS and RPCC with existing utilities.

3.7 CODE CONSULTING BASIC SERVICES

3.7.1 Code Analysis

1. Code analysis of existing CEP building.

3.8 DESIGN COORDINATION BASIC SERVICES

3.8.1 Coordination Meetings

1. Coordination consisting of ten (10) local meetings during the design phase of the project. These meetings will primarily be mechanical and electrical in nature and other disciplines will only be included on an as needed basis.

3.8.2 Construction Documents and Specifications

1. Production and issue of five (5) sets of drawings and specifications for owner review and five (5) sets of drawings and specifications for design team coordination for each design phase of the project (Schematic Design, Design Development, 95% Owner Review). Schematic Design specifications will be limited to a listing of major specification sections for Owner review.
2. Coordination of printing and production of construction bid documents (drawings and specifications).

3.8.3 Opinion of Probable Construction Cost

1. Preparation of Opinion of Probable Construction Cost during the Design Development and 95% Owner Review stages of design.

3.9 BIDDING BASIC SERVICES

3.9.1 Procurement

1. Coordination of bid advertisement.
2. Coordinate and issue addenda to Construction Documents.
3. Coordinate and lead pre-bid meeting.
4. Review construction bids and provide recommendations to the Owner.

3.10 CONSTRUCTION ADMINISTRATION BASIC SERVICES

3.10.1 Construction Administration Meetings

1. Coordinate and lead pre-construction meeting.
2. Attend contractor construction meetings on a bi-weekly basis.
3. Attend Board of Education Facility Committee meetings on a monthly basis.

3.10.2 Construction Administration Documentation

1. Organize electronic document administration system (Submittal Exchange).
2. Review shop drawings as submitted by Contractor.
3. Administer and respond to construction documentation (RFI, SI, PR, etc.).

3.10.3 Construction Observation and Reporting

1. Provide Construction Observations and reports on a bi-weekly basis.
2. Provide Final Construction Observation, document deficiencies, and assist in resolution of deficiencies.

3.10.4 Project Closeout Documentation

1. Review Operation and Maintenance Manuals as submitted by Contractor.
2. Provide electronic set of Record Drawings of the completed project, based on mark-ups provided by Contractor.

3.11 Any work or services not identified in this Article 3, shall be considered Optional Additional Services. In the event Client desires Optional Additional Services, Skyline shall be compensated as provided in Article 4.

ARTICLE 4 Optional Additional Services

4.1 Skyline shall only perform the items identified in Article 3 regarding Project Basic Services. The following constitutes Optional Additional Services which Skyline offers to Client:

1. Underground fuel oil storage tank replacement and/or design services related to environmental remediation.
2. Land Survey (anticipated to be provided under separate contract with RCAS).
3. Design services to replace existing central energy management system.
4. Design services for remodeling of CHS or RPCC other than that specifically required for mechanical improvements related to the CEP project.
5. Any analysis or design services related to improvements to air handling systems within CHS or RPCC.
6. Preparation of detailed (quantities based) construction cost estimates.
7. Life cycle cost analysis of major equipment and systems.
8. Commissioning building mechanical and electrical systems.
9. Design of multiple construction packages except as described herein.
10. Design to include electrical power coordination studies.
11. Design or analysis of emergency power for any heating systems at CHS or RPCC.
12. Design to provide ARC flash exposure or define PPE requirements.
13. Construction observation trips beyond the quantity stipulated in the Project Basic Services.
14. Design of Owner initiated changes to the project during construction, or significant changes to the project scope during the design phase.

15. Restart costs if project is delayed over 30 days.
16. Redesign or design services in response to Contractor generated errors or construction not in accordance with the contract documents.
17. Design services for or modifications to any existing buildings and/or systems beyond that identified herein.
18. Design to support and/or attain LEED certification.
19. Add/Deduct alternates not identified herein.
20. Services not listed as Basic Services.

4.2 In the event that Client desires Optional Additional Services beyond those defined as Project Basic Services, then Client shall direct Skyline in writing. In the absence of a mutual written agreement, Skyline shall notify Client that it is performing Optional Additional Services. In the event that Client fails to inform Skyline in writing, within seven calendar days of receipt of notice, that the Optional Additional Services are not required, then client shall compensate Skyline according to the terms and conditions of this Article 4 for Optional Additional Services.

4.3 The following hourly rates, effective through December 31, 2011, shall be used as the basis for compensation for any Optional Additional Services, or any agreed upon hourly work performed by Skyline:

Principals	\$ 130
Project Managers	\$ 110
Engineer III	\$ 105
Engineer II	\$ 95
Engineer I	\$ 85
Designer III	\$ 95
Designer II	\$ 85
Designer I	\$ 75
CAD Technician II	\$ 65
CAD Technician I	\$ 55
Support Staff	\$ 55

4.4 In addition to the hourly rates outlined in Article 4.3, Skyline shall also be entitled to applicable taxes and Reimbursable Expenses as outlined in Article 5.

