

This is **EXHIBIT A, Engineer's Services**, referred to in and part of the **Agreement between Owner and Engineer for Study and Report Professional Services** dated January 5, 2021.

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties:

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Study and Report Phase

A. Engineer shall:

1. Consult with Owner regarding fulfillment of Owner's responsibilities under Article 2.
2. Advise Owner of any need for Owner to provide other data or services.
3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to review or approve the Report to be prepared by Engineer, other subject matter of the Assignment, or relevant aspects of the Project.
4. Review environmental assessments and impact statements relating to the Assignment, and report to Owner on the effect of any such environmental documents on the subject matter of the Assignment, including contemplated design and construction;
5. Identify and evaluate potential solutions available to Owner and, after consultation with Owner, recommend to Owner those solutions that in Engineer's judgment meet Owner's requirements.
6. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those potential solutions available to Owner that Engineer recommends.
7. Perform or provide the following additional Study and Report tasks or deliverables:

a. Task 01 – Project Management and Administration

ENGINEER shall perform general Project administration activities including progress monitoring, scheduling, general correspondence, office administration, and invoicing. These activities include maintaining contact and liaison with the OWNER and Project staff; providing OWNER with monthly Project financial status updates; ensuring that the needs of the OWNER are met in a timely manner, and monitoring Project budgets and schedules.

b. Task 02 – Future Wastewater Flow Forecasting

ENGINEER shall work with OWNER to refine and finalize the study area as depicted in Attachment 1 (hereafter referred to as 'Study Area').

ENGINEER will facilitate discussions with OWNER and the City of Sioux Falls to review and update the Study Area and to review concepts for the future use of the force main.

ENGINEER shall evaluate and update wastewater flow projections for the Study Area

ENGINEER will utilize OWNER'S previous planning documents, industry standards, and other relevant City data for projecting future population and wastewater flows.

c. Task 03 – Existing Force Main Evaluation

ENGINEER shall utilize results from Task 02 to evaluate the ability to repurpose the existing force main and reverse the flow direction to convey flow back to the Harrisburg WWTP from the east side service area.

Reversing the direction of pumped flow will change the area of higher pressure from the original pipeline design. Engineer shall evaluate the pressure capacity of the existing force main with the forecasted flows from Task 02 to determine the feasibility of reusing the full length of force main with future infrastructure improvements.

d. Task 04 – Sanitary Sewer Collection System Infrastructure Planning

ENGINEER shall utilize the wastewater flow projections from Task 02 to provide sanitary sewer infrastructure recommendations within the Study Area. ENGINEER shall recommend pipe grade (slope), invert elevations, pipe material, and pipe size for future gravity sanitary sewers located within the major roadway corridors in the Study Area.

ENGINEER shall identify locations for connecting future sanitary sewers to the existing sanitary sewer system. Invert elevations for existing sanitary sewer shall be obtained from OWNER-provided as-built / record drawings. ENGINEER shall utilize available LIDAR (light detection and ranging) data/contours for referencing ground surface elevations within the Study Area (*Note – Field surveying and collection of existing manhole/sewer invert elevations is not included in this task*).

Where applicable (or as needed) in the Study Area, ENGINEER shall recommend the approximate location and capacity (in gallons per minute) of sanitary sewer lift stations.

ENGINEER shall create a wastewater system infrastructure map of the Study Area to visually convey the findings and recommendations provided under this Task.

ENGINEER shall develop concept level cost estimates for the planned improvements.

e. Task 05 – Meetings and Documentation

ENGINEER shall document findings and infrastructure recommendations within a concise Basis of Planning Report. The Report will define planning assumptions, wastewater flow projections, and calculations utilized for the sanitary sewer infrastructure planning tasks.

ENGINEER shall facilitate and attend up to five (5) progress/review meetings with the OWNER, each assumed to be one (1) hour in duration, and up to one (1) meeting with the OWNER and City of Sioux Falls, assumed to be (1) hour in duration, to facilitate future infrastructure planning for the existing force main connected to Sioux Falls, with key representatives from the Engineering Department and Wastewater Utility.

