



City Council Meeting Agenda
City Council Chambers, City Hall, 612 N. Main Street
January 2, 2024

- 1. 6:00 PM Call to Order**
- 2. Pledge Of Allegiance**
- 3. Invocation: United Church of Christ**
- 4. Roll Call**
- 5. Approval Of Consent Agenda Items**

Items appearing on the Consent Agenda may be removed by a City Council Member for discussion at the beginning of the formal agenda items.

 - A. City Council Minutes**
 - B. Raffle Permits**
 - C. Mitchell Republic as the Newspaper Designation for 2024**
 - D. City Election to be Combined with Davison County Primary Election to be Held on June 4, 2024**
 - E. Set Date of January 16, 2024 for Hearing on the following Alcohol License Applications**
 - a. On the application of Michelle Kalan dba Michelle's Mad Batter LLC, 123 East 3rd Avenue, Suite 1 for a new Retail (On-Off Sale) Wine and Cider License.
 - b. On the application of Family Dollar Stores of South Dakota LLC, dba Family Dollar #22757, 1801 N Main Street for a new Retail (On-Off Sale) Wine and Cider License.
 - c. On the application of Family Dollar Stores of South Dakota LLC, dba Family Dollar #22757, 1801 N Main Street for a new Retail (On-Off Sale) Malt Beverage & SD Farm Wine License.
 - F. Set Date for Bid Opening at 1:30 P.M. January 17, 2024 for East Spruce Street Reconstruction Project #2021-39**
 - G. Pay Estimates**
 - H. Approve Bills, Payroll, Salary Adjustments and New Hires, and Authorize Payment of Recurring and Other Expenses in Advance as Approved by the Finance Officer**
- 6. Motion To Approve, Request Public Comment, Roll Call**
- 7. Citizens Input**

If you need to address the Mayor and members of the City Council on an item that was not on the agenda, excluding personnel items, please come forward to the podium and

state your name and your concern. Presentations are limited to three minutes. Items will be considered but no action will be taken at this time.

- 8. Action to Award Bid for West Harmon Water Main Loop Project #2023-07**
- 9. Action to Award Bid for 12th & 13th Watermain Loop Project #2023-08**
- 10. Action to Award Bid for 23rd & Ohlman Lift Station Project #2022-03**
- 11. Action to Award Bid for Ohlman Lift Station Project #2023-16**
- 12. Action to Approve 2024 Official Depositories**
- 13. Action to Approve the Application of PSG Premier Enterprises, LLC for a Vehicle for Hire Company**
- 14. Action to Approve Agreement #A2024-01 with HR Green for Bidding and Construction Phase Services for the 7th and Main Traffic Light Project**
- 15. Action to Approve Agreement #A2024-02, Construction Phase Services for State Revolving Fund Loan Water Projects with SPN & Associates**
- 16. Action to Approve Agreement #A2024-03, Construction Phase Services for Wastewater State Revolving Fund Loan Projects with SPN & Associates**
- 17. Action to Approve Agreement #A2024-04, 5th Avenue Reconstruction from Burr to Foster Project #2024-02 with Brosz Engineering**
- 18. Action to Approve Agreement #A2024-07, Internship Agreement with Northwest Iowa Community College**
- 19. Action to Approve Resolution #R2024-01, A Resolution Establishing a Sales Tax Grant Incentive Program for the City of Mitchell**
- 20. Motion to Enter into Executive Session According to SDCL 1-25-2 (3) Legal**
- 21. Adjourn**

Individuals with disabilities who require special assistance to take part in this meeting may contact one of the following at City Hall (605) 995-8420 at least 24 hours prior to the meeting with requests for assistance: Human Resources Officer or the City Administrator.

**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
MITCHELL, SOUTH DAKOTA**

**December 18, 2023
6:00 P.M.**

PRESENT: Marty Barington, Mike Bathke, John Doescher, Tim Goldammer,
Kevin McCardle, Dan Sabers, Jeffrey Smith, Susan Tjarks

ABSENT:

PRESIDING: Mayor Bob Everson

AGENDA:

Moved by McCardle, seconded by Goldammer, to approve the following items on the consent agenda:

- a. City Council Minutes
 - 1. City Council December 4, 2023.
- b. Committee Reports
 - 1. Planning Commission November 27, 2023 and
 - 2. Planning Commission December 11, 2023 (unsigned).
- c. Department Reports
 - 1. Sales Tax Collections (November),
 - 2. Finance (November),
 - 3. Building Permits (November),
 - 4. Fire (November),
 - 5. Code Enforcement (November),
 - 6. Water (November), and
 - 7. Airport (November).
- c. Automatic Supplements
 - 1. Park-Sports Complex in the amount of \$273.54 from a donation of funds,
 - 2. General Fund-Library in the amount of \$1,593.10 from a reimbursement,
 - 3. EMS Fund in the amount of \$2,770.95 from insurance proceeds,
 - 4. TID #7-Westwood in the amount of \$140,000.00 from tax revenue,
 - 5. TID #9-Vantage Point in the amount of \$7,000.00 from tax revenue,
 - 6. TID #14-Pepsi in the amount of \$3,000.00 from tax revenue,
 - 7. TID #16-Innovative in the amount of \$142,000.00 from tax revenue,
 - 8. TID #20-Morris in the amount of \$1,000.00 from tax revenue,
 - 9. TID #21-Hohn in the amount of \$2,000.00 from tax revenue,
 - 10. TID #24-Performance Pet in the amount of \$42,000.00 from tax revenue,
 - 11. TID #26-Western Building in the amount of \$5,000.00 from tax revenue,

12. TID #27-Fiala in the amount of \$3,000.00 from tax revenue,
 13. Park-Rec Center in the amount of \$1,000.00 from grant funds,
 14. Park-Rec Center in the amount of \$3,794.00 from grant funds, and
 15. Park-Rec Center in the amount of \$319.00 from grant funds.
- e. Raffle Permits
1. VFW with the drawings to be held in April 2024,
 2. VFW with the drawing to be held on June 20, 2024, and
 3. Pheasants Forever with the drawing to be held January 20, 2024.
- f. Change Order #2 for Sidewalk Project Schedule A #2023-04 increasing the contract amount by \$7,187.00 to Top Grade Concrete, adjust contract amount to \$162,141.14.
- g. Change Order #2 for Paving & Overlay Project #2023-15 increasing the contract amount by \$7,500.00 to Commercial Asphalt, adjust contract amount to \$634,426.40.
- h. Approval of Gas and Fuel Quotations

<u>Howe's Oil</u>	<u>Requested Gallons</u>	<u>Bid Gallons</u>	<u>Price per Product</u>	<u>Total Bid</u>
On Road Diesel #2	1,800	1,800	\$2.90	\$5,220.00
On Road Diesel #1	1,800	1,800	\$3.2575	\$5,863.50
Off Road Diesel #2	1,950	1,950	\$2.625	\$5,118.75
Off Road Diesel #1	1,950	1,950	\$2.9825	\$5,815.88

Total Bid: \$22,018.13

<u>Howe's Oil</u>	<u>Requested Gallons</u>	<u>Bid Gallons</u>	<u>Price per Product</u>	<u>Total Bid</u>
Unleaded Gas-10% Ethanol	7,500	7,500	\$2.138	\$16,035.00

Total Bid: \$16,035.00

- i. Pay Estimates December 18, 2023
- Pay Estimate #3 in the amount of \$8,666.66 for Mitchell Airport Snow Removal #2019-53R2 contracted to Quality Cut Lawn & Snow,
- Pay Estimate #7 in the amount of \$385,311.92 for Above Ground Storage Tank #2020-20 contracted to Rice Lake West,
- Pay Estimate #3 in the amount of \$6,043.85 for Norway/Rowley Bike Path #2021-01 contracted to SD Department of Transportation,
- Pay Estimate #20 in the amount of \$3,627.20 for Lake Mitchell-Phase II #2021-20 contracted to Barr Engineering,
- Pay Estimate #18 in the amount of \$455,592.60 for North Wastewater Improvements #2021-31 contracted to PKG Contracting,
- Pay Estimate #6 in the amount of \$277.50 for 3rd & Main Streetscape #2022-26 contracted to McLaury Engineering,
- Pay Estimate #9 in the amount of \$9,597.50 for Jetty & Marina Bike Trail #2023-03 contracted to Brosz Engineering,

Pay Estimate #1 in the amount of \$19,000.00 for Jetty & Marina Bike Trail #2023-03 contracted to Shive Hattery,

Pay Estimate #5 in the amount of \$7,187.00 for Concrete Bid #2023-04 contracted to Top Grade Concrete,

Pay Estimate #5 in the amount of \$7,500.00 for Paving & Overlay #2023-15 contracted to Commercial Asphalt,

Pay Estimate #5 in the amount of \$13,108.75 for 2nd/4th & Main Street #2023-21 contracted to McLaury Engineering, and

Pay Estimate #29 in the amount of \$3,719.63 for AIP '28 Airport ALP/Master Plan contracted to Helms & Associates.

- j. Approve Bills, Payroll, Salary Adjustments and New Employee Hires and Authorize Payment of Recurring and other expenses in advance as approved by the Finance Officer.

PAYROLL NOVEMBER 26, 2023 – DECEMBER 9, 2023: City Council \$3,615.68, Mayor \$1,562.81, City Administrator \$5,942.50, Administrative Boards \$2,211.81, Attorney \$4,938.27, Finance \$13,609.22, Human Resources \$3,982.71, Municipal Building \$3,412.17, Information Technology \$3,053.21, Police \$74,090.61, Traffic \$4,890.42, Fire \$39,009.79, Street \$31,578.81, Public Works \$23,928.49, Cemetery \$5,083.57, Library \$17,948.79, Recreation & Aquatics \$7,018.69, Recreation Center \$19,563.03, Sports Complexes \$11,302.13, Parks \$12,868.92, Supervision \$6,081.70, E911 \$20,171.34, MVP \$536.27, Palace Transit \$30,345.90, JVCC \$1,340.26, Nutrition \$4,335.17, Water Distribution \$15,217.38, Sewer \$13,210.08, Airport \$3,485.19, Recycling Program \$6,944.36, Waste Collection \$6,227.65, Landfill \$10,219.44, Corn Palace \$22,480.33, Golf Course \$4,123.06, Emergency Medical Services \$34,906.88

NEW HIRES:

CORN PALACE: Grace Baysinger-\$10.80, Taylor Senn-\$11.30

RECREATION CENTER: Brenna Beckman-\$13.30, Kimberly Gamber-\$10.80

WASTE WATER: Joseph King-\$20.304

SALARY ADJUSTMENTS:

AIRPORT: Michael Scherschlight-\$36.304

POLICE: Seth Vanden Hoek-\$28.343, Austin Van Horn-\$28.689

RECREATION CENTER: Kassedy Knippling-\$11.30, Morgan Schneider-\$13.30, Gary Walton-\$26.014

STREET: Jeffrey Hurt-\$26.994

TERMINATIONS:

WASTEWATER: Jon Rehfeldt

WARRANTS: 3D Security, Monitoring-\$600.00; A-Ox Welding Supply, Supplies-\$502.16; AAA Collections, Collection Fee-\$74.49; AAA Lawn Care and Maintenance, Nuisance-\$1,430.00; Advance Auto Parts, Supplies-\$53.34; Advanced Engineering and Environmental Services, Study and Report 2021-37-\$570.00; AFLAC, Aflac Withholding-\$10,548.72; AFLAC Group, Critical Care-\$460.78; AFSCME Council 65, Union Dues-\$655.20; Amazon Capital Services, Supplies-\$541.40; American Garage Door, Supplies-\$191.16; Aqua-Pure, Supplies-\$1,687.50; Aramark, Supplies-\$188.88; AT&T Mobility, Utilities-\$580.38; ATV Holdings, LLC DBA Mitchell Telecom, Utilities-\$2,882.49; Avera Queen of Peace Hospital, Supplies-\$554.16; Axon Enterprise, Supplies-\$21,383.90; B-Y Water District, Usage-\$52,485.33; Bailey Metal Fabricators, Supplies-\$1,101.55; Barr Engineering, 2021-20 P.E. #PH2-20-\$3,627.20; Bender's Sewer Cleaning, Repair-\$2,010.00; Big Daddy D's, Contract Services-\$6,875.06; Blackburn Manufacturing, Supplies-\$170.14; Blackstone Publishing, Audiobooks-\$67.99; Blackstrap, Supplies-\$2,010.35; Brendan J Poore, Reimbursement-\$149.99; Brosz Engineering, 2023-3 P.E. #10-\$9,597.50; Buhl's Drycleaners & Linen, Maintenance-\$82.50; Butler Machinery, Supplies-\$85.00; C&B Operations, Supplies-\$3,920.25; Cadwell Sanford Deibert & Garry, Indoor Pool/Puetz-\$264.00; Carquest Auto Parts, Supplies-\$16.29; Cengage Learning Inc/Gale, Book-\$26.39; Center Point Large Print, Books-\$94.08; Century Link, Utilities-\$68.04; CHS Farmers Alliance, Supplies-\$5,203.98; Cindy Roth, Notary Fee Reimbursement-\$30.00; City of Mitchell, Utilities-\$25,342.00; City of Mitchell, Utilities-\$1,289.86; City of Mitchell, Utilities-\$1,860.16; City of Mitchell, Utilities-\$10.50; CK Bicycles & Locks, Supplies-\$69.00; Clark Equipment, Equipment-\$6,714.00; Coborns, Contract Services-\$385.00; Commercial Asphalt, Supplies-\$53,410.00; Core & Main, Supplies-\$16,003.30; Core-Mark Midcontinent, Supplies-\$2,457.85; Corporate Translation Service, Translation Services-\$143.20; County Fair, Contract Services-\$1,325.50; Dakota Fluid Power, Supplies-\$3,340.40; Dakota Supply Group, Supplies-\$363.52; Darrel & Janet Tiede, Refund Bus Trip-\$100.00; Darrington Water Conditioning, Rental-\$68.25; Davison Rural Water Systems, Utilities-\$89.25; Delta Dental Plan of South Dakota, Dental Insurance-\$15,674.52; Demco, Supplies-\$364.93; Department of Agriculture, Solid Waste Surcharge-\$2,670.88; Department of Social Services, Child Support-\$864.46; Dice Benefits Consulting, Administration Fee-\$510.00; Dick's Body Shop, Maintenance-\$155.00; Doug's Custom Paint & Body, Repairs-\$3,770.95; Elfstrand's Ace Hardware, Supplies-\$234.97; Eurofins Environment Testing, Lab Fees-\$2,446.00; Fedex, Postage-\$16.93; Foreman Charters, Fundraising-\$1,150.00; Forum Communications, Advertising-\$2,405.63; Gala Flores, Reimbursement-\$35.00; Grainger, Supplies-\$123.97; Great Western Tire, Supplies-\$4,288.93; Guardian Alliance Technology, Background Reports-\$150.00; H&H Electric & Motor Rep, Supplies-\$796.50; Helms and Associates, AIP '28 Airport P.E. #29-\$3,719.63; Henry Schein, Supplies-\$351.60; Honda of Mitchell, Supplies-\$29.12; Howes Oil, Supplies-\$22,035.77; ICAN, Advertising-\$750.00; Ingram Library Services, Books-\$3,000.50; Innovative Systems, Reimbursement TID #16-\$141,862.86; Interstate Office Products, Supplies-\$323.06; JCL Solutions, Supplies-\$85.90; Johnson Bros of South Dakota, Supplies-\$775.00; Johnson Controls, Maintenance-\$20,215.08; Jones Supplies, Supplies-\$609.63; Judd Hoos & Funk Productions, Pre-Sturgis Party Deposit-\$2,000.00; Kevin Nelson, Reimbursement-\$75.01; Kim Burg, Bus

Trip Meals Reimbursement-\$9.74; Krohmer Plumbing, Repair-\$88.78; Lakeview Veterinary Clinic, Management-\$927.57; Larry's I-90 Service, Supplies-\$1,629.68; Lawson Products, Supplies-\$99.40; Leighton Family Farms, Supplies-\$700.00; McLaury Engineering, 2022-26 P.E. #6-\$13,386.25; McLeod's Printing, Supplies-\$349.79; Menard's, Supplies-\$1,363.24; Michael Dufek, Reimbursed-\$96.05; Michelle Bathke, Reimbursement-\$191.68; Midwest Fire & Safety, Inspection-\$150.00; Midwest Oil, Supplies-\$1,309.07; Mike Carpentier DbA Carpentier Snow Removal, CDL Testing-\$90.00; Miscellaneous Vendor, Presentation Sisters Refund-\$137.40; Mitchell Animal Rescue, Management Fee-\$350.00; Mitchell Area Development, Vantage Point TID #9/23-\$107,161.44; Mitchell Convention & Visitors Bureau, December 2023 Funding-\$21,200.00; Mitchell Iron & Supply, Supplies-\$125.75; Mitchell United Way, United Way Deductions-\$228.00; Mount Vernon School District, Contract Services-\$145.50; Muth Electric, Maintenance-\$13,119.48; N-Able Technologies, Software-\$172.77; Newman Signs, Supplies-\$1,317.99; Noridian Medicare JF Part, Refunds and Reimbursements-\$1,886.69; Northwestern Energy, Utilities-\$55,178.75; Overdrive, Ebooks-\$831.42; Overtime, Contract Services-\$2,722.50; Papa Murphy's Pizza, Pizzas-\$313.14; Parkeon, Professional Service-\$65.00; Paulson Sheet Metal, Maintenance-\$700.00; Peterbilt of Sioux Falls, Supplies-\$652.63; Pfeifer Implement, Maintenance-\$4.20; PKG Contracting, 2021-31 P.E. #18-\$455,592.60; Porter Distributing, Supplies-\$66.45; Premier Equipment, Supplies-\$68.50; Premier Pest Control, Supplies-\$375.00; Prevention Magazine, Subscription-\$160.00; Public Health Laboratory, Testing-\$1,712.00; Qualified Presort, Postage-\$310.09; Quality Cut Lawn & Tree Service, 2019-53R2 P.E. #3-2023-\$8,666.66; Quick Med Claims, Monthly Charges-\$5,007.52; Rice Lake West, 2020-20 P.E. #7-\$385,311.92; Ron's Saw Sales, Supplies-\$3,088.31; Runnings Supply, Supplies-\$464.16; Ryan Erickson, Reimbursed-\$229.97; S&M Printing, Supplies-\$135.15; Santel Communications, Utilities-\$30.00; Schoenfelder Portables, Rental-\$420.00; Scholastic Library Publish, Book-\$10.79; South Dakota Department of Transportation, 2021-1 P.E. #3-\$6,043.85; South Dakota Retirement System, South Dakota Retirement Contributions-\$126,441.94; South Dakota Supplemental Retirement, Supplemental Retirement-\$2,634.50; South Dakota Supplemental Roth 457, Roth 457 Contributions-\$1,271.00; Sherwin-Williams, Supplies-\$79.25; Shive-Hattery, 2023-3 P.E. #1-\$19,000.00; Sign Pro, Supplies-\$58.75; South Dakota 811, Message Fees-\$219.45; Standard Insurance, Life Insurance-\$2,601.78; Staples, Supplies-\$430.30; Storey Kenworthy/Matt Parr, Tax Forms-\$437.95; Sturdevants Auto Value, Supplies-\$6,022.57; Subway, Meals-\$31.96; Sun Gold Sports, Supplies-\$720.50; The Dugout, Contract Services-\$1,584.00; The Penny Press Machine, Supplies-\$497.00; Thomas L Price, Screening-\$350.00; Thomson Reuters West, Subscription-\$800.80; Thune True Value & Appliance, Supplies-\$64.73; TK Electric, Supplies-\$431.44; TMA Stores, Supplies-\$1,736.48; Top Grade Concrete, 2023-4 P.E. #5-\$7,187.00; Traditions Prepared Meals, Meals-\$3,146.39; Traf-Sys, Supplies-\$240.00; Transource, Supplies-\$1,148.63; Transwest Trucks of Sioux, Supplies-\$81.96; Two Way Solutions, Supplies-\$10,105.36; UI LLC, Testing-\$4,764.00; Uline, Supplies-\$125.91; UPS Store #4227, Postage-\$501.87; Verizon Wireless, Utilities-\$756.91; Vern Eide Ford, Supplies-\$316.36; Walmart/Capital One, Supplies-\$45.92; Wheelco Brake & Supply, Supplies-\$244.84; Wholesale Electronics, Supplies-\$24.96; Zello, Service-\$1,550.40; First Dakota, TID #20 Morris-\$6188.45; Wellmark of South Dakota, Administration, Medical, Prescription-\$269,042.10; Wageworks,\$4,519.80; Ellwein Brothers, Supplies-\$57.00; South Dakota State Treasurer, Sales Tax Payment-\$16,019.69.

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried.

BOARD OF ADJUSTMENT:

Moved by Barington, seconded by Goldammer, for the City Council to recess and sit as the Board of Adjustment. Motion carried.

It was advised that this is the date and time set for hearing on the application of Wayne Lambert for a side yard variance of 0' vs 3' and rear yard variance of 7' vs 16' for a 32' x 44' unattached accessory building with a door parallel to the alley being built in the same overall footprint of an existing garage being torn down located at 909 East 1st Avenue, legally described as Lot 4, Block 3, Applegate Addition, City of Mitchell, Davison County, South Dakota. The property is zoned R3 Medium Density Residential District. The Planning Commission recommended denial of said application. Moved by Tjarks, seconded by Smith, to approve said application. Motion carried.

Moved by Goldammer, seconded by Barington, for the Board of Adjustment to adjourn and the City Council to reconvene in regular session. Motion carried.

CONSIDER APPROVAL:

Moved by Sabers, seconded by McCardle, to approve Agreement #A2023-63, Airport Design Services for Hangar at Airport with Mead & Hunt in the amount of \$5,000.00. Motion carried.

Moved by Goldammer, seconded by Tjarks, to approve Agreement #A2023-65, GeoTechnical Exploration and Report at the South Wastewater Treatment Plant with GeoTek in an amount not to exceed \$15,000.00. Motion carried.

Moved by McCardle, seconded by Barington, to approve Agreement #A2023-66, GeoTechnical Exploration and Report at the North Wastewater Treatment Plant with GeoTek in an amount not to exceed \$14,000.00. Motion carried.

Moved by McCardle, seconded by Sabers, to approve Agreement #A2023-67, Agreement for Rotational Towing Services. Motion carried.

Moved by Sabers, seconded by Tjarks, to approve Agreement #A2023-68, 2024 Equipment and Storage Contract with Axon. Motion carried.

Moved by Goldammer, seconded by Barington, to approve Agreement #A2023-69, 2024-2025 Subscription with Power DMS. Motion carried.

Moved by McCardle, seconded by Smith, to approve Agreement #A2023-70, Memorandum of Agreement with Davison County for the Edward Byrne Memorial JAG Grant. Motion carried.

RESOLUTIONS:

Moved by Tjarks, seconded by Goldammer, to approve Resolution #R2023-89, Contingency Transfers, as follows:

RESOLUTION #R2023-89 CONTINGENCY TRANSFERS

WHEREAS, the City of Mitchell has included in the 2023 Annual Budget a contingency item which may be appropriated by resolution of the governing board to any other appropriation amount that is deemed insufficient during the year, and

WHEREAS, the budget item for the following is insufficient and it was deemed necessary that appropriation be transferred for the 2023 budget, as follows:

GENERAL FUND

HUMAN RESOURCES

101-41440-42231	Employee Physicals, Drug Testing	\$17,500
101-41440-42630	AED Replacement Program	\$2,500

MUNICIPAL BUILDINGS

101-41920-42520	Repairs- City Hall	\$12,000
101-41920-42620	Supplies- City Hall	\$2,605

POLICE

101-42110-42670	Service Dog Supply	\$10,611
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Traffic

101-42130-41110	Overtime	\$3,000
101-42130-42500	Repairs	\$2,500
101-42130-42530	Traffic Light Maintenance	\$6,000
101-42130-42540	Signs	\$2,600
101-42130-42545	Paint	\$5,450
101-42130-42600	Supplies	\$2,500
101-42130-42610	Gas, Oil, Tires	\$1,500
101-42130-43410	Battery Backup	\$1,500

STREET DEPARTMENT

101-43100-42600	Supplies	\$75,000
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SNOW REMOVAL

101-43130-42500	Repair & Maintenance	\$65,000
101-43130-42600	Supplies & Materials	\$34,000

STORM DRAINAGE		
101-43150-42600	Supplies & Materials	\$6,000
LIBRARY		
101-45500-42500	Repairs & Maintenance	\$22,000
TRANSFERS OUT		
101-49000-51119	Transfer out to indoor pool	\$429,553

Motion carried and resolution declared duly adopted.

Moved by Goldammer, seconded by Tjarks, to approve Resolution #R2023-90, Setting Hearing and Appointing Appraisal Board for a Land Swap by the New Ground Storage Tank, as follows:

RESOLUTION #R2023-90

A RESOLUTION SETTING A HEARING AND APPOINTING APPRAISERS FOR THE EXCHANGE OF REAL PROPERTY IN THE AREA OF THE GROUND STORAGE TANK

WHEREAS, the City of Mitchell owns a parcel of land where the ground storage tank is being constructed which land is legally defined as:

Tract 1, Mitchell Waterworks 1st Addition in the SW ¼ of the SW ¼ of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.; and

WHEREAS Mitchell Properties HL2 LLC (LLC) is the owner of certain property in the area of the ground storage tank which is legally defined as:

Southwest Quarter (SW ¼) Ex H1 & RY and Ex Tract 1, Mitchell Waterworks 1st Addition in the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.

WHEREAS the City of Mitchell and LLC desire to exchange certain portions of the above-described properties; and

WHEREAS the proposed exchange would involve the City of Mitchell transferring to LLC a sum of \$10,000.00 and the portion of land described as follows:

North Two Hundred Sixty-six feet (266') of Tract 1, Mitchell Waterworks 1st Addition in the SW ¼ of the SW ¼ of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.

WHEREAS the proposed exchange would involve LLC transferring to the City of Mitchell the portion of land described as follows:

That portion of the Southwest Quarter (SW ¼) lying West of RY and Ex H1 of Section 35, Township 103 North, Range 60, West of the 5th P.M., Davison County, South Dakota.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that, pursuant to SDCL 9-27-34.1, the following individuals shall be appointed to the appraisal board for the purpose of appraising the above-described City land to be transferred: Kevin Genzlinger, Jacob Sonne, JP Schmitz.

BE IT FURTHER RESOLVED, that the City Council shall hold a hearing relative to the above-described exchange on December 27th, 2023 at 5:00 PM in City Hall Council Chambers. Notice of hearing has been published at least 10 days in advance of the hearing in the local newspaper as required by law. Following the hearing, the City shall take such action as it deems appropriate relative to this proposed land exchange.

Motion carried and resolution declared duly adopted.

Moved by Smith, seconded by Sabers, to approve Resolution #R2023-91, Plat of Tract 1 of Blindauer's Addition in the SE ¼ of the SE ¼ of Section 18, T 104 N, R 60 W of the 5th P.M., Davison County, South Dakota, as follows:

RESOLUTION #R2023-91

WHEREAS, it appears that the City Planning Commission of the City of Mitchell, South Dakota, did duly consider and did recommend the approval and adoption of the hereinafter described plat, at its meeting held on the 11th day of December, 2023; and

WHEREAS, it appears from an examination of the plat of TRACT 1 OF BLINDAUER'S ADDITION IN THE SE 1/4 OF THE SE 1/4 OF SECTION 18, T 104 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, prepared by Thomas Lynn Week, a duly licensed Land Surveyor in and for the State of South Dakota, that said is in accordance with the system of streets and alleys set forth in the master plan adopted by the City Planning Commission of the City of Mitchell, South Dakota, and that such plat has been prepared according to law;

THEREFORE, be it resolved by the City Council of Mitchell, South Dakota that the plat of TRACT 1 OF BLINDAUER'S ADDITION IN THE SE 1/4 OF THE SE 1/4 OF SECTION 18, T 104 N, R 60 W OF THE 5TH P.M., DAVISON COUNTY, SOUTH DAKOTA, as prepared by Thomas Lynn Week, be and the same is approved and the description set forth therein and the accompanying surveyor's certificate shall prevail.

Motion carried and resolution declared duly adopted.

Moved by Tjarks, seconded by Barington, to approve Resolution #R2023-92, Surplus of Building at 620 North Lawler Street, as follows:

RESOLUTION #R2023-92

**A RESOLUTION PROVIDING FOR THE SURPLUS AND AUCTION OF THE BUILDING
AT 620 NORTH LAWLER STREET**

WHEREAS the City of Mitchell is the owner of real property at 620 North Lawler Street in Mitchell and there is currently a building built upon that lot; and

WHEREAS the City desires to remove the building as it is no longer necessary, useful, or suitable for the purpose for which it was acquired; and

WHEREAS the City intends to auction the building itself, not including any interest in the land itself, upon the conditions further provided in this resolution, and if no buyer is found for the building, then such building shall be demolished and removed.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that the City hereby determines that the building at 620 North Lawler Street is no longer necessary, useful, or suitable for the purpose for which it was acquired; and

IT IS FURTHER RESOLVED that such building shall be sold at auction upon such terms as the Public Works department may provide in advance of the auction. However, the auction shall be for the building itself in as is condition and no interest in the real property itself shall accrue, transfer, or otherwise vest to any successful buyer. Upon completion of the auction, the mayor and finance officer are authorized to award the building to the successful bidder by signing the terms and conditions sheet of the successful bidder; and

IT IS FURTHER RESOLVED that if at auction no buyer is found, such building shall be demolished and removed from the lot.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Sabers, to approve Resolution #R2023-93, Dissolving Business Improvement District #2, as follows:

RESOLUTION #R2023-93

A RESOLUTION DISSOLVING BUSINESS IMPROVEMENT DISTRICT 2

WHEREAS the City of Mitchell created Business Improvement District 2 (BID 2) pursuant to Ordinance #2441 in July 2013 and has subsequently renewed and modified BID 2 via Resolution #3330 (expanding boundary for indoor pool), Ordinance #2521 (increasing tax rate from \$1.00 per room/per night to \$1.50), Ordinance #2552 (extending Sports and Events

Authority portion of tax), and Ordinance O2019-13 (extending Sports and Events Authority portion of tax); and

WHEREAS the debt associated with the construction of the second sheet of ice and indoor pool has been extinguished and the only remaining purpose of BID 2 is the funding of the Sports and Events Authority for the promotion of the district; and

WHEREAS state law provides that if a district has imposed an occupation tax based on rooms rented and the occupational tax revenue was used only for the promotion of the district, a majority of the landowners may dissolve the district established by submitting a petition to the governing body requesting the district to be dissolved; and

WHEREAS the City has received such a petition from a majority of landowners within the district requesting that BID 2 be resolved effective December 31, 2023, has not entered into any new obligations or contracts relating to the district since receiving the petition, has verified that a majority of landowners have signed the petition, and has found that there are sufficient funds available to extinguish all of the debts and obligations of the district.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that BID 2 is hereby dissolved effective December 31, 2023; and

BE IT FURTHER RESOLVED that any remaining proceeds from BID 2, whether now in possession of the City or after acquired, shall be applied to the continued operation of the Sports and Events Authority.

Motion carried and resolution declared duly adopted.

Moved by Barington, seconded by Bathke, to approve Resolution #R2023-94, Acknowledging the Transfer of a Franchise Agreement from Northwestern Corporation dba Northwestern Energy to Northwestern Energy Public Service Corporation dba Northwestern Energy, as follows:

RESOLUTION #R2023-94

A RESOLUTION ACKNOWLEDGING THE TRANSFER OF A FRANCHISE AGREEMENT FROM NORTHWESTERN CORPORATION D/B/A NORTHWESTERN ENERGY TO NORTHWESTERN ENERGY PUBLIC SERVICE CORPORATION D/B/A NORTHWESTERN ENERGY

WHEREAS, the City of Mitchell previously approved a franchise agreement with NorthWestern Corporation by ordinance on December 6, 2004 (Ordinance No. 2150); and

WHEREAS, the franchise agreement authorizes NorthWestern Corporation to erect, maintain and operate a gas distribution system within the City of Mitchell; and

WHEREAS, NorthWestern Corporation, d/b/a NorthWestern Energy, has provided notice to the City that it intends to transfer its South Dakota operations to a new entity named NorthWestern Energy Public Service Corporation, d/b/a NorthWestern Energy, which will continue operations as they currently are in the City of Mitchell; and

WHEREAS, such transfer is intended to take effect January 1, 2024; and

WHEREAS, the franchise agreement defined the Franchisee as “NorthWestern Corporation, a Delaware corporation, doing business as NorthWestern Energy, its successors and assigns,” which permits the succession or assignment of all interests in the franchise agreement from NorthWestern Corporation to NorthWestern Energy Public Service Corporation.

THEREFORE, BE IT RESOLVED by the City Council of the City of Mitchell, SD that the City acknowledges and accepts the succession or transfer of the franchise agreement approved by Ordinance No. 2150 from NorthWestern Corporation to NorthWestern Energy Public Service Corporation effective January 1, 2024.

Motion carried and resolution declared duly adopted.

Moved by McCardle, seconded by Barington, to approve Resolution #R2023-95, Authorizing Easement Agreements for Water Distribution System Project #2020-20, as follows:

RESOLUTION #R2023-95

A RESOLUTION APPROVING PERMANENT EASEMENTS FOR THE WATER MAIN DISTRIBUTION PROJECT FOR THE CITY OF MITCHELL

WHEREAS the City of Mitchell requires permanent easements for the construction of water main in conjunction with the Water Main Distribution Project; and

WHEREAS said easements are located on real properties owned by and legally described as follows;

Mitchell Properties HL2, LLC

SW ¼ Ex Lot H1, Railroad Right-of-Way, and Tract 1 of Mitchell Waterworks 1st Addition all in Section 35-103-60 in Davison County, South Dakota (“Donor Property”).

Cabela’s Wholesale, LLC

Lot 1, Cabelas 1st Addition, City of Mitchell, Davison County, South Dakota

WHEREAS three individual perpetual easement agreements relating to the properties listed above have been prepared and presented to council on December 18th, 2023;

NOW THEREFORE BE IT RESOLVED by the City as follows:

1. The City hereby approves the three individual perpetual easement agreements discussed above as presented to council.

2. The Mayor of the City of Mitchell is hereby authorized to execute and deliver such documents.

Motion carried and resolution declared duly adopted.

ORDINANCE:

Moved by Goldammer, seconded by Barington, to place Ordinance #O2023-14, Supplemental Appropriations on second reading. Motion carried. Moved by Barington, seconded by Tjarks, to adopt Ordinance #O2023-14, Supplemental Appropriations, as follows:

**ORDINANCE NO. O2023-14
SUPPLEMENTAL APPROPRIATION ORDINANCE
CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA**

BE IT ORDAINED, BY THE CITY OF MITCHELL, DAVISON COUNTY, SOUTH DAKOTA, that the following sums be appropriated to authorize certain expenditures and to meet certain obligations for the year 2023 according to statute:

GENERAL FUND

MAYOR'S OFFICE		
101-41210-43300	Veteran's Park	\$5,521
ADMINISTRATIVE BOARDS		
101-41230-42920	Sports Authority Promotion	\$17,000
TRAFFIC		
101-42130-42570	Repairs Traffic Accidents	\$8,278

The funding will come from the General Fund cash balance, designated cash balances, and reimbursements received.

ENTERTAINMENT TAX FUND

211-46311-43100	Land	\$180,241
-----------------	------	-----------

The funding will come from the Entertainment Tax Fund cash balance.

COMMUNITY SERVICES FUND

218-45150-42610	Gas Oil Tires	\$31,000
-----------------	---------------	----------

The funding will come from the Community Services Fund cash balance.

Members present voting aye: Barington, Bathke, Doescher, Goldammer, McCardle, Sabers, Smith, Tjarks. Members present voting nay: none. Motion carried and ordinance declared duly adopted.

EXECUTIVE SESSION:

Moved by Goldammer, seconded by McCardle, to go into Executive Session as permitted by SDCL 1-25-2(3) Legal. Motion carried.

Mayor Everson declared the board out of executive session at 7:04 p.m. and the City Council to reconvene in regular session at 7:05 p.m.

ADJOURN:

There being no further business to come before the meeting, Mayor Everson adjourned the meeting.


Michelle Bathke
Finance Officer

Published once at the approximate cost of _____.

SPECIAL MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
MITCHELL, SOUTH DAKOTA

December 27, 2023
5:00 P.M.

PRESENT: Marty Barington, Mike Bathke, John Doescher, Tim Goldammer,
Kevin McCardle, Dan Sabers, Jeffrey Smith, Susan Tjarks

ABSENT:

PRESIDING: Mayor Bob Everson

CONSIDER APPROVAL:

Moved by McCardle, seconded by Goldammer, to approve Agreement #A2023-64, Real Estate Purchase Agreement-Ground Storage Tank Area. Motion carried.

EXECUTIVE SESSION:

Moved by Goldammer, seconded by Barington, to go into Executive Session as permitted by SDCL 1-25-2(3) Legal. Motion carried.

Mayor Everson declared the board out of executive session at 5:43 p.m. and the City Council to reconvene in regular session at 5:44 p.m.

ADJOURN:

There being no further business to come before the meeting, Mayor Everson adjourned the meeting.


Michelle Bathke
Finance Officer

Published once at the approximate cost of _____.

