

REQUEST FOR PROPOSALS
RAPID CITY AREA METROPOLITAN PLANNING ORGANIZATION
Major Street Plan Analysis and Update

SECTION 1-GENERAL INFORMATION

The Rapid City Area Metropolitan Planning Organization (MPO), in conjunction with the City of Rapid City (Rapid City), is soliciting proposals from qualified consultants to prepare a Major Street Plan Analysis and Update Study.

1.1 BACKGROUND

The Rapid City Area Metropolitan Planning Organization is comprised of six (6) jurisdictions including the Cities of Rapid City, Box Elder, Summerset, and Piedmont and portions of two (2) counties that include the urbanizing areas of Pennington and Meade Counties.

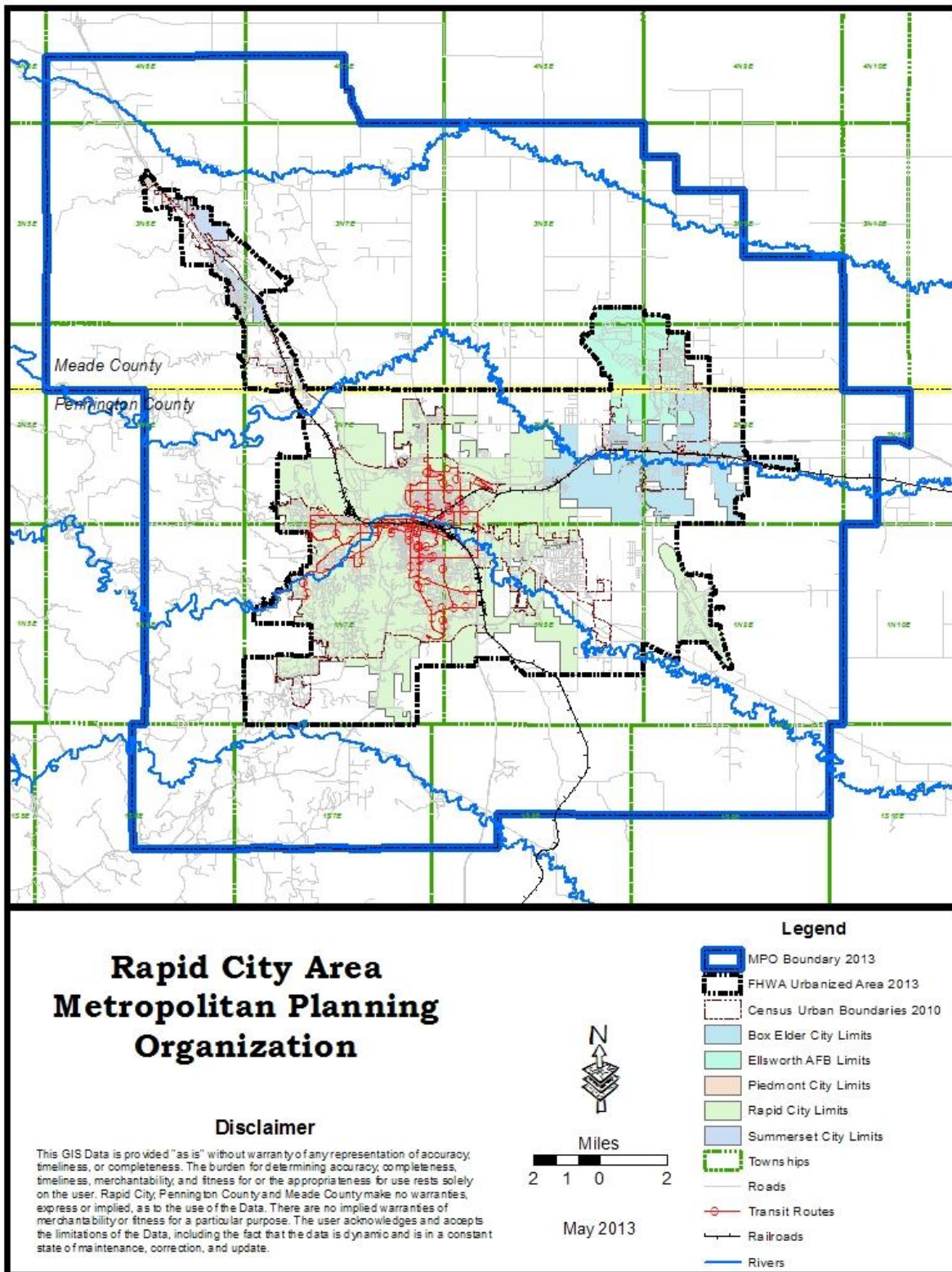
Rapid City was the first jurisdiction to adopt a Major Street Plan (MSP) in 1990, and has performed numerous revisions to the MSP to date. However, many proposed future road alignments have not been analyzed since the initial creation of the MSP. Many of these segments have become dated due to changes in land use, development, and construction projects over the years. Additionally, most of the other member agencies have adopted Major Street Plans or Transportation Plans, leading to incongruities among road alignments and classifications.