A1.02 Times for Rendering Services

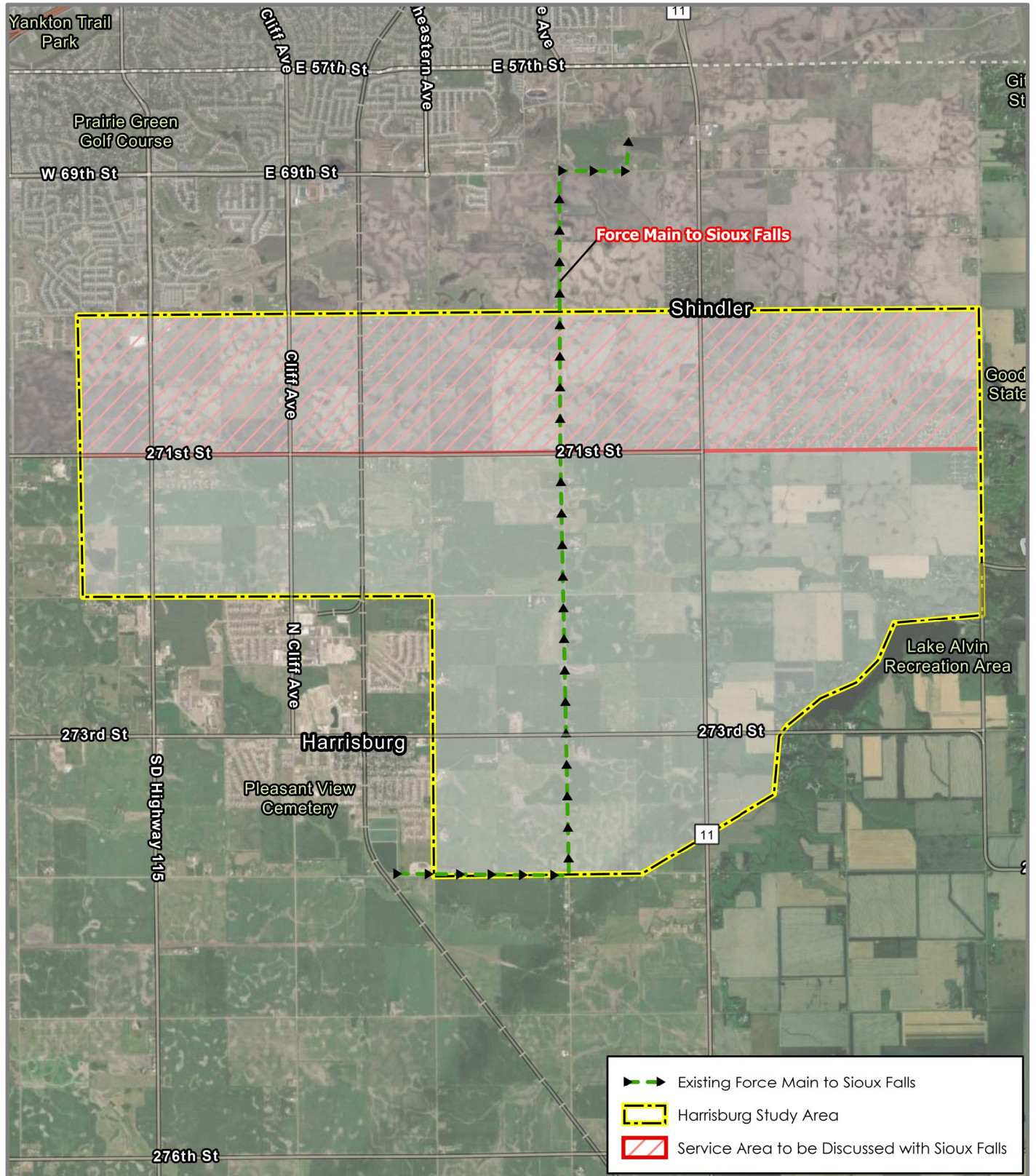
- A. Furnish one review copies of the Report to Owner within 150 calendar days of the Effective Date and review it with Owner.
- B. Revise the Report in response to Owner's and other parties' comments, as appropriate, and furnish three final hard copies and one electronic copy of the revised Report to the Owner within 30 calendar days after completion of reviewing it with Owner.
- C. Engineer's Assignment will be considered complete when all deliverables set forth in Exhibit A are submitted to Owner.