**CITY OF MITCHELL
RAFFLE PERMIT**

Date of Application: December 21, 2023

Organization: Davison County Child Protection Team

SDCL #22-25-25 authorizes the following organizations or committees to conduct lotteries / raffles. Please indicate your category:

☐ Chartered veterans' organization	☐ Religious organization
☒ Charitable organization	☐ Educational organization
☐ Fraternal organization	☐ Local civic or service club
☐ Political party	☐ Volunteer fire department
☐ Political action committee or political committee on behalf of any candidate for a political office	

Contact Information:

Name: Bonnie Scott - President

Address: 115 E. 11th Ave., Mitchell, SD 57301

Phone #: 605-996-1212

Email: bonnie.scott@mitchellcasa.org

501(c) 3 - (Non-Profit): yes ☒ no ☐ eligible ☐

Dates of Ticket Sales: 2/21/23 at DWU women & men's Basketball games

Date of Raffle Drawing: 2/21/23

Value of Raffle Prize: Depends on amount of tickets sold (50/50 Raffle)

Proceeds Benefitting: Davison County Child Protection Team

*Raffle tickets cannot be sold until 30 days after permit is received by Finance Office

Date Received: 12-21-23

For Finance Office Use Only:

Council Approval Date: _____

Signature: _____

Finance Officer

**CITY OF MITCHELL
RAFFLE PERMIT**

Date of Application: December 21, 2023

Organization: Davison County Child Protection Team

SDCL #22-25-25 authorizes the following organizations or committees to conduct lotteries / raffles. Please indicate your category:

☐ Chartered veterans' organization	☐ Religious organization
☒ Charitable organization	☐ Educational organization
☐ Fraternal organization	☐ Local civic or service club
☐ Political party	☐ Volunteer fire department
☐ Political action committee or political committee on behalf of any candidate for a political office	

Contact Information: _____

Name: Bonnie Scott - President

Address: 115 E. 11th Ave, Mitchell, SD 57301

Phone #: 605-996-1212

Email: bonnie.scott@mitchellcasa.org

501(c) 3 – (Non-Profit): yes ☒ no ☐ eligible ☐

Dates of Ticket Sales: 2/11/23 at DWU Women & Men's Basketball games

Date of Raffle Drawing: 2/11/23

Value of Raffle Prize: Depends on amount sold ^{of tickets} (50/50 Raffle)

Proceeds Benefitting: Davison County Child Protection Team

*Raffle tickets cannot be sold until 30 days after permit is received by Finance Office

Date Received: 12-21-23

For Finance Office Use Only:

Council Approval Date: _____

Signature: _____

Finance Officer

**CITY OF MITCHELL
RAFFLE PERMIT**

Date of Application: Dec 18, 2023
Organization: Mitchell Lions Club

SDCL #22-25-25 authorizes the following organizations or committees to conduct lotteries / raffles. Please indicate your category:

☐ Chartered veterans' organization	☐ Religious organization
☐ Charitable organization	☐ Educational organization
☐ Fraternal organization	☒ Local civic or service club
☐ Political party	☐ Volunteer fire department
☐ Political action committee or political committee on behalf of any candidate for a political office	

Contact Information:

Name: David A Brown
Address: 105 N Harmon Dr.
Phone #: 605-770-0336
Email: dbrown@centrustbank.com

501(c) 3 – (Non-Profit): yes ☒ no ☐ eligible ☐

Dates of Ticket Sales: Jan 18 - March 26 2024

Date of Raffle Drawing: March, 26 2024

Value of Raffle Prize: \$ 3,900

Proceeds Benefitting: Club Service Projects

*Raffle tickets cannot be sold until 30 days after permit is received by Finance Office

Date Received: 12-18-2023

For Finance Office Use Only:

Council Approval Date: _____

Signature: _____

Finance Officer

**CITY OF MITCHELL
RAFFLE PERMIT**

Date of Application: 27 Dec 2023

Organization: 40 + 08 Voiture 481

SDCL #22-25-25 authorizes the following organizations or committees to conduct lotteries / raffles. Please indicate your category:

☒ Chartered veterans' organization	☐ Religious organization
☐ Charitable organization	☐ Educational organization
☐ Fraternal organization	☐ Local civic or service club
☐ Political party	☐ Volunteer fire department
☐ Political action committee or political committee on behalf of any candidate for a political office	

Contact Information:

Name: Thomas Flint

Address: 2440 W. Spruce St., Mitchell

Phone #: 605-630-5858

Email: valleyhorseman@outlook.com

501(c) 3 - (Non-Profit): yes ☒ no ☐ eligible ☐

Dates of Ticket Sales: 27 Jan 2024 - 23 March 2024

Date of Raffle Drawing: 23 March 2024

Value of Raffle Prize: \$280.00

Proceeds Benefitting: Voiture 481 MTC nurses scholarship program

*Raffle tickets cannot be sold until 30 days after permit is received by Finance Office

Date Received: 27 Dec 2023

For Finance Office Use Only:

Council Approval Date: _____

Signature: _____

Finance Officer

MITCHELL GOVERNING BODY

ELECTION DATA

MAYOR/ COUNCIL MEMBER:	Original Date of Oath of Office:	Position/ Ward:	TERM EXPIRES:
Bob Everson	07-02-2018	Mayor	2024
Susan Tjarks	01-21-2013	4	2026
John Doescher	07-01-2017	2	2026
Tim Goldammer	07-05-2023	1	2026
Mike Bathke	07-05-2023	3	2026
Marty Barington	05-01-2006	3	2024
Jeff Smith	05-01-2006	4	2024
Kevin McCardle	07-01-2017	2	2024
Dan Sabers	07-02-2018	1	2024
MARCH 1	Earliest date to begin petition circulation and earliest date to file nominating petition		
MARCH 26 (5:00 P.M.)	Deadline for filing nominating petition		
JUNE 4	Election Day (polls open 7:00 am-7:00 pm)		

CITY OF MITCHELL

City Council Meeting
Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	CINDY ROTH
Desired Action of City Council:			
Amount Budgeted in current fiscal year for this item (if applicable):			
Agenda Item:	Set Date of January 16, 2024 for Hearing on the following Alcohol License Applications		
Explanation/Background of Agenda Item Requested:	a. On the application of Michelle Kalan dba Michelle's Mad Batter LLC, 123 East 3rd Avenue, Suite 1 for a new Retail (On-Off Sale) Wine and Cider License. b. On the application of Family Dollar Stores of South Dakota LLC, dba Family Dollar #22757, 1801 N Main Street for a new Retail (On-Off Sale) Wine and Cider License. c. On the application of Family Dollar Stores of South Dakota LLC, dba Family Dollar #22757, 1801 N Main Street for a new Retail (On-Off Sale) Malt Beverage & SD Farm Wine License.		

Date Received _____
Date Issued _____

License No. _____

Uniform Alcoholic Beverage License Application

A. Owner Name and Address

Michelle Kalan
912 E 13th ave
Mitchell, SD 57301

Owner's Telephone #: 605-999-4264

C. Indicate the class of license being applied for (submit separate application for each class of license).

- ☐ Retail (on-sale) Liquor
☐ Retail (on-sale) Liquor - Restaurant
☐ Convention Center (on-sale) Liquor
☐ Package (off-sale) Liquor
☒ Retail (on-off sale) Wine and Cider
☐ Retail (on-off sale) Malt Beverage & SD Farm Wine
☐ Package Delivery
☐ Hunting Preserve
☐ Other _____

Is this license in active use? ☒ Yes ☐ No

Do you or any officers, directors, partners, or stockholders hold any other alcohol retail, manufacturing, or wholesaler licenses?

☐ Yes ☒ No If Yes, please list on the back page.

B. Business Name and Address

Michelle's Mad Batter LLC
123 E 3rd ave Suite 1
Mitchell, SD 57301

Business Telephone #: 605-990-2253

Place of business is located in a municipality? ☒ Yes ☐ No

County: Davison

Do you own or lease this property? ☐ Own ☒ Lease

Are real property taxes paid to date? ☒ Yes ☐ No

D. Legal description of licensed premise:

Lots 142 Block 9 original
Mitchell addition
Suite 1

Have you ever been convicted of a felony? ☐ Yes ☒ No

E. State Sales Tax Number 1037-7611

F. New license ☒ Transfer? (\$150) ☐ Re-issuance ☐

G. CERTIFICATE: The undersigned applicant certifies under the penalties of perjury that all statements provided herein are true and correct; that the said applicant complies with all of the statutory requirements for the class of license being applied for and in addition agrees to permit agents of the Department of Revenue access to the licensed premises and records as provided in SDCL 35-2-2.1, and agrees this application shall constitute a contract between applicant and the State of South Dakota entitling the same or any peace officers to inspect the premises, books and records at any time for the purpose of enforcing the provisions of Title 35 SDCL, as amended.

Date 12/18/23 Print Name Michelle Kalan Signature MKalan

H. APPROVAL OF LOCAL GOVERNING BODY - Notice of hearing was published on _____, Pub. hearing on the application was held _____, not less than SEVEN (7) days after official publication. The governing body by majority vote recommends the approval and granting of this license and certifies that requirements as to location and suitability of premises and applicant have been reviewed and conform to the requirements of local and South Dakota law.

Renewal - no public hearing held ☐

Amount of fee collected with application \$ _____

Amount of fee retained \$ _____

Forwarded with application \$ _____

For Local Government Use

Transferred (State Use)

(Seal) _____
Mayor or Chairman

If disapproved, endorse reason thereon and return to applicant

From: _____

Sales tax approval _____ Date _____

STATE LIQUOR AUTHORITY:

APPROVAL _____ REVIEW _____

Please complete the reverse side if applicable

Company supplement information
(For corporate/partnership/LP/LLC applicants)

Name of corporation/partnership/LP LLC Michelle's Mad Batter LLC

Address of office and principal place of business of corporation/partnership/LP/LLC 912 E 13th ave

Are all managing officers of this corporation/partnership/LP/LLC of good moral character having never been convicted of a felony? ☒ Yes ☐ No Mitchell, SD 57301

Name, title of office, occupation and address of each of the officers/owners of the corporation, partnership, LP or LLC:

Name	Office	Address	Occupation
Michelle Kalan	owner	912 E 13 th ave Mitchell	chef
Blake Kalan	owner	" "	Baker
Jay Wempe	owner	1522 pinehurst ave "	Retired
Deanna Wempe	owner	" "	Retired

Name of any officers, directors, partners or stockholders of applicant having a financial interest or capital stock in any other alcoholic beverage license:

Name	Type of License, License Number, Financial Interest Held, and Address of Business Location

Where and with whom are all company records kept, such as charter, by-laws, minutes, accounts, notes payable, and notes and accounts receivable, etc?

1522 pinehurst ave Mitchell, SD 57301

With signature the applicant agrees to the following:

That the applicant company will comply with all provisions of ARSD chapter No. 64:75:02 of the Department of Revenue, relating to the transfer of stock and prior approval of the transfer of such stock by the Secretary of Revenue and violation of any of the provisions of said regulation or failure to comply therewith, whether by the undersigned corporation, partnership/LP/LLC or by any stockholder thereof, or by anyone interested in said company, shall constitute cause for revocation or suspension of any license issued pursuant to and in reliance on this application, or for refusal to renew such license upon expiration thereof.

We the undersigned officers and directors of the applicant company acknowledge that the within supplement application form is true and correct in every respect and that there exists no financial arrangement concerning this or any other alcoholic beverage license than that expressly set forth above. If company stock is to be transferred we ask for approval of such voluntary stock transfer.

Signature of Authorized Officer/Director/Partner

Date

M. Kalan

12/18/19

Date Received _____
Date Issued _____

License No. _____

Uniform Alcoholic Beverage License Application

A. Owner Name and Address

Family Dollar Stores of South Dakota, LLC
500 Volvo Pkwy, 8th Floor
Chesapeake, VA 23320

Owner's Telephone #: 757-321-5493

B. Business Name and Address

Family Dollar # 22757
1801 N Main St.
Mitchell, SD 57301

Business Telephone #: 605-995-1988

Place of business is located in a municipality? ☒ Yes ☐ No

County: Davidson

Do you own or lease this property? ☐ Own ☒ Lease

Are real property taxes paid to date? ☒ Yes ☐ No

C. Indicate the class of license being applied for (submit separate application for each class of license).

- ☐ Retail (on-sale) Liquor
☐ Retail (on-sale) Liquor - Restaurant
☐ Convention Center (on-sale) Liquor
☐ Package (off-sale) Liquor
☒ Retail (on-off sale) Wine and Cider
☐ Retail (on-off sale) Malt Beverage & SD Farm Wine
☐ Package Delivery
☐ Hunting Preserve
☐ Other _____

Is this license in active use? ☐ Yes ☐ No

Do you or any officers, directors, partners, or stockholders
hold any other alcohol retail, manufacturing, or
wholesaler licenses?

☐ Yes ☒ No If Yes, please list on the back page.

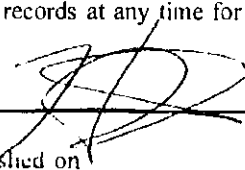
D. Legal description of licensed premise:

Have you ever been convicted of a felony? ☐ Yes ☒ No

E. State Sales Tax Number 56-1587710

F. New license ☒ Transfer? (\$150) ☐ Re-issuance ☐

G. CERTIFICATE: The undersigned applicant certifies under the penalties of perjury that all statements provided herein are true and correct; that the said applicant complies with all of the statutory requirements for the class of license being applied for and in addition agrees to permit agents of the Department of Revenue access to the licensed premises and records as provided in SDCL 35-2-2.1, and agrees this application shall constitute a contract between applicant and the State of South Dakota entitling the same or any peace officers to inspect the premises, books and records at any time for the purpose of enforcing the provisions of Title 35 SDCL, as amended.

Date 12/12/2023 Print Name Harry Spencer Signature 

H. APPROVAL OF LOCAL GOVERNING BODY - Notice of hearing was published on _____, Public hearing on the application was held _____, not less than SEVEN (7) days after official publication. The governing body by majority vote recommends the approval and granting of this license and certifies that requirements as to location and suitability of premises and applicant have been reviewed and conform to the requirements of local and South Dakota law.

Renewal - no public hearing held ☐

Amount of fee collected with application \$ _____

Amount of fee retained \$ _____

Forwarded with application \$ _____

For Local Government Use

Transferred (State Use)

(Seal)

Mayor or Chairman

If disapproved, endorse reason thereon and return to applicant

From: _____
Sales tax approval _____ Date _____

STATE LIQUOR AUTHORITY:

APPROVAL _____ REVIEW _____

Please complete the reverse side if applicable

**Company supplement information
(For corporate/partnership/LP/LLC applicants)**

Name of corporation/partnership/LP LLC Family Dollar Stores of South Dakota, LLC

Address of office and principal place of business of corporation/partnership/LP/LLC 500 Volvo Pkwy Chesapeake, VA 23320

Are all managing officers of this corporation/partnership/LP/LLC of good moral character having never been convicted of a felony? ☒ Yes ☐ No

Name, title of office, occupation and address of each of the officers/owners of the corporation, partnership, LP or LLC:

Name	Office	Address	Occupation
Peter Allan Barnett	President	329 Cavalier Dr. Virginia Beach, VA 23451	
Todd Burgess Littler	Senior Vice President	3609 Trading Place Virginia Beach, VA 23452	
John Summerfield Mitchell, Jr.	Vice President & Secret	206 62nd St. Virginia Beach, VA 23451	
Harry Rashad Spencer	Assistant Secretary	509 Woodard Ford Rd. Chesapeake, VA 23322	

Name of any officers, directors, partners or stockholders of applicant having a financial interest or capital stock in any other alcoholic beverage license:

Name	Type of License, License Number, Financial Interest Held, and Address of Business Location
<u>All officers have 0% interest</u>	

Where and with whom are all company records kept, such as charter, by-laws, minutes, accounts, notes payable, and notes and accounts receivable, etc?

Such records are at company headquarters at 500 Volvo Pkwy, Chesapeake, VA 23320

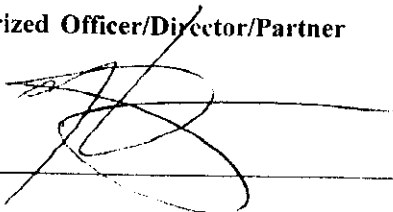
With signature the applicant agrees to the following:

That the applicant company will comply with all provisions of ARSD chapter No. 64:75:02 of the Department of Revenue, relating to the transfer of stock and prior approval of the transfer of such stock by the Secretary of Revenue and violation of any of the provisions of said regulation or failure to comply therewith, whether by the undersigned corporation, partnership/LP/LLC or by any stockholder thereof, or by anyone interested in said company, shall constitute cause for revocation or suspension of any license issued pursuant to and in reliance on this application, or for refusal to renew such license upon expiration thereof.

We the undersigned officers and directors of the applicant company acknowledge that the within supplement application form is true and correct in every respect and that there exists no financial arrangement concerning this or any other alcoholic beverage license than that expressly set forth above. If company stock is to be transferred we ask for approval of such voluntary stock transfer.

Signature of Authorized Officer/Director/Partner

Date



12/12/2023

Date Received _____
Date Issued _____

License No. _____

Uniform Alcoholic Beverage License Application

A. Owner Name and Address

Family Dollar Stores of South Dakota, LLC
500 Volvo Pkwy, 8th Floor
Chesapeake, VA 23320

Owner's Telephone #: 757-321-5493

B. Business Name and Address

Family Dollar # 22757
1801 N Main St.
Mitchell, SD 57301

Business Telephone #: (605) 995-1988

Place of business is located in a municipality? ☒ Yes ☐ No

County: Davidson

Do you own or lease this property? ☐ Own ☒ Lease

Are real property taxes paid to date? ☒ Yes ☐ No

C. Indicate the class of license being applied for (submit separate application for each class of license).

- ☐ Retail (on-sale) Liquor
- ☐ Retail (on-sale) Liquor - Restaurant
- ☐ Convention Center (on-sale) Liquor
- ☐ Package (off-sale) Liquor
- ☐ Retail (on-off sale) Wine and Cider
- ☒ Retail (on-off sale) Malt Beverage & SD Farm Wine
- ☐ Package Delivery
- ☐ Hunting Preserve
- ☐ Other _____

Is this license in active use? ☐ Yes ☐ No

Do you or any officers, directors, partners, or stockholders
hold any other alcohol retail, manufacturing, or
wholesaler licenses?

☐ Yes ☒ No If Yes, please list on the back page.

D. Legal description of licensed premise:

Have you ever been convicted of a felony? ☐ Yes ☒ No

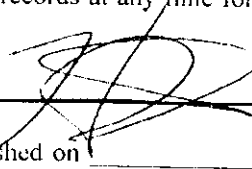
E. State Sales Tax Number 56-1587710

F. New license ☒ Transfer? (\$150) ☐ Re-issuance ☐

G. CERTIFICATE: The undersigned applicant certifies under the penalties of perjury that all statements provided herein are true and correct; that the said applicant complies with all of the statutory requirements for the class of license being applied for and in addition agrees to permit agents of the Department of Revenue access to the licensed premises and records as provided in SDCL 35-2-2.1, and agrees this application shall constitute a contract between applicant and the State of South Dakota entitling the same or any peace officers to inspect the premises, books and records at any time for the purpose of enforcing the provisions of Title 35 SDCL, as amended.

Date 12/12/2023 Print Name Harry Spencer

Signature _____



H. APPROVAL OF LOCAL GOVERNING BODY - Notice of hearing was published on _____. Public hearing on the application was held _____, not less than SEVEN (7) days after official publication. The governing body by majority vote recommends the approval and granting of this license and certifies that requirements as to location and suitability of premises and applicant have been reviewed and conform to the requirements of local and South Dakota law.

Renewal - no public hearing held ☐

Amount of fee collected with application \$ _____

Amount of fee retained \$ _____

Forwarded with application \$ _____

For Local Government Use

(Seal) _____
Mayor or Chairman

If disapproved, endorse reason thereon and return to applicant

Transferred (State Use)

From: _____

Sales tax approval _____ Date _____

STATE LIQUOR AUTHORITY:

APPROVAL _____ REVIEW _____

Please complete the reverse side if applicable

Company supplement information
(For corporate/partnership/LP/LLC applicants)

Name of corporation/partnership/LP LLC Family Dollar Stores of South Dakota, LLC

Address of office and principal place of business of corporation/partnership/LP/LLC 500 Volvo Pkwy Chesapeake, VA 23320

Are all managing officers of this corporation/partnership/LP/LLC of good moral character having never been convicted of a felony? ☒ Yes ☐ No

Name, title of office, occupation and address of each of the officers/owners of the corporation, partnership, LP or LLC:

Name	Office	Address	Occupation
Peter Allan Barnett	President	329 Cavalier Dr. Virginia Beach, VA 23451	
Todd Burgess Littler	Senior Vice President	3609 Trading Place Virginia Beach, VA 23452	
John Summerfield Mitchell, Jr.	Vice President & Secret	206 62nd St. Virginia Beach, VA 23451	
Harry Rashad Spencer	Assistant Secretary	509 Woodard Ford Rd. Chesapeake, VA 23322	

Name of any officers, directors, partners or stockholders of applicant having a financial interest or capital stock in any other alcoholic beverage license:

Name	Type of License, License Number, Financial Interest Held, and Address of Business Location
All officers have 0% interest	

Where and with whom are all company records kept, such as charter, by-laws, minutes, accounts, notes payable, and notes and accounts receivable, etc?

Such records are at company headquarters at 500 Volvo Pkwy, Chesapeake, VA 23320

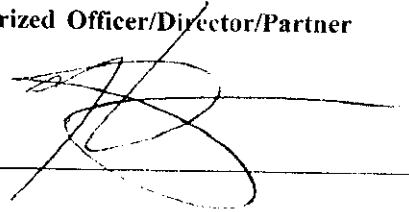
With signature the applicant agrees to the following:

That the applicant company will comply with all provisions of ARSD chapter No. 64:75:02 of the Department of Revenue, relating to the transfer of stock and prior approval of the transfer of such stock by the Secretary of Revenue and violation of any of the provisions of said regulation or failure to comply therewith, whether by the undersigned corporation, partnership/LP/LLC or by any stockholder thereof, or by anyone interested in said company, shall constitute cause for revocation or suspension of any license issued pursuant to and in reliance on this application, or for refusal to renew such license upon expiration thereof.

We the undersigned officers and directors of the applicant company acknowledge that the within supplement application form is true and correct in every respect and that there exists no financial arrangement concerning this or any other alcoholic beverage license than that expressly set forth above. If company stock is to be transferred we ask for approval of such voluntary stock transfer.

Signature of Authorized Officer/Director/Partner

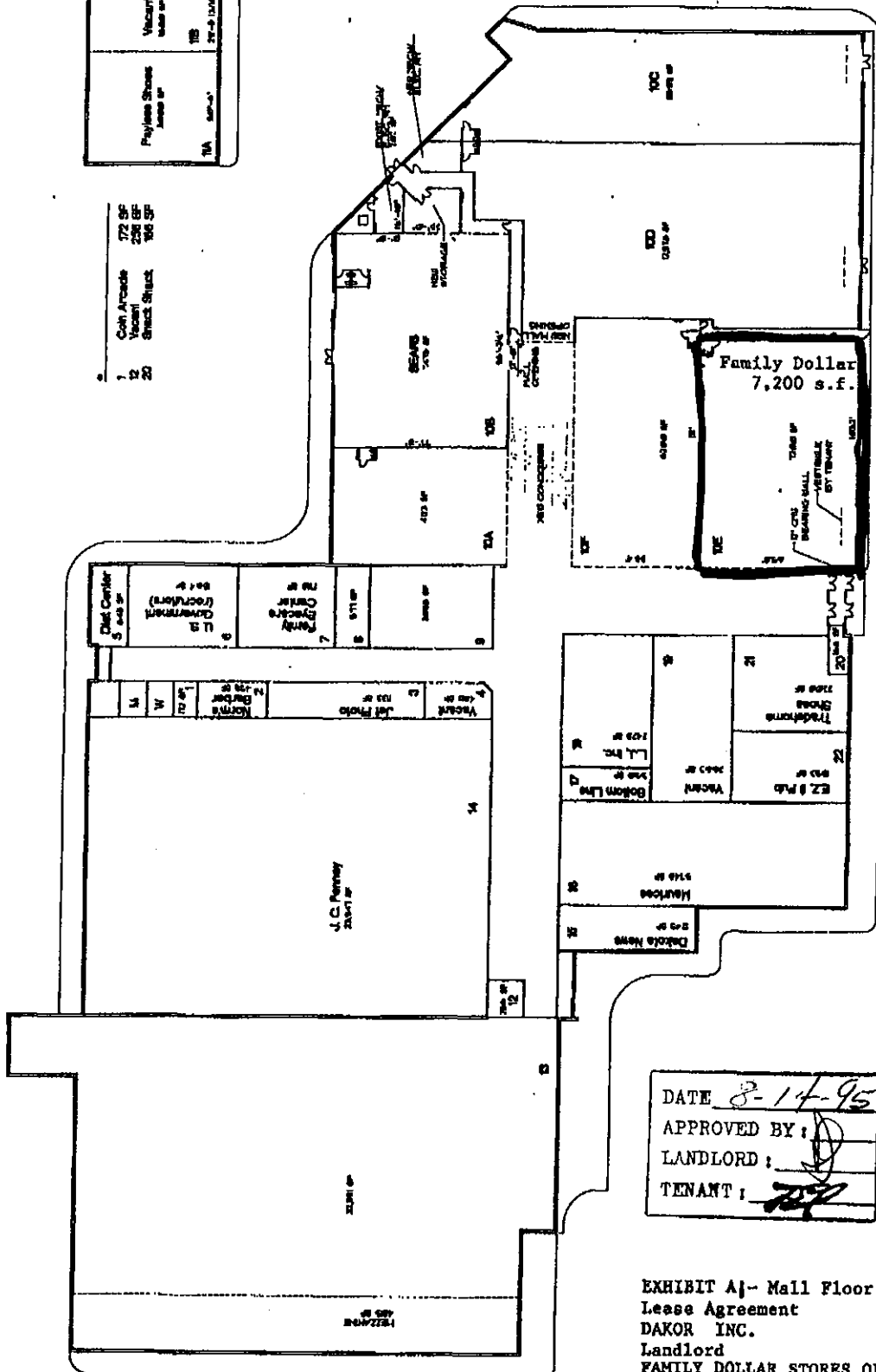
Date



12/12/2023

Payroll Storage	10A	500 s.f.
Vacant	10B	200 s.f.
Realty Office	10C	200 s.f.

1	Cell Arcade	172 s.f.
2	Vacant	200 s.f.
20	Street Shop	100 s.f.



LM6 INTERIORS

SUPER CITY MALL
MITCHELL, SOUTH DAKOTA

FLOOR PLAN
SCALE: 1" = 20'-0"

DATE	8-14-95
APPROVED BY:	
LANDLORD:	
TENANT:	

EXHIBIT A1- Mall Floor Plan
Lease Agreement
DAKOR INC.
Landlord
FAMILY DOLLAR STORES OF SOUTH
DAKOTA, INC.

Tenant

PAY ESTIMATES FOR JANUARY 2, 2024

CONTRACTORS	PROJECT	P.E. #	AMOUNT	PAID TO DATE	CONTRACT AMOUNT
H&W Contracting	#2020-20 Mitchell Watermain Dist. System Improv	#2	\$ 385,324.85	\$ 1,318,628.58	\$ 2,262,671.30
Infrastructure Design Group	#2020-20 Ground Storage Tank - Piping	#27	\$ 55,523.64		
Infrastructure Design Group	#2020-20 Ground Storage Tank - Piping	#28	\$ 45,933.30	\$ 1,096,263.08	\$ 1,462,687.34
SDDOT-Finance & Management	#2021-1 Norway/S.Rowley Bike Path/Sidewalk	#4	\$ 116.02	\$ 255,267.12	\$ 255,756.78
SPN & Associates	#2021-3 West Side Water Tower	#19	\$ 3,538.30	\$ 57,693.17	\$ 99,813.60
Steve Donovan	#2021-14 Firesteel Creek NAWCA Grant Admin.	#8	\$ 6,167.56	\$ 26,167.56	\$ 40,000.00
Barr Engineering Co.	#2021-20 Lake Mitchell - Phase II	#PH2-21	\$ 15,585.15	\$ 492,360.57	\$ 767,500.00
Infrastructure Design Group	#2021-25 Livesay Lane Utility/Infrast. Improv.	#12	\$ 6,467.90	\$ 201,148.35	\$ 205,094.00
H&W Contracting, LLC	#2021-25 Livesay Lane Utility Improvements	#6	\$ 63,355.02	\$ 968,581.26	\$ 1,123,820.20
HDR Engineering Inc.	#2021-31 North Waste Water Improvements	#33	\$ 38,560.76	\$ 1,602,079.49	\$ 1,751,150.00
HDR Engineering Inc.	#2022-1 WWTP -Phase II - South Plant	#11	\$ 14,904.49	\$ 170,139.01	\$ 1,908,860.00
SPN & Associates	#2022-3 23rd & Ohlman Lift Station Replacement	#9	\$ 1,606.07	\$ 33,079.62	\$ 49,500.00
HR Green Inc.	#2022-8 1st & Main/7th & Main Signals	#12	\$ 1,840.00	\$ 54,831.80	\$ 66,509.60
HDR Engineering Inc.	#2022-22 Water & Wastewater Fee Analysis	#13	\$ 2,562.50	\$ 67,769.34	\$ 97,620.00
SPN & Associates	#2022-23 South Lake Estates Development	#14	\$ 1,048.75	\$ 102,005.58	\$ 340,000.00
SPN & Associates	#2023-6 North Harmon Sanitary Sewer Outfall	#6	\$ 7,741.87	\$ 37,430.69	\$ 110,000.00
SPN & Associates	#2023-7 West Harmon Watermain Loop	#7	\$ 1,716.25	\$ 39,341.15	\$ 31,900.00
SPN & Associates	#2023-8 12th & 13th Avenue Watermain Loop	#7	\$ 1,812.50	\$ 29,250.80	\$ 86,400.00
SPN & Associates	#2023-16 Ohlman & S. Harmon Lift Station	#10	\$ 2,167.23	\$ 30,784.85	\$ 42,900.00
SPN & Associates	#2023-19 Cadwell Booster Station Rehab.	#6	\$ 971.25	\$ 12,096.25	\$ 10,700.00
Geotek Engineering & Testing Se	#2023-28 Old Landfill Leachate Monitoring	#5	\$ 1,615.00	\$ 8,935.25	\$ 9,605.00
Geotek Engineering & Testing Se	#2023-29 New Landfill Monitoring	#5	\$ 2,930.00	\$ 15,223.00	\$ 21,150.00
	TOTALS		\$ 661,488.41	\$ 6,619,076.52	\$ 10,743,637.82

Prepared by Deb Hanson-Sudbeck

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 1220 CITY ADMINISTRATOR

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-08815	STEPHANIE ELLWEIN					
		I-12312023	101-41220-42800	UTILITIES-TEL 4TH QTR CELL PHONE	200176	45.00
				DEPARTMENT 1220 CITY ADMINISTRATOR	TOTAL:	45.00

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 1230 ADMINISTRATIVE BOARDS

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-10597	AARON HIEB					
		I-12312023	101-41230-42800	UTILITIES-TEL 4TH QTR CELL PHONE	200195	45.00
DEPARTMENT 1230 ADMINISTRATIVE BOARDS					TOTAL:	45.00

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 1420 FINANCE

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-01590	MCLEOD'S PRINTING					
		I-72242	101-41420-42600	SUPPLIES & MA IGNITION CHAIRS	200211	4,759.30
01-04361	MICHELLE BATHKE					
		I-12312023	101-41420-42800	UTILITIES - T 4TH QTR CELL PHONE	200157	45.00
01-10272	COLLIERS SECURITIES LLC					
		I-12312023	101-41420-42200	PROFESSIONAL FEES BASIC CD SERVICES	200163	500.00
				DEPARTMENT 1420 FINANCE	TOTAL:	5,304.30

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 1440 HUMAN RESOURCES

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-06686	LIZ KITCHENS					
		I-12312023	101-41440-42800	UTILITIES	4TH QTR CELL PHONE	200205
						45.00
				DEPARTMENT 1440 HUMAN RESOURCES	TOTAL:	45.00

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 1920 MUNICIPAL BUILDINGS

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-09978	KEVIN DYKES					
		I-12312023	101-41920-42800	UTILITIES - T 4TH QTR CELL PHONE	200174	45.00
01-10309	MICHAEL LEACH					
		I-12312023	101-41920-42800	UTILITIES - T 4TH QTR CELL PHONE	200207	45.00
				DEPARTMENT 1920 MUNICIPAL BUILDINGS	TOTAL:	90.00

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 1935 INFORMATION TECHNOLOGY

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00356	QUALIFIED PRESORT					
		I-2279-5151	101-41935-42615	POSTAGE POSTAGE 12.1-15.2023	200227	263.42
		I-588701	101-41935-42615	POSTAGE FLATS POSTAGE 12.1-15.2023	200227	11.12
01-08827	ANDREW SCHNEIDER					
		I-12312023	101-41935-42850	UTILITIES/TEL 4TH QTR CELL PHONE	200234	45.00
				DEPARTMENT 1935 INFORMATION TECHNOLOGY TOTAL:		319.54

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 2110 POLICE DEPARTMENT

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-09349	HOWES OIL CO					
		I-335272	101-42110-42610	GAS OIL TIRES UNLEADED GAS	200197	4,361.85
01-09600	WILLIAM LUTJEN					
		I-12132023	101-42110-42700	TRAVEL, CONF ARIDE TRAINING MEALS REIMBURSE 200208		28.00
01-10304	AUSTIN RESICK					
		I-12132023	101-42110-42700	TRAVEL, CONF ARIDE TRAINING MEALS REIMBURSE 200229		28.00
DEPARTMENT 2110 POLICE DEPARTMENT					TOTAL:	4,417.85

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 2130 TRAFFIC DEPARTMENT

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-08524	HR GREEN INC					
		I-2022-8 P.E. #12	101-42130-43343	7TH & 1ST INT 2022-8 P.E. #12	200198	1,840.00
01-09349	HOWES OIL CO					
		I-335272	101-42130-42610	GAS, OIL, TIR UNLEADED GAS	200197	317.61
				DEPARTMENT 2130 TRAFFIC DEPARTMENT	TOTAL:	2,157.61

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 2200 FIRE DEPARTMENT

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-09349	HOWES OIL CO					
		I-335272	101-42200-42610	GAS & OIL UNLEADED GAS	200197	278.80
DEPARTMENT 2200 FIRE DEPARTMENT					TOTAL:	278.80

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-00262	GREAT WESTERN TIRE CO					
	I-1-631137	101-43100-42500	REPAIRS	STREET DUMP TRUCK TIRES	200183	3,746.40
01-00424	RUNNINGS SUPPLY INC					
	I-1761732	101-43100-42600	SUPPLIES	HILLMAN BULK	200231	7.17
01-00436	CHS FARMERS ALLIANCE					
	I-IZ0134	101-43100-42500	REPAIRS	MOUNT TIRES,VALVE STEM	200162	65.00
01-00712	NAPA CENTRAL					
	I-794199	101-43100-42600	SUPPLIES	HYDRAULIC FILTER	200217	94.65
01-00917	DAKOTA FLUID POWER INC					
	I-7149170	101-43100-42600	SUPPLIES	BANK ELECTRIC SELECTOR VALVE	200165	228.40
	I-7149684	101-43100-42600	SUPPLIES	X REEL,FILTER,AEROROIL	200165	3,063.65
	I-7149687	101-43100-42600	SUPPLIES	BLUE OIL DYE	200165	20.27
01-01117	WHEELCO BRAKE & SUPPLY					
	I-INV446108	101-43100-42600	SUPPLIES	HYDRAULIC FILTER CARTRIDGE	200251	545.20
	I-INV448060	101-43100-42600	SUPPLIES	MARKER,GROMMET	200251	12.32
	I-INV449767	101-43100-42600	SUPPLIES	WHEEL SEAL,BRAKE KIT,SHOE	200251	160.57
	I-INV449769	101-43100-42600	SUPPLIES	RADIATOR HOSE,CARTRIDGE	200251	59.02
01-01199	STURDEVANTS AUTO VALUE					
	I-815027617	101-43100-42600	SUPPLIES	COUPLER,PLUGS,FLOORDRY,FILTERS	200242	831.72
	I-815028057	101-43100-42600	SUPPLIES	AAA BATTERIES,FILTERS	200242	817.88
01-01830	NORTHWESTERN ENERGY					
	I-2576521-5.12.23	101-43100-42800	UTILITIES	1405 W 8TH AVE	200219	890.71
01-02679	MENARD'S INC					
	I-62871	101-43100-42600	SUPPLIES	LYSOL,CRACKERS	200212	20.62
01-03099	LAWSON PRODUCTS INC					
	I-9311118101	101-43100-42600	SUPPLIES	LINED GLOVES	200206	66.26
01-03884	COMMERCIAL ASPHALT					
	I-0021404-IN	101-43100-42630	GRAVEL- BASE	BUSSMUS GRAVEL	200164	52,256.25
01-04066	TRANSWEST TRUCKS OF SIO					
	I-094P1936	101-43100-42600	SUPPLIES	SEAT HEATER,SHIPPING	200247	1,230.72
	I-094P2553	101-43100-42600	SUPPLIES	FUEL,WATER FILTER SEPERATOR	200247	81.96
	I-094P2616	101-43100-42600	SUPPLIES	SURGE TANK,CAP	200247	165.48
	I-094P2744	101-43100-42600	SUPPLIES	AIR TANK	200247	1,269.99
	I-094P2804	101-43100-42600	SUPPLIES	TERM-FEM	200247	16.44
	I-094P2808	101-43100-42600	SUPPLIES	FILTERS,INSERTS,ELEMENTS	200247	364.52
	I-094P2883	101-43100-42600	SUPPLIES	CBL MGT	200247	83.38
01-04081	STEVE ANDERSON					

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 3100 STREET DEPARTMENT

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-04081	STEVE ANDERSON		continued			
		I-12312023	101-43100-42800	UTILITIES	4TH QTR CELL PHONE	200154 45.00
01-04293	JCL SOLUTIONS					
		I-1345602	101-43100-42600	SUPPLIES	WHITE TOWELS,POP UP BOX	200202 786.74
01-04440	NATE HEGG					
		I-12312023	101-43100-42800	UTILITIES	4TH QTR CELL PHONE	200193 45.00
01-08380	PETERBILT OF SIOUX FALL					
		I-A627496	101-43100-42600	SUPPLIES	RUBBER VIBRATION DAMPER	200221 394.84
		I-A627497	101-43100-42600	SUPPLIES	RUBBER VIBRATION DAMPER	200221 394.84
		I-A628129	101-43100-42600	SUPPLIES	OIL SEAL	200221 45.75
01-08558	KEVIN ROTH					
		I-12312023	101-43100-42800	UTILITIES	4TH QTR CELL PHONE	200230 45.00
01-09349	HOWES OIL CO					
		I-335272	101-43100-42610	GAS	UNLEADED GAS	200197 607.35
DEPARTMENT 3100 STREET DEPARTMENT					TOTAL:	68,463.10

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 3110 PUBLIC WORKS ADMIN

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00059	JOELLE DAMMANN					
		I-12312023	101-43110-42800	UTILITIES	4TH QTR CELL PHONE	200167 45.00
01-03130	JOHN HEGG					
		I-12312023	101-43110-42800	UTILITIES	4TH QTR CELL PHONE	200192 45.00
01-06997	TERRY JOHNSON					
		I-12312023	101-43110-42800	UTILITIES	4TH QTR CELL PHONE	200203 45.00
01-09349	HOWES OIL CO					
		I-335272	101-43110-42610	GAS	UNLEADED GAS	200197 334.85
01-09620	JOE GALPIN					
		I-12312023	101-43110-42800	UTILITIES	4TH QTR CELL PHONE	200177 45.00
01-09767	JOE SCHROEDER					
		I-12312023	101-43110-42800	UTILITIES	4TH QTR CELL PHONE	200235 45.00
DEPARTMENT 3110 PUBLIC WORKS ADMIN					TOTAL:	559.85

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 3120 STREET & SIDEWALK CONST

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-04871	SD DEPT OF TRANSPORTATI					
		I-2021-1 P.E. #4	101-43120-43325	NORWAY/ROWLEY 2021-1 P.E. #4	200237	116.02
DEPARTMENT 3120 STREET & SIDEWALK CONST TOTAL:						116.02

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 3130 SNOW REMOVAL

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-10619	DMC WEAR PARTS LLC					
		I-3928	101-43130-42600	SUPPLIES & MA BULLNOSE INSERTS	200172	6,523.43
				DEPARTMENT 3130 SNOW REMOVAL	TOTAL:	6,523.43