As development and expansion of the roadway network continues along the developing areas of the various jurisdictions, the need for additional MSP analysis has become apparent. Issues with slope, constructability, and alignment have surfaced on numerous segments. Enhanced data, including high-resolution aerial photography and topographic data is available to aid in the analysis.

As a part of the RapidTRIP 2045 Metropolitan Transportation Plan adopted in August, 2020, preliminary work in identifying alignment and constructability issues with the MSP was conducted. This Major Street Plan Analysis and Update is intended to expand on that process to create a comprehensive Major Street Plan for use in transportation planning,

1.2 AREA OF STUDY

The area of study encompasses the entire Metropolitan Planning Area (MPA). See the included map below for reference.



1.3 PROJECT DESCRIPTION

The Major Street Plan Analysis and Update seeks to provide a comprehensive transportation network throughout the MPA. A single map consolidating the various roadway plans will reduce conflict between the jurisdictions and allow for more efficient planning.

The analysis will include roadway profiles for all proposed arterial and collector roadways. The profiles will factor slope, constructability, and alignment to ensure that all roadways identified on the map are in the optimum location for future development.

SECTION 2-SCOPE OF SERVICES

This Scope of Services is subdivided into separate tasks that outline the basic requirements of the study. Unless otherwise noted, the CONSULTANT is expected to fulfill each of the defined tasks and provide written documentation in the form of technical reports and/or memorandums. The tasks to complete the study are defined as follows:

2.1 METHODS AND ASSUMPTIONS

The CONSULTANT shall facilitate a meeting to determine the assumptions to be used during the course of the study relating to the development of the study and the traffic analysis. Resulting from that meeting, the CONSULTANT shall develop a Methods and Assumptions Document in accordance with the *Methods and Assumptions Template for SDDOT Planning Studies*.

2.2 STUDY ADVISORY TEAM MEETINGS

The CONSULTANT shall have a minimum of four (4) meetings with the Study Advisory Team (SAT) for study coordination. The first meeting shall cover the project kickoff and the development of the Methods and Assumptions Document. Two (2) of these meetings are to be scheduled and held prior to each public meeting (can be held the same day) to gather the approval of the SAT on the information being presented. A fourth meeting should be held during the standards development phase of the study. The scheduled meetings, and other SAT meetings deemed necessary, can be conducted via teleconference or webconference and shall be documented by the CONSULTANT.

2.3 WEBPAGE

The CONSULTANT team shall provide, maintain, and continually update a webpage and a Facebook page dedicated to the study as it becomes available. The webpage and Facebook page will be organized in such a way that will help dispense information to the public regarding the status of the study, public meeting announcements, presentations, meeting summaries, and all reports. The webpage and Facebook page can be used to assist in data gathering through web surveys and for other public participation actions as deemed appropriate as long as adequate advertising can be provided. The pages will be active at least 10 days prior to the first public meeting and shall remain active for a period of at least six (6) months after completion of the study to allow public access to the final report. The CONSULTANT shall also provide the access to the webpage and Facebook page as requested by the MPO or SDDOT. If possible, the webpage shall be designed and constructed to be compatible with the MPO's webpage, allowing for editing by MPO staff.

2.4 PUBLIC INVOLVEMENT

The CONSULTANT will develop a public involvement strategy for the study process. This strategy will be consistent with the MPO's *Public Participation Plan* and an outreach program will be conducted to involve the elderly, persons with disabilities, minorities and the low-income community and other groups traditionally under-represented in the planning process. Strategies to solicit input from the business, environmental and other communities of local significance will also be addressed. The CONSULTANT shall produce a Public Participation Plan Worksheet detailing public involvement strategies and techniques. The Worksheet shall

be completed, reviewed, and approved concurrently with the Methods and Assumptions Document.