PART 2 – ADDITIONAL SERVICES

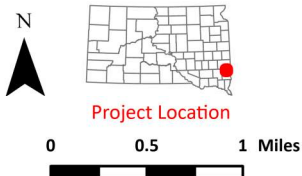
A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.
 - 1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Assignment or Project; preparation of environmental assessments and impact statements; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 - 2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
 - 3. Services resulting from significant changes in the scope, extent, or character of the of the Assignment including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies and reports when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
 - 4. Services resulting from Owner's request to evaluate additional potential solutions beyond those identified in Paragraph A1.01.A.5.
 - 5. Services required as a result of Owner providing incomplete or incorrect information to Engineer.
 - 6. Providing renderings or models for Owner's use.
 - 7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating

- processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
8. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
 9. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Assignment.
 10. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.



Information depicted may include data unverified by AE2S. Any reliance upon such data is at the user's own risk. AE2S does not warrant this map or its features are either spatially or temporally accurate.



HARRISBURG EAST SIDE SEWER STUDY AREA

CITY OF HARRISBURG, SD
Lincoln County, SD



Date: 12/29/2020



Scope and Fee Development
 PROJECT: Harrisburg East Side Sewer Infrastructure Planning
 OWNER: City of Harrisburg
 AE2S Project No. XXX

Phase Number	Phase Description	Project Team									TOTAL			
		PM	CM	PE	PE	GIS	OM	PA	Admin	Est. Hours	Est. Labor Cost	Est. Expense	Est. Fee	
		Project Manager	Client Manager	Project Engineer	Project Engineer	GIS Technician	QA/QC	Project Accountant	Administrative Assistant					
JS	KS	BJ	ME	DL	HG	JL	MS	t_hours	t_labor	t_exp	t_cost			
020	Study and Report	71	13	114	139	72	8	5	36	458	\$ 73,449.00	\$ 1,500.00	\$ 74,949.00	
01	Project Management and Administration	10						5	2	17	\$ 2,751.00	\$ -	\$ 2,751.00	
02	Future Wastewater Flow Forecasting									0	\$ -	\$ -	\$ -	
	East Side Study Area	18	4	12	12	24				70	\$ 11,534.00	\$ -	\$ 11,534.00	
	Sioux Falls Connection Concepts	8	2	2	8	8				28	\$ 4,710.00	\$ -	\$ 4,710.00	
03	Existing Force Main Evaluation									0	\$ -	\$ -	\$ -	
	Record Drawing Review			4						4	\$ 672.00	\$ -	\$ 672.00	
	Existing Pipe Material and Design Pressures			6						6	\$ 1,008.00	\$ -	\$ 1,008.00	
	Capacity Evaluation			6						6	\$ 1,008.00	\$ -	\$ 1,008.00	
04	Sanitary Sewer Collection System Infrastructure Planning									0	\$ -	\$ -	\$ -	
	Major Corridor Recommendations (Re-use of Force Main)	4			12		4			20	\$ 3,608.00	\$ -	\$ 3,608.00	
	Future Sanitary System Connections	8		10	20					38	\$ 6,584.00	\$ -	\$ 6,584.00	
	Spreadsheet Model (Pipe grade, inverts, material, size, and C-vaule)	2		16	30					48	\$ 8,114.00	\$ -	\$ 8,114.00	
	Lift Station Identification and Approx. Pump Capacity			8	16					24	\$ 4,032.00	\$ -	\$ 4,032.00	
	Maps and Figures	3		4	8	40			10	65	\$ 8,605.00	\$ -	\$ 8,605.00	
	Concept Level Cost Estimates	6		16	8					30	\$ 5,190.00	\$ -	\$ 5,190.00	
05	Meetings and Documentation									0	\$ -	\$ -	\$ -	
	Report	4	2	20	20		4		24	74	\$ 10,494.00	\$ 250.00	\$ 10,744.00	
	Five Progress Meetings (1 hr duration / 1 hr prep and travel)	8	5	10	5					28	\$ 5,139.00	\$ 1,250.00	\$ 6,389.00	
	Estimated Totals For Services	71	13	114	139	72	8	5	36	458	\$ 73,449.00	\$ 1,500.00	\$ 74,949.00	

FIRM BACKGROUND

Advanced Engineering and Environmental Services, Inc. (AE2S)

is a specialized civil and environmental consulting engineering firm that provides professional services and our unique brand of extreme client service to municipal, rural, and industrial clients.