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 3150 STORM DRAINAGE

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00717	H & W CONTRACTING LLC					
		I-2021-25 P.E. #6	101-43150-43317	LIVESAY UTILI 2021-25 P.E. #6	200186	36,745.91
01-08417	INFRASTRUCTURE DESIGN G					
		I-2021-25 P.E. #12	101-43150-43317	LIVESAY UTILI 2021-25 P.E. #12	200199	3,751.38
				DEPARTMENT 3150 STORM DRAINAGE	TOTAL:	40,497.29

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 3700 CEMETERY

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00008	ELFSTRAND'S ACE HARDWAR					
		I-1785/1	101-43700-42600	SUPPLIES & MA OIL,WINTER CHAINSAW OIL	200175	45.98
01-00436	CHS FARMERS ALLIANCE					
		I-IA4222	101-43700-42600	SUPPLIES & MA MAXTRON DEO	200162	1,147.30
		I-IF7960	101-43700-42610	GAS & FUEL GOLF RUBY FIELDMASTER	200162	149.89
		I-IF7961	101-43700-42610	GAS & FUEL GOLF UNLEADED FUEL	200162	58.72
		I-IZ0197	101-43700-42500	REPAIR & MAIN SKID LOADER TIRES	200162	908.00
01-10412	JON THURMAN					
		I-12312023	101-43700-42800	UTILITIES 4TH QTR CELL PHONE	200244	45.00
				DEPARTMENT 3700 CEMETERY	TOTAL:	2,354.89

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 101 GENERAL

DEPARTMENT: 5500 LIBRARY

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-01015	INGRAM LIBRARY SERVICES					
		I-79359310	101-45500-43420	BOOKS BOOKS	200200	26.98
		I-79395097	101-45500-43420	BOOKS BOOKS	200200	543.11
		I-79429180	101-45500-43420	BOOKS BOOKS	200200	31.18
		I-79480563	101-45500-43420	BOOKS BOOKS	200200	208.50
01-01457	MIDWEST FIRE & SAFETY					
		I-059609	101-45500-42500	REPAIR & MAIN FIRE EXTINGUISHER SERVICE	200213	75.00
01-05088	BLACKSTONE PUBLISHING					
		I-2133860	101-45500-43421	AUDIO-VISUAL AUDIOBOOKS	200158	27.99
01-06583	BAKER & TAYLOR					
		I-2037979925	101-45500-43420	BOOKS BOOKS	200155	15.72
		I-2037980962	101-45500-43420	BOOKS BOOKS	200155	410.01
01-07915	DENNIS GEIDEL					
		I-12312023	101-45500-42800	UTILITIES 4TH QTR CELL PHONE	200179	45.00
01-08223	OVERDRIVE INC					
		I-02495DA23456121	101-45500-42693	E-BOOKS/AUDIO EBOOK	200220	15.99
01-09633	STAPLES					
		I-3554335303	101-45500-42600	SUPPLIES & MA CALENDAR	200240	22.25
01-09703	AMAZON CAPITAL SERVICES					
		I-1KW3-D6TN-VWHD	101-45500-43421	AUDIO-VISUAL BOARD GAMES,LABELS	200152	226.46
		I-1KW3-D6TN-VWHD	101-45500-42600	SUPPLIES & MA BOARD GAMES,LABELS	200152	22.20
		I-1PPQ-VQXN-NKLH	101-45500-43421	AUDIO-VISUAL MOVIES	200152	44.92
		I-1Q3C-4TW3-4TRP	101-45500-42600	SUPPLIES & MA BATTERY	200152	87.99
01-10205	KEVIN KENKEL					
		I-12312023	101-45500-42800	UTILITIES 4TH QTR CELL PHONE	200204	45.00
				DEPARTMENT 5500 LIBRARY	TOTAL:	1,848.30
				FUND 101 GENERAL	TOTAL:	133,065.98

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 201 PARK FUND

DEPARTMENT: 5110 RECREATION & AQUATICS

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00539	KEVIN DEVRIES					
		I-12312023	201-45110-42800	UTILITIES 4TH QTR CELL PHONE	200169	45.00
01-08101	JAMIE HENKEL					
		I-12312023	201-45110-42800	UTILITIES 4TH QTR CELL PHONE	200194	45.00
01-08617	MITCHELL WRESTLING					
		I-12142023A	201-45110-42250	PROGRAMMING S YOUTH WRESTLING 2023-24	200216	500.00
DEPARTMENT 5110 RECREATION & AQUATICS					TOTAL:	590.00

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

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PACKET : 06711 06712

VENDOR SET: Mult

FUND : 201 PARK FUND

DEPARTMENT: 5160 SPORTS COMPLEXES

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00008	ELFSTRAND'S ACE HARDWAR					
		I-1784/1	201-45160-42603	SMALL EQUIPME TRIMMER GAS,MOWING HEAD	200175	1,413.94
	PROJ: H05-42603	SOFTBALL		SMALL EQUIPMENT		
01-00436	CHS FARMERS ALLIANCE					
		I-IF9229	201-45160-42610	GAS & FUEL HOCKEY BOTTLE FILL	200162	78.00
	PROJ: H01-42610	SPORTS COMPLEX EQUIPMENT		GAS-FUEL		
		I-IF9475	201-45160-42610	GAS & FUEL HOCKEY BOTTLE FILL	200162	52.00
	PROJ: H01-42610	SPORTS COMPLEX EQUIPMENT		GAS-FUEL		
01-00712	NAPA CENTRAL					
		I-794639	201-45160-42500	REPAIR & MAIN BATTERY,CORE DEPOSIT	200217	118.01
	PROJ: H01-42500	SPORTS COMPLEX EQUIPMENT		REPAIR/MAINTENANCE		
01-01819	NORTHWEST PIPE FITTINGS					
		I-434051	201-45160-42600	SUPPLIES & MA FALCON SERIES	200218	2,462.40
	PROJ: H05-42600	SOFTBALL		SUPPLIES/MATERIALS		
01-01964	DAKOTA SUPPLY GROUP					
		I-S103321806.001	201-45160-42600	SUPPLIES & MA MOGUL BASE, ACCT 704	200166	2,192.69
	PROJ: H05-42600	SOFTBALL		SUPPLIES/MATERIALS		
01-02480	SCHMUCKER, PAUL, NOHR &					
		I-2023-19 P.E. #6	201-45160-43300	CAPITAL IMPRO 2023-19 P.E. #6	200233	971.25
01-02537	SHERWIN-WILLIAMS COMPAN					
		I-1967-8	201-45160-42600	SUPPLIES & MA PAINT	200238	2,497.50
	PROJ: H07-42600	PEPSI COMPLEX		SUPPLIES/MATERIALS		
01-02679	MENARD'S INC					
		I-62816A	201-45160-42600	SUPPLIES & MA PAINT,BRUSHES,PAN,BROOM	200212	35.97
	PROJ: H06-42600	ARENA-NORTH RINK		SUPPLIES-MATERIALS		
01-02880	THUNE TRUE VALUE & APPL					
		I-A558223	201-45160-42600	SUPPLIES & MA SPRAYER,ADJ ANTI-S33	200243	21.86
	PROJ: H13-42600	ARENA-SOUTH RINK		SUPPLIES-MAINTENANCE		
01-09035	TYLER VETCH					
		I-12312023	201-45160-42800	UTILITIES 4TH QTR CELL PHONE	200249	45.00
01-09076	ROGER PREWETT II					
		I-12112023	201-45160-42650	UNIFORMS PANTS REIMBURSED	200226	250.00
		I-12312023	201-45160-42800	UTILITIES 4TH QTR CELL PHONE	200226	45.00
01-09349	HOWES OIL CO					
		I-335272	201-45160-42610	GAS & FUEL UNLEADED GAS	200197	438.81
				DEPARTMENT 5160 SPORTS COMPLEXES	TOTAL:	10,622.43

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 201 PARK FUND

DEPARTMENT: 5220 SUPERVISION

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-02707	ANGEL DEWAARD					
		I-12202023	201-45220-42650	UNIFORMS NON-LOGO'D UNIFORMS	200171	234.99
01-09509	INNOVATIVE OFFICE SOLUT					
		I-IN4393799	201-45220-42600	SUPPLIES & MA CALENDARS,INK CARTRIDGES	200201	83.32
				DEPARTMENT 5220 SUPERVISION	TOTAL:	318.31
				FUND 201 PARK FUND	TOTAL:	13,499.58

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 203 LAKE MITCHELL

DEPARTMENT: 5220 LAKE

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-02480	SCHMUCKER, PAUL, NOHR &					
		I-32824	203-45220-42200	PROFESSIONAL MEETINGS TO SET PROPERTY CORNR	200233	5,402.03
		I-32825	203-45220-42200	PROFESSIONAL N HARMON DR LAYOUT, PLATS	200233	3,069.46
		I-32826	203-45220-42200	PROFESSIONAL W HARMON DR MEETINGS	200233	3,116.65
01-09753	STEVE DONOVAN					
		I-2021-14 P.E. #8	203-45220-42200	PROFESSIONAL 2021-14 P.E. #8	200173	6,167.56
01-10410	BARR ENGINEERING CO INC					
		I-2021-20PE#PH2-21	203-45220-42200	PROFESSIONAL 2021-20 P.E. #PH2-21	200156	15,585.15
DEPARTMENT 5220 LAKE					TOTAL:	33,340.85
FUND 203 LAKE MITCHELL					TOTAL:	33,340.85

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 218 COMMUNITY SERVICES

DEPARTMENT: 5150 PALACE TRANSIT

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-07644	WANDA GRAVES					
		I-12312023	218-45150-42800	UTILITIES 4TH QTR CELL PHONE	200182	45.00
01-08328	JESSICA PICKETT					
		I-12132023	218-45150-42710	TRAVEL, CONF, MYRTLE BEACH-MEALS,RENTALS	200223	437.64
	PROJ: E01-RTAP	5311-FY18/19		RTAP		
01-09349	HOWES OIL CO					
		I-335272	218-45150-42610	GAS OIL TIRES UNLEADED GAS	200197	6,509.22
01-10153	ANDREA HAMILTON					
		I-12312023	218-45150-42800	UTILITIES 4TH QTR CELL PHONE	200188	45.00
DEPARTMENT 5150 PALACE TRANSIT					TOTAL:	7,036.86

FUND 218 COMMUNITY SERVICES					TOTAL:	7,036.86

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 219 NUTRITION

DEPARTMENT: 5140 NUTRITION

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-09349	HOWES OIL CO					
		I-335272	219-45140-42610	GAS, OIL, TIR UNLEADED GAS	200197	144.32
				DEPARTMENT 5140 NUTRITION	TOTAL:	144.32
				FUND 219 NUTRITION	TOTAL:	144.32

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 602 WATER

DEPARTMENT: 3330 WATER TREATMENT PLANT

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-09349	HOWES OIL CO					
		I-335272	602-43330-42610	GAS & FUEL UNLEADED GAS	200197	157.91
DEPARTMENT 3330 WATER TREATMENT PLANT TOTAL:						157.91

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 602 WATER

DEPARTMENT: 3340 WATER DISTRIBUTION

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-00356	QUALIFIED PRESORT					
		I-2279-5151	602-43340-42660	POSTAGE POSTAGE 12.1-15.2023	200227	58.53
01-00717	H & W CONTRACTING LLC					
		I-2020-20 P.E. #2	602-43340-43355	ABOVE GROUND 2020-20 P.E. #2	200186	385,324.85
		I-2021-25 P.E. #6	602-43340-43326	LIVESAY UTILI 2021-25 P.E. #6	200186	2,534.20
01-02143	HDR ENGINEERING INC					
		I-2022-22 P.E. #13	602-43340-42225	PROFESSIONAL 2022-22 P.E. #13	200191	1,281.25
01-02480	SCHMUCKER, PAUL, NOHR &					
		I-2021-3 P.E. #19	602-43340-43358	PAINT WEST WT 2021-3 P.E. #19	200233	3,538.30
		I-2023-7 P.E. #7	602-43340-43332	WEST HARMON D 2023-7 P.E. #7	200233	1,716.25
		I-2023-8 P.E. #7	602-43340-43331	12TH-13TH LOO 2023-8 P.E. #7	200233	1,812.50
01-04721	TYLOR PETERSON					
		I-12312023	602-43340-42800	UTILITIES 4TH QTR CELL PHONE	200222	45.00
01-05276	M & T FIRE AND SAFETY I					
		I-11127	602-43340-42600	SUPPLIES & MA SWIVEL LONG HANDLE	200209	278.80
01-08304	THOMAS SCHUMAN					
		I-12312023	602-43340-42800	UTILITIES 4TH QTR CELL PHONE	200236	45.00
01-08417	INFRASTRUCTURE DESIGN G					
		I-2020-20 P.E. #27	602-43340-43355	ABOVE GROUND 2020-20 P.E. #27	200199	55,523.64
		I-2020-20 P.E. #28	602-43340-43355	ABOVE GROUND 2020-20 P.E. #28	200199	45,933.30
		I-2021-25 P.E. #12	602-43340-43326	LIVESAY UTILI 2021-25 P.E. #12	200199	258.72
01-08466	CHR SOLUTIONS INC					
		I-766639	602-43340-42660	POSTAGE CHR SOLUTIONS INC	200161	816.40
		I-766639	602-43340-42910	BILLING OFFIC CHR SOLUTIONS INC	200161	379.22
01-08566	KEVIN SIBSON					
		I-12312023	602-43340-42800	UTILITIES 4TH QTR CELL PHONE	200239	45.00
01-09349	HOWES OIL CO					
		I-335272	602-43340-42610	GAS & FUEL UNLEADED GAS	200197	1,423.89
01-10598	RYLAND DEVRIES					
		I-12312023	602-43340-42800	UTILITIES 4TH QTR CELL PHONE	200170	45.00
01-10599	ROBERT MCCARDLE					
		I-12212023	602-43340-42700	TRAVEL, CONF CLASSES & TEST MEALS,MILEAGE	200210	355.00
		I-12312023	602-43340-42800	UTILITIES 4TH QTR CELL PHONE	200210	45.00
DEPARTMENT 3340 WATER DISTRIBUTION					TOTAL:	501,459.85

FUND 602 WATER					TOTAL:	501,617.76

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 604 SEWER

DEPARTMENT: 3200 WASTE WATER TREATMENT

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00356	QUALIFIED PRESORT					
		I-2279-5151	604-43200-42660	POSTAGE POSTAGE 12.1-15.2023	200227	58.53
01-00991	JON VERMEULEN					
		I-12312023	604-43200-42800	UTILITIES 4TH QTR CELL PHONE	200248	45.00
01-02143	HDR ENGINEERING INC					
		I-2021-31 P.E. #33	604-43200-43300	NORTH PLANT I 2021-31 P.E. #33	200191	38,560.76
		I-2022-1 P.E. #11	604-43200-43310	SOUTH PLANT I 2022-1 P.E. #11	200191	14,904.49
01-08335	BRIAN DAUGHTERS					
		I-12312023	604-43200-42800	UTILITIES 4TH QTR CELL PHONE	200168	45.00
01-08466	CHR SOLUTIONS INC					
		I-766639	604-43200-42660	POSTAGE CHR SOLUTIONS INC	200161	816.41
01-09349	HOWES OIL CO					
		I-335272	604-43200-42610	GAS & FUEL UNLEADED GAS	200197	330.81
01-09480	JON REHFELDT					
		I-12312023	604-43200-42800	UTILITIES 4TH QTR CELL PHONE	200228	30.00
01-09697	THOMAS HOLLEMAN					
		I-12312023	604-43200-42800	UTILITIES 4TH QTR CELL PHONE	200196	45.00
DEPARTMENT 3200 WASTE WATER TREATMENT					TOTAL:	54,836.00

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 604 SEWER

DEPARTMENT: 3250 WASTE WATER COLLECTION

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00717	H & W CONTRACTING LLC					
		I-2021-25 P.E. #6	604-43250-43336	LIVESAY UTILI 2021-25 P.E. #6	200186	24,074.91
01-02143	HDR ENGINEERING INC					
		I-2022-22 P.E. #13	604-43250-42200	PROFESSIONAL 2022-22 P.E. #13	200191	1,281.25
01-02480	SCHMUCKER, PAUL, NOHR &					
		I-2022-3 P.E. #9	604-43250-42200	PROFESSIONAL 2022-3 P.E. #9	200233	1,606.07
		I-2023-16 P.E. #10	604-43250-43350	S HARMON/OHLM 2023-16 P.E. #10	200233	2,167.23
		I-2023-6 P.E. #6	604-43250-43349	N HARMON/AIRP 2023-6 P.E. #6	200233	7,741.87
01-08417	INFRASTRUCTURE DESIGN G					
		I-2021-25 P.E. #12	604-43250-43336	LIVESAY UTILI 2021-25 P.E. #12	200199	2,457.80
01-08466	CHR SOLUTIONS INC					
		I-766639	604-43250-42910	BILLING OFFIC CHR SOLUTIONS INC	200161	379.22
01-09349	HOWES OIL CO					
		I-335272	604-43250-42610	GAS UNLEADED GAS	200197	222.43
DEPARTMENT 3250 WASTE WATER COLLECTION					TOTAL:	39,930.78
FUND 604 SEWER					TOTAL:	94,766.78

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 612 SANITATION

DEPARTMENT: 3220 RECYCLING PROGRAM

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-09582	TRAVIS PLATT					
		I-12212023	612-43220-42650	UNIFORMS GLOVES REIMBURSED	200224	37.08
01-09891	MILLENNIUM RECYCLING					
		I-481567	612-43220-42200	CONTRACT-MILL SINGLE STREAM FEE,CREDITS	200215	19.30
				DEPARTMENT 3220 RECYCLING PROGRAM	TOTAL:	56.38

BUDGET TO USE: CB-CURRENT BUDGET

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PACKET : 06711 06712

VENDOR SET: Mult

FUND : 612 SANITATION

DEPARTMENT: 3240 LANDFILL

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00145	AMERICAN GARAGE DOOR CO					
		I-M40170	612-43240-42600	SUPPLIES GARAGE DOORS INSTALLED	200153	3,529.85
01-00469	GEOTEK ENGINEERING & TE					
		I-2023-28 P.E. #5	612-43240-42205	MONITOR GROUN 2023-28 P.E. #5	200180	1,615.00
		I-2023-29 P.E. #5	612-43240-42550	LAB FEES 2023-29 P.E. #5	200180	2,930.00
01-00917	DAKOTA FLUID POWER INC					
		I-7149172	612-43240-42600	SUPPLIES SWIVEL TO PIPE	200165	58.21
01-01020	CENTRAL ELECTRIC COOPER					
		I-13061001.12.23	612-43240-42800	UTILITIES ACCT #13061001 WITH CREDITS	200160	60.88
01-01199	STURDEVANTS AUTO VALUE					
		I-815027613	612-43240-42600	SUPPLIES BRAKE PARTS CLEANER	200242	105.36
01-01590	MCLEOD'S PRINTING					
		I-72216	612-43240-42600	SUPPLIES LANDFILL TICKETS	200211	519.90
01-02007	MILLBORN SEEDS INC					
		I-INV0186270	612-43240-42635	DAILY COVER M ADC LANDFILL COVER, PALLETS	200214	21,600.00
01-02711	JAYLON TOLLEFSON					
		I-12312023	612-43240-42800	UTILITIES 4TH QTR CELL PHONE	200246	45.00
01-06890	TITZE ELECTRIC & REMODE					
		I-1967A	612-43240-42500	REPAIR AND MA STREET LIGHTING UPGRADE	200245	7,227.12
01-09349	HOWES OIL CO					
		I-335272	612-43240-42610	GAS & OIL UNLEADED GAS	200197	214.32
01-09671	PREMIER EQUIPMENT LLC					
		I-IH48610	612-43240-42600	SUPPLIES BLADE	200225	20.84
DEPARTMENT 3240 LANDFILL					TOTAL:	37,926.48
FUND 612 SANITATION					TOTAL:	40,789.88

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 613 CORN PALACE

DEPARTMENT: 5650 CORN PALACE

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-01598	DOUG GREENWAY					
		I-12312023	613-45650-42800	UTILITIES	4TH QTR CELL PHONE	200184 45.00
01-04107	JEFF HANSON					
		I-12312023	613-45650-42800	UTILITIES	4TH QTR CELL PHONE	200190 45.00
01-06920	GARY WALTON					
		I-12312023	613-45650-42800	UTILITIES	4TH QTR CELL PHONE	200250 45.00
01-08741	KATHY HANKS					
		I-12312023	613-45650-42800	UTILITIES	4TH QTR CELL PHONE	200189 45.00
01-09349	HOWES OIL CO					
		I-335272	613-45650-42620	GAS & FUEL	UNLEADED GAS	200197 70.25
01-10438	CRAIG STUCKY					
		I-12312023	613-45650-42800	UTILITIES	4TH QTR CELL PHONE	200241 45.00
DEPARTMENT 5650 CORN PALACE					TOTAL:	295.25
FUND 613 CORN PALACE					TOTAL:	295.25

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 614 GOLF COURSE

DEPARTMENT: 5250 GOLF COURSE

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00436	CHS FARMERS ALLIANCE					
		I-IF7960	614-45250-42610	GAS & FUEL GOLF RUBY FIELDMASTER	200162	149.89
		I-IF7961	614-45250-42610	GAS & FUEL GOLF UNLEADED FUEL	200162	58.73
				DEPARTMENT 5250 GOLF COURSE	TOTAL:	208.62
				FUND 614 GOLF COURSE	TOTAL:	208.62

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 621 EMERGENCY MEDICAL SERVICE

DEPARTMENT: 4600 EMS

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-09349	HOWES OIL CO					
		I-335272	621-44600-42610	GAS & OIL UNLEADED GAS	200197	613.49
				DEPARTMENT 4600 EMS	TOTAL:	613.49
				FUND 621 EMERGENCY MEDICAL SERVICE	TOTAL:	613.49

PACKET : 06711 06712

VENDOR SET: Mult

FUND : 724 STREET CONSTRUCTION

DEPARTMENT: 5000 STREET CONST

BANK: Multi

BUDGET TO USE: CB-CURRENT BUDGET

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-02480	SCHMUCKER, PAUL, NOHR &					
		I-2022-23 P.E. #14	724-45000-42900	PROJECT CONST 2022-23 P.E. #14	200233	1,048.75
				DEPARTMENT 5000 STREET CONST	TOTAL:	1,048.75
				FUND 724 STREET CONSTRUCTION	TOTAL:	1,048.75
					REPORT GRAND TOTAL:	826,428.12

** G/L ACCOUNT TOTALS **

YEAR	ACCOUNT	NAME	AMOUNT	=====LINE ITEM=====			=====GROUP BUDGET=====	
				ANNUAL BUDGET	BUDGET AVAILABLE	OVER BUDG	ANNUAL BUDGET	BUDGET AVAILABLE BUDG
2023-2024	101-41220-42800	UTILITIES-TELEPHONE	45.00	250	59.47			
	101-41230-42800	UTILITIES-TELEPHONE	45.00	250	64.57			
	101-41420-42200	PROFESSIONAL SERVICES	500.00	40,000	1,432.90			
	101-41420-42600	SUPPLIES & MATERIALS	4,759.30	3,000	5,190.77-	Y		
	101-41420-42800	UTILITIES - TELEPHONE	45.00	260	33.44			
	101-41440-42800	UTILITIES	45.00	250	52.35			
	101-41920-42800	UTILITIES - TELEPHONE	90.00	540	180.00			
	101-41935-42615	POSTAGE	274.54	8,000	1,262.49			
	101-41935-42850	UTILITIES/TELEPHONE	45.00	30,200	2,220.20			
	101-42110-42610	GAS OIL TIRES	4,361.85	60,000	12,916.10-	Y		
	101-42110-42700	TRAVEL, CONF & DUES	56.00	23,000	3,465.30			
	101-42130-42610	GAS, OIL, TIRES	317.61	5,500	218.04-	Y		
	101-42130-43343	7TH & 1ST INTER SIGNAL LIG	1,840.00	70,305	54,880.25			
	101-42200-42610	GAS & OIL	278.80	8,500	2,297.02-	Y		
	101-43100-42500	REPAIRS	3,811.40	16,000	3,085.35-	Y		
	101-43100-42600	SUPPLIES	10,762.39	206,700	8,103.08-	Y		
	101-43100-42610	GAS	607.35	97,000	10,408.19			
	101-43100-42630	GRAVEL- BASE	52,256.25	111,000	2,393.47			
	101-43100-42800	UTILITIES	1,025.71	15,000	331.05-	Y		
	101-43110-42610	GAS	334.85	6,000	1,619.01-	Y		
	101-43110-42800	UTILITIES	225.00	2,500	681.27			
	101-43120-43325	NORWAY/ROWLEY SIDEWALK	116.02	720,000	377,307.84			
	101-43130-42600	SUPPLIES & MATERIALS	6,523.43	122,408	8,990.51-	Y		
	101-43150-43317	LIVESAY UTILITY IMPROVEMEN	40,497.29	720,526	283,324.19			
	101-43700-42500	REPAIR & MAINTENANCE	908.00	3,000	72.13			
	101-43700-42600	SUPPLIES & MATERIALS	1,193.28	16,000	463.66			
	101-43700-42610	GAS & FUEL	208.61	10,000	49.94-	Y		
	101-43700-42800	UTILITIES	45.00	5,000	67.61			
	101-45500-42500	REPAIR & MAINTENANCE	75.00	38,500	272.84			
	101-45500-42600	SUPPLIES & MATERIALS	132.44	12,500	1,291.48			
	101-45500-42693	E-BOOKS/AUDIO BOOKS	15.99	17,151	1,430.59			
	101-45500-42800	UTILITIES	90.00	41,100	1,767.58			
	101-45500-43420	BOOKS	1,235.50	47,000	7,359.08			
	101-45500-43421	AUDIO-VISUAL	299.37	8,500	1,681.32			
	201-45110-42250	PROGRAMMING SERVICES	500.00	14,000	2,233.61-	Y		
	201-45110-42800	UTILITIES	90.00	400	24.40			
	201-45140-42600	SUPPLIES & MATERIALS	1,380.47	39,699	6,383.22			
	201-45140-42800	UTILITIES	135.00	185,000	40,392.92			
	201-45160-42500	REPAIR & MAINTENANCE	118.01	60,772	6,344.79			
	201-45160-42600	SUPPLIES & MATERIALS	7,210.42	57,548	4,423.04			
	201-45160-42603	SMALL EQUIPMENT	1,413.94	3,600	437.11			
	201-45160-42610	GAS & FUEL	568.81	13,500	46.40			
	201-45160-42650	UNIFORMS	250.00	1,400	9.72			
	201-45160-42800	UTILITIES	90.00	128,520	19,359.20-	Y		
	201-45160-43300	CAPITAL IMPROVEMENTS - OTH	971.25	251,468	203,687.35			

** G/L ACCOUNT TOTALS **

YEAR	ACCOUNT	NAME	AMOUNT	=====LINE ITEM=====			=====GROUP BUDGET=====	
				ANNUAL BUDGET	BUDGET AVAILABLE	OVER BUDG	ANNUAL BUDGET	BUDGET AVAILABLE
	201-45210-42500	REPAIR & MAINTENANCE	116.01	41,500	1,411.49			
	201-45210-42600	SUPPLIES & MATERIALS	233.97	67,294	2,123.86			
	201-45210-42610	GAS & FUEL	13.39	31,000	7,594.52-	Y		
	201-45210-42800	UTILITIES	90.00	54,700	7,351.97-	Y		
	201-45220-42600	SUPPLIES & MATERIALS	83.32	1,900	1,352.13			
	201-45220-42650	UNIFORMS	234.99	500	15.01			
	203-45220-42200	PROFESSIONAL SERVICES	33,340.85	415,204	275,685.40-	Y		
	218-45150-42610	GAS OIL TIRES	6,509.22	91,000	9,161.45-	Y		
	218-45150-42710	TRAVEL, CONF, TRAINING-RTA	437.64	5,160	1,849.16			
	218-45150-42800	UTILITIES	90.00	1,553	340.13-	Y		
	219-45140-42610	GAS, OIL, TIRES	144.32	1,800	248.61-	Y		
	602-43330-42610	GAS & FUEL	157.91	2,200	742.56-	Y		
	602-43340-42225	PROFESSIONAL SERVICES	1,281.25	35,219	7,592.44			
	602-43340-42600	SUPPLIES & MATERIALS	278.80	118,000	102,854.00-	Y		
	602-43340-42610	GAS & FUEL	1,423.89	10,000	6,743.22-	Y		
	602-43340-42660	POSTAGE	874.93	9,000	174.08			
	602-43340-42700	TRAVEL, CONF & DUES	355.00	2,500	1,236.64			
	602-43340-42800	UTILITIES	225.00	10,000	45.79			
	602-43340-42910	BILLING OFFICE	379.22	10,000	2,089.33			
	602-43340-43326	LIVESAY UTILITIES	2,792.92	94,829	18,677.51-	Y		
	602-43340-43331	12TH-13TH LOOP-EAST OF CAP	1,812.50	1,213,000	1,180,722.95			
	602-43340-43332	WEST HARMON DRIVE LOOPING	1,716.25	629,000	580,964.17			
	602-43340-43355	ABOVE GROUND STORAGE	486,781.79	16,000,000	8,888,117.21			
	602-43340-43358	PAINT WEST WTR TOWER	3,538.30	1,150,011	306,065.78			
	604-43200-42610	GAS & FUEL	330.81	7,500	3,694.13-	Y		
	604-43200-42660	POSTAGE	874.94	9,000	141.82			
	604-43200-42800	UTILITIES	165.00	225,000	58,194.13			
	604-43200-43300	NORTH PLANT IMPROVEMENTS	38,560.76	12,711,858	4,031,359.59			
	604-43200-43310	SOUTH PLANT IMPROVEMENTS	14,904.49	30,000,000	29,829,860.99			
	604-43250-42200	PROFESSIONAL SERVICES	2,887.32	24,220	5,495.34-	Y		
	604-43250-42610	GAS	222.43	6,000	1,811.65			
	604-43250-42910	BILLING OFFICE	379.22	9,000	1,089.35			
	604-43250-43336	LIVESAY UTILITIES	26,532.71	745,979	225,340.46			
	604-43250-43349	N HARMON/AIRPORT LIFT STAT	7,741.87	2,225,000	2,187,569.31			
	604-43250-43350	S HARMON/OHLMAN LIFT STATI	2,167.23	857,000	826,215.15			
	612-43220-42200	CONTRACT-MILLENNIUM	19.30	35,000	14,233.85			
	612-43220-42650	UNIFORMS	37.08	750	619.46			
	612-43230-42600	SUPPLIES	1,475.48	40,000	1,290.40			
	612-43230-42660	POSTAGE	908.94	9,000	137.89			
	612-43230-42800	UTILITIES	43.38	600	32.37			
	612-43230-42910	BILLING OFFICE	379.22	8,000	89.35			
	612-43240-42205	MONITOR GROUND WATER-OLD L	1,615.00	18,000	1,040.50-	Y		
	612-43240-42500	REPAIR AND MAINTENANCE	7,227.12	32,000	10,298.34			
	612-43240-42550	LAB FEES	2,930.00	23,000	3,713.00			
	612-43240-42600	SUPPLIES	4,234.16	53,000	13,556.00-	Y		

** G/L ACCOUNT TOTALS **

YEAR	ACCOUNT	NAME	AMOUNT	=====LINE ITEM=====		=====GROUP BUDGET=====	
				ANNUAL BUDGET	BUDGET OVER AVAILABLE BUDG	ANNUAL BUDGET	BUDGET OVER AVAILABLE BUDG
	612-43240-42610	GAS & OIL	214.32	90,000	11,378.44		
	612-43240-42635	DAILY COVER MATERIAL	21,600.00	27,500	5,900.00		
	612-43240-42800	UTILITIES	105.88	13,000	2,660.94		
	613-45650-42620	GAS & FUEL	70.25	1,500	426.12		
	613-45650-42800	UTILITIES	225.00	90,000	8,137.29		
	614-45250-42610	GAS & FUEL	208.62	15,000	208.53-	Y	
	621-44600-42610	GAS & OIL	613.49	15,000	1,690.78		
	724-45000-42900	PROJECT CONSTRUCTION	1,048.75	0	221,069.55-	Y	
**	2023-2024 YEAR TOTALS	**	826,428.12				

** DEPARTMENT TOTALS **

ACCT	NAME	AMOUNT
101-1220	CITY ADMINISTRATOR	45.00
101-1230	ADMINISTRATIVE BOARDS	45.00
101-1420	FINANCE	5,304.30
101-1440	HUMAN RESOURCES	45.00
101-1920	MUNICIPAL BUILDINGS	90.00
101-1935	INFORMATION TECHNOLOGY	319.54
101-2110	POLICE DEPARTMENT	4,417.85
101-2130	TRAFFIC DEPARTMENT	2,157.61
101-2200	FIRE DEPARTMENT	278.80
101-3100	STREET DEPARTMENT	68,463.10
101-3110	PUBLIC WORKS ADMIN	559.85
101-3120	STREET & SIDEWALK CONST	116.02
101-3130	SNOW REMOVAL	6,523.43
101-3150	STORM DRAINAGE	40,497.29
101-3700	CEMETERY	2,354.89
101-5500	LIBRARY	1,848.30

101 TOTAL	GENERAL	133,065.98
201-5110	RECREATION & AQUATICS	590.00
201-5140	RECREATION CENTER	1,515.47
201-5160	SPORTS COMPLEXES	10,622.43
201-5210	PARKS	453.37
201-5220	SUPERVISION	318.31

201 TOTAL	PARK FUND	13,499.58

** DEPARTMENT TOTALS **

ACCT	NAME	AMOUNT
203-5220	LAKE	33,340.85

203 TOTAL	LAKE MITCHELL	33,340.85
218-5150	PALACE TRANSIT	7,036.86

218 TOTAL	COMMUNITY SERVICES	7,036.86
219-5140	NUTRITION	144.32

219 TOTAL	NUTRITION	144.32
602-3330	WATER TREATMENT PLANT	157.91
602-3340	WATER DISTRIBUTION	501,459.85

602 TOTAL	WATER	501,617.76
604-3200	WASTE WATER TREATMENT	54,836.00
604-3250	WASTE WATER COLLECTION	39,930.78

604 TOTAL	SEWER	94,766.78
612-3220	RECYCLING PROGRAM	56.38
612-3230	WASTE COLLECTION	2,807.02
612-3240	LANDFILL	37,926.48

612 TOTAL	SANITATION	40,789.88
613-5650	CORN PALACE	295.25

613 TOTAL	CORN PALACE	295.25
614-5250	GOLF COURSE	208.62

614 TOTAL	GOLF COURSE	208.62

** DEPARTMENT TOTALS **

ACCT	NAME	AMOUNT
621-4600	EMS	613.49

621 TOTAL	EMERGENCY MEDICAL SERVICE	613.49
724-5000	STREET CONST	1,048.75

724 TOTAL	STREET CONSTRUCTION	1,048.75

** TOTAL **		826,428.12

*** PROJECT TOTALS ***

PROJECT	LINE	ITEM	AMOUNT
E01 5311-FY18/19	RTAP	RTAP	437.64
** PROJECT E01 TOTAL **			437.64
H01 SPORTS COMPLEX EQUIPMENT	42500	REPAIR/MAINTENANCE	118.01
	42610	GAS-FUEL	130.00
** PROJECT H01 TOTAL **			248.01
H05 SOFTBALL	42600	SUPPLIES/MATERIALS	4,655.09
	42603	SMALL EQUIPMENT	1,413.94
** PROJECT H05 TOTAL **			6,069.03
H06 ARENA-NORTH RINK	42600	SUPPLIES-MATERIALS	35.97
** PROJECT H06 TOTAL **			35.97
H07 PEPSI COMPLEX	42600	SUPPLIES/MATERIALS	2,497.50
** PROJECT H07 TOTAL **			2,497.50
H13 ARENA-SOUTH RINK	42600	SUPPLIES-MAINTENANCE	21.86
** PROJECT H13 TOTAL **			21.86
H50 PARKS EQUIPMENT	42500	REPAIR/MAINTENANCE	116.01
** PROJECT H50 TOTAL **			116.01
H51 PARK SHOP	42600	SUPPLIES/MATERIALS	233.97
** PROJECT H51 TOTAL **			233.97

*** PROJECT TOTALS ***

PROJECT	LINE ITEM	AMOUNT
J06 REC CTR-GENERAL BLDG	SM-EQUIP SUPPLIES/MATERIAL-EQUIPMENT	1,105.32
	SM-GENER SUPPLIES/MATERIAL-GENERAL	25.83
	SM-JANIT SUPPLIES/MATERIAL-JANITORIAL	224.33
	SM-OFFIC SUPPLIES/MATERIAL-OFFICE	24.99
	** PROJECT J06 TOTAL **	1,380.47

NO ERRORS

** END OF REPORT **

PACKET: 06713 2024 MEETING 01.02.2024
VENDOR SET: 01
FUND : 101 GENERAL
DEPARTMENT: 1110 CITY COUNCIL
BUDGET TO USE: CB-CURRENT BUDGET

BANK: APBNK

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-00500	MITCHELL REPUBLIC					
		I-177941314.2024	101-41110-42600	SUPPLIES & MA CITY HALL RENEWAL SUBSCRIPTION	200500	269.89
01-02615	SD MUNICIPAL LEAGUE					
		I-2024 DUES	101-41110-42710	MUNICIPAL LEA 2024 ANNUAL MEMBERSHIP	200506	9,713.26
DEPARTMENT 1110 CITY COUNCIL					TOTAL:	9,983.15

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-00999	ICMA MEMBERSHIP RENEWAL					
		I-414170.2024	101-41220-42200	PROFESSIONAL ICMA DUES	200497	1,076.00
01-08369	SD CITY MANAGEMENT ASSO					
		I-2024 DUES	101-41220-42200	PROFESSIONAL 2024 DUES-S ELLWEIN	200502	150.00
DEPARTMENT 1220 CITY ADMINISTRATOR					TOTAL:	1,226.00

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-03124	AMERICAN LEGAL PUBLISHI					
	I-29986		101-41410-42800	RECODIFY CITY ANNUAL WEB HOSTING FEE	200491	500.00
01-06963	SD MUNICIPAL ATTORNEYS'					
	I-2024 DUES		101-41410-42700	TRAVEL, CONF 2024 DUES-J JOHNSON	200505	35.00
DEPARTMENT 1410 ATTORNEY'S OFFICE					TOTAL:	535.00

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-01691	SD GOVERNMENTAL FINANCE					
		I-2024 DUES	101-41420-42700	TRAVEL	2024 DUES-M BATHKE,C ROTH	200503
						70.00
DEPARTMENT 1420 FINANCE						TOTAL:
						70.00

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-06349	SD GOVERNMENTAL HUMAN R					
	I-2024 DUES		101-41440-42700	TRAVEL,DUES,R 2024 DUES-E KITCHENS	200504	25.00
DEPARTMENT 1440 HUMAN RESOURCES						TOTAL: 25.00