There will be a minimum of three (3) public meetings during the project period at which the consultant will make the lead public presentations regarding study methods, findings and recommendations of the study or its sub-elements, and to receive public input. Hybrid/virtual public meeting formats are encouraged to reach the public and stakeholders and receive input. These meetings are expected at the following intervals:

- One public meeting as part of the kickoff to be held at the beginning of the project to introduce the project to the public, and gather information pertaining to the needs and desires of the community.
- Recommendations (Draft Report Stage)
- Conclusions (Final Report Stage)

2.5 EXISTING STREET PLAN AND TRANSPORTATION PLAN ANALYSIS

The CONSULTANT shall review the existing MSP and Transportation Plans of each of the jurisdictions to identify any issues in alignment and classification between the various plans. A summary of any identified issues and recommendations for rectification of issues shall be provided.

2.6 SLOPE, CONSTUCTABILITY, AND ALIGNMENT ANALYSIS

The purpose of this task is to review and analyze arterial and collector streets identified on the plans for issues related to slope, constructability, and alignment. Alignments and profiles shall be identified to ensure that all proposed roads are in the optimum location.

2.7 MASTER BASE MAP AND ROADWAY PROFILES DEVELOPMENT

The CONSULTANT shall develop a master base map for transportation planning purposes that identifies the proposed alignment for all future arterial and collector streets throughout the MPA. Roadway profiles shall be created to ensure all proposed arterial and collector streets meet design standards and are feasibly constructible.

2.8 REPORTS AND MEETINGS

The consultant will provide local and state representatives with an electronic copy of the draft report prior to completion of final draft reports. The draft will include an executive summary, preliminary findings and recommendations, a master base map, roadway profiles for all proposed arterial and collector streets, and any other information developed as part of the study. The consultant shall review and become familiar with the requirements of the Federal Highway Administration which pertain to metropolitan transportation planning and federal aid road projects; and, include all necessary items in the report to satisfy those requirements.

The consultant will provide a total of forty-five (45) final reports of the study for submittal to the South Dakota Department of Transportation, Federal Highway Administration, and local governments for use in the planning process.

The consultant will be required to present the draft report of the Major Street Plan Analysis and Update to the local governing bodies as requested, and the Citizen's Advisory Committee, the Technical Coordinating Committee, and the Executive Policy Committee of the MPO.

2.9 DELIVERABLES

The consultant shall provide the following items to the MPO contact person:

- ◆ Study updates in word processing format (Microsoft® Word) or as Portable Document Format (Adobe® .pdf) of the study's progression due with each submitted invoice.
- ◆ An electronic copy, in word processing format (Microsoft® Word) and Portable Document Format (Adobe® .pdf), of the draft report and executive summary.
- ◆ Twenty (20) printed copies of the final report and executive summary
- ◆ An electronic copy, in word-processing format (Microsoft® Word) and Portable Document Format (Adobe® .pdf), of the complete final report and the complete executive summary.
- ◆ All GIS data created or acquired in ESRI geodatabase format compatible with Rapid City/Pennington County GIS.
- ◆ AutoCAD release 2018 or newer data of the proposed roadway profiles.
- ◆ Copies of any pertinent working papers and electronic files created during the project.

SECTION 3- GENERAL INSTRUCTIONS

3.1 Schedule of Proposal

Proposals shall be governed by the following estimated schedule:

October 12, 2022 – Publication of Request for Proposals

October 21, 2022 – Deadline for submission of written inquiries

October 28, 2022 – Responses to inquiries posted

November 18, 2022 at 2:00 PM – Written proposals due at Rapid City Department of Community Development

November/December 2022 – Selection of consultant and initiation of contract negotiations

3.2 Period of Performance

Detailed scheduling of the project will be negotiated during the contract negotiations by the selected consultant and the City.

The date for initiation of the contract as well as the overall contract performance period will be negotiated with the selected consultant based on the tentative time schedule listed below.

Notice to Proceed – **December, 2022**

Complete Study – **December, 2023**

Final payment and retainage will not be made to the consultant until the Final Report is accepted by SDDOT, Rapid City, and the MPO.

3.3 INQUIRIES

Please direct questions to:

Kelly Brennan, Long Range Planner III
Rapid City Department of Community Development
300 Sixth Street

Rapid City, SD 57701
(605) 394-4120

3.4 SIGNATURE REQUIREMENTS

Proposals must be signed by a duly authorized official of the proposer. Consortia, joint ventures, or teams submitting proposals, although permitted and encouraged, will not be considered responsive unless it is established that all contractual responsibility rests solely with one contractor or one legal entity which shall not be a subsidiary or affiliate with limited resources. Each proposal should indicate the entity responsible for execution on behalf of the proposal team.