Our core focus is water - meaning potable water, wastewater, and water resources consulting. Surveying, mapping, geographic information systems (GIS), civil engineering, and site development are provided as stand-alone services or in support of our primary services. In addition, we also provide value-added services, such as financial analysis and utility rate planning, funding development, modeling, instrumentation and controls, information technology, water/wastewater operations, and asset management.

AE2S has been helping clients with their wastewater needs from our very beginning. We have extensive experience in all types of domestic and industrial wastewater treatment and regulatory compliance. Our collection systems teams specialize in hydraulic modeling, flow monitoring, I&I studies, expansion planning, and rehabilitation/replacement planning and implementation. Our staff consists of experienced process design professionals who also have equipment selection and operation expertise. Our staff has experience with facilities ranging in size from 35 gpm to 250 MGD, and we are able to utilize a range of treatment alternatives, including both simple and complex technologies. AE2S provides treatment solutions which are tailored specifically to the needs of our clients. To complement our wastewater plant design services, AE2S also provides control system services to integrate the design with the final performance.



Advanced Engineering and Environmental Services, Inc.
2401 West Trevi Place, Suite 100
Sioux Falls, SD 57108
T: 605-275-5620

Main Point of Contact
JACOB STROMBECK, PE
Jacob.Strombeck@ae2s.com
C: 701-866-3808
www.ae2s.com



Specialized Wastewater Services

WASTEWATER SERVICES

Planning & Studies

- Concept Studies
- Preliminary Engineering Reports
- Master Planning
- Facilities Planning
- Utility Rate Planning
- Funding Development
- Vulnerability Assessments

Collection Systems

- Modeling
- Capacity Determinations
- I/I Assessments
- Flow Monitoring

Pumping Systems

- Submersible Lift Stations
- Dry-Pit Lift Stations
- FOG Reduction
- Energy Reduction - Odor Control

Treatment

- Suspended Growth
- Attached Growth
- Advanced Treatment/Nutrient Removal
- Permitting
- Modeling
- Lagoons and Aerated Ponds

Biosolids & Residuals

- Digestion
- Dewatering
- Stabilization
- Thickening
- Drying
- Composting
- Land Application

Regulatory Consulting

- Permitting
- Environmental Assessments
- Effluent Standards Review
- Total Maximum Daily Loads (TMDL)
- Non-Degradation
- Compliance Schedule Negotiation

Industrial Monitoring

- Sewer Use Ordinances
- Industrial Pretreatment Programs
- Industrial Surcharge Determinations
- Monitoring, Sampling, and Data Analysis
- Pollution Prevention

KEY PROJECT PERSONNEL



Jacob Strombeck, PE - Project Manager

Mr. Strombeck is AE2S' Municipal Planning Services Practice Leader and has over 10 years of experience with civil and environmental engineering projects. He has provided planning, study and design, construction administration, and financial services on water, wastewater, and stormwater related projects, as well as financial planning and project development services. Mr. Strombeck has an extensive background in master planning, alternatives analysis and project prioritization, treatment process modeling, distribution and collection systems modeling, as well as geographic information system (GIS) development and analysis.

Key Project Experience

- Water Rate Support, Sioux Falls, SD
- Downtown Water and Sewer Master Plan, Fargo, ND
- Sanitary Sewer Lift Station Risk Assessment, Fargo, ND
- Wastewater Utility Rate Analysis, Owatonna, MN
- South Side Water and Wastewater Master Plan, Fargo, ND
- Water and Wastewater Consulting Services, Fargo, ND
- Wastewater Rate Analysis, Owatonna, MN
- Water System Master Plan, Pleasant Prairie, WI
- Long-term Infrastructure Rehabilitation and Renewal Planning, Eagan, MN



Kevin Smith - Planning Specialist

Mr. Smith has more than 20 years of experience and a broad background in utility management. He has managed the development and administration of capital and operating budgets for various municipal utilities including water, wastewater, storm drainage, landfill, and electric light enterprise funds.