PACKET: 06713 2024 MEETING 01.02.2024
VENDOR SET: 01
FUND : 101 GENERAL
DEPARTMENT: 1935 INFORMATION TECHNOLOGY
BUDGET TO USE: CB-CURRENT BUDGET

BANK: APBNK

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-06894	TYLER TECHNOLOGIES, INC					
		I-025-445416	101-41935-42920	COMPUTER SOFT TYLER SOFTWARE ANNUAL FEE	200508	49,881.09
01-09119	CIVICPLUS LLC					
		I-285036	101-41935-42920	COMPUTER SOFT ANNUAL FEE	200493	7,429.66
		I-285092	101-41935-42920	COMPUTER SOFT SSL CERT ANNUAL FEE	200493	2,854.60
DEPARTMENT 1935 INFORMATION TECHNOLOGY TOTAL:						60,165.35

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-02622	SD POLICE CHIEFS' ASSO					
	I-2024 DUES		101-42110-42700	TRAVEL, CONF 2024 DUES-M KOSTER,D KNIPPLING	200507	225.00
01-07635	LEADS ONLINE LLC					
	I-408162		101-42110-42200	PROFESSIONAL LEADS ONLINE RENEWAL	200498	3,297.00
01-07954	SD ASSOC. OF CODE ENFOR					
	I-2024 DUES		101-42110-42700	TRAVEL, CONF 2024 DUES-R ERICKSON	200501	75.00
01-10381	DOLAN CONSULTING GROUP					
	I-TR2024-1123		101-42110-42700	TRAVEL, CONF EVENT RENEWAL	200494	95.00
DEPARTMENT 2110 POLICE DEPARTMENT						TOTAL: 3,692.00

FUND 101 GENERAL						TOTAL: 75,696.50

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
01-04588	IAFE					
		I-11082023	202-45650-42700	TRAVEL, CONFE 2024 MEMBERSHIP DUES	200496	210.00
DEPARTMENT 5650 CORN PALACE					TOTAL:	210.00
FUND 202 CORN PALACE FUND					TOTAL:	210.00

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-02386	MITCHELL MAIN STREET AN					
	I-12182023		213-46311-42910	STREETSCAPE	BID 3 GRANT-DISPLAYS STREETSCP 200499	12,141.22
DEPARTMENT 6311 BUSINESS IMPROV DIST #3 TOTAL:						12,141.22

FUND 213 BUSINESS IMPROV DIST #3 TOTAL:						12,141.22

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-07164	BRIAN BERGELEEN					
		I-11152023	218-45180-42900	FUNDRAISING HOLIDAY PARTY ENTMNT 1.9.24	200492	100.00
DEPARTMENT 5180 JVCC					TOTAL:	100.00

FUND 218 COMMUNITY SERVICES					TOTAL:	100.00

PACKET: 06713 2024 MEETING 01.02.2024

VENDOR SET: 01

FUND : 614 GOLF COURSE

DEPARTMENT: 5250 GOLF COURSE

BUDGET TO USE: CB-CURRENT BUDGET

BANK: APBNK

VENDOR	NAME	ITEM #	G/L ACCOUNT NAME	DESCRIPTION	CHECK#	AMOUNT
=====						
01-08892	ERIC HIEB					
		I-01012024	614-45250-42200	GOLF PRO CONT CLOVER CC FEES REIMBURSED	200495	144.06
		I-010124	614-45250-42200	GOLF PRO CONT BASE CONTRACT 01-2024	200495	4,774.99
				DEPARTMENT 5250 GOLF COURSE	TOTAL:	4,919.05

				FUND 614 GOLF COURSE	TOTAL:	4,919.05
REPORT GRAND TOTAL:						93,066.77

** G/L ACCOUNT TOTALS **

YEAR	ACCOUNT	NAME	AMOUNT	=====LINE ITEM=====		=====GROUP BUDGET=====	
				ANNUAL BUDGET	BUDGET OVER AVAILABLE BUDG	ANNUAL BUDGET	BUDGET OVER AVAILABLE BUDG
2024-2025	101-41110-42600	SUPPLIES & MATERIALS	269.89	725	455.11		
	101-41110-42710	MUNICIPAL LEAGUE DUES	9,713.26	9,700	13.26-	Y	
	101-41220-42200	PROFESSIONAL FEES/SERVICES	1,226.00	2,300	1,074.00		
	101-41410-42700	TRAVEL, CONF & DUES	35.00	6,200	6,165.00		
	101-41410-42800	RECODIFY CITY ORDINANCES	500.00	5,000	4,500.00		
	101-41420-42700	TRAVEL	70.00	6,350	6,280.00		
	101-41440-42700	TRAVEL,DUES,RESOURCE MANUA	25.00	4,750	4,725.00		
	101-41935-42920	COMPUTER SOFTWARE	60,165.35	121,015	60,849.65		
	101-42110-42200	PROFESSIONAL SERVICES	3,297.00	23,000	19,703.00		
	101-42110-42700	TRAVEL, CONF & DUES	395.00	10,000	9,605.00		
	202-45650-42700	TRAVEL, CONFERENCE, DUES	210.00	750	540.00		
	213-46311-42910	STREETSCAPE	12,141.22	30,000	17,858.78		
	218-45180-42900	FUNDRAISING	100.00	4,750	4,650.00		
	614-45250-42200	GOLF PRO CONTRACT	4,919.05	66,525	61,605.95		
** 2024-2025 YEAR TOTALS **			93,066.77				

** DEPARTMENT TOTALS **

ACCT	NAME	AMOUNT
101-1110	CITY COUNCIL	9,983.15
101-1220	CITY ADMINISTRATOR	1,226.00
101-1410	ATTORNEY'S OFFICE	535.00
101-1420	FINANCE	70.00
101-1440	HUMAN RESOURCES	25.00
101-1935	INFORMATION TECHNOLOGY	60,165.35
101-2110	POLICE DEPARTMENT	3,692.00

101 TOTAL	GENERAL	75,696.50

202-5650	CORN PALACE	210.00

202 TOTAL	CORN PALACE FUND	210.00

213-6311	BUSINESS IMPROV DIST #3	12,141.22

213 TOTAL	BUSINESS IMPROV DIST #3	12,141.22

** DEPARTMENT TOTALS **

ACCT	NAME	AMOUNT
218-5180	JVCC	100.00

218 TOTAL	COMMUNITY SERVICES	100.00
614-5250	GOLF COURSE	4,919.05

614 TOTAL	GOLF COURSE	4,919.05

** TOTAL **		93,066.77

NO ERRORS

** END OF REPORT **

CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Joe Schroeder
Desired Action of City Council:			
Amount Budgeted in current fiscal year for this item (if applicable):	602-43340-43332, \$629,000		
Agenda Item:	Action to Award Bid for West Harmon Water Main Loop Project #2023-07		
Explanation/Background of Agenda Item Requested:	Bids were opened on December 12, 2023 in City Hall Council Chambers at 1:30 PM. Five bids were received as follows: Halme, Inc. - \$399,084.50 Menning Excavating, Inc. - \$487,855.60 Underground Connections - \$532,870.75 H&W Contracting - \$552,637.65 First Rate Excavate - \$662,194.00 Engineer's Estimate - \$527,903.00 Please see the attached bid tabulation for detailed information. Camden Hofer, PE with SPN and Associates has provided a letter summarizing the bids and a recommendation to award. This project is one piece of a State Revolving Fund (SRF) loan funding package. Below is a summary of the current funding package with current project budgets. Total funding package - \$2,840,000 Current Project Costs 12th and 13th Avenues Water Main Loop - \$728,641.50 West Harmon Water Main Loop - \$526,984.50 Highway 37 Utility Project - \$1,450,485.43 Contingencies - \$133,888.57 Staff recommends awarding the project to Halme, Inc. for \$399,084.50. The bid shall be contingent on DANR approval.		

December 13, 2023

Joe Schroeder, PE
Public Works Director
City of Mitchell
612 North Main Street
Mitchell SD 57301

RE: West Harmon Drive Water Main Loop
Mitchell, South Dakota
SPN #16205

Dear Mr. Schroeder:

Enclosed for your use is a copy of the certified Tabulation of Bids for the bids received on the above referenced project. Also enclosed are the bids that were received for this project. The bids have been scanned for our files.

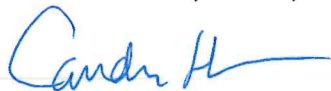
SPN and Associates has reviewed the submitted bids for the above project. The low bid submitted by Halme appears to be responsive and responsible. There were four other bids that ranged from 22 to 66 percent higher than the low bid. The low bid is approximately 32 percent lower than the Engineer Estimate. It appears that the three projects which are part of the drinking water funding will be adequately funded.

SPN and Associates recommends that the City of Mitchell award the project to Halme in the amount of \$399,084.50. This award should be contingent on the Department of Agriculture and Natural Resources' review.

If you have any questions or need additional information, please contact me.

Sincerely,

SCHMUCKER, PAUL, NOHR & ASSOCIATES



Camden A. Hofer, P.E.
Project Engineer

Enclosures

Mitchell West Harmon Drive Water Main Loop

Bid Tabulation

SPN #16205

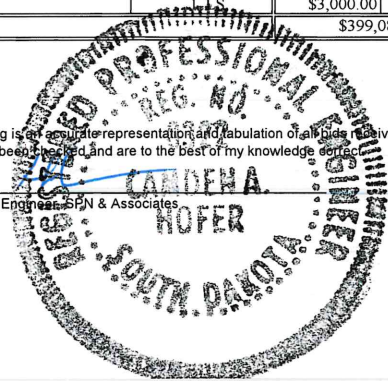
Bid Date: December 12, 2023

Bid Schedule A

			Halme Inc 44769 SD Hwy 28 Lake Norden SD 57248		Menning Excavating Inc 25462 Cornerstone Avenue Mitchell SD 57301		Underground Connections PO Box 98 Harrisburg SD 57032		H&W Contracting LLC 3416 West Hovland Drive Sioux Falls SD 57107		First Rate Excavate Inc 1509 East 39th Street North Sioux Falls SD 57104		Engineer's Estimate	
Item #	Description	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1 LS	\$35,000.00	\$35,000.00	\$58,000.00	\$58,000.00	\$108,000.00	\$108,000.00	\$107,000.00	\$107,000.00	\$194,341.35	\$194,341.35	\$69,000.00	\$69,000.00
2	Remove and Dispose of Asphalt Pavement	207 SY	\$6.00	\$1,242.00	\$10.00	\$2,070.00	\$5.00	\$1,035.00	\$8.00	\$1,656.00	\$8.00	\$1,656.00	\$8.00	\$1,656.00
3	Remove and Dispose of Concrete Curb and Gutter	10 LF	\$7.00	\$70.00	\$75.00	\$750.00	\$20.00	\$200.00	\$6.00	\$60.00	\$20.00	\$200.00	\$20.00	\$200.00
4	Remove, Salvage, and Reinstall Gravel Base Course	34 CY	\$20.00	\$680.00	\$30.00	\$1,020.00	\$25.00	\$850.00	\$12.00	\$408.00	\$16.00	\$544.00	\$15.00	\$510.00
5	6" PVC Water Main	61 LF	\$40.00	\$2,440.00	\$46.00	\$2,806.00	\$55.00	\$3,355.00	\$60.00	\$3,660.00	\$65.00	\$3,965.00	\$60.00	\$3,660.00
6	8" PVC Water Main	3,715 LF	\$48.00	\$178,320.00	\$59.50	\$221,042.50	\$55.00	\$204,325.00	\$70.00	\$260,050.00	\$69.00	\$256,335.00	\$60.00	\$222,900.00
7	8" PVC Water Main Directionally Drilled in Place	447 FT	\$95.00	\$42,465.00	\$100.00	\$44,700.00	\$95.00	\$42,465.00	\$85.00	\$37,995.00	\$99.00	\$44,253.00	\$150.00	\$67,050.00
8	Connect to Existing 6" Water Main	2 EA	\$2,800.00	\$5,600.00	\$1,830.00	\$3,660.00	\$2,500.00	\$5,000.00	\$2,000.00	\$4,000.00	\$3,208.00	\$6,416.00	\$1,500.00	\$3,000.00
9	Connect to Existing 8" Water Main	1 EA	\$3,000.00	\$3,000.00	\$1,935.00	\$1,935.00	\$2,500.00	\$2,500.00	\$2,250.00	\$2,250.00	\$3,400.00	\$3,400.00	\$1,700.00	\$1,700.00
10	8" MJ 90° Bend	1 EA	\$1,250.00	\$1,250.00	\$1,275.00	\$1,275.00	\$1,500.00	\$1,500.00	\$1,200.00	\$1,200.00	\$1,302.00	\$1,302.00	\$750.00	\$750.00
11	8" MJ 45° Bend	2 EA	\$1,250.00	\$2,500.00	\$1,215.00	\$2,430.00	\$1,500.00	\$3,000.00	\$1,150.00	\$2,300.00	\$1,252.00	\$2,504.00	\$750.00	\$1,500.00
12	8" MJ 22.5° Bend	4 EA	\$1,250.00	\$5,000.00	\$1,210.00	\$4,840.00	\$1,500.00	\$6,000.00	\$1,150.00	\$4,600.00	\$1,248.00	\$4,992.00	\$750.00	\$3,000.00
13	8" MJ 11.25° Bend	1 EA	\$1,250.00	\$1,250.00	\$1,190.00	\$1,190.00	\$1,500.00	\$1,500.00	\$1,125.00	\$1,125.00	\$1,230.00	\$1,230.00	\$750.00	\$750.00
14	6" MJ Tee	2 EA	\$1,620.00	\$3,240.00	\$1,565.00	\$3,130.00	\$1,500.00	\$3,000.00	\$1,350.00	\$2,700.00	\$1,732.00	\$3,464.00	\$800.00	\$1,600.00
15	6" MJ Cap	1 EA	\$775.00	\$775.00	\$505.00	\$505.00	\$1,100.00	\$1,100.00	\$600.00	\$600.00	\$717.00	\$717.00	\$450.00	\$450.00
16	8" x 6" MJ Tee	3 EA	\$2,000.00	\$6,000.00	\$1,670.00	\$5,010.00	\$1,500.00	\$4,500.00	\$1,500.00	\$4,500.00	\$1,839.00	\$5,517.00	\$1,000.00	\$3,000.00
17	8" x 6" MJ Reducer	1 EA	\$1,100.00	\$1,100.00	\$1,070.00	\$1,070.00	\$1,200.00	\$1,200.00	\$875.00	\$875.00	\$1,194.00	\$1,194.00	\$700.00	\$700.00
18	8" Foster Adapter	1 EA	\$550.00	\$550.00	\$450.00	\$450.00	\$800.00	\$800.00	\$500.00	\$500.00	\$671.00	\$671.00	\$300.00	\$300.00
19	Fire Hydrant Assembly	3 EA	\$6,600.00	\$19,800.00	\$5,255.00	\$15,765.00	\$5,500.00	\$16,500.00	\$4,600.00	\$13,800.00	\$5,349.00	\$16,047.00	\$5,300.00	\$15,900.00
20	6" MJ Gate Valve w/ Box	3 EA	\$2,650.00	\$7,950.00	\$2,640.00	\$7,920.00	\$2,700.00	\$8,100.00	\$2,200.00	\$6,600.00	\$2,966.00	\$8,898.00	\$1,900.00	\$5,700.00
21	8" MJ Gate Valve w/ Box	2 EA	\$3,600.00	\$7,200.00	\$3,690.00	\$7,380.00	\$3,500.00	\$7,000.00	\$3,000.00	\$6,000.00	\$4,269.00	\$8,538.00	\$2,600.00	\$5,200.00
22	Air Release Manhole, Casting, Valve, Saddle and Related Items	2 EA	\$8,550.00	\$17,100.00	\$9,260.00	\$18,520.00	\$13,500.00	\$27,000.00	\$7,500.00	\$15,000.00	\$13,871.00	\$27,742.00	\$8,000.00	\$16,000.00
23	Tracer Wire Access Point	3 EA	\$110.00	\$330.00	\$165.00	\$495.00	\$250.00	\$750.00	\$250.00	\$750.00	\$295.00	\$885.00	\$175.00	\$525.00
24	Tracer Wire Ground	6 EA	\$100.00	\$600.00	\$145.00	\$870.00	\$250.00	\$1,500.00	\$225.00	\$1,350.00	\$232.00	\$1,392.00	\$175.00	\$1,050.00
25	Furnish, Install and Remove Temporary Gravel Surfacing	47 TN	\$26.00	\$1,222.00	\$35.00	\$1,645.00	\$25.00	\$1,175.00	\$26.00	\$1,222.00	\$37.00	\$1,739.00	\$26.00	\$1,222.00
26	Asphalt Surfacing	48 TN	\$190.00	\$9,120.00	\$200.00	\$9,600.00	\$200.00	\$9,600.00	\$190.00	\$9,120.00	\$193.00	\$9,264.00	\$150.00	\$7,200.00
27	Gravel Surfacing	12 TN	\$30.00	\$360.00	\$40.00	\$480.00	\$30.00	\$360.00	\$25.00	\$300.00	\$30.00	\$360.00	\$24.00	\$288.00
28	Concrete Curb and Gutter	10 LF	\$125.00	\$1,250.00	\$100.00	\$1,000.00	\$75.00	\$750.00	\$50.00	\$500.00	\$55.00	\$550.00	\$50.00	\$500.00
29	Street Excavation	81 CY	\$22.00	\$1,782.00	\$25.00	\$2,025.00	\$20.00	\$1,620.00	\$20.00	\$1,620.00	\$16.50	\$1,336.50	\$14.00	\$1,134.00
30	Gravel Base Course	74 TN	\$30.00	\$2,220.00	\$35.00	\$2,590.00	\$28.00	\$2,072.00	\$28.00	\$2,072.00	\$29.00	\$2,146.00	\$24.00	\$1,776.00
31	Field Rock	6 TN	\$65.00	\$390.00	\$450.00	\$2,700.00	\$100.00	\$600.00	\$85.00	\$510.00	\$100.00	\$600.00	\$60.00	\$360.00
32	Tree Removal	1 LS	\$25,000.00	\$25,000.00	\$45,000.00	\$45,000.00	\$45,000.00	\$45,000.00	\$43,000.00	\$43,000.00	\$35,000.00	\$35,000.00	\$45,000.00	\$45,000.00
33	Hydro Seed and Fertilize	10,355 SY	\$0.85	\$8,801.75	\$1.00	\$10,355.00	\$1.25	\$12,943.75	\$0.90	\$9,319.50	\$0.91	\$9,423.05	\$3.00	\$31,065.00
34	Silt Fence	165 LF	\$5.25	\$866.25	\$5.50	\$907.50	\$6.00	\$990.00	\$5.40	\$891.00	\$5.50	\$907.50	\$10.00	\$1,650.00
35	Culvert Protection	2 EA	\$140.00	\$280.00	\$150.00	\$300.00	\$1,050.00	\$2,100.00	\$125.00	\$250.00	\$125.00	\$250.00	\$120.00	\$240.00
36	Traffic Control Signs	109 SF	\$4.50	\$490.50	\$4.40	\$479.60	\$5.00	\$545.00	\$4.35	\$474.15	\$4.40	\$479.60	\$3.00	\$327.00
37	Type III Barricade	8 EA	\$105.00	\$840.00	\$110.00	\$880.00	\$110.00	\$880.00	\$110.00	\$880.00	\$110.00	\$880.00	\$130.00	\$1,040.00
38	Traffic Control	1 LS	\$3,000.00	\$3,000.00	\$3,060.00	\$3,060.00	\$3,055.00	\$3,055.00	\$3,500.00	\$3,500.00	\$3,055.00	\$3,055.00	\$10,000.00	\$10,000.00
			\$399,084.50		\$487,855.60		\$532,870.75		\$552,637.65		\$662,194.00		\$527,903.00	

I hereby certify that the foregoing is an accurate representation and tabulation of all bids received and that the mathematics have been checked and are to the best of my knowledge correct.

Camden A. Hofer
Camden A. Hofer, P.E., Project Engineer, SPN & Associates





West Harmon Water Main Loop

CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Joe Schroeder
Desired Action of City Council:			
Amount Budgeted in current fiscal year for this item (if applicable):	602-43340-43331, \$1,213,000		
Agenda Item:	Action to Award Bid for 12th & 13th Watermain Loop Project #2023-08		
Explanation/Background of Agenda Item Requested:	Bids were opened on December 5, 2023 in City Hall Council Chambers at 1:30 PM. Six bids were received as follows: Halme, Inc. - \$562,741.50 Underground Connections - \$585,261.00 Menning Excavating, Inc. - \$590,686.50 H&W Contracting - \$644,666.90 First Rate Excavate - \$694,000 Crow River Construction - \$775,068.00 Engineer's Estimate - \$482,214.00 Please see the attached bid tabulation for detailed information. Camden Hofer, PE with SPN and Associates has provided a letter summarizing the bids and a recommendation to award. This project is one piece of a State Revolving Fund (SRF) loan funding package. Below is a summary of the current funding package with current project budgets. Total funding package - \$2,840,000 Current Project Costs 12th and 13th Avenue Water Main Loop - \$728,641.50 West Harmon Water Main Loop - \$526,984.50 Highway 37 Utility Project - \$1,450,485.43 Contingencies - \$133,888.57 Staff recommends awarding the project to Halme, Inc. for \$562,741.50. The bid shall be contingent on DANR approval.		

December 7, 2023

Joe Schroeder, PE
Public Works Director
City of Mitchell
612 North Main Street
Mitchell SD 57301

RE: 12th and 13th Avenue Water Main Loop
Mitchell, South Dakota
SPN #16205

Dear Mr. Schroeder:

Enclosed for your use is a copy of the certified Tabulation of Bids for the bids received on the above referenced project. Also enclosed are the bids that were received for this project. The bids have been scanned for our files.

SPN and Associates has reviewed the submitted bids for the above project. The low bid submitted by Halme appears to be responsive and responsible. There were three other bids that were within approximately five percent of the low bid. The prices bid are approximately 17 percent over the Engineer Estimate.

SPN and Associates recommends that the City of Mitchell award the project to Halme in the amount of \$562,741.50. This award should be contingent on the Department of Agriculture and Natural Resources' review and approval and the City of Mitchell's funding considerations.

If you have any questions or need additional information, please contact me.

Sincerely,

SCHMUCKER, PAUL, NOHR & ASSOCIATES



Camden A. Hofer, P.E.
Project Engineer

Enclosures

Mitchell 12th and 13th Avenue Water Main Loop

Bid Tabulation

SPN #16205

Bid Date: December 5, 2023

Bid Schedule A

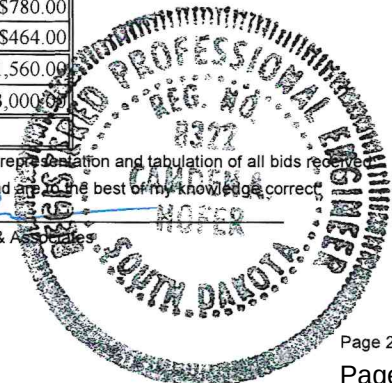
			Halme Inc 44769 SD Hwy 28 Lake Norden SD 57248		Underground Connections PO Box 98 Harrisburg SD 57032		Menning Excavating Inc 25462 Cornerstone Ave Mitchell SD 57301		H & W Contracting LLC 3416 W Hovland Drive Sioux Falls SD 57107	
Item #	Description	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1 LS	\$93,000.00	\$93,000.00	\$135,000.00	\$135,000.00	\$85,000.00	\$85,000.00	\$139,500.00	\$139,500.00
2	Remove and Dispose of Asphalt Pavement	3,333 SY	\$3.50	\$11,665.50	\$5.00	\$16,665.00	\$8.00	\$26,664.00	\$6.00	\$19,998.00
3	Remove and Dispose of Concrete Curb and Gutter	60 LF	\$8.00	\$480.00	\$20.00	\$1,200.00	\$12.00	\$720.00	\$8.00	\$480.00
4	Remove and Dispose of Fire Hydrant	3 EA	\$250.00	\$750.00	\$500.00	\$1,500.00	\$550.00	\$1,650.00	\$500.00	\$1,500.00
5	Remove and Dispose of Gate Valve	6 EA	\$250.00	\$1,500.00	\$250.00	\$1,500.00	\$350.00	\$2,100.00	\$350.00	\$2,100.00
6	Remove and Dispose Top of Gate Valve	1 EA	\$100.00	\$100.00	\$250.00	\$250.00	\$250.00	\$250.00	\$150.00	\$150.00
7	6" PVC Water Main	2,250 LF	\$55.00	\$123,750.00	\$55.00	\$123,750.00	\$62.00	\$139,500.00	\$65.00	\$146,250.00
8	Connect to Existing Water Main	4 EA	\$3,200.00	\$12,800.00	\$2,500.00	\$10,000.00	\$2,075.00	\$8,300.00	\$2,500.00	\$10,000.00
9	6" MJ 90° Bend	2 EA	\$1,000.00	\$2,000.00	\$1,200.00	\$2,400.00	\$960.00	\$1,920.00	\$1,100.00	\$2,200.00
10	6" MJ 45° Bend	5 EA	\$1,000.00	\$5,000.00	\$1,200.00	\$6,000.00	\$920.00	\$4,600.00	\$1,075.00	\$5,375.00
11	6" MJ 22.5° Bend	2 EA	\$1,000.00	\$2,000.00	\$1,200.00	\$2,400.00	\$905.00	\$1,810.00	\$1,050.00	\$2,100.00
12	6" MJ Tee	6 EA	\$1,450.00	\$8,700.00	\$1,500.00	\$9,000.00	\$1,365.00	\$8,190.00	\$1,600.00	\$9,600.00
13	6" MJ Gate Valve w/ Box	11 EA	\$3,000.00	\$33,000.00	\$2,700.00	\$29,700.00	\$2,760.00	\$30,360.00	\$2,250.00	\$24,750.00
14	6" MJ Cap	1 EA	\$800.00	\$800.00	\$1,100.00	\$1,100.00	\$610.00	\$610.00	\$650.00	\$650.00
15	6" x 1" Service Saddle w/ Corp Stop	46 EA	\$350.00	\$16,100.00	\$900.00	\$41,400.00	\$715.00	\$32,890.00	\$750.00	\$34,500.00
16	1" Water Service	263 LF	\$27.00	\$7,101.00	\$25.00	\$6,575.00	\$43.00	\$11,309.00	\$42.00	\$11,046.00
17	Connect to Existing Water Service	46 EA	\$850.00	\$39,100.00	\$400.00	\$18,400.00	\$995.00	\$45,770.00	\$1,250.00	\$57,500.00
18	1" Curb Stop	4 EA	\$700.00	\$2,800.00	\$750.00	\$3,000.00	\$635.00	\$2,540.00	\$700.00	\$2,800.00
19	Fire Hydrant Assembly	4 EA	\$9,000.00	\$36,000.00	\$5,500.00	\$22,000.00	\$7,000.00	\$28,000.00	\$5,700.00	\$22,800.00
20	Tracer Wire Box for Water Main	4 EA	\$65.00	\$260.00	\$250.00	\$1,000.00	\$135.00	\$540.00	\$250.00	\$1,000.00
21	Ground Rod for Water Main	8 EA	\$140.00	\$1,120.00	\$225.00	\$1,800.00	\$195.00	\$1,560.00	\$225.00	\$1,800.00
22	Asphalt Surfacing	619 TN	\$115.00	\$71,185.00	\$115.00	\$71,185.00	\$125.00	\$77,375.00	\$124.50	\$77,065.50
23	Concrete Curb and Gutter	60 LF	\$150.00	\$9,000.00	\$60.00	\$3,600.00	\$60.00	\$3,600.00	\$38.50	\$2,310.00
24	Street Excavation	1,389 CY	\$12.00	\$16,668.00	\$9.00	\$12,501.00	\$15.00	\$20,835.00	\$12.00	\$16,668.00
25	Gravel Base Course	1,095 TN	\$29.00	\$31,755.00	\$28.00	\$30,660.00	\$26.50	\$29,017.50	\$22.00	\$24,090.00
26	Remove, Stockpile, and Reinstall Gravel Base Course	560 CY	\$20.00	\$11,200.00	\$10.00	\$5,600.00	\$22.00	\$12,320.00	\$15.00	\$8,400.00
27	Furnish, Install and Remove Temporary Gravel Surfacing	598 TN	\$29.00	\$17,342.00	\$35.00	\$20,930.00	\$13.00	\$7,774.00	\$23.00	\$13,754.00
28	Seed and Fertilize	55 SY	\$27.00	\$1,485.00	\$15.00	\$825.00	\$13.00	\$715.00	\$10.00	\$550.00
29	Inlet Protection	6 EA	\$250.00	\$1,500.00	\$150.00	\$900.00	\$125.00	\$750.00	\$150.00	\$900.00
30	Traffic Control Signs	116 SF	\$5.00	\$580.00	\$5.00	\$580.00	\$4.50	\$522.00	\$4.40	\$510.40
31	Type III Barricade	12 EA	\$125.00	\$1,500.00	\$120.00	\$1,440.00	\$110.00	\$1,320.00	\$110.00	\$1,320.00
32	Miscellaneous Traffic Control	1 LS	\$2,500.00	\$2,500.00	\$2,400.00	\$2,400.00	\$2,175.00	\$2,175.00	\$3,000.00	\$3,000.00
			\$562,741.50		\$585,261.00		\$590,686.50		\$644,666.90	

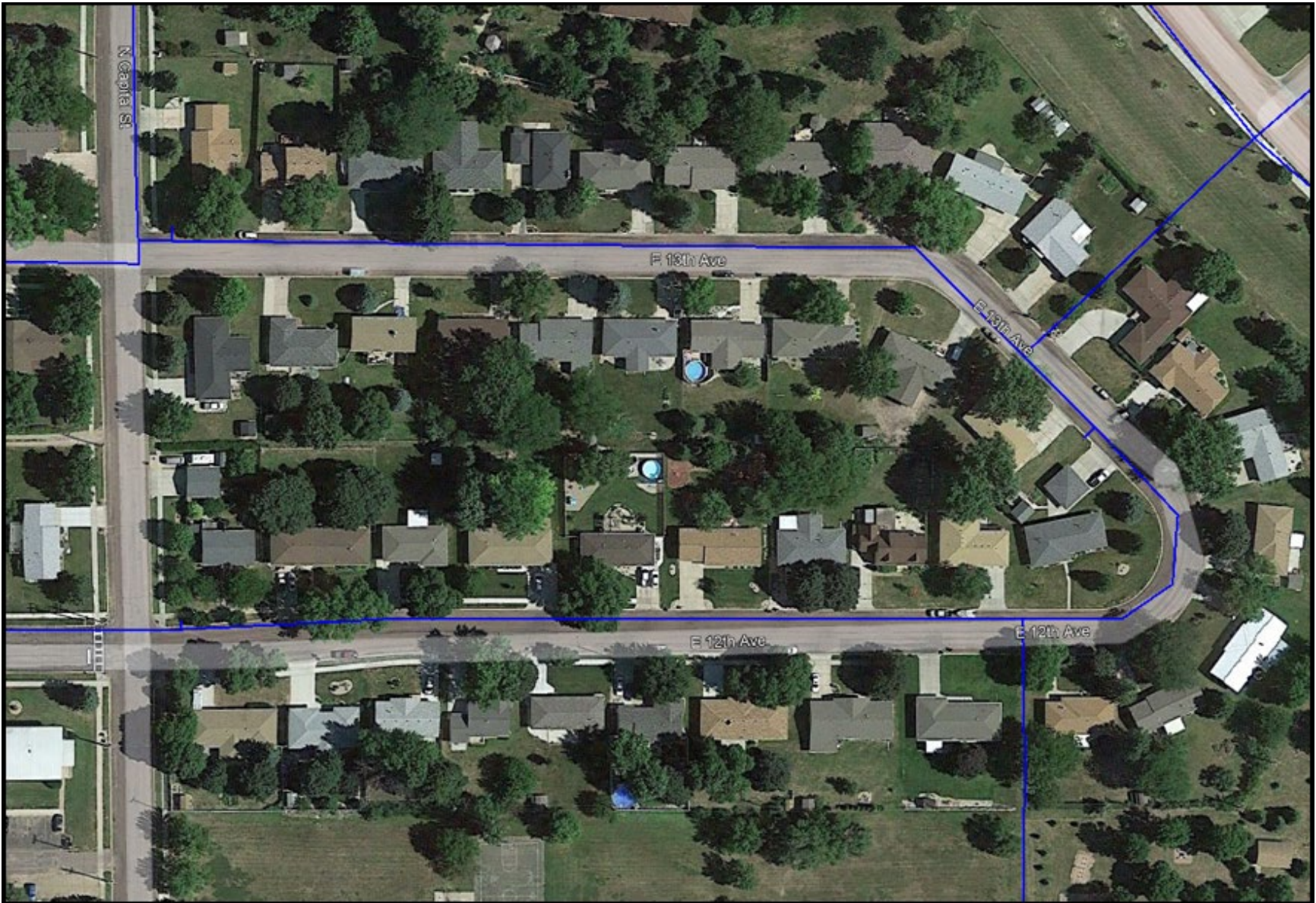
**Mitchell 12th and 13th Avenue Water Main Loop
Bid Tabulation, Continued
Bid Schedule A**

			First Rate Excavate Inc 1509 E 39th Street North Sioux Falls SD 57104		Crow River Construction 9338 187th Avenue NE New London MN 56273		Engineer's Estimate	
Item #	Description	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1 LS	\$190,202.60	\$190,202.60	\$80,000.00	\$80,000.00	\$63,000.00	\$63,000.00
2	Remove and Dispose of Asphalt Pavement	3,333 SY	\$9.00	\$29,997.00	\$12.00	\$39,996.00	\$6.00	\$19,998.00
3	Remove and Dispose of Concrete Curb and Gutter	60 LF	\$25.00	\$1,500.00	\$20.00	\$1,200.00	\$10.00	\$600.00
4	Remove and Dispose of Fire Hydrant	3 EA	\$450.00	\$1,350.00	\$1,500.00	\$4,500.00	\$500.00	\$1,500.00
5	Remove and Dispose of Gate Valve	6 EA	\$400.00	\$2,400.00	\$1,000.00	\$6,000.00	\$500.00	\$3,000.00
6	Remove and Dispose Top of Gate Valve	1 EA	\$300.00	\$300.00	\$500.00	\$500.00	\$500.00	\$500.00
7	6" PVC Water Main	2,250 LF	\$66.00	\$148,500.00	\$115.00	\$258,750.00	\$53.00	\$119,250.00
8	Connect to Existing Water Main	4 EA	\$2,310.00	\$9,240.00	\$4,000.00	\$16,000.00	\$1,700.00	\$6,800.00
9	6" MJ 90° Bend	2 EA	\$1,079.00	\$2,158.00	\$1,500.00	\$3,000.00	\$600.00	\$1,200.00
10	6" MJ 45° Bend	5 EA	\$1,048.00	\$5,240.00	\$1,500.00	\$7,500.00	\$600.00	\$3,000.00
11	6" MJ 22.5° Bend	2 EA	\$1,035.00	\$2,070.00	\$1,400.00	\$2,800.00	\$600.00	\$1,200.00
12	6" MJ Tee	6 EA	\$1,732.00	\$10,392.00	\$2,000.00	\$12,000.00	\$800.00	\$4,800.00
13	6" MJ Gate Valve w/ Box	11 EA	\$2,777.00	\$30,547.00	\$3,500.00	\$38,500.00	\$1,900.00	\$20,900.00
14	6" MJ Cap	1 EA	\$607.00	\$607.00	\$800.00	\$800.00	\$600.00	\$600.00
15	6" x 1" Service Saddle w/ Corp Stop	46 EA	\$526.00	\$24,196.00	\$900.00	\$41,400.00	\$600.00	\$27,600.00
16	1" Water Service	263 LF	\$31.00	\$8,153.00	\$50.00	\$13,150.00	\$40.00	\$10,520.00
17	Connect to Existing Water Service	46 EA	\$1,047.00	\$48,162.00	\$575.00	\$26,450.00	\$600.00	\$27,600.00
18	1" Curb Stop	4 EA	\$498.00	\$1,992.00	\$875.00	\$3,500.00	\$750.00	\$3,000.00
19	Fire Hydrant Assembly	4 EA	\$5,897.00	\$23,588.00	\$9,100.00	\$36,400.00	\$5,300.00	\$21,200.00
20	Tracer Wire Box for Water Main	4 EA	\$132.00	\$528.00	\$350.00	\$1,400.00	\$150.00	\$600.00
21	Ground Rod for Water Main	8 EA	\$157.00	\$1,256.00	\$400.00	\$3,200.00	\$175.00	\$1,400.00
22	Asphalt Surfacing	619 TN	\$115.50	\$71,494.50	\$125.00	\$77,375.00	\$115.00	\$71,185.00
23	Concrete Curb and Gutter	60 LF	\$38.50	\$2,310.00	\$95.00	\$5,700.00	\$50.00	\$3,000.00
24	Street Excavation	1,389 CY	\$14.50	\$20,140.50	\$16.00	\$22,224.00	\$13.00	\$18,057.00
25	Gravel Base Course	1,095 TN	\$25.00	\$27,375.00	\$30.00	\$32,850.00	\$23.00	\$25,185.00
26	Remove, Stockpile, and Reinstall Gravel Base Course	560 CY	\$12.50	\$7,000.00	\$18.00	\$10,080.00	\$10.00	\$5,600.00
27	Furnish, Install and Remove Temporary Gravel Surfacing	598 TN	\$28.00	\$16,744.00	\$40.00	\$23,920.00	\$25.00	\$14,950.00
28	Seed and Fertilize	55 SY	\$30.00	\$1,650.00	\$20.00	\$1,100.00	\$3.00	\$165.00
29	Inlet Protection	6 EA	\$150.00	\$900.00	\$150.00	\$900.00	\$130.00	\$780.00
30	Traffic Control Signs	116 SF	\$4.40	\$510.40	\$4.25	\$493.00	\$4.00	\$464.00
31	Type III Barricade	12 EA	\$110.00	\$1,320.00	\$115.00	\$1,380.00	\$130.00	\$1,560.00
32	Miscellaneous Traffic Control	1 LS	\$2,177.00	\$2,177.00	\$2,000.00	\$2,000.00	\$3,000.00	\$3,000.00
			\$694,000.00		\$775,068.00		\$482,214.00	

I hereby certify that the foregoing is an accurate representation and tabulation of all bids received and that the mathematics have been checked and are in the best of my knowledge correct.

Camden A. Hofer
Camden A. Hofer, P.E., Project Engineer, SPN & Associates





12th and 13th Water Main Loop

CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested: **Requested By:**

Desired Action of City Council:

Amount Budgeted in current fiscal year for this item (if applicable):

Agenda Item:

Explanation/Background of Agenda Item Requested: Bids were opened on December 7, 2023 in City Hall Council Chambers at 1:30 PM. Four bids were received as follows:

Halme, Inc. - \$1,547,214.00
H&W Contracting - \$1,550,897.20
Crow River Construction - \$1,708,090.00
First Rate Excavate - \$2,123,429.00
Engineer's Estimate - \$1,086,926.00

Please see the attached bid tabulation for detailed information.