3.5 PROPOSAL DEADLINE

Proposals are to be submitted to:

Kelly Brennan, Long Range Planner III
Rapid City Area Metropolitan Planning Organization
300 Sixth Street, Suite 100
Rapid City, SD 57701

Proposals must be received no later than **2:00 pm on November 18, 2022**. The deadline is firm. Extensions will not be granted. The consultant must submit nine (9) copies of their proposal to this RFP, as well as a digital version of their proposal in word processing format (Microsoft® Word) or as Portable Document Format (Adobe® .pdf).

Proposals must remain valid for at least 90 days after the deadline. The MPO will not acknowledge receipt of proposals unless a stamped, self-addressed post card is included in the proposal package.

Anticipated Start Date:

December 2022

Anticipated End Date:

December 2023

3.6 PROPOSAL GUIDELINES AND REQUIREMENTS

Each proposer must demonstrate in their proposal that they have the professional capabilities needed to accomplish this study. The proposal should contain all information relevant to indicate the consultant team's abilities to successfully complete this study and give the study advisory team a better understanding of the consultant team's qualifications.

At a minimum, the proposal should contain the following:

- Statement of Study Approach: Describe the approach the consultant proposes to accomplish the study.
- Proposed Study Team Members: Provide a written description of the consultant team composition, including disciplines, primary role in regards to the study, and relevant experience. The information provided must clearly indicate the consultant team's point of contact, the team leader for the study (if different) and the responsible party in each firm who will be providing the required professional experience.

Provide a table showing the number of person-hours (not percentages of time) that will be devoted to each task by consultant team members. List the names of principal investigators

and other key professionals who will be involved. Support personnel may be identified by classification. If subcontracting is necessary, include subcontractors' key personnel and support staff in the table. Clearly identify subcontractors' involvement.

Describe current commitments to other work in sufficient detail to permit assessment of each consultant team member's ability to meet the proposal's commitments. Include a statement that the level of effort proposed for principal and professional members of the study team will not be changed without written consent of RCMPO.

- **Individual Experience:** Provide a description of the background of key members of the consultant team and their specific participation in previous projects that would directly relate to the work planned to be done for this study. This may be done in descriptive text or in resume format.
- **Study Schedule:** Provide a graphic or text calendar to define the proposed study schedule for tasks and set milestone dates.
- **Budget:** Show the estimated cost for the entire study by RCMPO fiscal year. RCMPO's fiscal years run from January 1 through December 31. A sample budget is shown below.
- **The proposed budget shall be submitted in a sealed envelope, and opened only if the proposer is selected to perform the project by the Study Advisory Team. Unopened envelopes will be returned to the unselected proposers.**

| Item | FY2022 | | | FY2023 | | | Total |
|----------------------------------|---------|----------------------|----------------------|---------|----------------------|----------------------|--------------------|
| Salaries | Rate | Total Estimate Hours | Total Estimated Cost | Rate | Total Estimate Hours | Total Estimated Cost | |
| Name - Title or ID# | \$20.00 | 90 | \$1,800.00 | \$20.60 | 125 | \$2,575.00 | |
| Name - Title or ID# | \$18.00 | 45 | \$810.00 | \$18.54 | 50 | \$927.00 | |
| Name - Title or ID# | \$25.00 | 20 | \$500.00 | \$25.75 | 20 | \$515.00 | |
| Name - Title or ID# | \$15.00 | 10 | \$150.00 | \$15.45 | 10 | \$154.50 | |
| Name - Title or ID# | \$11.50 | 5 | \$57.50 | \$11.85 | 15 | \$177.68 | |
| Subtotal: | | | \$3,317.50 | | | \$4,349.18 | \$7,666.68 |
| Fringe Benefits ¹ | | | \$829.00 | | | \$1,087.00 | \$1,916.00 |
| Overhead / Indirect Costs | | | \$2,654.00 | | | \$3,479.00 | \$6,133.00 |
| Fixed Fee | | | \$680.00 | | | \$892.00 | \$1,572.00 |
| In-State Travel | | | \$1,250.00 | | | \$2,500.00 | \$3,750.00 |
| Out-of-State Travel | | | \$0.00 | | | \$0.00 | \$0.00 |
| Equipment Purchase ² | | | \$0.00 | | | \$0.00 | \$0.00 |
| Expendable Supplies ³ | | | \$350.00 | | | \$710.00 | \$1,060.00 |
| Subcontracts | | | \$0.00 | | | \$0.00 | \$0.00 |
| Computer Time ³ | | | \$0.00 | | | \$700.00 | \$700.00 |
| Report Publication ³ | | | \$0.00 | | | \$1,200.00 | \$1,200.00 |
| TOTAL | | | \$9,080.50 | | | \$14,917.18 | \$23,997.68 |

Notes: 1. May be included with Overhead / Indirect Costs, Must be in accordance with 48CFR Part 31

2. Must be in accordance with 49CFR Part 1B

3. Only if normally treated as a direct cost

If the proposal includes effort by subcontractors, a similar budget table should be included for each subcontractor.