Key Project Experience

- Water Reclamation Rate Study, Sioux Falls, SD
- Powder House Pass Sanitary Sewer Comprehensive Plan, Lead, SD
- Lake Kampeska Master Plan, Watertown, SD
- Comprehensive, Growth, and Financial Planning, Williston, ND



Matt Erickson, PE - Project Engineer

Mr. Erickson has experience with a variety of projects in the civil and environmental engineering field. Project experience includes piloting, preliminary engineering, design services, operation improvement assessments, modeling, water quality analysis, and cost of service analysis modeling.

Key Project Experience

- On-Going Financial and Rate Support, Sioux Falls, SD
- Water Reclamation Facility, Sioux Falls, SD
- WWTF Study, University of Notre Dame, South Bend, IN
- WWTF Disinfection & Direct Discharge, Grand Forks, ND
- Wastewater Utility COSA and Rate Study, Bozeman, MT



Ben Julsen, PE - Project Engineer

Mr. Julsen has 15 years of experience with a variety of water and wastewater projects. He has provided study, design, construction administration, and construction observation on both wastewater and water treatment facilities and engineering support on master planning reports of both wastewater and water systems for municipalities.

Key Project Experience

- Water Treatment Plant Facility Plan, Brandon, SD
- Various Pumping, Pipeline, and Modeling Support, Sioux Falls, SD
- OSRWSS Core Line Data Acquisition & Management
- East WWTF Biosolids Facility Plan, Otsego, MN
- Broadway Interceptor SSO Reduction Project, Fargo, ND



Dan Lissick - GIS Specialist

Mr. Lissick has over seven years of experience using GIS for utility analysis, spatial analysis, web map design, GIS product solutions, GPS data collection and post processing, ArcGIS collector implementation, GIS schema standard implementation, database design and management, cartographic production, CMMS data standards and programming. He has worked on a number of water and wastewater planning efforts, GIS infrastructure upgrades, land management projects, and general analysis for a variety of projects.

Key Project Experience

- BDM Pipe Evaluation, Britton, SD
- Downtown Master Plan, Fargo, ND
- Wastewater Facility Plan Update, Kalispell, MT
- Wastewater Collection System Master Plan, Bozeman, MT
- Water System Master Plan, Chadron, SD
- Core Area Infrastructure Master Plan, West Fargo, ND
- NRW User Expansion, ND

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR STUDY AND REPORT
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of January 5th, 2021 (“Effective Date”) between

City of Harrisburg, South Dakota (“Owner”) and

Advanced Engineering and Environmental Services, Inc. (AE2S) (“Engineer”).

Owner retains Engineer to perform professional services, in connection with Study and Report Phase services to forecast future anticipated wastewater flows for growth areas east of Harrisburg, conduct preliminary sizing of an east side lift station, evaluation of the existing force main condition, and provide recommendations for key sanitary sewer infrastructure improvements. (“Assignment”).

Engineer's services under this Agreement are a part of a more extensive project of the Owner, such project is generally identified as follows: Harrisburg East Side Sewer Study (“Project”).

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 *General*

- A. Owner shall pay Engineer as set forth in Article 4.
- B. Owner shall provide Engineer with all criteria and full information as to Owner’s requirements for the Assignment, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any anticipated funding sources and budgetary limitations.
- C. Owner shall furnish to Engineer all existing studies, reports, and other available data pertinent to the Assignment, obtain or authorize Engineer to obtain or provide additional reports and data as required, and furnish to Engineer such services of others as may be necessary for the performance of Engineer’s services.
- D. Owner shall arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.

- E. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, instructions, reports, data, and other information Owner-furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 Invoices

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of this Article. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.
- B. *Obligation to Pay:* Owner's obligation to pay for Engineer's services under this Agreement is not contingent on Owner's ability to obtain financing, third-party payments, governmental or regulatory agency approval, permits, final adjudication of lawsuit in which Engineer is not involved, Owner's successful completion of a project, or any other event. No retainage will be withheld.