4.5 If Skyline performs any Optional Additional Services, then Skyline shall be entitled to an appropriate adjustment in Skyline's schedule.

ARTICLE 5 Compensation For Basic Services

5.1 Compensation for basic services shall be a lump sum fee of \$465,000, including subconsultant fees and reimbursable expenses other than any additional insurance coverage requested by client and outside reproduction services, which will be billed at cost.

5.2 In addition to the above, Client is responsible for all applicable taxes.

5.3 Reimbursable Expenses.

As used in this Agreement, Reimbursable Expenses include the following:

5.3.1 All expenses for travel, meals, and lodging associated with the Project billed at cost, except Skyline and personal vehicle mileage, billed at IRS-approved reimbursement rate.

5.3.2 Inside reproductions (excluding reproductions for the in-house use by Skyline), billed as follows:

-Plotting on Bond	_____	\$0.25/square foot
-Plotting on Vellum	_____	\$0.35/square foot
-Plotting on Mylar	_____	\$0.50/square foot
-Photocopies	_____	\$0.10/sheet

5.3.3 Outside reproduction services, billed at cost.

5.3.4 Courier services and postage, billed at cost.

5.3.5 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage requested by Client.

5.3.6 Any Sub-consultant utilized by Skyline under Additional Services will be billed at cost plus ten percent (10 %).

5.3.7 All other expenses not ordinarily required to perform duties stated in this contract, billed at cost plus ten percent (10 %).

ARTICLE 6 Payments to Skyline

6.1 Payments on account of services rendered and for Reimbursable Expenses shall be made monthly upon presentment of Skyline's statement of services. No deductions shall be made from Skyline's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contactors, or on account of the cost of changes in the work other than those which Skyline has been adjudged to be liable.

6.2 Client shall disclose to Skyline, prior to execution of this Agreement, contingent or other special provisions relative to compensation that Client may have in any understanding or other agreement which may impact Skyline's compensation.

6.3 Skyline shall have the right to stop work if any payment shall not be timely made in full according to the terms and conditions of this Agreement. Skyline has the right to suspend work, or terminate this Agreement if their statements are not paid pursuant to the terms and conditions herein. If the statements are not paid within thirty (30) days after they become due, Skyline further reserves the option to void this agreement, sue for damages, and pursue any other legal or equitable claim. Skyline is under no duty to continue work without timely payments according to the terms and conditions herein.

6.4 In the event of Client's failure to timely compensate Skyline and Skyline chooses to terminate this Agreement or suspend its services, then Skyline shall have no liability to Client for any delay or damage.

6.5 Skyline is under no duty to provide any services, documents, plans, specification, or any other work until Skyline is paid in full for its statement of services. Skyline specifically reserves the right to withhold any and all work and/or work product until paid according to this Agreement.

6.6 Amounts unpaid thirty (30) days after the invoice date shall bear interest at a rate of 1.0% per month.

6.7 This agreement may be terminated by either party giving written notice to the other party ten days prior to the termination date. Skyline shall be paid for work completed through the date of the termination notice for the services performed on an hourly basis at two and one-half times the direct personnel expense incurred, and reimbursable expenses incurred up to the termination date, plus any termination expenses.

ARTICLE 7 Insurance and Limitation of Liability

7.1 Waivers of Subrogation. Client and Skyline waive all rights against each other for damages caused by fire or other causes of loss to the extent covered by property insurance, except such rights as they have to proceeds of such insurance held by the Project Owner as fiduciary. The Client shall require of the consultants, general contractor, separate contractors, owner(s), and all subcontractors, by appropriate agreements, similar written waivers of subrogation in favor of Skyline and of other parties enumerated in this Article 7.1.

7.2 Limitation of Skyline's Liability. Client agrees that Skyline's total liability to Client for any and all injury, claims, losses, expenses, damages, or claims expense, attorney fees shall not exceed the available limits of Skyline's insurance. Such claims include, but are not limited to negligent acts, errors or omissions, strict liability, breach of contract or breach of implied or express warranty. Further, each party waives any subrogation right it may have on behalf of its insurer against each other. At the time the parties entered into this contract, damages in the event of a breach are incapable or very difficult of accurate estimation. The parties hereto have undertaken reasonable efforts to fix fair compensation. The amount stipulated bears a reasonable relation to probable damages and is not disproportionate to any damages reasonably to be anticipated.

7.3 As further consideration for Client's limitation of claims against Skyline to the amount of Skyline's insurance coverage, Skyline shall keep in force for the term of this project, a professional liability insurance policy insuring it against negligent acts, errors, or omissions in the amount of \$2,000,000.