Out-of-state travel, which is defined as travel between the consultant's base and destinations other than South Dakota, must be identified separately. All travel between the consultant's home base and South Dakota should be recorded as in-state travel.

Indirect costs listed in the budget must be substantiated if and when the proposal is selected. Prior to the first contract payment, the successful proposer must submit documentation supporting the bases and rates used to calculate indirect costs by the prime contractor and each of the subcontractors. Examples of indirect cost schedule formats can be found in Chapter 9 of the *AASHTO Uniform Audit & Accounting Guide* located at: <http://audit.transportation.org/>.

The proposed budget shall be submitted in a sealed envelope, and opened only if the proposer is selected to perform the project by the Study Advisory Team. Unopened envelopes will be returned to the unselected proposers.

3.7: PROPOSAL EVALUATION

Proposals will be evaluated by the Study Advisory Team. Selection will be made by the advisory team in consideration of:

- ◆ the proposer's project team;
- ◆ the proposer's experience with similar projects and other relevant agencies;
- ◆ the proposer's experience and familiarity with design criteria and standards;
- ◆ the management procedures of the proposer;
- ◆ the location of the proposer's staff and facilities;
- ◆ the quality of the proposal.

The RCMPO will afford equal opportunity to all those who submit proposals and will not discriminate in its selection of consultants on the grounds of race, sex, color, physical handicap or national origin.

Proposers will be notified of the results of the selection process in writing no later than January 2023.

3.8 OWNERSHIP OF PROPOSALS

All proposals submitted become the property of the Rapid City Area Metropolitan Planning Organization. The MPO has the right to use all information presented in any proposal, unless it is annotated as being proprietary. The MPO considers all information contained in proposals as privileged and reserves the right to maintain its confidentiality. Selection or rejection of a proposal does not affect these rights. The MPO reserves the right to reject any and all proposals submitted. The MPO may, under certain conditions, negotiate with the proposer to address specific weaknesses in a submitted proposal.

The MPO is not responsible for any costs incurred by proposers, including proposal preparation, prior to execution of a contract.

Questions should be submitted to:

Kelly Brennan, Long Range Planner III
Rapid City Area Metropolitan Planning Organization
300 Sixth Street
Rapid City, SD 57701
Phone (605) 394-4120
Email kelly.brennan@rcgov.org

Submit your questions and/or clarifications to the MPO by October 21, 2022. All questions and/or clarifications submitted, along with the answers, shall be posted on the home page of the Transportation Planning Division's webpage, as well as the Rapid City Area MPO home page by October 28, 2022.

3.9 ADDENDA AND SUPPLEMENTS TO RFP

In the event that it becomes necessary to revise any part of this RFP or if additional information is necessary to enable the proposer to make adequate interpretation of the provisions of this Request for Proposal, a supplement to the RFP will be provided to each proposer.

3.10 REJECTION RIGHTS

The City of Rapid City, the Rapid City Area Metropolitan Planning Organization, and the South Dakota Department of Transportation retain the right to reject all proposals and to re-solicit if deemed to be in their best interests.

Selection is also dependent upon the negotiation of a mutually acceptable contract with the successful proposer.

3.11 COST OF PROPOSAL PREPARATION

No reimbursement will be made by the City of Rapid City or any other party to this agreement for any costs incurred prior to a formal notice to proceed under a contract.

3.12 PROPOSALS TO BE IN EFFECT

Each proposal shall state it is valid for a period of not less than ninety (90) days from the date of receipt.

3.13 PROHIBITED INTEREST

No member, officer, employee of the City or State, or member of its governing body or of a local public body having jurisdiction within the City's service area, during his or her tenure or one year thereafter, shall have any interest, direct or indirect, in any resultant contract or the proceeds thereof.

3.14 TAXES

The contract amount submitted by the consultant should take into consideration the fact that all sponsoring entities associated with the proposed project are exempt from all state taxation, including state sales tax.

3.15 SELECTION PROCESS

A study team will review responses to this Request for Proposal that meet the requirements enumerated and are received prior to the designated closing date.

Upon review of qualified proposers, the committee will designate the most qualified firms as finalists based on professional qualifications, costs and financial data. The selected finalists may be required to appear for an oral presentation and evaluation by the committee which then will select a firm. The selected consultant will be notified and contract negotiations will commence. Upon the completion of negotiations, the City of Rapid City, the Rapid City Area Metropolitan Planning Organization and the South Dakota Department of Transportation must approve the contract before any work can begin. Federal funding will be utilized in this study and thus the consultant will be subject to all of the federal contracting requirements which are incurred as a result.