Camden Hofer, PE with SPN and Associates has provided a letter summarizing the bids and a recommendation to award. This project is one piece of a State Revolving Fund Loan infrastructure package. Below is a summary of the current funding package with current project budgets.

Current Budget
Total SRF Loan funding package - \$4,760,000
Wastewater Enterprise Fund \$4,790,000

Current Cost of Projects
23rd and Ohlman Lift Station - \$1,659,714.00
Ohlman Lift Station - \$1,336,123.50
Highway 37 Utility Project - \$1,519,239.56
N Harmon Sanitary Sewer - \$3,404,000 (estimated)

Staff recommends awarding the project to Halme, Inc. for \$1,547,214.00. The bid shall be contingent on DANR approval.

Mitchell 23rd Avenue Lift Station
Bid Tabulation
SPN #15994
Bid Date: December 7, 2023

Haime Inc
44769 SD Hwy 28
Lake Norden SD 57248

H & W Contracting LLC
3416 W Hovland Drive
Sioux Falls SD 57107

Crow River Construction
9338 187th Avenue NE
New London MN 56273

Bid Schedule A

Item #	Description	Quantity	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1 LS	\$177,000.00	\$177,000.00	\$291,500.00	\$291,500.00	\$165,000.00	\$165,000.00
2	Remove and Dispose of Asphalt Surfacing	637 SY	\$5.00	\$3,185.00	\$8.00	\$5,096.00	\$15.00	\$9,555.00
3	Remove and Dispose of Manhole	3 EA	\$300.00	\$900.00	\$1,200.00	\$3,600.00	\$1,500.00	\$4,500.00
4	Remove Existing Lift Station Site and Wet Well	1 LS	\$16,000.00	\$16,000.00	\$7,500.00	\$7,500.00	\$75,000.00	\$75,000.00
5	8" Sanitary Sewer Pipe (12ft-14ft)	12 LF	\$290.00	\$3,480.00	\$200.00	\$2,400.00	\$240.00	\$2,880.00
6	8" Sanitary Sewer Pipe (14ft-16ft)	78 LF	\$375.00	\$29,250.00	\$205.00	\$15,990.00	\$240.00	\$18,720.00
7	10" Sanitary Sewer Pipe (14ft-16ft)	15 LF	\$300.00	\$4,500.00	\$230.00	\$3,450.00	\$250.00	\$3,750.00
8	10" Sanitary Sewer Pipe (16ft-18ft)	82 LF	\$380.00	\$31,160.00	\$240.00	\$19,680.00	\$250.00	\$20,500.00
9	10" Sanitary Sewer Pipe (18ft-20ft)	97 LF	\$550.00	\$53,350.00	\$250.00	\$24,250.00	\$250.00	\$24,250.00
10	Post Construction TV Inspection	284 LF	\$3.00	\$8,520.00	\$3.00	\$852.00	\$10.00	\$2,840.00
11	6" C900 PVC Force Main	195 LF	\$115.00	\$22,425.00	\$75.00	\$14,625.00	\$175.00	\$34,125.00
12	6" Ductile Iron Force Main	14 LF	\$165.00	\$2,310.00	\$225.00	\$3,150.00	\$300.00	\$4,200.00
13	6" Tee	1 EA	\$1,800.00	\$1,800.00	\$1,250.00	\$1,250.00	\$1,700.00	\$1,700.00
14	6" 22.5° Bend	2 EA	\$1,250.00	\$2,500.00	\$875.00	\$1,750.00	\$1,200.00	\$2,400.00
15	6" 45° Bend	1 EA	\$1,250.00	\$1,250.00	\$900.00	\$900.00	\$1,200.00	\$1,200.00
16	6" 90° Bend	3 EA	\$1,300.00	\$3,900.00	\$925.00	\$2,775.00	\$1,250.00	\$3,750.00
17	Tracer Wire Access Box	1 EA	\$110.00	\$110.00	\$250.00	\$250.00	\$450.00	\$450.00
18	Tracer Wire Ground	1 EA	\$110.00	\$110.00	\$175.00	\$175.00	\$425.00	\$425.00
19	48" Diameter Manhole to 8 Feet	4 EA	\$14,000.00	\$56,000.00	\$8,800.00	\$35,200.00	\$10,000.00	\$40,000.00
20	Additional Depth Sanitary Sewer Manhole	26 VF	\$900.00	\$23,670.00	\$415.00	\$10,914.50	\$1,000.00	\$26,300.00
21	Liner for 48" Manholes	58 VF	\$240.00	\$13,920.00	\$200.00	\$11,660.00	\$600.00	\$34,980.00
22	Sanitary Manhole Inside Drop Assembly	2 EA	\$1,850.00	\$3,700.00	\$1,300.00	\$2,600.00	\$4,500.00	\$9,000.00
23	Connect to Sanitary Sewer	4 EA	\$4,400.00	\$17,600.00	\$1,500.00	\$6,000.00	\$3,000.00	\$12,000.00
24	Connect to 6" Force Main	1 EA	\$3,000.00	\$3,000.00	\$2,250.00	\$2,250.00	\$3,700.00	\$3,700.00
25	1" Water Service Pipe	80 LF	\$86.00	\$6,880.00	\$55.00	\$4,400.00	\$90.00	\$7,200.00
26	12" x 1" Saddle with Corp Stop	1 EA	\$1,500.00	\$1,500.00	\$900.00	\$900.00	\$1,600.00	\$1,600.00
27	1" Curb Stop with Box	1 EA	\$700.00	\$700.00	\$600.00	\$600.00	\$850.00	\$850.00
28	1" Yard Hydrant	1 EA	\$700.00	\$700.00	\$1,600.00	\$1,600.00	\$3,200.00	\$3,200.00
29	1" Tee to Dry Pit	1 EA	\$300.00	\$300.00	\$325.00	\$325.00	\$400.00	\$400.00
30	Lift Station Wet Well and Appurtenances	1 LS	\$200,000.00	\$200,000.00	\$300,000.00	\$300,000.00	\$495,000.00	\$495,000.00
31	Passive Odor Control System	1 LS	\$4,500.00	\$4,500.00	\$8,000.00	\$8,000.00	\$10,000.00	\$10,000.00
32	Furnish Dry Pit Station and Appurtenances	1 LS	\$350,000.00	\$350,000.00	\$294,500.00	\$294,500.00	\$290,000.00	\$290,000.00
33	Install Dry Pit Station and Appurtenances	1 LS	\$140,000.00	\$140,000.00	\$195,000.00	\$195,000.00	\$145,000.00	\$145,000.00
34	Bypass Pumping	1 LS	\$35,000.00	\$35,000.00	\$7,500.00	\$7,500.00	\$5,000.00	\$5,000.00
35	Dewatering	1 LS	\$130,000.00	\$130,000.00	\$103,000.00	\$103,000.00	\$50,000.00	\$50,000.00
36	Salvage and Replace Topsoil	213 CY	\$10.00	\$2,130.00	\$6.00	\$1,278.00	\$25.00	\$5,325.00
37	Site Grading, Fill and Access Road Embankment	487 CY	\$40.00	\$19,480.00	\$15.00	\$7,305.00	\$35.00	\$17,045.00
38	Asphalt Surfacing	200 TN	\$125.00	\$25,000.00	\$125.00	\$25,000.00	\$175.00	\$35,000.00
39	Gravel Base Course or Surfacing	770 TN	\$30.00	\$23,100.00	\$22.00	\$16,940.00	\$35.00	\$26,950.00
40	Traffic Control	1 LS	\$6,800.00	\$6,800.00	\$7,500.00	\$7,500.00	\$5,000.00	\$5,000.00
41	Culvert Protection	3 EA	\$200.00	\$600.00	\$99.00	\$297.00	\$150.00	\$450.00
42	Install, Maintain and Remove Silt Fence	202 LF	\$5.50	\$1,111.00	\$5.50	\$1,111.00	\$5.00	\$1,010.00
43	Hydro-Seed (Type 2) and Fertilize Disturbed Area	1,567 SY	\$3.00	\$4,701.00	\$1.10	\$1,723.70	\$5.00	\$7,835.00
44	Automatic Stand-By Generator System	1 LS	\$85,000.00	\$85,000.00	\$44,000.00	\$44,000.00	\$75,000.00	\$75,000.00
45	Electrical Work and Materials	1 LS	\$30,000.00	\$30,000.00	\$62,100.00	\$62,100.00	\$25,000.00	\$25,000.00
			\$1,547,214.00		\$1,550,897.20		\$1,708,090.00	

Mitchell 23rd Avenue Lift Station
Bid Tabulation
SPN #15994
Bid Date: December 7, 2023

First Rate Excavate Inc
1509 East 39th Street North
Sioux Falls SD 57104

Bid Schedule A

Item #	Description	Quantity	First Rate Excavate Inc		Engineer's Estimate	
			Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1 LS	\$107,150.00	\$107,150.00	\$166,000.00	\$166,000.00
2	Remove and Dispose of Asphalt Surfacing	637 SY	\$8.00	\$5,096.00	\$7.00	\$4,459.00
3	Remove and Dispose of Manhole	3 EA	\$2,000.00	\$6,000.00	\$800.00	\$2,400.00
4	Remove Existing Lift Station Site and Wet Well	1 LS	\$50,000.00	\$50,000.00	\$20,000.00	\$20,000.00
5	8" Sanitary Sewer Pipe (12ft-14ft)	12 LF	\$210.00	\$2,520.00	\$87.00	\$1,044.00
6	8" Sanitary Sewer Pipe (14ft-16ft)	78 LF	\$220.00	\$17,160.00	\$91.00	\$7,098.00
7	10" Sanitary Sewer Pipe (14ft-16ft)	15 LF	\$232.00	\$3,480.00	\$107.00	\$1,605.00
8	10" Sanitary Sewer Pipe (16ft-18ft)	82 LF	\$242.00	\$19,844.00	\$112.00	\$9,184.00
9	10" Sanitary Sewer Pipe (18ft-20ft)	97 LF	\$352.00	\$34,144.00	\$120.00	\$11,640.00
10	Post Construction TV Inspection	284 LF	\$8.00	\$2,272.00	\$2.50	\$710.00
11	6" C900 PVC Force Main	195 LF	\$102.00	\$19,890.00	\$65.00	\$12,675.00
12	6" Ductile Iron Force Main	14 LF	\$132.00	\$1,848.00	\$100.00	\$1,400.00
13	6" Tee	1 EA	\$1,382.00	\$1,382.00	\$1,800.00	\$1,800.00
14	6" 22.5° Bend	2 EA	\$964.00	\$1,928.00	\$1,000.00	\$2,000.00
15	6" 45° Bend	1 EA	\$976.00	\$976.00	\$1,000.00	\$1,000.00
16	6" 90° Bend	3 EA	\$1,001.00	\$3,003.00	\$1,000.00	\$3,000.00
17	Tracer Wire Access Box	1 EA	\$312.00	\$312.00	\$250.00	\$250.00
18	Tracer Wire Ground	1 EA	\$235.00	\$235.00	\$200.00	\$200.00
19	48" Diameter Manhole to 8 Feet	4 EA	\$11,028.00	\$44,112.00	\$5,000.00	\$20,000.00
20	Additional Depth Sanitary Sewer Manhole	26 VF	\$375.00	\$9,862.50	\$400.00	\$10,520.00
21	Liner for 48" Manholes	58 VF	\$427.00	\$24,894.10	\$500.00	\$29,150.00
22	Sanitary Manhole Inside Drop Assembly	2 EA	\$2,294.00	\$4,588.00	\$2,500.00	\$5,000.00
23	Connect to Sanitary Sewer	4 EA	\$3,290.00	\$13,160.00	\$1,600.00	\$6,400.00
24	Connect to 6" Force Main	1 EA	\$3,120.00	\$3,120.00	\$2,500.00	\$2,500.00
25	1" Water Service Pipe	80 LF	\$58.00	\$4,640.00	\$100.00	\$8,000.00
26	12" x 1" Saddle with Corp Stop	1 EA	\$988.00	\$988.00	\$1,000.00	\$1,000.00
27	1" Curb Stop with Box	1 EA	\$678.00	\$678.00	\$600.00	\$600.00
28	1" Yard Hydrant	1 EA	\$1,820.00	\$1,820.00	\$1,000.00	\$1,000.00
29	1" Tee to Dry Pit	1 EA	\$725.00	\$725.00	\$800.00	\$800.00
30	Lift Station Wet Well and Appurtenances	1 LS	\$89,846.00	\$89,846.00	\$200,000.00	\$200,000.00
31	Passive Odor Control System	1 LS	\$10,500.00	\$10,500.00	\$2,000.00	\$2,000.00
32	Furnish Dry Pit Station and Appurtenances	1 LS	\$334,724.00	\$334,724.00	\$280,000.00	\$280,000.00
33	Install Dry Pit Station and Appurtenances	1 LS	\$488,800.00	\$488,800.00	\$80,000.00	\$80,000.00
34	Bypass Pumping	1 LS	\$350,000.00	\$350,000.00	\$10,000.00	\$10,000.00
35	Dewatering	1 LS	\$274,380.00	\$274,380.00	\$20,000.00	\$20,000.00
36	Salvage and Replace Topsoil	213 CY	\$45.00	\$9,585.00	\$20.00	\$4,260.00
37	Site Grading, Fill and Access Road Embankment	487 CY	\$22.50	\$10,957.50	\$20.00	\$9,740.00
38	Asphalt Surfacing	200 TN	\$138.00	\$27,600.00	\$120.00	\$24,000.00
39	Gravel Base Course or Surfacing	770 TN	\$30.00	\$23,100.00	\$28.00	\$21,560.00
40	Traffic Control	1 LS	\$6,480.00	\$6,480.00	\$15,000.00	\$15,000.00
41	Culvert Protection	3 EA	\$99.00	\$297.00	\$400.00	\$1,200.00
42	Install, Maintain and Remove Silt Fence	202 LF	\$6.60	\$1,333.20	\$15.00	\$3,030.00
43	Hydro-Seed (Type 2) and Fertilize Disturbed Area	1,567 SY	\$1.10	\$1,723.70	\$3.00	\$4,701.00
44	Automatic Stand-By Generator System	1 LS	\$58,093.00	\$58,093.00	\$45,000.00	\$45,000.00
45	Electrical Work and Materials	1 LS	\$50,182.00	\$50,182.00	\$35,000.00	\$35,000.00
			\$2,123,429.00		\$1,086,926.00	



I hereby certify that the foregoing is an accurate representation and tabulation of all bids received and that the mathematics have been checked and are to the best of my knowledge correct.

Candea A. Hofer, P.E., Project Engineer, SPN & Associates

December 12, 2023

Joe Schroeder, PE
Public Works Director
City of Mitchell
612 North Main Street
Mitchell SD 57301

RE: 23rd Avenue Lift Station
Mitchell, South Dakota
SPN #15994

Dear Mr. Schroeder:

Enclosed for your use is a copy of the certified Tabulation of Bids for the bids received on the above referenced project. Also enclosed are the bids that were received for this project. The bids have been scanned for our files.

SPN and Associates has reviewed the submitted bids for the above project. The low bid submitted by Halme appears to be responsive and responsible. There was another bid within a few thousand dollars from the low bid and a third bid within 10 percent of the low bid. The prices bid are approximately 42 percent over the Engineer Estimate. After discussing the relatively high bid prices with some bidders, it seems the water-bearing sand and large number of utilities in the way highly contribute to the elevated price.

It is our opinion that a rebid of the same project would not reduce the bid price at least in the current bid environment. If the City's funding can be adequate to cover the extra cost of the project, the City should award the project to Halme in the amount of \$1,547,214.00. This award should be contingent on the Department of Agriculture and Natural Resources' review and approval.

If you have any questions or need additional information, please contact me.

Sincerely,

SCHMUCKER, PAUL, NOHR & ASSOCIATES



Camden A. Hofer, P.E.
Project Engineer

Enclosures



23rd and Ohlman Lift Station

CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Joe Schroeder
Desired Action of City Council:	Action to Approve		
Amount Budgeted in current fiscal year for this item (if applicable):	604-43250-43350, \$857,000		
Agenda Item:	Action to Award Bid for Ohlman Lift Station Project #2023-16		
Explanation/Background of Agenda Item Requested:	Bids were opened on December 14, 2023 in City Hall Council Chambers at 1:30 PM. Three bids were received as follows: Halme, Inc. - \$1,239,223.50 H&W Contracting - \$1,289,278.30 First Rate Excavate - \$1,483,332.00 Engineer's Estimate - \$1,247,367.00 Please see the attached bid tabulation for detailed information. Camden Hofer, PE with SPN and Associates has provided a letter summarizing the bids and a recommendation to award. This project is one piece of a State Revolving Fund (SRF) loan infrastructure package. Below is a summary of the current funding package with current project budgets. Current Budget Total SRF Loan funding package - \$4,760,000 Wastewater Enterprise Fund \$4,790,000 Current Cost of Projects 23rd and Ohlman Lift Station - \$1,659,714.00 Ohlman Lift Station - \$1,336,123.50 Highway 37 Utility Project - \$1,519,239.56 N Harmon Sanitary Sewer - \$3,404,000 (estimated) Staff recommends awarding the project to Halme, Inc. for \$1,239,223.50. The bid shall be contingent on DANR approval.		

Mitchell Ohlman Lift Station
Bid Tabulation
SPN #16205
Bid Date: December 14, 2023

Halme Inc 44769 SD Hwy 28 Lake Norden SD 57248	H & W Contracting LLC 3416 W Hovland Drive Sioux Falls SD 57107
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Bid Schedule A

Item #	Description	Quantity	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1 LS	\$128,000.00	\$128,000.00	\$221,500.00	\$221,500.00
2	Remove and Dispose of Lift Station and Wet Well	1 LS	\$12,000.00	\$12,000.00	\$5,000.00	\$5,000.00
3	Remove and Dispose of Manhole	2 EA	\$500.00	\$1,000.00	\$1,200.00	\$2,400.00
4	Furnish Dry Pit Station and Appurtenances	1 LS	\$375,000.00	\$375,000.00	\$326,000.00	\$326,000.00
5	Install Dry Pit Station and Appurtenances	1 LS	\$172,000.00	\$172,000.00	\$170,000.00	\$170,000.00
6	Wet Well and Related Equipment	1 LS	\$247,000.00	\$247,000.00	\$275,000.00	\$275,000.00
7	Passive Odor Control System	1 LS	\$5,000.00	\$5,000.00	\$9,000.00	\$9,000.00
8	Automatic Stand-By Generator System	1 LS	\$42,000.00	\$42,000.00	\$71,500.00	\$71,500.00
9	General Electrical Work	1 LS	\$80,000.00	\$80,000.00	\$63,300.00	\$63,300.00
10	48" Sanitary Sewer Manhole (0-6')	2 EA	\$10,750.00	\$21,500.00	\$8,500.00	\$17,000.00
11	Additional Depth Sanitary Sewer Manhole	8 VF	\$870.00	\$6,786.00	\$450.00	\$3,510.00
12	Liner for 48" Manholes	20 VF	\$400.00	\$7,920.00	\$340.00	\$6,732.00
13	8" Sanitary Sewer Main	61 LF	\$200.00	\$12,200.00	\$200.00	\$12,200.00
14	10" Sanitary Sewer Main	82 LF	\$240.00	\$19,680.00	\$250.00	\$20,500.00
15	Post Construction TV Inspection	131 LF	\$5.00	\$655.00	\$3.00	\$393.00
16	Connect to Existing Sanitary Sewer Main	6 EA	\$4,200.00	\$25,200.00	\$1,500.00	\$9,000.00
17	Temporary 8"x8" Tee	1 EA	\$150.00	\$150.00	\$1,500.00	\$1,500.00
18	8"x4" Wye	1 EA	\$160.00	\$160.00	\$450.00	\$450.00
19	4" Sanitary Sewer Service Pipe	4 LF	\$85.00	\$340.00	\$70.00	\$280.00
20	Connect to Existing Sanitary Sewer Service	1 EA	\$800.00	\$800.00	\$850.00	\$850.00
21	Vertical 6" DIP from Dry Pit	22 LF	\$160.00	\$3,520.00	\$220.00	\$4,840.00
22	6" Force Main	51 LF	\$80.00	\$4,080.00	\$80.00	\$4,080.00
23	6" Tee	1 EA	\$1,750.00	\$1,750.00	\$1,200.00	\$1,200.00
24	6" 45° Bend	2 EA	\$1,250.00	\$2,500.00	\$875.00	\$1,750.00
25	6" 90° Bend	1 EA	\$1,300.00	\$1,300.00	\$900.00	\$900.00
26	Connect to Existing 6" Force Main	2 EA	\$3,000.00	\$6,000.00	\$2,250.00	\$4,500.00
27	Tracer Wire Access Box	1 EA	\$110.00	\$110.00	\$250.00	\$250.00
28	Tracer Wire Ground	2 EA	\$110.00	\$220.00	\$175.00	\$350.00
29	Bypass Pumping	1 LS	\$7,000.00	\$7,000.00	\$7,000.00	\$7,000.00
30	8"x1" Saddle w/ Corp Stop	1 EA	\$2,000.00	\$2,000.00	\$750.00	\$750.00
31	1" Curb Stop w/ Box	1 EA	\$700.00	\$700.00	\$600.00	\$600.00
32	1" Water Service Pipe	98 LF	\$50.00	\$4,900.00	\$55.00	\$5,390.00
33	1" Yard Hydrant	1 EA	\$650.00	\$650.00	\$1,600.00	\$1,600.00
34	1" Tee to Dry Pit	1 EA	\$300.00	\$300.00	\$375.00	\$375.00
35	Remove and Dispose of Asphalt Surfacing	211 SY	\$4.50	\$949.50	\$8.00	\$1,688.00
36	Remove and Dispose of Tree (15"-24" Dia.)	6 EA	\$750.00	\$4,500.00	\$1,050.00	\$6,300.00
37	Remove and Dispose of Wood Post	6 EA	\$48.00	\$288.00	\$125.00	\$750.00
38	Salvage and Install Fence Cable	75 LF	\$14.00	\$1,050.00	\$5.00	\$375.00
39	Furnish and Install Wood Posts	10 EA	\$160.00	\$1,600.00	\$125.00	\$1,250.00
40	Install New Cable for Fence	33 LF	\$30.00	\$990.00	\$22.00	\$726.00
41	Gravel Base Course or Surfacing	240 TN	\$36.00	\$8,640.00	\$24.00	\$5,760.00
42	3/4" Rock Surfacing	10 TN	\$50.00	\$500.00	\$30.00	\$300.00
43	Asphalt Surfacing	60 TN	\$200.00	\$12,000.00	\$190.00	\$11,400.00
44	Salvage and Replace Topsoil	90 CY	\$25.00	\$2,250.00	\$6.00	\$540.00
45	Site Grading, Fill and Access Road Embankment	40 CY	\$80.00	\$3,200.00	\$25.00	\$1,000.00
46	Traffic Control Signs	104 SF	\$2.50	\$260.00	\$2.20	\$228.80
47	Type III Barricades	6 EA	\$125.00	\$750.00	\$110.00	\$660.00
48	Traffic Control, Miscellaneous	1 LS	\$4,200.00	\$4,200.00	\$4,000.00	\$4,000.00
49	Install, Maintain and Remove Silt Fence	220 LF	\$9.00	\$1,980.00	\$6.00	\$1,320.00
50	Hydro-Seed (Type 2) and Fertilize Disturbed Area	405 SY	\$9.00	\$3,645.00	\$8.10	\$3,280.50
			\$1,239,223.50		\$1,289,278.30	

Mitchell Ohlman Lift Station
Bid Tabulation
SPN #16205
Bid Date: December 14, 2023

First Rate Excavate Inc
1509 East 39th Street North
Sioux Falls SD 57104

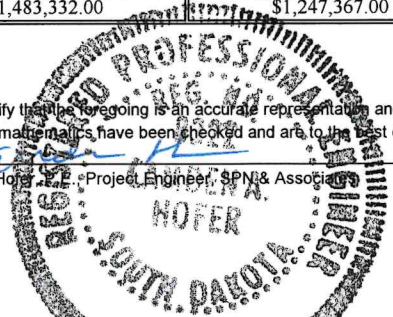
Engineer's Estimate

Bid Schedule A

Item #	Description	Quantity	Unit Price	Total Price	Unit Price	Total Price
1	Mobilization	1 LS	\$241,230.05	\$241,230.05	\$163,000.00	\$163,000.00
2	Remove and Dispose of Lift Station and Wet Well	1 LS	\$45,000.00	\$45,000.00	\$32,000.00	\$32,000.00
3	Remove and Dispose of Manhole	2 EA	\$1,500.00	\$3,000.00	\$1,000.00	\$2,000.00
4	Furnish Dry Pit Station and Appurtenances	1 LS	\$340,506.95	\$340,506.95	\$310,000.00	\$310,000.00
5	Install Dry Pit Station and Appurtenances	1 LS	\$341,000.00	\$341,000.00	\$150,000.00	\$150,000.00
6	Wet Well and Related Equipment	1 LS	\$130,755.00	\$130,755.00	\$300,000.00	\$300,000.00
7	Passive Odor Control System	1 LS	\$10,500.00	\$10,500.00	\$7,500.00	\$7,500.00
8	Automatic Stand-By Generator System	1 LS	\$55,605.00	\$55,605.00	\$68,000.00	\$68,000.00
9	General Electrical Work	1 LS	\$57,500.00	\$57,500.00	\$39,000.00	\$39,000.00
10	48" Sanitary Sewer Manhole (0-6')	2 EA	\$8,975.00	\$17,950.00	\$10,000.00	\$20,000.00
11	Additional Depth Sanitary Sewer Manhole	8 VF	\$337.00	\$2,628.60	\$750.00	\$5,850.00
12	Liner for 48" Manholes	20 VF	\$715.00	\$14,157.00	\$350.00	\$6,930.00
13	8" Sanitary Sewer Main	61 LF	\$195.00	\$11,895.00	\$200.00	\$12,200.00
14	10" Sanitary Sewer Main	82 LF	\$216.00	\$17,712.00	\$250.00	\$20,500.00
15	Post Construction TV Inspection	131 LF	\$7.00	\$917.00	\$3.00	\$393.00
16	Connect to Existing Sanitary Sewer Main	6 EA	\$2,660.00	\$15,960.00	\$3,000.00	\$18,000.00
17	Temporary 8"x8" Tee	1 EA	\$774.00	\$774.00	\$1,500.00	\$1,500.00
18	8"x4" Wye	1 EA	\$524.00	\$524.00	\$500.00	\$500.00
19	4" Sanitary Sewer Service Pipe	4 LF	\$163.00	\$652.00	\$80.00	\$320.00
20	Connect to Existing Sanitary Sewer Service	1 EA	\$1,558.00	\$1,558.00	\$1,000.00	\$1,000.00
21	Vertical 6" DIP from Dry Pit	22 LF	\$210.00	\$4,620.00	\$230.00	\$5,060.00
22	6" Force Main	51 LF	\$124.00	\$6,324.00	\$122.00	\$6,222.00
23	6" Tee	1 EA	\$1,129.00	\$1,129.00	\$1,500.00	\$1,500.00
24	6" 45° Bend	2 EA	\$847.00	\$1,694.00	\$1,100.00	\$2,200.00
25	6" 90° Bend	1 EA	\$868.00	\$868.00	\$1,100.00	\$1,100.00
26	Connect to Existing 6" Force Main	2 EA	\$3,006.00	\$6,012.00	\$3,000.00	\$6,000.00
27	Tracer Wire Access Box	1 EA	\$202.00	\$202.00	\$270.00	\$270.00
28	Tracer Wire Ground	2 EA	\$235.00	\$470.00	\$240.00	\$480.00
29	Bypass Pumping	1 LS	\$100,000.00	\$100,000.00	\$10,000.00	\$10,000.00
30	8"x1" Saddle w/ Corp Stop	1 EA	\$732.00	\$732.00	\$900.00	\$900.00
31	1" Curb Stop w/ Box	1 EA	\$572.00	\$572.00	\$700.00	\$700.00
32	1" Water Service Pipe	98 LF	\$45.00	\$4,410.00	\$76.00	\$7,448.00
33	1" Yard Hydrant	1 EA	\$585.00	\$585.00	\$1,800.00	\$1,800.00
34	1" Tee to Dry Pit	1 EA	\$360.00	\$360.00	\$340.00	\$340.00
35	Remove and Dispose of Asphalt Surfacing	211 SY	\$8.00	\$1,688.00	\$9.00	\$1,899.00
36	Remove and Dispose of Tree (15"-24" Dia.)	6 EA	\$1,000.00	\$6,000.00	\$1,000.00	\$6,000.00
37	Remove and Dispose of Wood Post	6 EA	\$100.00	\$600.00	\$200.00	\$1,200.00
38	Salvage and Install Fence Cable	75 LF	\$4.00	\$300.00	\$10.00	\$750.00
39	Furnish and Install Wood Posts	10 EA	\$150.00	\$1,500.00	\$500.00	\$5,000.00
40	Install New Cable for Fence	33 LF	\$10.00	\$330.00	\$50.00	\$1,650.00
41	Gravel Base Course or Surfacing	240 TN	\$30.00	\$7,200.00	\$29.00	\$6,960.00
42	3/4" Rock Surfacing	10 TN	\$40.00	\$400.00	\$60.00	\$600.00
43	Asphalt Surfacing	60 TN	\$219.00	\$13,140.00	\$140.00	\$8,400.00
44	Salvage and Replace Topsoil	90 CY	\$45.00	\$4,050.00	\$14.00	\$1,260.00
45	Site Grading, Fill and Access Road Embankment	40 CY	\$22.50	\$900.00	\$30.00	\$1,200.00
46	Traffic Control Signs	104 SF	\$2.20	\$228.80	\$5.00	\$520.00
47	Type III Barricades	6 EA	\$110.00	\$660.00	\$150.00	\$900.00
48	Traffic Control, Miscellaneous	1 LS	\$3,630.00	\$3,630.00	\$6,000.00	\$6,000.00
49	Install, Maintain and Remove Silt Fence	220 LF	\$6.60	\$1,452.00	\$5.00	\$1,100.00
50	Hydro-Seed (Type 2) and Fertilize Disturbed Area	405 SY	\$8.52	\$3,450.60	\$3.00	\$1,215.00
			\$1,483,332.00		\$1,247,367.00	

I hereby certify that the foregoing is an accurate representation and tabulation of all bids received and that the mathematics have been checked and are to the best of my knowledge correct.

Camden A. Hoyer, P.E., Project Engineer, SPN & Associates



December 14, 2023

Joe Schroeder, PE
Public Works Director
City of Mitchell
612 North Main Street
Mitchell SD 57301

RE: Ohlman Lift Station
Mitchell, South Dakota
SPN #16205

Dear Mr. Schroeder:

Enclosed for your use is a copy of the certified Tabulation of Bids for the bids received on the above referenced project. Also enclosed are the bids that were received for this project. The bids have been scanned for our files.

SPN and Associates has reviewed the submitted bids for the above project. The low bid submitted by Halme appears to be responsive and responsible. There was another bid within four percent from the low bid and a third bid within 20 percent of the low bid. The low bid price is close to the Engineer Estimate.

If the City's available funding is considered adequate to cover the cost of the project, the City should award the project to Halme in the amount of \$1,239,223.50. This award should be contingent on the Department of Agriculture and Natural Resources' review and approval.

If you have any questions or need additional information, please contact me.

Sincerely,

SCHMUCKER, PAUL, NOHR & ASSOCIATES



Camden A. Hofer, P.E.
Project Engineer

Enclosures



Ohlman Lift Station

CITY OF MITCHELL

City Council Meeting
Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	CINDY ROTH
Desired Action of City Council:			
Amount Budgeted in current fiscal year for this item (if applicable):			
Agenda Item:	Action to Approve 2024 Official Depositories		
Explanation/Background of Agenda Item Requested:	The Official Depositories must be designated annually		

CITY OF MITCHELL 2024 OFFICIAL DEPOSITORIES

The following official depositories of the City of Mitchell qualify for deposit or investment of municipal funds under SDCL 9-22-6, 9-22-6.1, and 9-22-6.2 and meet collateralization requirements of SDCL 4-6A-3 as required by law.

BankWest
1200 East Spruce Street
1920 North Sanborn Blvd
Mitchell, SD 57301
995-5059

CorTrust
100 East Havens
719 North Main
Mitchell, SD 57301
996-5910

First Dakota
1712 N Main Street
500 East Norway Avenue
Mitchell, SD 57301-0215
996-3364

First National Bank SD
210 North Lawler
Mitchell, SD 57301
996-7755

Farmers State Bank
115 East Havens Avenue
Mitchell, SD 57301
996-1000

First Interstate Bank
714 South Burr
Mitchell, SD 57301
996-8100

Plains Commerce
1130 South Burr Street
Mitchell, SD 57301
996-1102

U S Bank
1421 North Main
Mitchell, SD 57301
996-5814

Wells Fargo
403 North Lawler
Mitchell, SD 57301
995-3500

CITY OF MITCHELL

City Council Meeting
Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	CINDY ROTH
Desired Action of City Council:			
Amount Budgeted in current fiscal year for this item (if applicable):			
Agenda Item:	Action to Approve the Application of PSG Premier Enterprises, LLC for a Vehicle for Hire Company		
Explanation/Background of Agenda Item Requested:			

CITY OF MITCHELL, SOUTH DAKOTA
APPLICATION FOR RIDE SERVICE COMPANY LICENSE

Is this application for a: NEW LICENSE ✓ RENEWAL _____
Is the applicant a: TNC _____ VFHC ✓

PSG Premier Enterprises, LLC 601 S Isadore St, Mitchell SD 57301
Company Name In Full Company Address

Manager(s):

Josh Peterson 601 S Isadore St
Name In Full Address

joshandjanice@mittchelltelecom.net 605-770-0384
Email Phone#

Owner(s) (if natural person):

Kristi Schneider 41090 Mountain Place
Name In Full Address

bkschneider77@gmail.com 605-770-9119
Email Phone #

Previous experience in providing Ride Services:

Number of vehicles in fleet for VFHC: 1

Note: VFHCs must identify their fleet vehicles. If more than 5, attach a separate document.

	<u>Make</u>	<u>Year</u>	<u>Model</u>	<u>Serial No.</u>	<u>License No.</u>	<u>Seat Capacity</u>
1.	<u>International</u>	<u>2000</u>	<u>3400</u>	<u>1HVBEABM8YH27499</u>		<u>20</u>
2.						
3.						
4.						
5.						

Application Fee: The application and License fee for a VFHC is \$100.00 plus \$50.00 for each additional vehicle in the fleet over 1, with a maximum of \$500.00. The application and License fee for a TNC is \$500.00.

Narrative: Please attach a general statement of information you would like considered with your application and include information as to the need in the community for your Ride Service Company.

Financial Responsibility: VFH Companies, please attach proof of liability insurance in the amount of at least \$300,000.00 dollars for each occurrence (if such insurance contains a general aggregate limit, it must no less than two times the occurrence limit) which lists the City as an additional insured. Both TNC's and VFH companies must also maintain automobile insurance with coverage amounts equal to or exceeding those set under SDCL 32-40-9.

Dated this 26 Day of December, 2023.


Applicant

By: _____

-----FOR OFFICIAL USE ONLY-----

The within application received on the 26 day of December, 2023.


Finance Office

ACTION OF CITY COUNCIL

The within application for a License in the City of Mitchell was presented to the City Council on the _____ day of _____, 20____.

Motion by the City Council was as follows:

Dated this _____ day of _____, 20____.

Mayor

Attest:

(seal)

Finance Office

PSG Premier Enterprises, LLC has purchased the Midnight Train Party Bus and is excited to continue to provide transportation to people around the Mitchell community. Due to the popularity of this bus and the need for busses around this area, we hope to continue to work with previous customers of the Midnight Train and accommodate new ones. We hope to provide transportation for parties, weddings, prom, etc. We look forward to this new adventure for us in Mitchell and the surrounding communities.

Thank you.

PSG Premier Enterprises, LLC

Josh and Janice Peterson

Billy and Kristi Schneider

Scott and Nicole Gerlach



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/27/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Fischer, Rounds & Assoc. - Mitchell PO Box 820 Mitchell SD 57301-0820		CONTACT NAME: PHONE (A/C, No. Ext): 605-996-7711 FAX (A/C, No): 605-996-1417 E-MAIL ADDRESS: Mitchell@fischerrounds.com	
INSURED PSG Premier Enterprises LLC 601 S Isadore St Mitchell SD 57301		INSURER(S) AFFORDING COVERAGE INSURER A: Berkshire Hathaway Homestate Co INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
PSGPREM-01		NAIC # 20044	

COVERAGES**CERTIFICATE NUMBER:** 1091100763**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:					EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY		02APM042292-01	12/21/2023	12/21/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y/N ☒ N/A If yes, describe under DESCRIPTION OF OPERATIONS below					PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**City Of Mitchell
612 N Main St
Mitchell SD 57301

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Joe Schroeder
Desired Action of City Council:			
Amount Budgeted in current fiscal year for this item (if applicable):	101-42130-43343, \$575,000		
Agenda Item:	Action to Approve Agreement #A2024-01 with HR Green for Bidding and Construction Phase Services for the 7th and Main Traffic Light Project		
Explanation/Background of Agenda Item Requested:	Council approved the design of new traffic lights at the 1st and Main and 7th and Main intersections on May 2, 2022 with HR Green. The replacement of the traffic signals at 7th and Main is budgeted for 2024. HR Green's services will include project management, bidding services, construction administration, staking and observation. The project is expected to be bid in February. Staff recommends City Council approval of the attached proposal from HR Green in the amount not to exceed \$62,417.50 for professional services described therein. Project Background: The signal lights were installed in the early 1990's. The signal lights are frequently hit by larger turning vehicles. HR Green was the design engineer for the Minnesota Street and Bypass signal lights in Mitchell.		



PROFESSIONAL SERVICES AGREEMENT

For

**Main Street with 7th Avenue Intersection
Construction Services**

Joe Schroeder / Terry Johnson
City of Mitchell, South Dakota
612 N Main St
Mitchell, SD 57301
605-995-8435

Tyler Wiles, P.E., PTOE
Project Manager
HR Green, Inc.
5525 Merle Hay Rd, Suite 200
Johnston, IA 50131
Phone: 515-278-2913
HR Green Project Number: 210387

December 18, 2023

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1.0	PROJECT UNDERSTANDING
2.0	SCOPE OF SERVICES
3.0	DELIVERABLES AND SCHEDULES INCLUDED IN THIS AGREEMENT
4.0	ITEMS NOT INCLUDED IN AGREEMENT/SUPPLEMENTAL SERVICES
5.0	SERVICES BY OTHERS
6.0	CLIENT RESPONSIBILITIES
7.0	PROFESSIONAL SERVICES FEE
8.0	TERMS AND CONDITIONS



THIS **AGREEMENT** is between City of Mitchell, South Dakota (hereafter "CLIENT") and HR GREEN, INC. (hereafter "COMPANY").