4.02 Payments

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay:* If Owner fails to make payments due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. Engineer will be entitled to interest on all amounts due and payable at the rate of 1.75% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 - 2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

4.03 *Payment for Basic Services (Hourly Rates Plus Reimbursable Expenses)*

- A. Using the procedures set forth in Paragraph 4.01, Owner shall pay Engineer for Basic Services as follows:
1. An amount equal to the cumulative hours charged to the Assignment by each class of Engineer's employees times standard hourly rates for each applicable billing class for all services performed on the Assignment, plus reimbursable expenses and Engineer's Consultants' charges, if any.
 2. Engineer's standard hourly rates are set forth in Exhibit B.
 3. The total compensation for services and reimbursable expenses is estimated to be \$74,949.

4.04 *Payment for Additional Services*

- A. For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged to providing the Additional Services under the Assignment by each class of Engineer's employees, times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's Consultants' charges, if any. Engineer's standard hourly rates and reimbursable expenses schedule are set forth in Exhibit B.

4.05 *Disputed Invoices*

- A. If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's estimate as an experienced and qualified professional generally familiar with the construction industry. However, because of the limited and preliminary nature of the Assignment, and because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator.

5.02 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.

- B. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- C. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- D. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- E. Engineer shall not have any construction-related duties under this Agreement. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.

6.02 *Use of Documents*

- A. All Documents are instruments of service, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Assignment or Project is completed. Owner shall not rely, in any way, on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance, by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such procedures shall be set forth in an exhibit to this Agreement.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise during storage or transmittal, the party receiving electronic files agrees that it will perform acceptance tests or procedures within ten days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any data deficiencies detected within the ten-day acceptance period will be corrected, if possible, by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.

- E. Owner may make and retain copies of Documents solely for Owner's information and reference in connection with the specific subject matter of the Documents, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use by Owner unless completed by Engineer; (2) the Documents are instruments of study and report services only, and are not final design or construction documents, (3) no Document shall be altered, modified, or reused by Owner or any third party for any purpose except with Engineer's express written consent; (4) any use, reuse, alteration, or modification of the Documents, except as authorized in this Agreement or by Engineer's written consent, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (5) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any unauthorized use, reuse, alteration, or modification of the Documents; and (6) nothing in this paragraph shall create any rights in third parties.

6.03 Insurance

- A. Engineer will maintain insurance coverage for Workers' Compensation, General Liability, Professional Liability, and Automobile Liability and will provide certificates of insurance to Owner upon request.

6.04 Termination

- A. *Termination for Cause:* The obligation to continue performance under this Agreement may be terminated:

1. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.
2. By Engineer:
 - a. upon seven days written notice if Engineer believes that Engineer is being required by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - b. upon seven days written notice if the Engineer's services are delayed for more than 90 days for reasons beyond Engineer's control.
 - c. Engineer shall have no liability to Owner on account of a termination by Engineer under Paragraph 6.04.A.2.
3. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 6.04.A.1. if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

- B. *Termination for Convenience:* Owner may terminate the Agreement for Owner's convenience effective upon the Engineer's receipt of written notice from Owner.
- C. The terminating party under Paragraphs 6.04.A or 6.04.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.
- D. In the event of any termination under Paragraph 6.04, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

6.05 *Controlling Law*

- A. This Agreement is to be governed by the law of the State of South Dakota, without regard to its conflicts of laws principles.

6.06 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.06.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, or other individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party. Any and all Documents prepared by Engineer, including but not limited to the Report to be prepared pursuant to Exhibit A, are prepared solely for the use and benefit of Owner, unless expressly agreed otherwise by Engineer.

6.07 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute, after which, if negotiations are unsuccessful, the parties may exercise their rights at law.

6.08 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.09 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable costs, losses, and damages arising out of or relating to the Assignment or Project, provided that any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants.
- B. *Indemnification by Owner:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, Consultants, and employees from reasonable costs, losses, and damages arising out of or relating to the Assignment or Project, provided that any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents,

consultants, employees, or others retained by or under contract to the Owner with respect to this Assignment or to the Project.

- C. *Environmental Indemnification:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- E. *Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.
- F. *Mutual Waiver:* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Assignment or Project.