Selection Criteria are attached as Exhibit A.

3.16 PROJECT APPROACH

The proposer should identify the study process utilized on other significant projects of similar scope and magnitude as well as the process envisioned for this project. The specific procedures and methods proposed for coordinating the requirements of the Federal Highway

Administration, the South Dakota Department of Transportation, the City of Rapid City, and the Rapid City Area Metropolitan Planning Organization shall be detailed in the proposal.

3.17 QUALIFICATIONS, COSTS AND FINANCIAL DATA

Those firms submitting proposals will be evaluated according to the qualification of the firm in terms of experience, the ability to perform and manage the work, the ability to work within a schedule, and within a fixed budget. The firm is asked to submit a description of prior work that is related to the scope of work previously described. Particular emphasis will be placed on the qualifications of the firm's key staff, such as the project manager and all staff involved in the project.

The contract for the scope of work will be based on a fee schedule with a not-to-exceed amount. Project fee and cost estimates are not considered binding evaluation criteria. Each firm submitting a proposal must provide a time and cost estimate for each phase of the study based on the services enumerated and the assumed project time frame.

3.18 GENERAL EXPERTISE REQUIRED

The services envisioned within this Request for Proposal includes all of the transportation planning, civil engineering and traffic engineering disciplines necessary for the completion of the project desired.

3.19 NON-DISCRIMINATION/AMERICANS WITH DISABILITIES ACT

The successful consultant shall comply with the requirements of Title 49 CFR Part 21 and Title VI of the Civil Rights Act of 1964. The successful consultant shall submit upon request quarterly Title VI (civil rights) State of Contractor reports to the South Dakota Department of Transportation. The successful Consultant shall provide services in compliance with the Americans with Disabilities Act of 1990.

3.20 CONTRACT PROVISIONS AND ASSURANCES

Federal funds received by the Rapid City Area Metropolitan Planning Organization will be used as a component of the overall funding of this project. Accordingly, the selected consultant will be required to comply with all applicable Federal regulations and contracting provisions required by the Federal funding authority, including 49 CFR Part 31 - Allowable Costs, Civil Rights, Minority Business Enterprise, and other applicable assurance provisions. Additionally, the contract must be in compliance with state and local requirements applicable to such contracts.

SUMMARY

All plans, calculations, maps, digital files, reports, correspondence, minutes of meetings, and related data generated for the study will be included in the final documents submitted to the Rapid City Area Metropolitan Planning Organization.

Attachment A Request For Proposals Consultant Evaluation Forms

PROPOSAL EVALUATION FORM (25 Total Points Possible)

Project Name: _____

Interviewer: _____

Firm Name: _____

Date: _____

| PROPOSAL EVALUATION CRITERIA | Scoring (Circle One) |
|---|--|
| <p>P1: Firm's Project Team - 25% of total</p> <p>The evaluator should consider the following information when scoring this category:</p> <p><u>A.</u> Size of the contract as compared to the size or ability of the firm and its' associate firms and consultants as one team to handle the project;</p> <p><u>B.</u> The education, experience, and qualifications of the personnel within the submitting firm; and by attachment that of its' associate firm(s), if any. These are the Key Designers, Construction Inspectors, and Sub-consultants. Should include professional registrations, education, certifications, and other pertinent qualifications of the indicated individuals;</p> <p><u>C.</u> Name, experience and past performance of person(s) to be assigned as project manager(s) and will have direct contact with City staff. These typically are the Design Project Manager and Construction Administration Project Manager. These are in addition to those indicated in item B. above;</p> <p><u>D.</u> Names of firm's key staff to be assigned to project with description of each person's experience and how it relates to this project's specific requirements;</p> <p><u>E.</u> Ability to expand the firm's capabilities by working with other consultants or branch offices (if required).</p> | <div style="background-color: #f4a460; padding: 10px; border: 1px solid black;"> 1 2 3 4 5 6 7 8 9 10 </div> |
| <p>P2: Firm's Experience with Similar Projects and Other Relevant Agencies within the Past 5 Years – 20% of total</p> <p>The evaluator should consider the following information when scoring this category:</p> <p><u>A.</u> A summary of similar work that has been done in-house over the past five years; as it pertains to municipal engineering, operations, maintenance, replacement, planning, design surveying, construction staking, construction administration, GIS, finance, economics, and other; P6</p> <p><u>B.</u> Prior experience with other relevant agencies for the past five years such as other municipalities, South Dakota DOT, South Dakota DENR, and others.</p> | <div style="background-color: #f4a460; padding: 10px; border: 1px solid black;"> 1 2 3 4 5 6 7 8 9 10 </div> |
| <p>P3: Firm's Experience and Familiarity with Rapid City Design Criteria and Standards – 20% of total</p> <p>The evaluator should consider the following information when scoring this category: If the firm's familiarity with the City's design criteria and standards and City bidding, contracting methodology, and construction administration processes is limited then the firm's familiarity with other municipalities' and agencies' shall be considered.</p> <p><u>A.</u> Firm's staff's direct experience (in-house capability) with this type of project</p> <p><u>B.</u> Firm's familiarity with City design criteria and standards.</p> <p><u>C.</u> Other information to consider would be the firm's experience, knowledge, and understanding of City bidding and contracting methodology and City construction administration processes and the firm's experience with other City Departments and Divisions.</p> | <div style="background-color: #f4a460; padding: 10px; border: 1px solid black;"> 1 2 3 4 5 6 7 8 9 10 </div> |