1.0 Project Understanding

1.1 General Understanding

1.2 Design Criteria/Assumptions

2.0 Scope of Services

The CLIENT agrees to employ COMPANY to perform the following services:

See Attachment A

3.0 Deliverables and Schedules Included in this Agreement

See Attachment A

This schedule was prepared to include reasonable allowances for review and approval times required by the CLIENT and public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in the scope of the project requested by the CLIENT or for delays or other causes beyond the control of COMPANY.

4.0 Items not included in Agreement/Supplemental Services

The following items are not included as part of this AGREEMENT:

See Attachment A

Supplemental services not included in the AGREEMENT can be provided by COMPANY under separate agreement, if desired.

5.0 Services by Others

See Attachment A

6.0 Client Responsibilities

See Attachment A



7.0 Professional Services Fee

7.1 Fees

The fee for services will be based on COMPANY standard hourly rates current at the time the AGREEMENT is signed. These standard hourly rates are subject to change upon 30 days' written notice. Non-salary expenses directly attributable to the project such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable communication expenses; (3) identifiable reproduction costs applicable to the work; and (4) outside services will be charged in accordance with the rates current at the time the service is done.

7.2 Invoices

Invoices for COMPANY's services shall be submitted, on a monthly basis. Invoices shall be due and payable upon receipt. If any invoice is not paid within 30 days, COMPANY may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT, suspend or terminate the performance of services. The retainer shall be credited on the final invoice. Accounts unpaid 30 days after the invoice date may be subject to a monthly service charge of 1.5% (or the maximum legal rate) on the unpaid balance. In the event that any portion of an account remains unpaid 60 days after the billing, COMPANY may institute collection action and the CLIENT shall pay all costs of collection, including reasonable attorneys' fees.

7.3 Extra Services

Any service required but not included as part of this AGREEMENT shall be considered extra services. Extra services will be billed on a Time and Material basis with prior approval of the CLIENT.

7.4 Exclusion

This fee does not include attendance at any meetings or public hearings other than those specifically listed in the Scope of Services. These service items are considered extra and are billed separately on an hourly basis.

7.5 Not Used

7.6 Payment

The CLIENT AGREES to pay COMPANY on the following basis:

- Time and material basis with a maximum Not to Exceed fee as shown on Attachment A (\$62,417.50).

8.0 Terms and Conditions

The following Terms and Conditions are incorporated into this AGREEMENT and made a part of it.

8.1 Standard of Care

Services provided by COMPANY under this AGREEMENT will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality.

8.2 Entire Agreement

This AGREEMENT and its attachments constitute the entire understanding between CLIENT and COMPANY relating to COMPANY's services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein are of no effect. Subsequent modifications or amendments to this AGREEMENT shall be in writing and signed by the parties to this AGREEMENT. If the CLIENT, its officers, agents, or employees request COMPANY to perform extra services pursuant to this AGREEMENT, CLIENT will pay for the additional services even though an additional written agreement is not issued or signed.

8.3 Time Limit and Commencement of Services

This AGREEMENT must be executed within ninety (90) days to be accepted under the terms set forth herein. The services will be commenced immediately upon receipt of this signed AGREEMENT.

8.4 Suspension of Services

If the Project or the COMPANY'S services are suspended by the CLIENT for more than thirty (30) calendar days, consecutive or in the aggregate, over the term of this AGREEMENT, the COMPANY shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the CLIENT shall compensate the COMPANY for expenses incurred as a result of the suspension and resumption of its services, and the COMPANY'S schedule and fees for the remainder of the Project shall be equitably adjusted.

If the COMPANY'S services are suspended for more than ninety (90) days, consecutive or in the aggregate, the COMPANY may terminate this AGREEMENT upon giving not less than five (5) calendar days' written notice to the CLIENT.

If the CLIENT is in breach of this AGREEMENT, the COMPANY may suspend performance of services upon five (5) calendar days' notice to the CLIENT. The COMPANY shall have no liability to the CLIENT, and the CLIENT agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this AGREEMENT by the CLIENT. Upon receipt of payment in full of all outstanding sums due from the CLIENT, or curing of such other breach which caused the COMPANY to suspend services, the COMPANY shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.

8.5 Books and Accounts

COMPANY will maintain books and accounts of payroll costs, travel, subsistence, field, and incidental expenses for a period of five (5) years. Said books and accounts will be available at all reasonable times for examination by CLIENT at the corporate office of COMPANY during that time.

8.6 Insurance

COMPANY will maintain insurance for claims under the Worker's Compensation Laws, and from General Liability and Automobile claims for bodily injury, death, or property damage, and Professional Liability insurance caused by the negligent performance by COMPANY's employees of the functions and services required under this AGREEMENT.

8.7 Termination or Abandonment

Either party has the option to terminate this AGREEMENT. In the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, then the obligation to provide further services under this AGREEMENT may be terminated upon seven (7) days' written notice. If any portion of the services is terminated or abandoned by CLIENT, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the services not terminated or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for

services performed during such phase shall be based on COMPANY's reasonable estimate of the portion of such phase completed prior to said termination.

8.8 Waiver

COMPANY's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.

8.9 Severability

If any provision of this AGREEMENT is declared invalid, illegal, or incapable of being enforced by any Court of competent jurisdiction, all of the remaining provisions of this AGREEMENT shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

8.10 Successors and Assigns

All of the terms, conditions, and provisions hereof shall inure to the benefit of and are binding upon the parties hereto, and their respective successors and assigns, provided, however, that no assignment of this AGREEMENT shall be made without written consent of the parties to this AGREEMENT.

8.11 Third-Party Beneficiaries

Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the COMPANY. The COMPANY's services under this AGREEMENT are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against the COMPANY because of this AGREEMENT or the performance or nonperformance of services hereunder. The CLIENT and COMPANY agree to require a similar provision in all contracts with contractors, subcontractors, sub-consultants, vendors and other entities involved in this project to carry out the intent of this provision.

8.12 Governing Law and Jurisdiction

The CLIENT and the COMPANY agree that this AGREEMENT and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of South Dakota without regard to any conflict of law provisions, which may apply the laws of other jurisdictions.

It is further agreed that any legal action between the CLIENT and the COMPANY arising out of this AGREEMENT or the performance of the services shall be brought in a court of competent jurisdiction in the State of South Dakota.

8.13 Dispute Resolution

Mediation. In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and COMPANY agree that all disputes between them arising out of or relating to this AGREEMENT shall be submitted to non-binding mediation unless the parties mutually agree otherwise.

8.14 Attorney's Fees

If litigation arises for purposes of collecting fees or expenses due under this AGREEMENT, the Court in such litigation shall award reasonable costs and expenses, including attorney fees, to the party justly entitled thereto. In awarding attorney fees, the Court shall not be bound by any Court fee schedule, but shall, in the interest of justice, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.

8.15 Ownership of Instruments of Service

All raw data, studies, reports, and other work products of Company for this project ("Project Documents") are instruments of service for the project only and shall be deemed the joint property of Company and Client whether the project is completed or not. The Client may make and retain copies of the Project Documents which may be used by the Client and others. Both Company and Client may use the Project Documents for their own purposes outside of the project when appropriate. However, the Project Documents are not intended or represented to be suitable for reuse by the Client or others on extensions of the project or on any other project. Any such use without written verification or adaptation by Company for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Company and the Client shall indemnify and hold harmless Company and their consultants and each of their officers, agents, and employees from any and all

liability claims, losses, damage and expenses, including attorney's fees, arising out of or resulting from the negligent use or intentional misuse of the Project Documents by Client.

8.16 Not Used

8.17 Not Used

8.18 Opinion of Probable Construction Cost

As part of the Deliverables, COMPANY may submit to the CLIENT an opinion of probable cost required to construct work recommended, designed, or specified by COMPANY, if required by CLIENT. COMPANY is not a construction cost estimator or construction contractor, nor should COMPANY'S rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction cost estimator or construction contractor would provide. This requires COMPANY to make a number of assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professionals engaged; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the contractor will employ; contractor's techniques in determining prices and market conditions at the time, and other factors over which COMPANY has no control. Given the assumptions which must be made, COMPANY cannot guarantee the accuracy of its opinions of cost, and in recognition of that fact, the CLIENT waives any claim against COMPANY relative to the accuracy of COMPANY'S opinion of probable construction cost.

8.19 Not Used

8.20 Information Provided by Others

The CLIENT shall furnish, at the CLIENT's expense, all information, requirements, reports, data, surveys and instructions required by this AGREEMENT. The COMPANY may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The COMPANY shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the CLIENT and/or the CLIENT's consultants and contractors.

COMPANY is not responsible for accuracy of any plans, surveys or information of any type including electronic media prepared by any other consultants, etc. provided to COMPANY for use in preparation of plans. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the COMPANY from any damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising out of or connected in any way with the services performed by other consultants engaged by the CLIENT.

COMPANY is not responsible for accuracy of topographic surveys provided by others. A field check of a topographic survey provided by others will not be done under this AGREEMENT unless indicated in the Scope of Services.

8.21 Not Used

8.22 Job Site Visits and Safety

Neither the professional activities of COMPANY, nor the presence of COMPANY'S employees and sub-consultants at a construction site, shall relieve the general contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. COMPANY and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions. The CLIENT agrees that the general contractor is solely responsible for job site safety, and warrants that this intent shall be made evident in the CLIENT's AGREEMENT with the general contractor. The CLIENT also agrees that the CLIENT, COMPANY and COMPANY'S consultants shall be indemnified and shall be made additional insureds on the general contractor's and all subcontractor's general liability policies on a primary and non-contributory basis.

8.23 Hazardous Materials

CLIENT hereby understands and agrees that COMPANY has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at CLIENT's premises, or in

connection with or related to this project with respect to which COMPANY has been retained to provide professional services. The compensation to be paid COMPANY for said professional services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold COMPANY, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including, but not limited to, attorney fees and Court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

It is acknowledged by both parties that COMPANY'S Scope of Services does not include any services related to asbestos or hazardous or toxic materials. In the event COMPANY or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of COMPANY'S services, COMPANY may, at its 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 warrants that the job site is in full compliance with applicable laws and regulations.

Nothing contained within this AGREEMENT shall be construed or interpreted as requiring COMPANY to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 et seq., as amended, or within any State statute governing the generation, treatment, storage, and disposal of waste.

8.24 Not Used

8.25 Limitation of Liability

In recognition of the relative risks and benefits of the Project to both the CLIENT and the COMPANY, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and sub-consultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and sub-consultants shall not exceed \$50,000.00, or the COMPANY'S total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

8.26 Not Used

8.27 Not Used

8.28 Not Used

8.29 Not Used

8.30 Construction Observation

COMPANY shall visit the project at appropriate intervals (as described in the scope of services) during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. The CLIENT has not retained COMPANY to make detailed inspections or to provide exhaustive or continuous project review and observation services. COMPANY does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project.

If the CLIENT desires more extensive project observation or full-time project representation, the CLIENT shall request in writing such services be provided by COMPANY as Additional Services in accordance with the terms of the AGREEMENT.

8.31 Not Used



8.32 Not Used

8.33 Not Used

8.34 Not Used

8.35 Not Used

8.36 Not Used

8.37 Not Used

This AGREEMENT is approved and accepted by the CLIENT and COMPANY upon both parties signing and dating the AGREEMENT. Services will not begin until COMPANY receives a signed agreement. COMPANY's services shall be limited to those expressly set forth in this AGREEMENT and COMPANY shall have no other obligations or responsibilities for the Project except as agreed to in writing. The effective date of the AGREEMENT shall be the last date entered below.

Sincerely,

HR GREEN, INC.

A blue ink signature of Tyler Wiles.

Tyler Wiles, PE,
PTOE, LEED-AP

Approved by: _____

Printed/Typed Name: David Maxwell

Title: Vice President Date: 12/19/2023

City of Mitchell, South Dakota

Accepted by: _____

Printed/Typed Name: _____

Title: _____ Date: _____

ATTACHMENT A: SCOPE OF SERVICES

For

**Main Street with 7th Avenue Intersection
Construction Services**

Joe Schroeder / Terry Johnson
City of Mitchell, South Dakota
612 N Main St
Mitchell, SD 57301
605-995-8435

Tyler Wiles, P.E., PTOE
Project Manager
HR Green, Inc.
5525 Merle Hay Rd, Suite 200
Johnston, IA 50131
Phone: 515-278-2913
HR Green Project Number: 210387

December 18, 2023



Project Overview

This project will provide construction phase services for traffic signal system replacement, sidewalk, ramp, and lighting improvements at the intersection of Main Street & 7th Avenue, located in downtown Mitchell, South Dakota.

It is understood that the project Contractor, in collaboration with the City and equipment vendor, will implement the traffic signal timing/phasing information, previously designed under a separate contract.

It is understood that the City will bid this traffic signal/sidewalk ramp improvement project as a stand-alone construction contract. The City will prepare the front end contractual documents and will assemble the construction bid package.

Following award of the project to the Contractor, the Consultant will provide construction phase services, include construction administration and construction observation.

1.0 PROJECT MANAGEMENT & MEETINGS

1.1 Project Management & Meetings

The project manager for the Consultant will be responsible for general coordination with the City regarding project activities, meetings, invoicing, and deliverables. This task includes up to two (2) coordination meetings (project pre-construction and one other coordination meeting) involving two (2) representatives of the Consultant, as well as administration and coordination of the project tasks. This task includes project team meetings and regular communications, as well as general day-to-day administrative tasks. Project Management includes development and execution of a project work plan, as well as quality control reviews of all deliverables. Monthly progress reports will also be prepared.

Additional meetings including public information meetings and City Council meetings are not an anticipated need for this project and are not included in this scope of services.

2.0 PERMITTING AND PRE-LETTING

2.1 Permitting

Completion and filing of applicable project permits will be completed by the City. This includes necessary permits to be filed with any and all utility companies. The scope assumes zero (0) Consultant hours for this task.

2.2 Pre-Letting

The Consultant will provide responses to pre-letting questions from the City.

3.0 CONSTRUCTION PHASE SERVICES – CONSTRUCTION ADMINISTRATION

3.1 Construction Administration

After award of the construction contract, the Consultant shall perform the following construction administration services:

1. **Pre-construction Conference** - The Consultant shall conduct a pre-construction conference for the project with the Contractor, City and all interested parties to review the contract requirements, details of construction, utility conflicts and work schedule. The Consultant shall prepare and distribute meeting minutes for the conference.
2. **Shop Drawings** - The Consultant shall review and coordinate approval of Contractor Submitted shop drawings with the City. The Consultant will coordinate transfer/review of shop drawings with the Contractor.
3. **Design Interpretation Questions** - The Consultant shall answer design interpretation questions from City, Contractor and review agencies.
4. **Project Status** - During the Construction Services Phase, the Consultant shall confer with the City to report project status.

5. **Contractor Payment Requests** - The Consultant shall assist the City with the preparation of progress payment applications based upon its review of construction progress by on-site observation, and make a recommendation to the City for payment of the appropriate amount for work completed since the last payment application. Prior to the preparation of a payment application, the Consultant shall review all material testing and certifications on the project and only recommend payment for items that have acceptable material documentation on file.

6. **Change Orders** - The Consultant shall assist the City with the preparation of change orders for approval of the City prior to Contractor's start of work under the change order.

7. **Final Inspection and Punch List; Final Acceptance** – The Consultant shall coordinate and conduct two walk-through inspections with City: first inspection in August 2024 to determine if the work is substantially complete, and a second inspection in September 2024 to determine if the work is finally complete. With input from the City, the Consultant shall prepare a project completion punch-list for the Contractor if needed. On the basis of such inspection, the Consultant shall determine if the project is substantially complete according to the plans and specifications and shall make a recommendation to the City regarding final payment. It is understood that the City will accept the project only after recommendation by the Consultant.

4.0 CONSTRUCTION PHASE SERVICES – CONSTRUCTION OBSERVATION

4.1 Construction Observation

The Consultant shall provide the following Construction Observation services:

1. **Onsite Inspection** - The Consultant shall make periodic visits to the site at intervals appropriate to the stage of construction approximately two times per week when construction activities are occurring that week, or as otherwise agreed by the City and Consultant, to provide field observation to ascertain the progress and quality of the work completed and to determine if the work is being performed in accordance with the Contract Documents. However, the Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. It is understood by the City and Consultant that Consultant presence at the site during all times of Construction is not included as part of this scope of services. Construction Observation services do not include responsibility for construction means, controls, techniques, sequences, procedures or safety. This scope of services includes 14 round trips from the HR Green Sioux Falls office to the project site.

2. **No Waiver** - If the Contractor requests a waiver of any provisions of the plans and specifications, the Consultant will make a recommendation on the request to the City for its determination. No waiver shall be granted if such waiver would serve to reduce the quality of the final product. The City shall never be deemed to have authorized the Consultant to consent to the use of defective workmanship or materials.

3. **Testing and Monitoring** - The Consultant will arrange for a Subconsultant to perform subgrade and material testing per South Dakota DOT Materials Manual

Specifications. The Consultant will coordinate the testing and monitoring with Subconsultant during construction of the project. Subconsultant assumes up to 4 trips for grading tests, up to 8 trips for concrete testing and sample pick up, 8 density tests, up to 3 proctor tests, 1 sieve analysis, and 8 sets of 6 concrete compression tests.

4. **Construction Staking** – The Consultant will arrange for a Subconsultant to perform Construction Staking, with assumptions as follows:

- Total Survey Trips: 6
 - Curb Return Staking: 2 trips, assuming 2 quadrants staked per trip, totaling 4 quadrants
 - ADA Ramp Staking: 2 trips, assuming 2 quadrants staked per trip, totaling 4 quadrants
 - Signal Pole Staking – 2 trips, assuming 2 quadrants staked per trip, totaling 4 quadrants

5. **Notification of Nonconformance** - On the basis of on-site observations as a design professional, the Consultant shall keep the City informed of the progress and quality of the Work and shall attempt to guard the City against defects and deficiencies in the Work. The Consultant shall notify the City of any observed work which is unsatisfactory, faulty, defective, incomplete or does not conform to the Contract Documents, advise and recommend action required to correct or complete such unsatisfactory, faulty, defective or incomplete work and, at the request of the City, see that these recommendations are implemented by the Contractor.

6. **As-Built (Record) Drawings** – The Consultant will prepare construction record drawings defining the actual location of improvements and fixtures. Prepare record drawings showing those changes made during construction, based on the marked-up drawings and other data furnished by the Contractor and the Consultant construction observer. Provide the City with the following deliverables:

- One (1) reproducible 11x17 paper copy of the record drawings;
- One (1) PDF copy of the Plan Set with redline markups.

5.0 DELIVERABLES, SCHEDULE, CITY RESPONSIBILITIES

5.1 Deliverables

The following items are considered deliverables as part of this contract.

- Preconstruction meeting notices, agenda, and minutes
- Copies of observation and site visit notes; records or logs or diaries; and construction-related reports (e.g. concrete testing)
- Punch-list at Substantial Completion
- Punch-list at Final Completion
- Engineer's Certificate of Completion
- As-Built (Record) drawings
- Monthly invoices and progress reports

5.2 Schedule

Assuming approval of this agreement on or before December 1, 2023, the following schedule is anticipated:

- Final Design Complete (Separate Contract): January 15, 2024
- Project Letting: February 2024
- Construction Season: April 2024 through October 2024
- Construction Complete: October 2024

This schedule was prepared to include reasonable allowances for review and approval times required by the City and other public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in the scope of the project requested by the City or for delays or other causes beyond the control of Consultant.

5.3 City Responsibilities

It is understood the City will complete the following tasks or have the following responsibilities:

- Prepare and obtain construction easements and right-of-way plats for acquisitions, if required
- To review and provide input on the Consultant's design plans in a timely manner
- Provide general specifications and "front end documents" for the contract documents
- Make payments for engineering services within 30 days of receiving an acceptable invoice
- Advertise and solicit bids
- Provide traffic counts as necessary
- Provide available utility information in GIS format
- Provide construction observation and Contractor coordination as available

5.4 Items Not Included in this Scope of Services

- Traffic counts
- Traffic Study
- Traffic Signal Warrant Evaluation
- Travel Demand Modeling
- Intersection Sight Distance Review/Documentation
- 3D visualization/exhibits
- City council meeting attendance/preparation
- Public information meetings/engagement
- Lighting Photometric Analysis (lighting will be located appropriately on traffic signal poles)
- Public Interest Finding (PIF) memorandum coordination/preparation
- Storm sewer or inlet relocation design
- Storm drainage calculations

PROJECT NAME: Main Street with 7th Avenue Intersection Construction Services
 PROJECT NUMBER: 210387
 CLIENT: City of Mitchell, SD
 CLIENT CONTACT: Joe Schroeder / Terry Johnson
 PROJECT MANAGER: Tyler Wiles

SUMMARY OF COSTS						
Net Labor		\$ 45,510.00				
Total Labor Hours	242.00					
Total ODC Including Markup		\$ 1,700.00				
Total OCC Including Markup		15,207.50				
Subtotal		\$ 62,417.50				
Management Reserve	0%	-	Project Management	Traffic Study	Bidding	Construction Services
Total Project Cost		\$ 62,417.50	\$ 4,792.00	-	\$ 3,673.00	\$ 53,952.50

PROJECT NAME: Main Street with 7th Avenue Intersection Construction Services
PROJECT NUMBER: 210387
CLIENT: City of Mitchell, SD
CLIENT CONTACT: Joe Schroeder / Terry Johnson
PROJECT MANAGER: Tyler Wiles

Phase/ Task	TOTAL HOURS			242				6	70	2	154	10											
	COST PER HOUR/UNIT (CHARGE-OUT RATE)							255	220	180	175	127	0.625		0.85		10%			0%	-	10%	
	TOTAL LABOR COST			45510				1530	15400	360	26950	1270		1,700.00								13,825.00	
	% OF TOTAL COST							2.5%	24.7%	0.6%	43.2%	2.0%											
	DESCRIPTION OF TASK	Task Start Date	Task End Date	Labor Task Total	ODC Task Total	Subs Task Total	Task Total							EXPENSES									
Project Manager White								Project Manager Wiles	Project Engineer Cutler	Project Engineer Brua	Admin Assist Luck	Mileage Auto		Mileage Survey		Per Diem	Equip Rental			Computer & Comm Charge	Sub Contractor	Notes	
												Unit	Total	Units	Total		Total	Unit	Unit Price				Total
	Project Understanding			-	-	-	-							-		-				-	-		
1	Project Management & Meetings			-	-	-	-							-		-				-	-		
	1.1 Project Management & Meetings			4,792.00	-	-	4,792.00	2	16			6		-		-				-	-		
2	Permitting, Pre-Letting and Construction Support			-	-	-	-							-		-				-	-		
2.1	Permitting			-	-	-	-							-		-				-	-		
	2.2 Pre-Letting			3,673.00	-	-	3,673.00	1	10	2	2	4		-		-				-	-		
3	CPS - Construction Administration			-	-	-	-							-		-				-	-		
3.1	Construction Administration			-	-	-	-							-		-				-	-		
3.1.1	Pre-Construction Conference			1,230.00	100.00	-	1,330.00			4		2		160	100.00		-			-	-		1 Trip x 160 miles RT
3.1.2	Shop Drawings			880.00	-	-	880.00			4					-		-			-	-		
3.1.3	Design Interpretation Questions			1,230.00	-	-	1,230.00			4		2			-		-			-	-		
3.1.4	Project Status			1,320.00	-	-	1,320.00			6					-		-			-	-		
3.1.5	Contractor Payment Requests			790.00	-	-	790.00			2		2			-		-			-	-		
3.1.6	Change Orders			790.00	-	-	790.00			2		2			-		-			-	-		
3.1.7	Punch List (Substantial & Complete)			880.00	200.00	-	1,080.00			4				320	200.00		-			-	-		2 Trips x 160 miles RT
4	CPS - Construction Observation			-	-	-	-								-		-			-	-		
4.1	Construction Observation			-	-	-	-								-		-			-	-		
4.1.1	Onsite Inspection			18,295.00	1,400.00	-	19,695.00	1	12		88		2240	1,400.00		-				-	-		14 Trips x 160 miles RT
4.1.2	No Waiver			440.00	-	-	440.00		2						-		-			-	-		
4.1.3	Testing & Monitoring			4,200.00	-	7,287.50	11,487.50				24				-		-			-	-	6,625.00	GeoTek
4.1.4	Construction Staking			4,200.00	-	7,920.00	12,120.00				24				-		-			-	-	7,200.00	Midwest Survey
4.1.5	Notification of Nonconformance			695.00	-	-	695.00	1	2						-		-			-	-		
4.1.6	As-Built Record Drawings			2,095.00	-	-	2,095.00	1	2		8				-		-			-	-		
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CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Joe Schroeder
Desired Action of City Council:	Action to Approve		
Amount Budgeted in current fiscal year for this item (if applicable):	602-43340-43331, \$1,213,000 - 12th and 13th Water Main Loop 602-43340-43332, \$629,000 - West Harmon Water Main Loop 602-43340-43333, \$998,000 - Highway 37 Utility Improvements		
Agenda Item:	Action to Approve Agreement #A2024-02, Construction Phase Services for State Revolving Fund Loan Water Projects with SPN & Associates		
Explanation/Background of Agenda Item Requested:	Council approved SPN to provide design and bidding services for the following projects: Highway 37 Utility Improvements, May 17, 2021 12th and 13th Water Main Loop, November 21, 2022 West Harmon Water Main Loop, November 21, 2022 These projects were identified to be completed through Facility Plans completed by SPN and have been approved through the ARPA SRF Loan process. The proposed contract will provide various construction phase services, including on-site observation and construction surveying. City staff will be completing construction administration for these projects. Staff recommends City Council approval of the attached agreement from SPN in the amount not to exceed \$278,500 for design and bidding services. Project Backgrounds - These projects have been identified in Facility Plans completed by SPN. Highway 37 Utility Improvements The project will replace undersized clay sanitary sewer pipe and ACP and ductile iron water mains. West Harmon Water Main Loop This project will provide a water main loop on the west side of the lake. The project will eliminate the water main that is on the bottom of the lake and increase fire flows on the west and north sides of the lake. 12th and 13th Street Water Main Loop This project will replace 2,200 feet of asbestos cement pipe (AC). The line has experienced a high frequency of breaks.		

**WATER SYSTEM IMPROVEMENTS – CONSTRUCTION PHASE
WEST HARMON WATER MAIN LOOP, 12TH & 13TH AVENUE WATER
MAIN LOOP AND SOUTH DAKOTA HIGHWAY 37 WATER
IMPROVEMENTS**

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

Prepared by



Issued and Published Jointly by



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

THIS IS AN AGREEMENT effective as of January 2, 2024 ("Effective Date") between
City of Mitchell, South Dakota ("Owner") and
Schmucker, Paul, Nohr and Associates ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Water distribution system improvements for the West Harmon Water Main Loop, the 12th and 13th Avenue Water Main Loop, and the SD Highway 37 Water Improvements, hereinafter referred to as the ("Project").

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows: **Construction Phase services including only construction staking and Resident Project Representative services.**

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 have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items. **Engineer shall notify Owner in the event Engineer is aware that Owner supplied information that is inaccurate or questionable.**

- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities 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, 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.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

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 Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

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 any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% 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.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, 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, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.

5.03 *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 tabulating the various categories that 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 any services performed or furnished by Engineer.

- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information. **Engineer shall notify Owner in the event Engineer is aware that Owner supplied information that is inaccurate or questionable.**
- C. *Consultants:* Engineer may retain 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.
- D. *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.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, 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 document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor'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 Constructor, or the safety

precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

- A. All Documents are instruments of service **for the project only and shall be deemed the joint property of the Engineer and Owner**, 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 Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.

~~C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing 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 on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, 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; (3) 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 use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.~~ **All raw data, studies, reports, and other work products of Engineer for this project ("Project Documents") are instruments of service for the project only and shall be deemed the joint property of Engineer and Owner whether the project is completed or not. The Owner may make and retain copies of the Project Documents which may be used by the Owner. Both Engineer and Owner may use the Project Documents for their own purposes outside of the project when appropriate. However, the Project Documents are not intended or represented to be suitable for reuse by the Owner or others on extensions of the project or on any other project. Any such use without written verification or adaptation by Engineer for the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to Engineer and the Owner shall indemnify and hold harmless Engineer and their consultants and each of their officers, agents, and employees from any and all liability claims, losses, damage and expenses, including attorney's fees, arising out of or resulting from the negligent use or intentional misuse of the Project Documents by Owner.**

- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer ~~shall~~ **may** jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. ~~Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.~~

- B. Owner shall procure and maintain insurance as set forth in Exhibit G. ~~Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.~~
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- ~~E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project related contracts to secure waivers of rights consistent with those set forth in this paragraph.~~
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.06 *Suspension and Termination*

A. *Suspension:*

- 1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
- 2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

- 1. For cause,

- a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.
 - 3) Engineer shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a 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 thereof; 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.
2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, 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. *Payments Upon Termination:*
1. In the event of any termination under Paragraph 6.06, 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. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.07 Controlling Law

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

6.08 *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 6.08.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, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated 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 Constructor, other third-party 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.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. 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.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent 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 such portion of the Project is no longer affected.
- 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 seven 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.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment 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, 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. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations **and to the extent (if any) required in Exhibit I, "Limitations of Liability."** **Nevertheless, for this and all other instances of indemnification/hold harmless provisions in this Agreement, the extent of Owner's obligation is limited in that Owner does not waive its sovereign immunity and the Owner reserves the right to rely on sovereign immunity to the extent permitted by South Dakota Law.**
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys' fees and expenses) 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, damages, action, or judgment 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 Laws and Regulations, 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 Laws and Regulations, 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 this Agreement or the Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *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 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 Laws and Regulations, 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 Substantial Completion.

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 definitions:
 - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

2. *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.
3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. *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.
6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that 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. §§5501 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.; or (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.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor,

- services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost 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 property; 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.
14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
 15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
 16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
 17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
 18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
 19. *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.
 20. *Engineer*—The individual or entity named as such in this Agreement.
 21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
 22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
 23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
 24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
 25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or 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.
36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such

construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

- A. Exhibit A, Engineer’s Services.
- B. Exhibit B, Owner’s Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, Notice of Acceptability of Work. **“not used”**
- F. Exhibit F, Construction Cost Limit. **“not used”**
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. **“not used”**
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Special Provisions. **“not used”**
- K. Exhibit K, Amendment to Owner-Engineer Agreement.

8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included 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 written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

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 services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement 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: City of Mitchell, South Dakota ..

By: _____

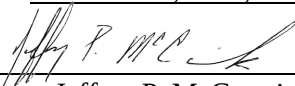
Print name: Robert B. Everson, Jr.

Title: Mayor

Date _____

Signed: _____

Engineer: Schmucker, Paul, Nohr and Associates

By: 

Print name: Jeffrey P. McCormick, P.E.

Title: Associate

Date Signed: _____

12/19/23

Engineer License Certificate No.: 8471

State of: South Dakota

Address for Owner's receipt of notices:

City of Mitchell

612 North Main Street

Mitchell, South Dakota 57301-2620

Address for Engineer's receipt of notices:

PO Box 398

2100 North Sanborn Boulevard

Mitchell, South Dakota 57301

Designated Representative (Paragraph 8.03.A):

Joe Schroeder

Title: Public Works Director

Phone Number: 605-995-8433

E-Mail Address: joe.schroeder@cityofmitchellsd.gov

Designated Representative (Paragraph 8.03.A):

Jeffrey P. McCormick, P.E.

Title: Associate

Phone Number: 605-996-7761

E-Mail Address: jmccormick@spn-assoc.com

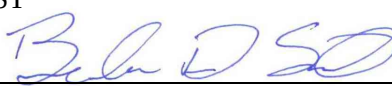
ATTEST

By: _____

Print name: Michelle Bathke

Title: Finance Officer

ATTEST

By: 

Print name: Brandon Smid, P.E.

Title: Associate

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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*– **NOT APPLICABLE – The Study and Report Phase of this Project was completed under separate agreement and is not a part of this Agreement.**

~~A. Engineer shall:~~

- ~~1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.~~
 - ~~a. If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions: [] **[List the specific potential solutions here.]**~~
 - ~~b. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~
 - ~~c. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [] **[insert specific number]** alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~
- ~~2. Identify potential solution(s) to meet Owner's Project requirements, as needed.~~
- ~~3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~
- ~~4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~
- ~~5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~
- ~~6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~

- ~~7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.~~
 - ~~8. 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 Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.~~
 - ~~9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.~~
 - ~~10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."~~
 - ~~11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.~~
 - ~~12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.~~
 - ~~13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.~~
 - ~~14. Perform or provide the following other Study and Report Phase tasks or deliverables: []
[] **List any such tasks or deliverables here.**~~
 - ~~15. Furnish [] review copies of the Report and any other Study and Report Phase deliverables to Owner within [] days of the Effective Date and review it with Owner. Within [] days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.~~
 - ~~16. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish [] copies of the revised Report and any other Study and Report Phase deliverables to the Owner within [] days of receipt of Owner's comments.~~
- ~~B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.~~

A1.02 *Preliminary Design Phase* – **Not Applicable – The Design Phase of the Project was completed under separate Agreement and is not part of this Agreement.**

~~A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions of for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:~~

- ~~1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.~~
- ~~2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.~~
- ~~3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.~~
- ~~4. Visit the Site as needed to prepare the Preliminary Design Phase documents.~~
- ~~5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.~~
- ~~6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.~~
- ~~7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.~~
- ~~8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals~~

~~or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.~~

~~9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:~~

~~a. N/A~~

~~10. Furnish [3] review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner within [150] days of authorization to proceed with this phase, and review them with Owner. Within [14] days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.~~

~~11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner [3] copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within [14] days after receipt of Owner's comments.~~

~~B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.~~

A1.03 *Final Design Phase – **Not Applicable – The Design Phase of the Project was completed under separate Agreement and is not part of this Agreement.***

~~A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:~~

~~1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.~~

~~2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.~~

~~3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.~~

~~4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.~~

~~5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.~~

- ~~6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.~~
 - ~~7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.~~
 - ~~8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.~~
 - ~~9. Perform or provide the following other Final Design Phase tasks or deliverables: [N/A]~~
 - ~~10. Furnish for review by Owner, its legal counsel, and other advisors, [5] copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, within [60] calendar days of authorization to proceed with the Final Design Phase, and review them with Owner. Within 14 calendar days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.~~
 - ~~11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner (Civil 3D Drawings), as appropriate, and submit [5] final copies of such documents to Owner within [14] calendar days after receipt of Owner's comments and instructions.~~
- ~~B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.~~
- ~~C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.~~
- ~~D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is [1]. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.~~

A1.04 *Bidding or Negotiating Phase – **Not Applicable – The Bidding or Negotiating Phase of the Project was completed under separate Agreement and is not part of this Agreement.***

~~A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:~~

- ~~1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.~~
- ~~2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.~~
- ~~3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.~~
- ~~4. Consult with Owner as to the qualifications of prospective contractors.~~
- ~~5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.~~
- ~~6. If the issued bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.~~
- ~~7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.~~
- ~~8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.~~
- ~~9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:
~~{N/A.}~~~~

~~B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).~~

A1.05 Construction Phase

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:

- ~~1. General Administration of Construction Contract: Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in this Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.~~
2. *Resident Project Representative (RPR)*: Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
- ~~3. Selection of Independent Testing Laboratory: Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.~~
4. *Pre-Construction Conference*: Participate in a pre-construction conference prior to commencement of Work at the Site.
- ~~5. Electronic Transmittal Protocols: If the Construction Contract Documents do not specify protocols for the transmittal of Project related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post Construction Phase.~~
- ~~6. Original Documents: If requested by Owner to do so, Maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.~~
- ~~7. Schedules: Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.~~
8. *Baselines and Benchmarks*: As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.

~~9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:~~

- ~~a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.~~
 - ~~b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.~~
- ~~10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.~~
- ~~11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.~~
- ~~12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation - RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.~~

- ~~13. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.~~
- ~~14. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.~~
- ~~15. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.~~
16. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.
- ~~17. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.~~
- ~~18. *Substitutes and "Or equal":* Evaluate and determine the acceptability of substitute or "or equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.~~
- ~~19. *Inspections and Tests:*~~
- ~~a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.~~
 - ~~b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.~~
 - ~~c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.~~
- ~~20. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings,~~

~~Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.~~

~~21. Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:~~

~~a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).~~

~~b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner, to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.~~

~~22. Contractor's Completion Documents: Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages. **The Engineer shall prepare Record Drawings and furnish such Record Drawings to Owner.**~~

23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to

review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables: [N/A.]

~~25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.~~

~~26. *Standards for Certain Construction Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.~~

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Post-Construction Phase – **Not Applicable – The Post-Construction Phase of the Project will be completed under separate Agreement and is not part of this Agreement.***

~~A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:~~

~~1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.~~

~~2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.~~

~~3. Perform or provide the following other Post-Construction Phase tasks or deliverables: [N/A.]~~

~~B. The Post Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.~~

PART 2 – ADDITIONAL SERVICES

A2.01 Additional Services Requiring Owner's Written Authorization

- C. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C.
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 Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of 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 portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents 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 Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 and 2.
 5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
 6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
 7. Undertaking investigations and studies including, but not limited to:
 - a. detailed consideration of operations, maintenance, and overhead expenses;
 - b. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c. preparation of appraisals;

- d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
 - e. detailed quantity surveys of materials, equipment, and labor; and
 - f. audits or inventories required in connection with construction performed or furnished by Owner.
- 8. Furnishing services of Consultants for other than Basic Services.
- 9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
- 10. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
 - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
- 11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A).
- 12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
- 13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
- 14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.
- 15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
- 16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
- 17. Preparing Record Drawings, and furnishing such Record Drawings to Owner.
- 18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.

19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
20. Preparation of operation, maintenance, and staffing manuals.
21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.
25. Overtime work requiring higher than regular rates.
26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
28. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
29. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 ~~Additional Services Not Requiring Owner's Written Authorization~~

~~A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.~~

- ~~1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.~~
- ~~2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.~~

- ~~3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.~~
- ~~4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.~~
- ~~5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.~~
- ~~6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.~~
- ~~7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.~~
- ~~8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.~~

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This is **EXHIBIT B**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 2, 2024.

Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- B. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- C. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- D. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- E. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Utility and topographic mapping and surveys.
 - 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- F. 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.
- G. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- H. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- I. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- J. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- K. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- L. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties,

responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

- M. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- N. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- O. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- P. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- Q. Place and pay for advertisement for Bids in appropriate publications.
- R. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- S. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- T. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.
- U. Perform or provide the following: [N/A.]