6.10 *Limitation of Engineer's Liability*

- A. To the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, members, employees, agents, and Consultants, or any of them, to Owner and anyone claiming by, through, or under Owner, for any and all injuries, losses, damages and expenses whatsoever arising out of, resulting from, or in any way related to the Assignment, this Agreement, or the Project from any cause or causes including but not limited to the negligence, professional errors or omissions, strict liability, or breach of contract or warranty, express or implied, of Engineer or Engineer's officers, directors, partners, members, employees, agents, or Consultants, or any of them, shall not exceed the total amount of \$50,000 or the total compensation paid to Engineer under this Agreement, whichever is greater.

6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding

upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of completion of the Assignment.
- F. *Executed in Counterparts*: This Agreement may be executed in counterparts, each of which together will constitute one and the same instrument. Delivery of an executed counterpart of this Agreement shall constitute effective delivery of this Agreement. Each party agrees that the delivery of the Agreement by facsimile or electronic mail shall have the same force and effect as delivery of original signature and that each party may use such facsimile or electronic mail signatures as evidence of the execution and delivery of the Agreement by the parties to the same extent that an original signature could be used.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
 - 1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 - 2. *Agreement* – This written contract for study and report professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 - 4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 - 5. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

6. *Construction Cost* – The cost to Owner of the construction of a recommended solution presented in the Report furnished by Engineer under Exhibit A, or of a specific portion of the Project for which Engineer has agreed to provide opinions of cost. Construction Cost includes the cost of construction labor, services, materials, equipment, insurance, and bonding, but does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner’s costs for legal, accounting, insurance counseling, or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner. Construction Cost is one of the items comprising Total Project Costs.
7. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Assignment as Engineer’s independent professional associates and consultants, subcontractors, or vendors.
8. *Documents* – Data, studies, reports (including the Report referred to in Exhibit A), and other deliverables, whether in printed or electronic media format, provided or furnished by Engineer to Owner pursuant to this Agreement.
9. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
10. *Engineer* – The individual or entity named as such in this Agreement.
11. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
12. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
13. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which Engineer's services are to be performed.
14. *PCBs* – Polychlorinated biphenyls.
15. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
16. *Project* – The total study, design, and construction to be carried out by Owner through its employees, agents, design professionals, consultants, contractors, and others, of which the Assignment is a preliminary part.
17. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
18. *Site* – Lands or areas where the subject matter of the Assignment or the Project is located.

19. *Total Project Costs* – The total cost of study, design, and construction of the Project, including Construction Cost and all other Project construction labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer and other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling, and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included*

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Standard Hourly Rates and Reimbursable Expenses Schedule

8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits identified above) constitutes the entire agreement between Owner and 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.

8.03 *Designated Representatives*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the Assignment and the responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Assignment on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: _____

Engineer: Kevin Smith

By: _____

By: Kevin Smith

Title: _____

Title: Operations Manager

Date Signed: _____

Date Signed: December 29, 2020

Address for giving notices:

Address for giving notices:

City of Harrisburg

Advanced Engineering and Environmental Services, Inc.

301 E. Willow St.

2401 West Trevi Place, Suite 100

Harrisburg, SD 57032

Sioux Falls, SD 57108

Designated Representative (Paragraph 8.03.A):

Designated Representative (Paragraph 8.03.A):

Name: Joe Stonesifer

Name: Jacob Strombeck

Title: City Engineer

Title: Municipal Planning Services Practice Leader

Phone Number: 605-498-4949

Phone Number: 701-364-9111

Facsimile Number: _____

Facsimile Number: _____

E-Mail Address: Joe.Stonesifer@HarrisburgSD.gov

E-Mail Address: Jacob.Strombeck@ae2s.com

This is **EXHIBIT B, Standard Hourly Rates and Reimbursable Expenses Schedule**, referred to in and part of the Agreement Between Owner and Engineer for Study and Report Professional Services dated _____, _____.

Engineer’s Standard Hourly Rates and Reimbursable Expenses Schedule

Reimbursable Expenses and Standard Hourly Rates in effect on the date of the Agreement are set forth below. Rates are subject to annual adjustment effective January 1.