| | |
|---|---------------------------------|
| <p>P4: Firm's Management Procedures – 20% of total</p> <p>The evaluator should consider the following information when scoring this category:</p> <p>A. Firm's organizational structure must be clearly defined with personnel qualifications and where actual work will be done;</p> <p>B. A statement regarding whether any litigation is pending or underway regarding activities of the firm or its principals within the last five years and the circumstances of the litigation;</p> <p>C. A current certificate of insurance, including errors and omissions, executed by the insurance carrier's authorized agent;</p> <p>D. Firm's Management Procedures; Past performance meeting budgets & schedules, including methodology and procedures used to accomplish this objective. Successful QA/QC processes, and accuracy of construction cost estimates. The firm's history in meeting project design budgets, construction budgets, and schedules. The firm's ability to provide accurate construction cost estimates throughout the design process (preliminary submittal through bid opening). The firm's QA/QC methodology and procedures including personnel responsible for QA/QC. The firm's methodology, procedures and ability to meet project schedules.</p> | <div>1 2 3 4 5 6 7 8 9 10</div> |
| <p>P5: Office Location – 10% of total</p> <p>The evaluator should consider the following information when scoring this category:</p> <p>Indicate the office location of the project manager, key designers, sub-consultants, and construction staff for the project?</p> | <div>1 2 3 4 5 6 7 8 9 10</div> |
| <p>P6: Quality of Proposal – 5% of total</p> <p>The evaluator should consider the following information when scoring this category.</p> <p>Proposal should be clear, concise, well written, well organized, utilize correct spelling, proper grammar, exemplify the characteristics of a professional document, and address the "Proposal Evaluation Criteria".</p> | <div>1 2 3 4 5 6 7 8 9 10</div> |

1 = Fails to meet the expectations of the reviewer in this category

10 = Fully meets the expectation of the reviewer in this category

SAMPLE PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made on this day of _____, 2022 between the City of Rapid City, 300 Sixth Street, Rapid City, South Dakota 57701, hereinafter referred to as OWNER, and _____, hereinafter referred to as CONSULTANT. This project will encompass the preparation of the Major Street Plan Analysis and Update.

OWNER and CONSULTANT, in consideration of their mutual covenants herein, agree in respect of the performance of transportation planning services by CONSULTANT and the payment for those services by OWNER as set forth below.

SECTION 1 - BASIC SERVICES TO CONSULTANT

1.1 General

CONSULTANT shall provide to OWNER planning services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER'S professional planning services representative for the Project, providing professional planning consultation and advice, and furnishing selected planning services.

1.2 Scope of Work

The Basic Services Scope of Work is described in detail in Exhibit A and shall include tasks 2.1 through 2.10 to create a "Major Street Plan Analysis and Update" document formatted for easy reading and viewing on screens.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, CONSULTANT shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.7, inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in Exhibit A, and these services will be paid for by OWNER as indicated in Section 5.

2.1.1 Services resulting from significant changes in the general scope, extent or character of the Project including, but not limited to, changes in size, complexity, or method of financing; and revising previously accepted studies, reports or design documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents.