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This is **EXHIBIT C**, consisting of **6** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 2, 2024.**

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services (~~other than Resident Project Representative~~) – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants’ charges, if any.
2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer’s services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer’s Consultants’ charges.
3. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
4. The total compensation for services under Paragraph C2.01 is estimated to be **\$278,500** based on the following estimated distribution of compensation:

- | | |
|---------------------------------|---|
| a. Study and Report Phase | \$ N/A performed under separate agreement |
| b. Preliminary Design Phase | \$ N/A performed under separate agreement |
| c. Final Design Phase | \$ N/A performed under separate agreement |
| d. Bidding or Negotiating Phase | \$ N/A performed under separate agreement |
| e. Construction Phase | <u>\$ 79,500</u> 12 th & 13 th Water Main Loop |
| | <u>\$ 96,000</u> West Harmon Water Main Loop |
| | <u>\$103,000</u> Hwy 37 Water Improvements |
| f. Post-Construction Phase | \$ N/A performed under separate agreement |

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.
6. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Consultants' charges.
7. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 2**) to reflect equitable changes in the compensation payable to Engineer.

C2.02 Compensation For Reimbursable Expenses

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- ~~B. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.~~
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of **1.1**.

C2.03 Other Provisions Concerning Payment

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.1**.
- B. *Factors:* The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. *Estimated Compensation Amounts:*
 1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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COMPENSATION PACKET RPR-2: Resident Project Representative – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.04 Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment

E. Owner shall pay Engineer for Resident Project Representative Basic Services as follows:

1. **Resident Project Representative Services:** For services of Engineer's Resident Project Representative under Paragraph A1.05.A of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is **included in C.2.01.A.4.** based upon full-time RPR services on a ~~eight~~ **11**-hour workday, Monday through Friday, over a **171**-day construction schedule (**46 days 12th & 13th, 56 days West Harmon and 69 days Hwy 37.**

F. Compensation for Reimbursable Expenses:

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of **1**.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of **January 2**) to reflect equitable changes in the compensation payable to Engineer.

G. Other Provisions Concerning Payment Under this Paragraph C2.04:

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.1**.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
 - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

COMPENSATION PACKET AS-1: Additional Services – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

B. Compensation For Reimbursable Expenses:

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of **[1]**.

C. The Reimbursable Expenses Schedule will be adjusted annually (as of **January 2) to reflect equitable changes in the compensation payable to Engineer.**

D. Other Provisions Concerning Payment for Additional Services:

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **[1.1]**.
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

This is **Appendix 1 to EXHIBIT C**, consisting of **1** page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 2, 2024**.

Reimbursable Expenses Schedule

Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

A.1. REIMBURSABLE EXPENSES

A.1.1. Vehicle miles shall be charged at the rate of \$0.58 per regular vehicle.

A.1.2. Meals and lodging shall be charged at costs incurred by the ENGINEER.

A.1.3. The cost of independent consulting and testing services (including, but not limited to, soils engineering and testing services) shall be charged at the cost incurred by the ENGINEER plus an assumed risk fee of 10% of the incurred cost.

A.2. MODIFICATIONS

A.2.1. Hourly rates and charges as set forth herein shall be adjusted on January 2 of each calendar year, as applicable.

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This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated **January 2, 2024**.

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

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

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 Resident Project Representative

- G. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.
- H. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- I. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor’s safety meetings), and as appropriate prepare and circulate copies of minutes thereof.
 - 4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR’s own personal safety while at the Site.

5. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.
,
7. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*
 - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.
 - b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and
 - c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. ~~Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.~~
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

J. Resident Project Representative shall not:

1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in this Agreement.

3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

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This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated **January 2, 2024**.

NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To: _____
Owner

And To: _____
Contractor

From: _____
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, and the following terms and conditions of this Notice:

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.

3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

By: _____

Title: _____

Dated: _____

This is **EXHIBIT G**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 2, 2024.

Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Engineer:

- | | |
|--|---------------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability -- | |
| 1) Each Accident: | <u>\$1,000,000</u> |
| 2) Disease, Policy Limit: | <u>\$1,000,000</u> |
| 3) Disease, Each Employee: | <u>\$1,000,000</u> |
| c. General Liability -- | |
| 1) Each Occurrence (Bodily Injury and Property Damage): | <u>\$1,000,000</u> |
| 2) General Aggregate: | <u>\$2,000,000</u> |
| d. Excess or Umbrella Liability -- | |
| 1) Each Occurrence: | <u>\$5,000,000</u> |
| 2) General Aggregate: | <u>\$5,000,000</u> |
| e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage): | |
| Each Accident | <u>\$1,000,000</u> |
| f. Professional Liability | |
| 1) Each Claim Made | <u>\$2,000,000</u> |
| 2) Annual Aggregate | <u>\$2,000,000</u> |
| g. Other (specify): | <u>\$N/A</u> |

2. By Owner:

- | | |
|--|--------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability -- | |
| 1) Each Accident: | \$ |
| 2) Disease, Policy Limit: | \$ |
| 3) Disease, Each Employee: | \$ |
| c. General Liability -- | |
| 1) Each Occurrence (Bodily Injury and Property Damage): | \$ |
| 2) General Aggregate: | \$ |
| d. Excess or Umbrella Liability -- | |
| 1) Each Occurrence: | \$ |
| 2) General Aggregate: | \$ |
| e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage): | |
| Each Accident | \$ |
| f. Other (specify): | <u>\$N/A</u> |

~~B. Additional Insureds:~~

- ~~1. The following individuals or entities are to be listed on Owner's general liability policies of insurance as additional insureds:~~

- | | |
|---------------|------------------------------|
| a. | <u>Engineer</u> |
| b. | <u>Engineer's Consultant</u> |
| c. | <u>Engineer's Consultant</u> |
| d. | <u>[other]</u> |

- ~~2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability policies of insurance.~~

~~The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.05.A.~~

Limitations of Liability

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

A. Limitation of Engineer's Liability

1. *Engineer's Liability Limited to Amount of Insurance Proceeds:* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal).
2. *Exclusion of Special, Incidental, Indirect, and Consequential Damages:* To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.10. the Engineer and Engineer's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants, and including but not limited to:

- 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, 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) arising out of or relating to the Project, provided that 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, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

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This is **EXHIBIT K**, consisting of 2 pages,
referred to in and part of the **Agreement between
Owner and Engineer for Professional Services**
dated January 2, 2024.

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. _____

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- _____ Additional Services to be performed by Engineer
- _____ Modifications to services of Engineer
- _____ Modifications to responsibilities of Owner
- _____ Modifications of payment to Engineer
- _____ Modifications to time(s) for rendering services
- _____ Modifications to other terms and conditions of the Agreement

Description of Modifications:

Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.

Agreement Summary:

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): _____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment.
All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

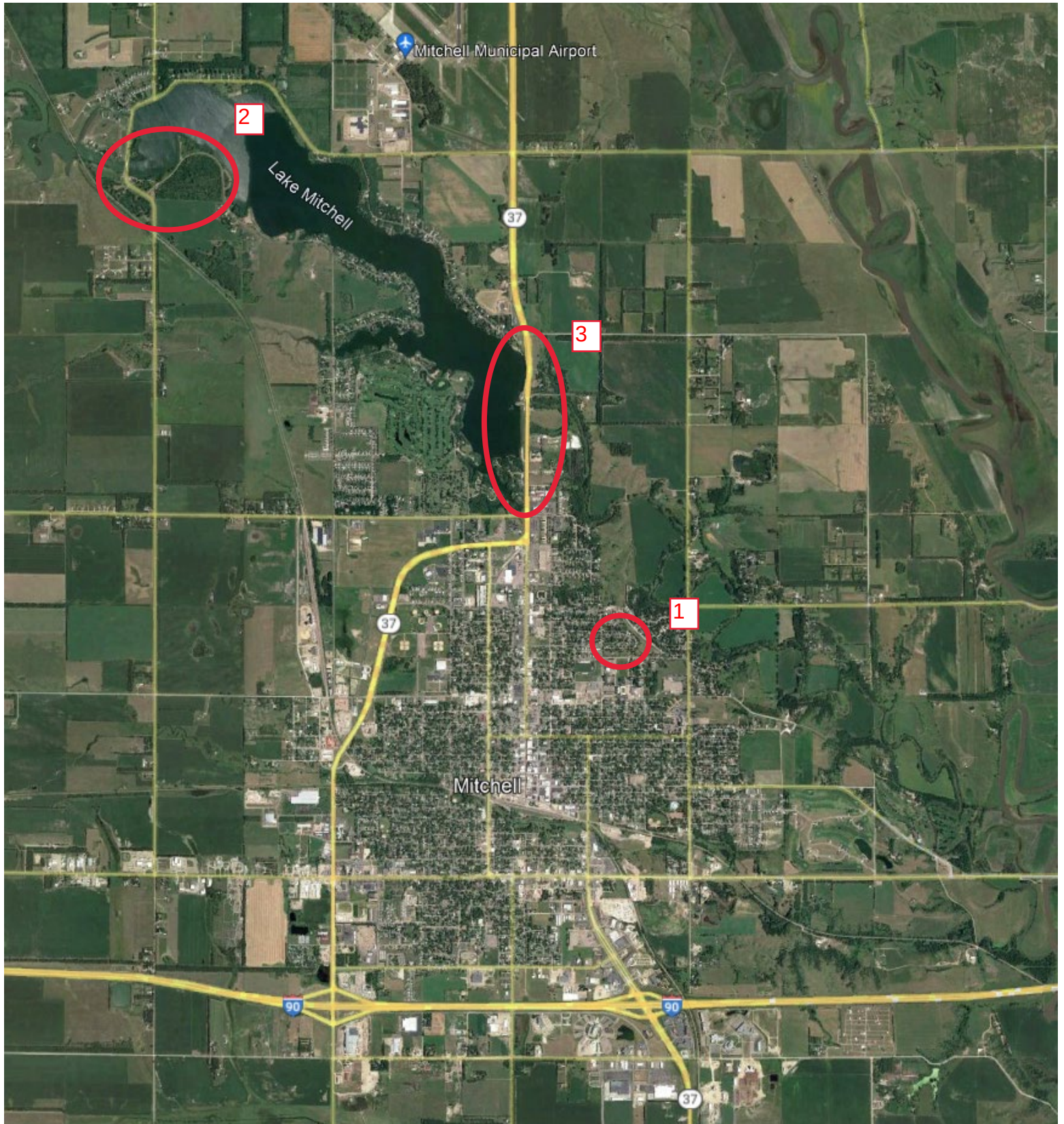
Date Signed: _____

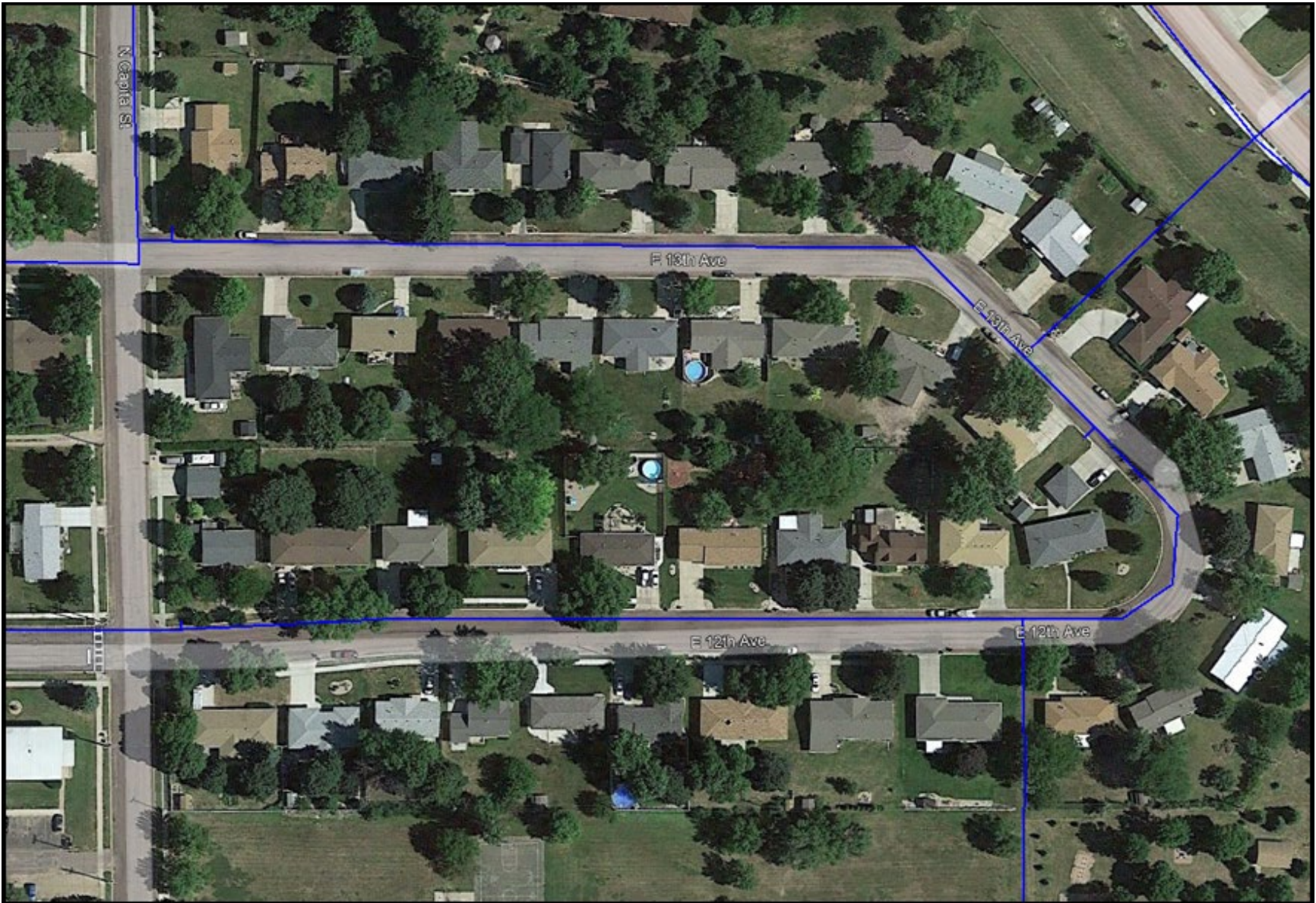
By: _____
Print
name: _____

Title: _____

Date Signed: _____

Mitchell Water System Project





Mitchell Water System Project (1)



Mitchell Water System Project (2)



Mitchell Water System Project (3)

CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested: **Requested By:**

Desired Action of City Council:

Amount Budgeted in current fiscal year for this item (if applicable):

Agenda Item:

Explanation/Background of Agenda Item Requested:

**WASTEWATER COLLECTION SYSTEM IMPROVEMENTS –
CONSTRUCTION PHASE
23RD AVENUE LIFT STATION, OHLMAN STREET LIFT STATION, SD HWY
37 SEWER IMPROVEMENTS AND NORTH HARMON SEWER OUTFALL**

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

Prepared by



Issued and Published Jointly by



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

THIS IS AN AGREEMENT effective as of January 2, 2024 (“Effective Date”) between
City of Mitchell, South Dakota (“Owner”) and
Schmucker, Paul, Nohr and Associates (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Wastewater collection system improvements for the 23rd Avenue lift station replacement, Ohlman Street lift Station replacement, the South Dakota Highway 37 sewer improvements, and the South Harmon sewer outfall, hereinafter referred to as the (“Project”).

Other terms used in this Agreement are defined in Article 7.

Engineer's services under this Agreement are generally identified as follows: **Construction Phase services including full construction administration and Resident Project Representative services for the 23rd Avenue lift station and Ohlman Street lift station and construction staking and Resident Project Representative phase services only for the Highway 37 and North Harmon sewer outfall improvements.**

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 have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Article 4 and Exhibit C.
- C. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items. **Engineer shall notify Owner in the event Engineer is aware that Owner supplied information that is inaccurate or questionable.**

- D. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities 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, 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.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

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 Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

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 any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% 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.
- C. *Disputed Invoices:* If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion subject to the terms of Paragraph 4.01.
- D. *Sales or Use Taxes:* If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, 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, then Owner agrees to obtain an independent cost estimate.

5.02 *Designing to Construction Cost Limit*

- A. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F to this Agreement.

5.03 *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 tabulating the various categories that 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 any services performed or furnished by Engineer.

- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information. **Engineer shall notify Owner in the event Engineer is aware that Owner supplied information that is inaccurate or questionable.**
- C. *Consultants:* Engineer may retain 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.
- D. *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.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and Regulations.
 - 2. Engineer shall comply with any and all policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations;
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures;
 - c. changes after the Effective Date to Owner-provided written policies or procedures.
- F. Engineer shall not be required to sign any document, 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 document.
- G. The general conditions for any construction contract documents prepared hereunder are to be EJCDC® C-700 "Standard General Conditions of the Construction Contract" (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise in Exhibit J or elsewhere in this Agreement.
- H. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor'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 Constructor, or the safety

precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.

- I. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- J. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- K. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- L. Engineer's services do not include providing legal advice or representation.
- M. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- N. While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in Exhibit A.

6.03 *Use of Documents*

- A. All Documents are instruments of service **for the project only and shall be deemed the joint property of the Engineer and Owner**, 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 Project is completed.
- B. If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations.

~~C. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment due and owing 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 on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, 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; (3) 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 use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.~~ **All raw data, studies, reports, and other work products of Engineer for this project ("Project Documents") are instruments of service for the project only and shall be deemed the joint property of Engineer and Owner whether the project is completed or not. The Owner may make and retain copies of the Project Documents which may be used by the Owner. Both Engineer and Owner may use the Project Documents for their own purposes outside of the project when appropriate. However, the Project Documents are not intended or represented to be suitable for reuse by the Owner or others on extensions of the project or on any other project. Any such use without written verification or adaptation by Engineer for the specific purpose intended will be at Owner's sole risk and without liability or legal exposure to Engineer and the Owner shall indemnify and hold harmless Engineer and their consultants and each of their officers, agents, and employees from any and all liability claims, losses, damage and expenses, including attorney's fees, arising out of or resulting from the negligent use or intentional misuse of the Project Documents by Owner.**

- D. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Electronic Transmittals*

- A. Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol.
- B. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer ~~shall~~ **may** jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

6.05 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G. ~~Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.~~

- B. Owner shall procure and maintain insurance as set forth in Exhibit G. ~~Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.~~
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- ~~E. All policies of property insurance relating to the Project, including but not limited to any builder's risk policy, shall allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer or its Consultants. Owner and Engineer waive all rights against each other, Contractor, the Consultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any builder's risk policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project related contracts to secure waivers of rights consistent with those set forth in this paragraph.~~
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 10 days prior written notice has been given to the primary insured. Upon receipt of such notice, the receiving party shall promptly forward a copy of the notice to the other party to this Agreement.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.06 *Suspension and Termination*

A. *Suspension:*

- 1. *By Owner:* Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
- 2. *By Engineer:* Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraph 4.02.B, or in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.10.D.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

- 1. For cause,

- a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.10.D.
 - 3) Engineer shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.06.B.1.a 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 thereof; 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.
2. For convenience, by Owner effective upon Engineer's receipt of notice from Owner.
- C. *Effective Date of Termination:* The terminating party under Paragraph 6.06.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, 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. *Payments Upon Termination:*
1. In the event of any termination under Paragraph 6.06, 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. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.
 2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.06.D.1, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.07 Controlling Law

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.

6.08 *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 6.08.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, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated 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 Constructor, other third-party 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.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 6.08.C shall appear in the Construction Contract Documents.

6.09 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H or other provisions of this Agreement, or exercising their rights at law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.09.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.10 *Environmental Condition of Site*

- A. Owner represents to Engineer that as of the Effective Date to the best of Owner's knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. 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.
- C. It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, then Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.

- D. If investigative or remedial action, or other professional services, are necessary with respect to undisclosed Constituents of Concern, or if investigative or remedial action beyond that reasonably contemplated is needed to address a disclosed or known Constituent 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 such portion of the Project is no longer affected.
- 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 seven 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.

6.11 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, from losses, damages, and judgments (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgment 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, 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. **This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."**
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations **and to the extent (if any) required in Exhibit I, "Limitations of Liability."** **Nevertheless, for this and all other instances of indemnification/hold harmless provisions in this Agreement, the extent of Owner's obligation is limited in that Owner does not waive its sovereign immunity and the Owner reserves the right to rely on sovereign immunity to the extent permitted by South Dakota Law.**
- C. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultants' and attorneys' fees and expenses) 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, damages, action, or judgment 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 Laws and Regulations, 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 Laws and Regulations, 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 this Agreement or the Project, from any cause or causes.

6.12 *Records Retention*

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.13 *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 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 Laws and Regulations, 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 Substantial Completion.

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 definitions:
 - 1. *Addenda*—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

2. *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.
3. *Agreement*—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
4. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
5. *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.
6. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
7. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
8. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that 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. §§5501 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.; or (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.
9. *Construction Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
10. *Construction Contract Documents*—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract.
11. *Construction Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
12. *Construction Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
13. *Construction Cost*—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor,

- services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. Construction Cost 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 property; 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.
14. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
 15. *Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
 16. *Contractor*—The entity or individual with which Owner enters into a Construction Contract.
 17. *Documents*—Data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
 18. *Drawings*—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
 19. *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.
 20. *Engineer*—The individual or entity named as such in this Agreement.
 21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
 22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
 23. *Owner*—The individual or entity named as such in this Agreement and for which Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
 24. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
 25. *Record Drawings*—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

26. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.
27. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D.
28. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
29. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
30. *Site*—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
31. *Specifications*—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
32. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
33. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
34. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
35. *Total Project Costs*—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, allowances for contingencies, and the total costs of services of Engineer or 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.
36. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such

construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

37. *Work Change Directive*—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. *Day*:

1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included*:

- A. Exhibit A, Engineer’s Services.
- B. Exhibit B, Owner’s Responsibilities.
- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.
- E. Exhibit E, Notice of Acceptability of Work. **“not used”**
- F. Exhibit F, Construction Cost Limit. **“not used”**
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. **“not used”**
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Special Provisions. **“not used”**
- K. Exhibit K, Amendment to Owner-Engineer Agreement.

8.02 *Total Agreement*

- A. This Agreement, (together with the exhibits included 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 written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit K to this Agreement.

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 services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to this Agreement 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: City of Mitchell, South Dakota ..

By: _____

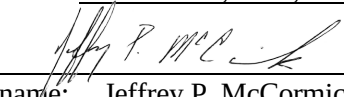
Print name: Robert B. Everson, Jr.

Title: Mayor

Date _____

Signed: _____

Engineer: Schmucker, Paul, Nohr and Associates

By:  _____

Print name: Jeffrey P. McCormick, P.E.

Title: Associate

Date Signed: _____

12/19/23

Engineer License Certificate No.: 8471

State of: South Dakota

Address for Owner's receipt of notices:

City of Mitchell

612 North Main Street

Mitchell, South Dakota 57301-2620

Address for Engineer's receipt of notices:

PO Box 398

2100 North Sanborn Boulevard

Mitchell, South Dakota 57301

Designated Representative (Paragraph 8.03.A):

Joe Schroeder

Title: Public Works Director

Phone Number: 605-995-8433

E-Mail Address: joe.schroeder@cityofmitchellsd.
gov

Designated Representative (Paragraph 8.03.A):

Jeffrey P. McCormick, P.E.

Title: Associate

Phone Number: 605-996-7761

E-Mail Address: jmccormick@spn-assoc.com

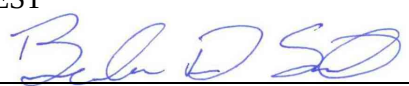
ATTEST

By: _____

Print name: Michelle Bathke

Title: Finance Officer

ATTEST

By:  _____

Print name: Brandon Smid, P.E.

Title: Associate

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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*– **NOT APPLICABLE – The Study and Report Phase of this Project was completed under separate agreement and is not a part of this Agreement.**

~~A. Engineer shall:~~

- ~~1. Consult with Owner to define and clarify Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations, and identify available data, information, reports, facilities plans, and site evaluations.~~
 - ~~a. If Owner has already identified one or more potential solutions to meet its Project requirements, then proceed with the study and evaluation of such potential solutions: [] **[List the specific potential solutions here.]**~~
 - ~~b. If Owner has not identified specific potential solutions for study and evaluation, then assist Owner in determining whether Owner's requirements, and available data, reports, plans, and evaluations, point to a single potential solution for Engineer's study and evaluation, or are such that it will be necessary for Engineer to identify, study, and evaluate multiple potential solutions.~~
 - ~~c. If it is necessary for Engineer to identify, study, and evaluate multiple potential solutions, then identify [] **[insert specific number]** alternative solutions potentially available to Owner, unless Owner and Engineer mutually agree that some other specific number of alternatives should be identified, studied, and evaluated.~~
- ~~2. Identify potential solution(s) to meet Owner's Project requirements, as needed.~~
- ~~3. Study and evaluate the potential solution(s) to meet Owner's Project requirements.~~
- ~~4. Visit the Site, or potential Project sites, to review existing conditions and facilities, unless such visits are not necessary or applicable to meeting the objectives of the Study and Report Phase.~~
- ~~5. Advise Owner of any need for Owner to obtain, furnish, or otherwise make available to Engineer additional Project related data and information, for Engineer's use in the study and evaluation of potential solution(s) to Owner's Project requirements, and preparation of a related report.~~
- ~~6. After consultation with Owner, recommend to Owner the solution(s) which in Engineer's judgment meet Owner's requirements for the Project.~~

- ~~7. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project to be designed or specified by Engineer, including but not limited to mitigating measures identified in an environmental assessment for the Project.~~
 - ~~8. 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 Engineer's recommended solution(s). For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a tabulation of other items and services included within the definition of Total Project Costs.~~
 - ~~9. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B, for use in Project design, or in preparation for Contractor selection and construction.~~
 - ~~10. When mutually agreed, assist Owner in evaluating the possible use of building information modeling; civil integrated management; geotechnical baselining of subsurface site conditions; innovative design, contracting, or procurement strategies; or other strategies, technologies, or techniques for assisting in the design, construction, and operation of Owner's facilities. The subject matter of this paragraph shall be referred to in Exhibit A and B as "Project Strategies, Technologies, and Techniques."~~
 - ~~11. If requested to do so by Owner, assist Owner in identifying opportunities for enhancing the sustainability of the Project, and pursuant to Owner's instructions plan for the inclusion of sustainable features in the design.~~
 - ~~12. Use ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data" as a means to advise the Owner on a recommended scope of work and procedure for the identification and mapping of existing utilities.~~
 - ~~13. Develop a scope of work and survey limits for any topographic and other surveys necessary for design.~~
 - ~~14. Perform or provide the following other Study and Report Phase tasks or deliverables: []
[] **List any such tasks or deliverables here.**~~
 - ~~15. Furnish [] review copies of the Report and any other Study and Report Phase deliverables to Owner within [] days of the Effective Date and review it with Owner. Within [] days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.~~
 - ~~16. Revise the Report and any other Study and Report Phase deliverables in response to Owner's comments, as appropriate, and furnish [] copies of the revised Report and any other Study and Report Phase deliverables to the Owner within [] days of receipt of Owner's comments.~~
- ~~B. Engineer's services under the Study and Report Phase will be considered complete on the date when Engineer has delivered to Owner the revised Report and any other Study and Report Phase deliverables.~~

A1.02 *Preliminary Design Phase* – **Not Applicable – The Design Phase of the Project was completed under separate Agreement and is not part of this Agreement.**

~~A. After acceptance by Owner of the Report and any other Study and Report Phase deliverables; selection by Owner of a recommended solution; issuance by Owner of any instructions of for use of Project Strategies, Technologies, and Techniques, or for inclusion of sustainable features in the design; and indication by Owner of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, (1) Engineer and Owner shall discuss and resolve any necessary revisions to Engineer's compensation (through application of the provisions regarding Additional Services, or otherwise), or the time for completion of Engineer's services, resulting from the selected solution, related Project Strategies, Technologies, or Techniques, sustainable design instructions, or specific modifications to the Project, and (2) upon written authorization from Owner, Engineer shall:~~

- ~~1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.~~
- ~~2. In preparing the Preliminary Design Phase documents, use any specific applicable Project Strategies, Technologies, and Techniques authorized by Owner during or following the Study and Report Phase, and include sustainable features, as appropriate, pursuant to Owner's instructions.~~
- ~~3. Provide necessary field surveys and topographic and utility mapping for Engineer's design purposes. Comply with the scope of work and procedure for the identification and mapping of existing utilities selected and authorized by Owner pursuant to advice from Engineer based on ASCE 38, "Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data," as set forth in Paragraph A1.01.A.12 above. If no such scope of work and procedure for utility mapping has been selected and authorized, then at a minimum the utility mapping will include Engineer contacting utility owners and obtaining available information.~~
- ~~4. Visit the Site as needed to prepare the Preliminary Design Phase documents.~~
- ~~5. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.~~
- ~~6. Continue to assist Owner with Project Strategies, Technologies, and Techniques that Owner has chosen to implement.~~
- ~~7. Based on the information contained in the Preliminary Design Phase documents, prepare a revised opinion of probable Construction Cost, and assist Owner in tabulating the various cost categories which comprise Total Project Costs.~~
- ~~8. Obtain and review Owner's instructions regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Also obtain and review copies of Owner's design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents or content for Engineer to include in the draft bidding-related documents (or requests for proposals~~

~~or other construction procurement documents), and in the draft Construction Contract Documents, when applicable.~~

~~9. Perform or provide the following other Preliminary Design Phase tasks or deliverables:~~

~~a. N/A~~

~~10. Furnish [3] review copies of the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables to Owner within [150] days of authorization to proceed with this phase, and review them with Owner. Within [14] days of receipt, Owner shall submit to Engineer any comments regarding the furnished items.~~

~~11. Revise the Preliminary Design Phase documents, opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables in response to Owner's comments, as appropriate, and furnish to Owner [3] copies of the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables within [14] days after receipt of Owner's comments.~~

~~B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when Engineer has delivered to Owner the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other Preliminary Design Phase deliverables.~~

A1.03 *Final Design Phase – **Not Applicable – The Design Phase of the Project was completed under separate Agreement and is not part of this Agreement.***

~~A. After acceptance by Owner of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any Owner directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:~~

~~1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.~~

~~2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.~~

~~3. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.~~

~~4. Advise Owner of any recommended adjustments to the opinion of probable Construction Cost.~~

~~5. After consultation with Owner, include in the Construction Contract Documents any specific protocols for the transmittal of Project related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among Owner, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between Owner and Engineer.~~

- ~~6. Assist Owner in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.~~
 - ~~7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from Owner.~~
 - ~~8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from Owner.~~
 - ~~9. Perform or provide the following other Final Design Phase tasks or deliverables: [N/A]~~
 - ~~10. Furnish for review by Owner, its legal counsel, and other advisors, [5] copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables, within [60] calendar days of authorization to proceed with the Final Design Phase, and review them with Owner. Within 14 calendar days of receipt, Owner shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.~~
 - ~~11. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the Owner (Civil 3D Drawings), as appropriate, and submit [5] final copies of such documents to Owner within [14] calendar days after receipt of Owner's comments and instructions.~~
- ~~B. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to Owner the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.~~
- ~~C. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.~~
- ~~D. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is [1]. If more prime contracts are awarded, Engineer shall be entitled to an equitable increase in its compensation under this Agreement.~~

A1.04 *Bidding or Negotiating Phase* – **Not Applicable – The Bidding or Negotiating Phase of the Project was completed under separate Agreement and is not part of this Agreement.**

~~A. After acceptance by Owner of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:~~

- ~~1. Assist Owner in advertising for and obtaining bids or proposals for the Work, assist Owner in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.~~
- ~~2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.~~
- ~~3. Provide information or assistance needed by Owner in the course of any review of proposals or negotiations with prospective contractors.~~
- ~~4. Consult with Owner as to the qualifications of prospective contractors.~~
- ~~5. Consult with Owner as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.~~
- ~~6. If the issued bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.~~
- ~~7. Attend the bid opening, prepare bid tabulation sheets to meet Owner's schedule, and assist Owner in evaluating bids or proposals, assembling final contracts for the Work for execution by Owner and Contractor, and in issuing notices of award of such contracts.~~
- ~~8. If Owner engages in negotiations with bidders or proposers, assist Owner with respect to technical and engineering issues that arise during the negotiations.~~
- ~~9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:
[N/A.]~~

~~B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).~~

A1.05 Construction Phase

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
1. *General Administration of Construction Contract:* Consult with Owner and act as Owner's representative as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer shall be as assigned in EJCDC® C-700, Standard General Conditions of the Construction Contract (2013 Edition), prepared by the Engineers Joint Contract Documents Committee, or other construction general conditions specified in this Agreement. If Owner, or Owner and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then Owner shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.
 2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit D.
 3. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.
 4. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
 5. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
 6. *Original Documents:* ~~If requested by Owner to do so,~~ Maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
 7. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
 8. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.

9. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
- a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
 - b. The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
10. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
11. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
12. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

13. *Non-reviewable Matters*: If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer will not provide a decision or interpretation.
14. *Field Orders*: Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
15. *Change Orders and Work Change Directives*: Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
16. *Differing Site Conditions*: Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.
17. *Shop Drawings, Samples, and Other Submittals*: Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.
18. *Substitutes and "Or-equal"*: Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.
19. *Inspections and Tests*:
 - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
 - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
 - c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.
20. *Change Proposals and Claims*: (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings,

Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.

21. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
- b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

~~22. Contractor's Completion Documents:~~ Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved as provided under Paragraph A1.05.A.17. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. ~~The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.~~ **The Engineer shall prepare Record Drawings and furnish such Record Drawings to Owner.**

23. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to

review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.

24. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables: [N/A.]

25. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable (subject to the provisions of the Notice and Paragraph A1.05.A.21.b) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

26. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If the Project involves more than one prime contract as indicated in Paragraph A1.03.D, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Article 3, Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

A1.06 *Post-Construction Phase – **Not Applicable – The Post-Construction Phase of the Project will be completed under separate Agreement and is not part of this Agreement.***

~~A. Upon written authorization from Owner during the Post-Construction Phase, Engineer shall:~~

~~1. Together with Owner, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist Owner in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.~~

~~2. Together with Owner, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.~~

~~3. Perform or provide the following other Post-Construction Phase tasks or deliverables: [N/A.]~~

~~B. The Post Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.~~

PART 2 – ADDITIONAL SERVICES

A2.01 Additional Services Requiring Owner's Written Authorization

- C. If authorized in writing by Owner, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by Owner as indicated in Exhibit C.
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 Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 2. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of 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 portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents 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 Study and Report Phase alternative solutions beyond those agreed to in Paragraph A1.01.A.1 and 2.
 5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
 6. Providing renderings or models for Owner's use, including services in support of building information modeling or civil integrated management.
 7. Undertaking investigations and studies including, but not limited to:
 - a. detailed consideration of operations, maintenance, and overhead expenses;
 - b. the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;
 - c. preparation of appraisals;

- d. evaluating processes available for licensing, and assisting Owner in obtaining process licensing;
 - e. detailed quantity surveys of materials, equipment, and labor; and
 - f. audits or inventories required in connection with construction performed or furnished by Owner.
- 8. Furnishing services of Consultants for other than Basic Services.
- 9. Providing data or services of the types described in Exhibit B, when Owner retains Engineer to provide such data or services instead of Owner furnishing the same.
- 10. Providing the following services:
 - a. Services attributable to more prime construction contracts than specified in Paragraph A1.03.D.
 - b. Services to arrange for performance of construction services for Owner by contractors other than the principal prime Contractor, and administering Owner's contract for such services.
- 11. Services during out-of-town travel required of Engineer, other than for visits to the Site or Owner's office as required in Basic Services (Part 1 of Exhibit A).
- 12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.
- 13. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by Owner for the Work or a portion thereof.
- 14. Assistance in connection with bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required to complete services required by Paragraph 5.02.A and Exhibit F.
- 15. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by Owner and Contractor.
- 16. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.
- ~~17. Preparing Record Drawings, and furnishing such Record Drawings to Owner.~~
- 18. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, Owner, utility companies, and other reliable sources.

19. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, Owner, utility companies, and other sources; revise and supplement Record Drawings as needed.
20. Preparation of operation, maintenance, and staffing manuals.
21. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.
24. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.
25. Overtime work requiring higher than regular rates.
26. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Paragraph A1.05.A.8; any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
27. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
28. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).
29. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

A2.02 ~~Additional Services Not Requiring Owner's Written Authorization~~

~~A. Engineer shall advise Owner that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from Owner.~~

- ~~1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner.~~
- ~~2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.~~

- ~~3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.~~
- ~~4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.~~
- ~~5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by Owner prior to Substantial Completion.~~
- ~~6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.~~
- ~~7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.~~
- ~~8. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.~~

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This is **EXHIBIT B**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 2, 2024.

Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- B. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations.
- C. Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable. Owner shall have responsibility for the final content of (1) such bidding-related documents (or requests for proposals or other construction procurement documents), and (2) those portions of any Construction Contract other than the design (as set forth in the Drawings, Specifications, or otherwise), and other engineering or technical matters; and Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.
- D. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- E. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, obtain, furnish, or otherwise make available (if necessary through title searches, or retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Utility and topographic mapping and surveys.
 - 4. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.

5. Explorations and tests of subsurface conditions at or adjacent to the Site; geotechnical reports and investigations; drawings of physical conditions relating to existing surface or subsurface structures at the Site; hydrographic surveys, laboratory tests and inspections of samples, materials, and equipment; with appropriate professional interpretation of such information or data.
 6. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental, historical, or cultural studies relevant to the Project, the Site, and adjacent areas.
 7. Data or consultations as required for the Project but not otherwise identified in this Agreement.
- F. 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.
- G. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
1. Accounting, bond and financial advisory (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 2. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the money paid.
- H. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
- I. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- J. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
- K. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- L. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, then designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties,

responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

- M. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- N. Examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- O. Inform Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
- P. Advise Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- Q. Place and pay for advertisement for Bids in appropriate publications.
- R. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- S. Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
- T. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement, as required.
- U. Perform or provide the following: [N/A.]

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This is **EXHIBIT C**, consisting of **6** pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 2, 2024.**

Payments to Engineer for Services and Reimbursable Expenses
COMPENSATION PACKET BC-2: Basic Services – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services (~~other than Resident Project Representative~~) – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants’ charges, if any.
2. The Standard Hourly Rates charged by Engineer constitute full and complete compensation for Engineer’s services, including labor costs, overhead, and profit; the Standard Hourly Rates do not include Reimbursable Expenses or Engineer’s Consultants’ charges.
3. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
4. The total compensation for services under Paragraph C2.01 is estimated to be **\$531,000** based on the following estimated distribution of compensation:
 - a. Study and Report Phase \$ N/A performed under separate agreement
 - b. Preliminary Design Phase \$ N/A performed under separate agreement
 - c. Final Design Phase \$ N/A performed under separate agreement
 - d. Bidding or Negotiating Phase \$ N/A performed under separate agreement
 - e. Construction Phase **\$ 63,000 23rd Avenue Lift Station**
\$ 54,000 Ohlman Lift Station
\$294,000 North Harmon Sewer Outfall
\$120,000 Highway 37 Sewer
 - f. Post-Construction Phase \$ N/A performed under separate agreement

5. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.
6. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses, and Engineer's Consultants' charges.
7. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
8. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of **January 2**) to reflect equitable changes in the compensation payable to Engineer.

C2.02 Compensation For Reimbursable Expenses

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- ~~B. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.~~
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of **1.1**.