Labor Rates*

Administrative I	\$60.00	I&C Assistant	\$88.00
Administrative II	\$73.00	I&C Technician I	\$108.00
Administrative III	\$88.00	I&C Technician II	\$122.00
		I&C Technician III	\$136.00
Communications Specialist I	\$93.00	I&C Technician IV	\$147.00
Communications Specialist II	\$108.00	I&C Technician V	\$160.00
Communications Specialist III	\$125.00	I&C Specialist	\$174.00
Communications Specialist IV	\$150.00	I&C Senior Specialist	\$185.00
Communications Specialist V	\$165.00	I&C Manager	\$193.00
Construction Services I	\$142.00	IT I	\$111.00
Construction Services II	\$155.00	IT II	\$151.00
Construction Services III	\$175.00	IT III	\$181.00
Construction Services IV	\$192.00		
Construction Services V	\$210.00	Land Surveyor Assistant	\$86.00
		Land Surveyor I	\$103.00
Engineering Assistant 1	\$73.00	Land Surveyor II	\$123.00
Engineering Assistant 2	\$95.00	Land Surveyor III	\$138.00
Engineer I	\$119.00	Land Surveyor IV	\$152.00
Engineer II	\$141.00	Land Surveyor V	\$169.00
Engineer III	\$168.00	Land Surveyor VI	\$179.00
Engineer IV	\$193.00		
Engineer V	\$205.00	Operations Specialist I	\$89.00
Engineer VI	\$223.00	Operations Specialist II	\$108.00
Engineer VII	\$241.00	Operations Specialist III	\$133.00
Engineer VIII	\$250.00	Operations Specialist IV	\$150.00
		Operations Specialist V	\$175.00
Engineering Technician I	\$72.00		
Engineering Technician II	\$92.00	Program Coordinator I	\$188.00
Engineering Technician III	\$112.00	Program Coordinator II	\$202.00
Engineering Technician IV	\$126.00	Program Coordinator III	\$215.00
Engineering Technician V	\$143.00		
Engineering Technician VI	\$158.00	Project Coordinator I	\$104.00
Engineering Technician VII	\$175.00	Project Coordinator II	\$115.00
Engineering Technician VIII	\$186.00	Project Coordinator III	\$126.00
		Project Coordinator IV	\$141.00
Financial Analyst I	\$99.00	Project Coordinator V	\$159.00
Financial Analyst II	\$112.00		
Financial Analyst III	\$135.00	Project Manager I	\$179.00
Financial Analyst IV	\$145.00	Project Manager II	\$196.00
Financial Analyst V	\$164.00	Project Manager III	\$216.00
Financial Analyst VI	\$185.00	Project Manager IV	\$231.00
Financial Analyst VII	\$202.00		
Financial Analyst VIII	\$220.00	Technical Expert I	\$265.00
		Technical Expert II	\$289.00
GIS Specialist I	\$93.00	Technical Expert III	Negotiable
GIS Specialist II	\$112.00		
GIS Specialist III	\$132.00		
GIS Specialist IV	\$148.00		
GIS Specialist V	\$165.00		
GIS Specialist VI	\$185.00		

Reimbursable Expense Rates

Transportation	\$0.65/mile
Survey Vehicle	\$0.85/mile
Laser Printouts/Photocopies	\$0.30/copy
Plotter Printouts	\$1.00/s.f.
UAS - Photo/Video Grade	\$100.00/day
Total Station – Robotic	\$35.00/hour
Mapping GPS	\$25.00/hour
Fast Static/RTK GPS	\$50.00/hour
All-Terrain Vehicle/Boat	\$100.00/day
Cellular Modem	\$75.00/month
Web Hosting	\$26.00/month
Legal Services Reimbursement	\$238.00/hour
Outside Services	cost *1.15
Geotechnical Services	cost *1.30
Out of Pocket Expenses	cost*1.15
Rental Car	cost*1.20
Project Specific Equipment	Negotiable

* Position titles are for labor rate grade purposes only.

** Includes laboratory testing, architectural and engineering consultants, surveying, etc.

*** Includes toll telephone, shipping, postage, subsistence, technical literature, equipment rental, etc.

These rates are subject to adjustment each year on January 1.