ARTICLE 8 Miscellaneous Contract Provisions

8.1 Inasmuch as the remodeling and/or rehabilitation of an existing structure requires that certain assumptions be made regarding existing conditions, and because some of these assumptions may not be verifiable without expending additional sums of money or destroying otherwise adequate or serviceable portions of the structure, the Client agrees to bear all costs, losses and expenses, including the cost of Skyline's additional

services, arising or allegedly arising from the discovery of concealed or unknown conditions in the existing structure.

8.2 Client acknowledges and agrees that Skyline's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event Skyline or any other party encounters asbestos or hazardous or toxic materials at the Project, or should it become known in any way that such materials may be present at the Project or any adjacent areas that may affect the performance of Skyline's services, Skyline may, at their option, and without liability for consequential or any other damages, suspend performance of services on the project until the Client retains appropriate specialist consultant(s) or contractor(s) to identify, abate, and/or remove the asbestos or hazardous or toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.

8.3 All design documents prepared by Skyline pursuant to this document are instruments of service in respect to the project. This includes files, correspondence, calculations, and drawings. All documents will remain the property of Skyline until this Agreement is complete and payment has been rendered in full or until the Agreement is terminated as provided herein. Transferred documents are not intended or represented to be suitable for re-use by the Client or others in extensions of the Project or on any other project. Client agrees to Indemnify and hold Skyline harmless, including reasonable attorney fees from any re-use.

8.4 Client shall have sixty (60) calendar days to ascertain the completeness of the electronic file delivered by Skyline Engineering in AutoCAD or other electronic format, after which period it will be deemed as complete and having been accepted as delivered. It is also agreed that a hard copy of the documents will be delivered, and in the event of conflicts or discrepancies between the two files, the hardcopy will prevail. Skyline Engineering's title block must and will be removed from electronic files transferred to the Client. Because data stored electronically can deteriorate, Skyline shall not be responsible to maintain the electronic media and makes no representation that the electronic data/drawings will be available following 60 days after acceptance of the documents.

8.5 If any provision of this Agreement is held invalid, the invalidity shall not affect other provisions, and the provision which is held invalid is hereby severed from the remaining terms and conditions so the remaining provisions are in full force and effect.

8.6 Electronic files prepared by Skyline Engineering pursuant to this document are instruments of service in respect to the project. They are not intended or represented to be suitable for re-use by the Client or others in extensions of the project or on any other project. Any reuse without written verification or adaptation by Skyline Engineering for the specific purposes intended will be at the Client's sole risk and without liability or legal exposure to Skyline Engineering, and the Client shall indemnify and hold harmless Skyline Engineering from all claims, damages, losses and expenses, including attorney fees and defense costs, arising out of or resulting therefrom. Any such verification or adaptation will entitle Skyline to further compensation at rates in effect at the time.

8.7 It is acknowledged that both parties agree the stated design fees are based upon the estimated project value stated in the project description above. Should the scope of the project change and the actual construction cost exceed the stated values, Skyline shall be entitled to proportionate fee increases.

8.8 The standard of care for all professional engineering and related services performed or furnished by Skyline Engineering under this agreement will be the care and skill ordinarily used by members of Skyline's

profession practicing under similar circumstances at the same time and in the same locality. Skyline makes no warranties, express or implied, under this agreement or otherwise, in connection with Skyline's services.

8.9 Skyline's sole contractual relationship shall be with the Client and nothing herein shall be construed to create any obligation or contractual relationship between Skyline and any third party. Nothing contained in this Agreement shall create a contractual relationship with or cause of action, or claim in favor of a third party against Skyline. Skyline relies solely and exclusively on the Client to provide complete, accurate, and timely information of the Owner's design criteria. Skyline assumes no responsibility for the accuracy of "Opinions of probable cost." Skyline shall not have authority or responsibility of any contractor's means, methods, techniques, sequences, or procedures of construction for safety precautions and programs incident to the contractor's work. Skyline's scope shall not include serving as an "authority having jurisdiction" as defined by model codes nor shall we perform associated code-compliance interpretation.

8.10 If the construction contract requires the contractor to pay for and erect a construction site sign that includes the Client's name and/or corporate identifier, the Client shall include similar placement of Skyline Engineering's name and/or corporate identifier on the sign in the construction site sign requirements in the construction contract. The size and placement of Skyline Engineering's name and/or corporate identifier shall be similar to that of the Client, adjusted as acceptable to Skyline Engineering. If Client chooses to pay for and erect a construction site sign that includes the Client's name and/or corporate identifier, Skyline Engineering shall have the option of including its name and/or corporate identifier on the sign in a similar fashion. If this option is exercised, Skyline Engineering will proportionately share the costs of the sign and its erection with client.

SKYLINE ENGINEERING, LLC

CLIENT

By: 

By: 

Its: President & Managing Director

Its: Co. President

DATE 3/25/11

DATE 3/22/2011