C2.03 Other Provisions Concerning Payment

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.1**.
- B. *Factors:* The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. *Estimated Compensation Amounts:*
 1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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COMPENSATION PACKET RPR-2: Resident Project Representative – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.04 Compensation for Resident Project Representative Basic Services – Standard Hourly Rates Method of Payment

E. Owner shall pay Engineer for Resident Project Representative Basic Services as follows:

1. **Resident Project Representative Services:** For services of Engineer's Resident Project Representative under Paragraph A1.05.A of Exhibit A, an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Resident Project Representative services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any. The total compensation under this paragraph is **included in C.2.01.A.4.e.** based upon full-time RPR services on a ~~eight~~ **11**-hour workday, Monday through Friday, over a **330**-day construction schedule **(38 days 23rd Ave lift station, 31 days Ohlman lift station, 180 days N. Harmon sewer outfall, 81 days Hwy 37 sewer).**

F. Compensation for Reimbursable Expenses:

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01, and are directly related to the provision of Resident Project Representative or Post-Construction Basic Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representative and assistants; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be those internal expenses related to the Resident Project Representative Basic Services that are actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such services, the latter multiplied by a factor of **1**.
4. The Reimbursable Expenses Schedule will be adjusted annually (as of **January 2**) to reflect equitable changes in the compensation payable to Engineer.

G. Other Provisions Concerning Payment Under this Paragraph C2.04:

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **1.1**.

2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. *Estimated Compensation Amounts:*
 - a. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - b. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend Engineer's services during negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
4. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

COMPENSATION PACKET AS-1: Additional Services – Standard Hourly Rates

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

C2.05 Compensation for Additional Services – Standard Hourly Rates Method of Payment

A. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

B. Compensation For Reimbursable Expenses:

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph C2.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the rates set forth in Appendix 1 to this Exhibit C.
2. Reimbursable Expenses include the expenses identified in Appendix 1 and the following categories: transportation (including mileage), lodging, and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls, mobile phone charges, and courier charges; reproduction of reports, Drawings, Specifications, bidding-related or other procurement documents, Construction Contract Documents, and similar Project-related items; and Consultants' charges. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of **[1]**.

C. The Reimbursable Expenses Schedule will be adjusted annually (as of **January 2) to reflect equitable changes in the compensation payable to Engineer.**

D. Other Provisions Concerning Payment for Additional Services:

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of **[1.1]**.
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant's Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.

3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

This is **Appendix 1 to EXHIBIT C**, consisting of **1** page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated **January 2, 2024**.

Reimbursable Expenses Schedule

Reimbursable Expenses are subject to review and adjustment per Exhibit C. Rates and charges for Reimbursable Expenses as of the date of the Agreement are:

A.1. REIMBURSABLE EXPENSES

A.1.1. Vehicle miles shall be charged at the rate of \$0.58 per regular vehicle.

A.1.2. Meals and lodging shall be charged at costs incurred by the ENGINEER.

A.1.3. The cost of independent consulting and testing services (including, but not limited to, soils engineering and testing services) shall be charged at the cost incurred by the ENGINEER plus an assumed risk fee of 10% of the incurred cost.

A.2. MODIFICATIONS

A.2.1. Hourly rates and charges as set forth herein shall be adjusted on January 2 of each calendar year, as applicable.

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This is **EXHIBIT D**, consisting of 5 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated **January 2, 2024**.

Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

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

ARTICLE 1 - SERVICES OF ENGINEER

D1.01 Resident Project Representative

- G. Engineer shall furnish a Resident Project Representative (“RPR”) to assist Engineer in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree. RPR is Engineer’s representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR’s actions.
- H. Through RPR's observations of the Work, including field checks of materials and installed equipment, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, as a result of such RPR observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer (including the RPR) have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to the Work or any Constructor’s work in progress, for the coordination of the Constructors’ work or schedules, or for any failure of any Constructor to comply with Laws and Regulations applicable to the performing and furnishing of its work. The Engineer (including RPR) neither guarantees the performances of any Constructor nor assumes responsibility for any Constructor’s failure to furnish and perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents. In addition, the specific terms set forth in Exhibit A, Paragraph A1.05, of this Agreement are applicable.
- I. The duties and responsibilities of the RPR are as follows:
 - 1. *General:* RPR’s dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR’s dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 - 2. *Schedules:* Review the progress schedule, schedule of Shop Drawing and Sample submittals, schedule of values, and other schedules prepared by Contractor and consult with Engineer concerning acceptability of such schedules.
 - 3. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings (but not including Contractor’s safety meetings), and as appropriate prepare and circulate copies of minutes thereof.
 - 4. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR’s own personal safety while at the Site.

5. *Liaison:*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Construction Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
6. *Clarifications and Interpretations:* Receive from Contractor submittal of any matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. Report to Engineer regarding such RFIs. Report to Engineer when clarifications and interpretations of the Construction Contract Documents are needed, whether as the result of a Contractor RFI or otherwise. Transmit Engineer's clarifications, interpretations, and decisions to Contractor.
,
7. *Shop Drawings and Samples:*
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples that are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal, if RPR believes that the submittal has not been received from Contractor, or has not been approved by Contractor or Engineer.
8. *Proposed Modifications:* Consider and evaluate Contractor's suggestions for modifications to the Drawings or Specifications, and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit Engineer's response (if any) to such suggestions to Contractor.
9. *Review of Work; Defective Work:*
 - a. Report to Engineer whenever RPR believes that any part of the Work is defective under the terms and standards set forth in the Construction Contract Documents, and provide recommendations as to whether such Work should be corrected, removed and replaced, or accepted as provided in the Construction Contract Documents.
 - b. Inform Engineer of any Work that RPR believes is not defective under the terms and standards set forth in the Construction Contract Documents, but is nonetheless not compatible with the design concept of the completed Project as a functioning whole, and provide recommendations to Engineer for addressing such Work. ; and
 - c. Advise Engineer of that part of the Work that RPR believes should be uncovered for observation, or requires special testing, inspection, or approval.

10. *Inspections, Tests, and System Start-ups:*

- a. Consult with Engineer in advance of scheduled inspections, tests, and systems start-ups.
- b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
- c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
- d. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public or other agencies having jurisdiction over the Work.
- e. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work, record the results of these inspections, and report to Engineer.

11. *Records:*

- a. Maintain at the Site orderly files for correspondence, reports of job conferences, copies of Construction Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Construction Contract, RFIs, Engineer's clarifications and interpretations of the Construction Contract Documents, progress reports, approved Shop Drawing and Sample submittals, and other Project-related documents.
- b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.
- c. Upon request from Owner to Engineer, photograph or video Work in progress or Site conditions.
- d. Record and maintain accurate, up-to-date lists of the names, addresses, fax numbers, e-mail addresses, websites, and telephone numbers (including mobile numbers) of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
- e. Maintain records for use in preparing Project documentation.
- f. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

12. *Reports:*

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. ~~Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.~~
- c. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports.
- d. Immediately inform Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, possible force majeure or delay events, damage to property by fire or other causes, or the discovery of any potential differing site condition or Constituent of Concern.

13. *Payment Requests:* Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

14. *Certificates, Operation and Maintenance Manuals:* During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

15. *Completion:*

- a. Participate in Engineer's visits to the Site regarding Substantial Completion, assist in the determination of Substantial Completion, and prior to the issuance of a Certificate of Substantial Completion submit a punch list of observed items requiring completion or correction.
- b. Participate in Engineer's visit to the Site in the company of Owner and Contractor, to determine completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
- c. Observe whether all items on the final punch list have been completed or corrected, and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work (Exhibit E).

J. Resident Project Representative shall not:

- 1. Authorize any deviation from the Construction Contract Documents or substitution of materials or equipment (including "or-equal" items).
- 2. Exceed limitations of Engineer's authority as set forth in this Agreement.

3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers, or any Constructor.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work, by Contractor or any other Constructor.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

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This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated **January 2, 2024**.

NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To: _____
Owner

And To: _____
Contractor

From: _____
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that Engineer has recommended final payment of Contractor, and that the Work furnished and performed by Contractor under the above Construction Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, and the following terms and conditions of this Notice:

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the Engineer's professional opinion.

3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract, an acceptance of Work that is not in accordance with the related Contract Documents, including but not limited to defective Work discovered after final inspection, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Construction Contract Documents, or to otherwise comply with the Construction Contract Documents or the terms of any special guarantees specified therein.
6. This Notice does not relieve Contractor of any surviving obligations under the Construction Contract, and is subject to Owner's reservations of rights with respect to completion and final payment.

By: _____

Title: _____

Dated: _____

This is **EXHIBIT G**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 2, 2024.

Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Engineer:

- | | |
|--|---------------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability -- | |
| 1) Each Accident: | <u>\$1,000,000</u> |
| 2) Disease, Policy Limit: | <u>\$1,000,000</u> |
| 3) Disease, Each Employee: | <u>\$1,000,000</u> |
| c. General Liability -- | |
| 1) Each Occurrence (Bodily Injury and Property Damage): | <u>\$1,000,000</u> |
| 2) General Aggregate: | <u>\$2,000,000</u> |
| d. Excess or Umbrella Liability -- | |
| 1) Each Occurrence: | <u>\$5,000,000</u> |
| 2) General Aggregate: | <u>\$5,000,000</u> |
| e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage): | |
| Each Accident | <u>\$1,000,000</u> |
| f. Professional Liability | |
| 1) Each Claim Made | <u>\$2,000,000</u> |
| 2) Annual Aggregate | <u>\$2,000,000</u> |
| g. Other (specify): | <u>\$N/A</u> |

2. By Owner:

- | | |
|--|--------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability -- | |
| 1) Each Accident: | \$ |
| 2) Disease, Policy Limit: | \$ |
| 3) Disease, Each Employee: | \$ |
| c. General Liability -- | |
| 1) Each Occurrence (Bodily Injury and Property Damage): | \$ |
| 2) General Aggregate: | \$ |
| d. Excess or Umbrella Liability -- | |
| 1) Each Occurrence: | \$ |
| 2) General Aggregate: | \$ |
| e. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage): | |
| Each Accident | \$ |
| f. Other (specify): | <u>\$N/A</u> |

~~B. Additional Insureds:~~

- ~~1. The following individuals or entities are to be listed on Owner's general liability policies of insurance as additional insureds:~~

- | | |
|---------------|----------------------------------|
| a. | _____ |
| | Engineer |
| b. | _____ |
| | Engineer's Consultant |
| c. | _____ |
| | Engineer's Consultant |
| d. | _____ |
| | [other] |

- ~~2. During the term of this Agreement the Engineer shall notify Owner of any other Consultant to be listed as an additional insured on Owner's general liability policies of insurance.~~

~~The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.05.A.~~

Limitations of Liability

Paragraph 6.11 of the Agreement is supplemented to include the following agreement of the parties:

A. Limitation of Engineer's Liability

1. *Engineer's Liability Limited to Amount of Insurance Proceeds:* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal).
2. *Exclusion of Special, Incidental, Indirect, and Consequential Damages:* To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, consistent with the terms of Paragraph 6.10. the Engineer and Engineer's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants, and including but not limited to:

- 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, 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) arising out of or relating to the Project, provided that 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, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees, consultants, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.

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This is **EXHIBIT K**, consisting of 2 pages,
referred to in and part of the **Agreement between
Owner and Engineer for Professional Services**
dated January 2, 2024.

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. _____

The Effective Date of this Amendment is: _____.

Background Data

Effective Date of Owner-Engineer Agreement:

Owner:

Engineer:

Project:

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- _____ Additional Services to be performed by Engineer
- _____ Modifications to services of Engineer
- _____ Modifications to responsibilities of Owner
- _____ Modifications of payment to Engineer
- _____ Modifications to time(s) for rendering services
- _____ Modifications to other terms and conditions of the Agreement

Description of Modifications:

Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary.

Agreement Summary:

Original agreement amount:	\$ _____
Net change for prior amendments:	\$ _____
This amendment amount:	\$ _____
Adjusted Agreement amount:	\$ _____

Change in time for services (days or date, as applicable): _____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment.
All provisions of the Agreement not modified by this or previous Amendments remain in effect.

OWNER:

ENGINEER:

By: _____
Print
name: _____

Title: _____

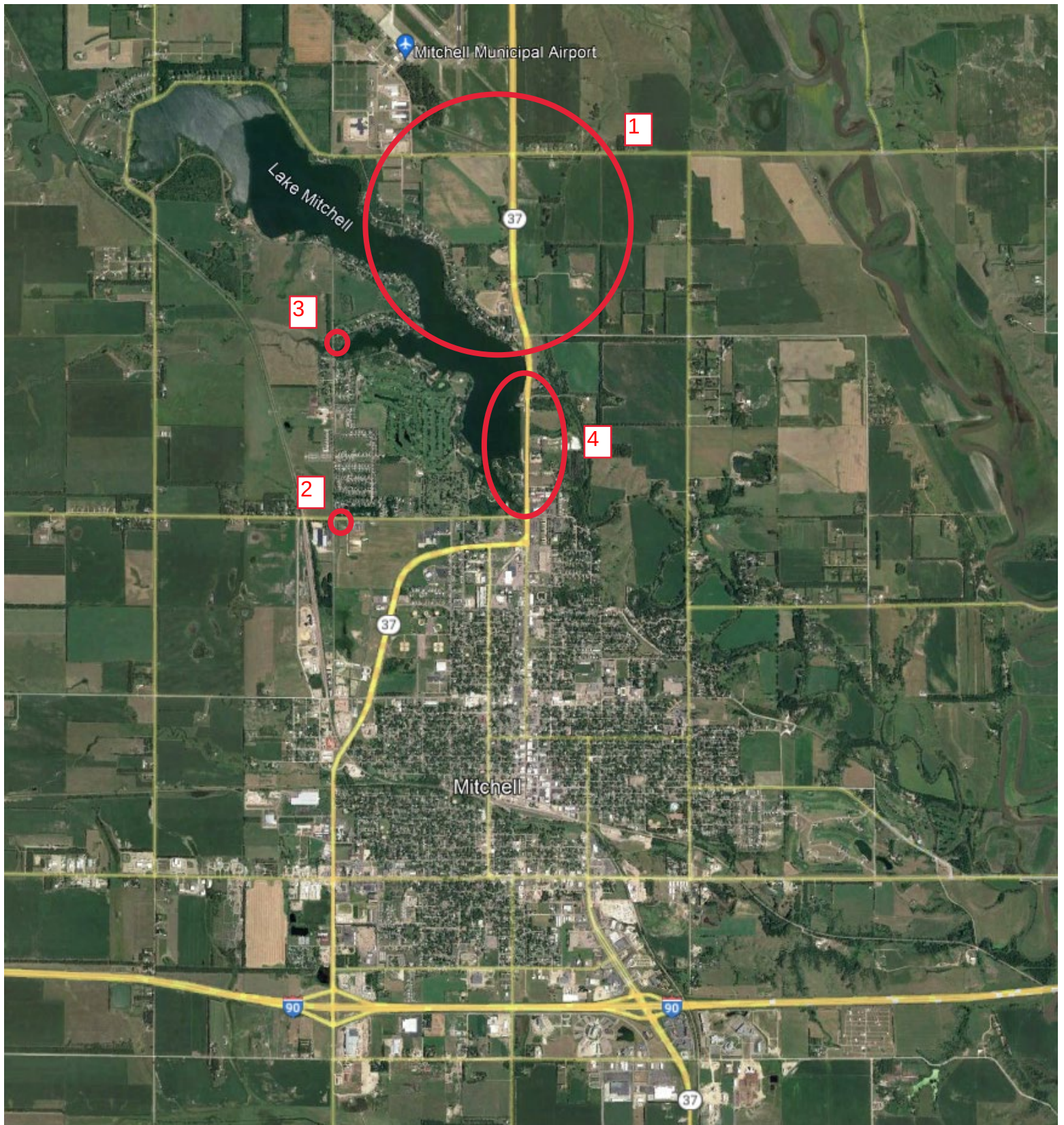
Date Signed: _____

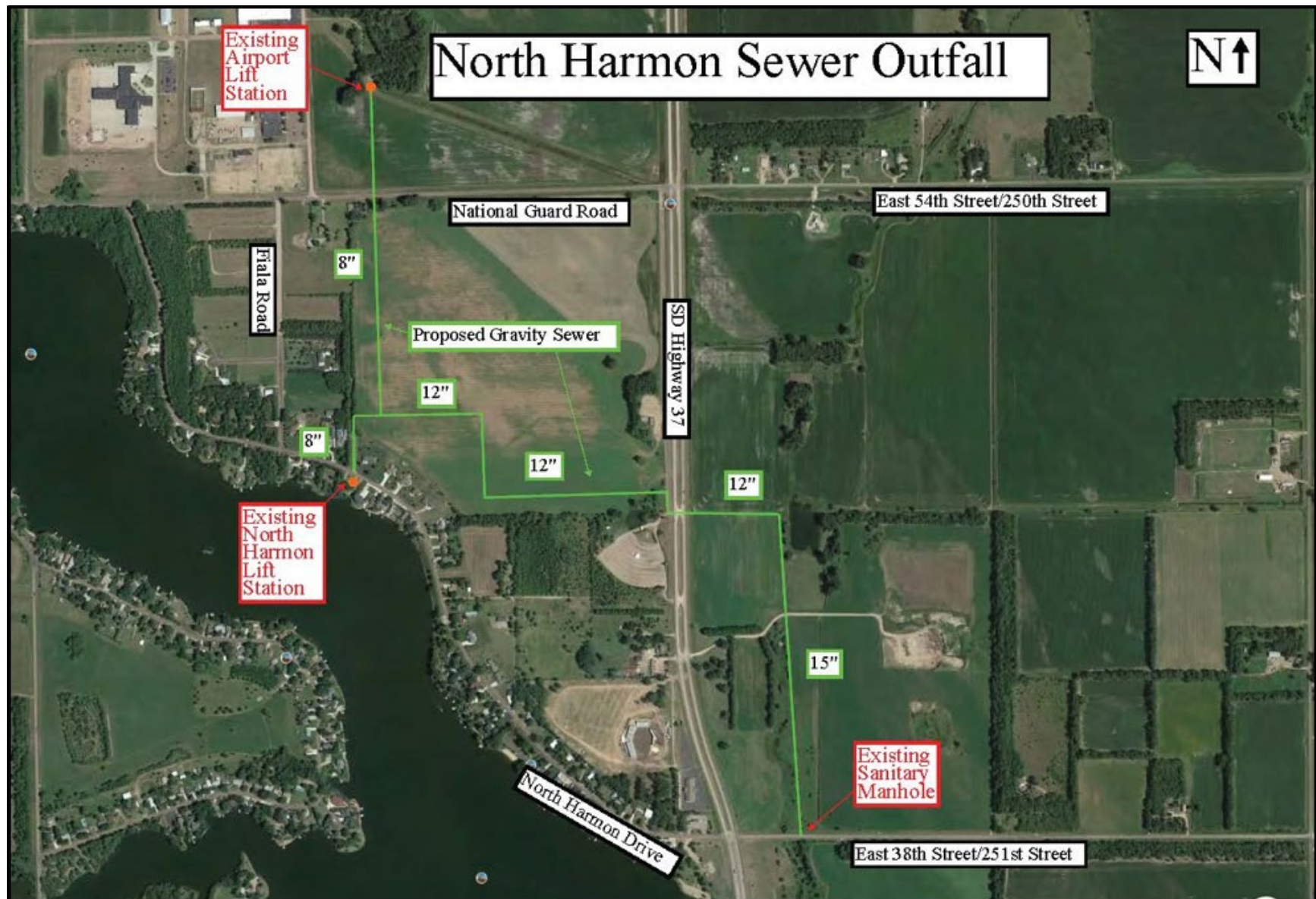
By: _____
Print
name: _____

Title: _____

Date Signed: _____

Mitchell Wastewater System Project





Mitchell Wastewater System Project (1)



Mitchell Wastewater System Project (2)



Mitchell Wastewater System Project (3)



Mitchell Wastewater System Project (4)

CITY OF MITCHELL

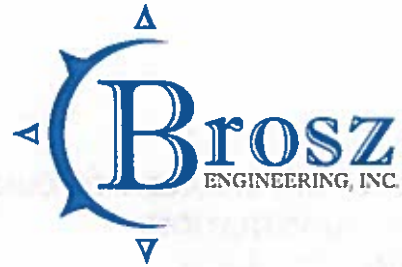
City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Joe Schroeder
Desired Action of City Council:			
Amount Budgeted in current fiscal year for this item (if applicable):	602-43340-42225, \$100,000
604-43250-42200, \$150,000		
Agenda Item:	Action to Approve Agreement #A2024-04, 5th Avenue Reconstruction from Burr to Foster Project #2024-02 with Brosz Engineering		
Explanation/Background of Agenda Item Requested:	Brosz Engineering was requested to provide a proposal for design and bidding for a project on 5th Avenue from Burr to Foster Streets. The proposal includes topographic survey, utility design, full street reconstruction design, and bidding phase services. The project was presented in our 2023 budget hearings as a future State Revolving Fund (SRF) loan project. Staff recommends approval of the proposed agreement with Brosz Engineering to perform design and bidding services at an hourly rate not to exceed fee of \$238,710. Brosz is planned to be retained for construction engineering services which will be brought to council for approval at a later date. Project Background: The project is approximately seven blocks. There will be 3,300 feet of 4" and 6" cast iron water main and 3,150 feet of clay sewer pipe replaced. The curb is currently straight face curb which will be replaced with standard curb.		

WORK ORDER/PROPOSAL FOR PROFESSIONAL SERVICES



TO:	City of Mitchell	BROSZ PROPOSAL #:	
CONTACT:	Bob Everson, Mayor	BROSZ PROJECT #:	
ADDRESS:	612 N Main	JOB TITLE:	5th Ave Reconstruct
	Mitchell, SD 57301	JOB DESCRIPTION:	Water, Wastewater, Storm
OFFICE:	(605) 995-8420		Sewer, and Surfacing
CELL:	N/A	JOB LOCATION:	Mithcell, SD (Davison County)
EMAIL:	beverson@cityofmitchell.org		

BROSZ ENGINEERING WILL PROVIDE ENGINEERING SERVICES TO THE CLIENT AS SET FORTH BELOW:

Scope of Services

Scope of services is detailed in Exhibit A, attached to this proposal.

Compensation and Billing

The services as outlined in Exhibit A will be provided on an hourly not to exceed basis with maximum fee of **\$238,710 for Preliminary, Survey, and Design Services**. All other services requested, but not outlined in Exhibit A will be provided on an hourly basis as agreed to.

List of Significant Services:

1. Coordination Meeting, Field and Topographic Survey Completed
2. Utility Preliminary Design Review (60%) with Owner
3. Surfacing Preliminary Design Review (60%) with Owner
4. Utility Design Review (90%) with Owner
5. Surfacing Design Review (90%) with Owner
6. Bid Advertisement, Opening, and Award Recommendation

Time of Performance

The effective date of this proposal is **January 2, 2024**. Timelines for overall project completion are located at the end of this proposal. The overall completion date for the project shall be on or before **October 15, 2025**. This work order/proposal incorporates and includes the attached General Conditions.

ACCEPTANCE & AUTHORITY:

ACCEPTED:	City of Mitchell	ACCEPTED:	Brosz Engineering, Inc.
SIGNATURE:		SIGNATURE:	
PRINTED:	Bob Everson	PRINTED:	Brad Lawrence
TITLE:	Mayor	TITLE:	Senior Engineer
DATE:		DATE:	27 Dec 23

Please sign, retain one copy for your records and return one copy to Brosz Engineering, Inc. for authorization to proceed.

EXHIBIT A

SCOPE OF SERVICES FOR CONSULTANT SERVICES (DESIGN ADMINISTRATION)

Date: January 2, 2024

PROJECT INFORMATION

The City of Mitchell desires to reconstruct 5th Avenue from Burr Street to Foster Street. The project includes replacing the water, sewer and storm sewer inside the right of way, to include water and sewer services. In addition, the curb and gutter are to be replaced along with the surfacing of 12" of base course and 4" of asphalt. Sidewalk is to be replaced on a as needed basis, as determined by the city.

SCOPE OF SERVICES:

The scope of services to be performed based on the purpose of this work include:

- *Perform project startup services such as kickoff meetings and initial team meetings..*
- *Conduct topographic survey of all areas designated for improvements.*
- *Provide preliminary design services to include solicitation for water and sanitary sewer improvements, storm sewer improvements, as well as surfacing improvements. Engineering documents will be prepared and reviewed between Owner and Engineer at 60% and 90% design intervals.*
- *Perform bid letting services to include answering contractor questions, issuing addenda, assisting in the bid opening procedure, and Providing Award Recommendation.*

The proposed scope of services includes the following tasks.

TASK 1 – PRELIMINARY SERVICES

Task 1.1 – Project Management

Brosz Engineering will manage design engineering services of the project to meet proposed timelines, to have effective personnel participation and to meet quality and cost objectives. Brosz will monitor team scope, budget, and schedule; delegate task assignments and responsibilities by discipline; and coordinate issues with Owner's Representative.

Brosz Engineering will hire and coordinate all subconsultants to perform necessary work items outside of Brosz Engineering area of expertise (Geotechnical, Archeological, etc.).

Monthly progress reports and invoices will be prepared that summarize the work progress to date, budget expenditures to date, and identify information requirements or decisions that need to be made by the Owner.

Task 1.2 – Coordination and Progress Meetings

Brosz will conduct one (1) initial coordination meeting to discuss the project in detail with the Owner to include expectations, timelines, and Owner required assistance for certain items. Monthly design progress meetings will be conducted to keep the community informed as to the status of the project and any upcoming items of significance.

TASK 2 – TOPOGRAPHIC SURVEY

Task 2.1 – Topographic Survey

Brosz Engineering will complete field reconnaissance and topographic surveys for existing conditions including utility locations from best available information. Brosz will have all existing utilities located via SD One Call throughout the project area(s) and surveyed. Engineer shall reduce data to formats that are easily readable and convertible to existing software packages used by Engineer.

TASK 3 – DESIGN SERVICES

Task 3.1 – Preliminary Design

Upon gathering of sufficient data and information, Brosz Engineering shall fully analyze the available data to recommend and design improvements that are cost effective and easily operable/maintainable. All analysis and recommendations shall be evaluated from both a technical and financial perspective. Brosz will meet with the Owner for a 60% plan review meeting and shall submit the 60% plans to any applicable funding agencies for comment and concurrence. Documents will be prepared in accordance with the standard of care dictated by SDDANR, Ten States Standards, and all other pertinent codes and regulations.

Brosz will meet with the Owner for a 90% plan review and make any final adjustments to the plans before drafting the final design set of plans.

Brosz senior staff will provide review of criteria and concepts being applied to the services in the agreement, oversight of assigned staff, as well as, prepare agenda and notes for all meetings.

Task 3.3 – Final Design

Brosz Engineering will prepare final detailed plans and specifications for the project based on comments from Owner and all oversight agencies. Upon approval by all required agencies and modifications completed as requested, Brosz Engineering will submit eight (8) copies of the approved documents to the Owner.

Task 3.4 – Bidding Assistance

Brosz Engineering will provide bidding assistance to the Owner for the Project. Duties to be included under this task are assisting in advertisement of the project to potential contractors, reproduction of plans and specifications, issuing plans and specifications to all interested parties, answering bid questions, issuing any addenda that may be needed during the duration of the advertisement, and assisting with the bid opening procedures.

Brosz Engineering will review bids for conformance with all applicable bid laws and responsiveness to the conditions of the Contract Documents and make a recommendation regarding acceptance of the bids.

PROPOSED PROJECT TIMELINE

Task		Date
1	Notice To Proceed for Design	January-24
2	Survey (snow depending)	January-24
3	60% design review	June-24
4	90% design review	July-24
5	DANR Concurrence	August-24
6	Advertise for bids	October-24
7	Award Project	November-24
8	Construction Complete	October-25

CITY OF MITCHELL

City Council Meeting Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Dan Pollreisz
Desired Action of City Council:	Approve		
Amount Budgeted in current fiscal year for this item (if applicable):			
Agenda Item:	Action to Approve Agreement #A2024-07, Internship Agreement with Northwest Iowa Community College		
Explanation/Background of Agenda Item Requested:	This request is to approve an internship agreement between Mitchell Fire/EMS and Northwest Iowa Community College Health Occupations Program. This internship is an ongoing agreement for us to host paramedic interns, similar to what we have with Lake Area Tech and Sanford. This agreement is at no cost to the City of Mitchell. The hope is to recruit these interns as future employees.		

**NORTHWEST IOWA COMMUNITY COLLEGE
HEALTH OCCUPATIONS PROGRAMS, SHELDON, IOWA**

* * * * *

AGREEMENT BETWEEN

NORTHWEST IOWA COMMUNITY COLLEGE, SHELDON, IOWA

and

**MITCHELL FIRE DEPARTMENT & REGIONAL AMBULANCE SERVICE,
CITY OF MITCHELL SOUTH DAKOTA**

THIS AGREEMENT made and entered into this 14th day of December, 2023 by and between NORTHWEST IOWA COMMUNITY COLLEGE, SHELDON, IOWA, hereinafter referred to as COLLEGE, and the MITCHELL FIRE DEPARTMENT & REGIONAL AMBULANCE SERVICE, CITY OF MITCHELL SOUTH DAKOTA, hereinafter referred to as COOPERATING AGENCY.

WHEREAS, Northwest Iowa Community College is desirous of continuing health occupation programs for qualified students preparing for healthcare careers, and

WHEREAS, the cooperating agency recognizes the need to provide the community in its service area with an adequate and qualified healthcare staff, and

WHEREAS, the contracting parties are desirous of cooperating to furnish clinical/professional practice education to students of health occupations enrolled at Northwest Iowa Community College.

NOW THEREFORE IT IS MUTUALLY AGREED by and between Northwest Iowa Community College and cooperating agency as follows:

ARTICLE I.

PURPOSE OF AGREEMENT

This is a mutual agreement between the COLLEGE offering health occupations programs and the COOPERATING AGENCY providing clinical/professional practice areas for selected student learning. The basic purpose of this agreement is to establish cooperative relationships and to outline the responsibilities of the two cooperating parties as they contribute to student learning.

ARTICLE II.

THE PROGRAM

The students are admitted to the COLLEGE'S program beginning with the school calendar of each year. Students will be scheduled for learning experiences at the healthcare facility as required in the courses taken

The faculty of the COLLEGE'S program is responsible for both the classroom instruction and the clinical instruction and supervision of students throughout the entire program. The COOPERATING AGENCY provides the clinical areas in which students receive learning experiences selected and supervised by the faculty.

There shall be a coordinating committee formed with the COOPERATING AGENCY and the COLLEGE for the purpose of planning and coordinating student experiences within the nursing program. This committee shall meet on a regular basis.

ARTICLE III.

RESPONSIBILITY OF THE COLLEGE

1. To provide classroom instruction and to assume responsibility for the clinical instruction and supervision through the entire program.
2. To arrange clinical instruction schedules after consultation with the coordinating committee or as directed within the course syllabus.
3. To submit the clinical instruction schedule to the COOPERATING AGENCY four (4) weeks prior to its effective date with the following information included:
 - a. The clinical areas desired for use in the clinical instruction and supervision of students.
 - b. The hours when students will be in the areas.
 - c. The number of students to be in each area.
4. To provide for continuous planning with the COOPERATING AGENCY, indicating the learning experience desired for students.
5. To have all clinical instructors licensed, registered, certified or trained to practice in the student's area of study.
6. To have all clinical instructors meet the educational requirements of the facility.
7. That each student shall be supervised by and have access to any instructor at the clinical site.
8. To adhere to policies and procedures of the COOPERATING AGENCY.
9. To observe the following student personnel policies:
 - a. Students shall be required to wear the adopted COLLEGE uniform and/or name tag.

- b. Students shall be responsible for providing and maintaining their own uniforms, including laundering.
10. NCC will provide malpractice insurance coverage for the student and the faculty coordinator (\$1 million/occurrence and \$2 million/aggregate).
11. The student and clinical instructor will abide by guidelines of the Health Insurance Portability and Accountability Act (HIPAA) and the Federal Law of Confidentiality (42CFR Part 2) when applicable. The privacy and security components of HIPAA have a large impact on daily practice within a health care agency. Protected health information is any information that includes the patient's name or other identifiers, such as a birth date or medical record number. Protected health information can be written, spoken, or electronic.
12. The student will have a current health assessment which includes all immunizations - DPT, MMR, PPD, Poliomyelitis, Hepatitis B or waiver, Varicella, Meningitis (strongly recommended for students living in dorms), COVID-19 Vaccine, and Flu Vaccine as required by the program of study.
13. With regard to clinical requirements, the student will have to comply with immunization requirements as set by the COOPERATING AGENCY.
14. The student will have successfully completed a criminal background and abuse background check.
15. The student will have documentation of receipt of standard precaution policies/guidelines as required by the program of study.
16. The student will have current certification in CPR for health care providers as required by the program of study.
17. The student will have documentation of child and dependent adult abuse training as required by the program of study..

ARTICLE IV.

RESPONSIBILITY OF COOPERATING AGENCY

1. To make clinical/professional practice areas available for student learning as indicated in the agreed schedule.
2. To consult the COLLEGE'S faculty in the development of clinical schedules.
3. To consult with the coordinator and instructor(s) of the program in the selection of desired learning experiences and for clinical instruction and supervision of students.
4. To accept the enrolled students without discrimination as to race, color, national origin, sex, disability, age, sexual orientation, gender identity, creed, religion, and actual or potential parental, family or marital status.
5. To contribute toward promoting a democratic atmosphere and one which is conducive to learning.
6. To observe the following student personnel policies.

- a. Students may be permitted to eat in the dining facilities and purchase food at stipulated rates. The COOPERATING AGENCY is NOT to provide meals for students.
 - b. No stipend or wages will be provided by the COOPERATING AGENCY to the students.
 - c. If a student is in a clinical area for scheduled clinical instruction and incurs an illness or accident not requiring hospitalization, emergency first aid will be provided at the cost of the student.
 - d. Absences other than for illness may be granted only by the coordinator of the COLLEGE'S program in communication with the cooperating agency.
7. To retain responsibility for the supervision of patient care when a student is in the clinical area. Students shall not be used in lieu of professional or non-professional staff.
 8. That research and publication will be allowed if it relates to the student's experience and is authorized by the instructor and COOPERATING AGENCY.
 9. That they may recommend the COLLEGE to withdraw from the clinical area any students whose work, conduct or health may have a detrimental effect on the patients or personnel.
 10. That the instructors of the program can update themselves in the specific clinical areas by making arrangements through the COOPERATING AGENCY.
 11. Students will be informed of their responsibility during emergency, such as fire or tornado, prior to their clinical work within the COOPERATING AGENCY.

ARTICLE V.

TERMINATION AND RENEWAL

The initial term of this agreement shall be for one year commencing on the effective date of this agreement and shall thereafter be automatically renewed for successive one-year terms unless either party provides the other party with written notice of termination at least thirty (30) days in advance. If the COOPERATING AGENCY terminates this agreement, it will permit the then current health occupations students to complete their clinical and fieldwork experience and instruction.

ARTICLE VI

NON-DISCRIMINATION IN EDUCATION STATEMENT

It is the policy of Northwest Iowa Community College not to discriminate on the basis of race, color, national origin, sex, disability, age, sexual orientation, gender identity, creed, religion, and actual or potential parental, family or marital status in its programs, activities, or employment practices as required by federal and state civil rights statutes and all other applicable federal and state laws, regulations and orders. The Board of Trustees shall monitor progress on this policy through the President's appointed Affirmative Action/Equity Coordinator(s).

If you have any questions or complaints related to compliance with this policy, please contact one of the Equity Coordinators at Northwest Iowa Community College, 603 West Park Street, Sheldon, Iowa, room D403b or room A101D, email equity@nwicc.edu, phone number 712-324-5061, extension 113 or extension 137, fax 712-324-4136; or the Director of the Office for Civil Rights, U.S. Department of

Education, Citigroup Center, 500 W. Madison, Suite 1475, Chicago, IL 60661, email
OCR.Chicago@ed.gov, phone number 312-730-1560, fax 312-730-1576.

NORTHWEST IOWA COMMUNITY COLLEGE
(College)

BY _____

DATE _____

(Cooperating Agency)

BY _____

DATE _____

CITY OF MITCHELL

City Council Meeting
Agenda Item Request



The deadline for agenda items is Wednesday at noon, prior to the City Council Meeting

Meeting Date Requested:	January 2, 2024	Requested By:	Stephanie Ellwein
Desired Action of City Council:	Action to approve resolution R2024-01		
Amount Budgeted in current fiscal year for this item (if applicable):	n/a		
Agenda Item:	Action to Approve Resolution #R2024-01, A Resolution Establishing a Sales Tax Grant Incentive Program for the City of Mitchell		
Explanation/Background of Agenda Item Requested:	The City of Mitchell has been discussing implementing a sales tax grant incentive program to encourage economic development within the City of Mitchell. The attached resolution would approve an incentive program with the following criteria: • To qualify, the establishment is required to provide documentation of sales (or increase in sales if it is an existing business) of at least \$2,000,000. • The grant would be limited to 2% of the documented annual sales. • The grant can not exceed the identified funding gap needed for a new or expanding business. • The grant period cannot exceed five years. • The retailer would be required to verify the sales on an annual basis before the incentive is paid. • The costs identified in the funding gap must be verified before the grant is paid. The City council will discuss the proposal at Monday's meeting. Staff recommends approval of a grant incentive program as finalized by the City Council.		

Resolution #R2024-01

A Resolution Establishing a Sales Tax Grant Incentive Program in the City of Mitchell.

WHEREAS, sales tax represents 52% of the City of Mitchell's General Fund Revenue Budget and is the primary source for funding city services including public safety, parks, road maintenance, and snow removal;

WHEREAS, growth in sales tax is important to continue to maintain those services and maintain the City of Mitchell's quality of life.

WHEREAS, the City of Mitchell would like to provide assistance to retail establishments that are looking to locate or grow their business in Mitchell but have identified a gap in funding in trying to make that possible.

WHEREAS, the City of Mitchell believes the grant incentive program should be established and available to all who meet the criteria as a method to encourage economic development and growth in the community;

THEREFORE BE IT RESOLVED that the Sales Tax Grant Incentive Program be established for new or expanding retail establishments in the City of Mitchell if the following program criteria are met:

- The grant incentive is available for new retail establishments with a documented minimum of \$2 million dollars in sales annually.
- The grant incentive is available for expanding retail establishments with a documented increase of \$2 million dollars in sales annually.
- The grant incentive is limited to 2% of the documented sales (or increased sales) annually.
- The grant incentive cannot exceed the funding gap that has been identified
- The grant incentive cannot exceed five years
- The Retailer must verify the sales on an annual basis before the grant incentive is paid annually.
- The costs identified in the funding gap must be certified before the grant incentive is paid annually.
- To qualify for the grant incentive program, an application must be made on the approved City form.

Dated this 2nd day of January, 2023

Mayor

Attest:

Finance Officer