2.1.2 Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

- 2.1.3 Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical and electrical engineering and customary architectural design incidental thereto).
- 2.1.4 Services during out-of-town travel required of CONSULTANT other than visits to the site, attendance at OWNER'S office as required by Section 1, or other services as detailed in Exhibit A.
- 2.1.5 Providing any type of property surveys or related engineering services needed for the transfer of interests in real property and field surveys for design purposes and providing other special field surveys.
- 2.1.6 Preparing to serve or serving as consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project (except for assistance in consultations which is included as part of Basic Services).
- 2.1.7 Additional services in connection with the Project, excluding services that are to be furnished by OWNER in accordance with Article 3, and services not otherwise provided for in this Agreement.

SECTION 3 - OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of CONSULTANT:

- 3.1 The Community Development Director or their designee shall act as OWNER'S representative with respect to the services to be rendered under this Agreement. The Community Development Director shall have complete authority to transmit instructions, receive information, interpret and define OWNER'S policies and decisions with respect to CONSULTANT'S services for the Project.
- 3.2 Assist CONSULTANT by placing at CONSULTANT'S disposal all available information pertinent to the Project including previous reports and any other data relative to the Project.
- 3.3 Examine all studies, reports, sketches, drawings, proposals and other documents presented by CONSULTANT, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.
- 3.4 Give prompt written notice to CONSULTANT whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT'S services.
- 3.5 Furnish or direct CONSULTANT to provide Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.

SECTION 4 - PERIOD OF SERVICE

The CONSULTANT'S period of service shall complete the scope of work stated in Exhibit A by _____, 2022, provided a written "Notice to Proceed" is issued by _____, 2022. The CONSULTANT'S services shall be provided in general accordance with the schedule as defined in Exhibit B. The OWNER may consider a failure by CONSULTANT to meet the schedule in Exhibit B with regard to any phase of the work as a breach of this Agreement.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 Methods of Payment for Services and Expenses of CONSULTANT

5.1.1 *For Basic Services.* The OWNER will pay the CONSULTANT the actual costs for services provided in an amount not to exceed _____ as detailed in the attached Exhibit D "Cost Estimate" for services rendered under Section 1 as detailed in Attached Exhibit A. This includes a lump sum profit/fixed fee in the amount of \$_____.

5.1.1.1 Payment will be made pursuant to invoices submitted by the CONSULTANT.

5.1.2 *For Additional Services.* OWNER shall pay CONSULTANT for Additional Services rendered under Section 2 as follows:

5.1.2.1 General. For additional services of CONSULTANT'S principals and employees engaged directly on the Project and rendered pursuant to paragraph 2.1 on the same basis as outlined in paragraph 5.1.1.1.

5.2 Times of Payments

CONSULTANT shall submit statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. OWNER shall make prompt payments in response to CONSULTANT'S statements.

For these services the OWNER shall make prompt payments to the CONSULTANT based on billings submitted by the CONSULTANT up to 90% of the maximum fee for each Task as shown on Exhibit D, "Cost Estimate". The remaining 10% shall be due upon approval of the Final Report for the Project as accepted by OWNER. This 10% retainage shall be calculated on all invoices from the CONSULTANT.

5.3 Other Provisions Concerning Payments and Record Keeping

5.3.1 If OWNER fails to make any payment due CONSULTANT for services and expenses within forty-five (45) days after receipt of CONSULTANT'S statement the CONSULTANT may, after giving seven (7) days written notice to OWNER, suspend services under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and charges.

5.3.2 The employees of CONSULTANT, professional associates and consultants, whose time is directly assignable to the program shall keep and

sign a time record showing the element of the Project, date and hours worked, title of position and compensation rate.

- 5.3.3 *Records.* The CONSULTANT shall maintain an accurate cost keeping system as to all costs incurred in connection with the subject of this Agreement and shall produce for examination books of accounts, bills, invoices and other vouchers, or certified copies thereof if originals are lost, at such reasonable time and place as may be designated by the OWNER. CONSULTANT shall permit extracts and copies thereof to be made during the contract period and for three years after the date of final payment to CONSULTANT.

All personnel employed by CONSULTANT shall maintain time records for time spent performing work on study described in this Agreement for a period of three years from the conclusion of the study. Time records and payroll records for said personnel shall be similarly retained by CONSULTANT for a period of three years from the conclusion of the study.

Upon reasonable notice, the CONSULTANT will allow OWNER, state, and federal auditors to audit all records of the CONSULTANT related to this Agreement. These records shall be clearly identified and readily accessible. All records shall be kept for a period of three (3) years after final payment under this Agreement is made and all other pending matters are closed.

- 5.3.4 *Inspection of Work.* The CONSULTANT shall, with reasonable notice, afford OWNER or representative of OWNER reasonable facilities for review and inspection of the work in this Agreement. OWNER shall have access to CONSULTANT'S premises and to all books, records, correspondence, instructions, receipts, vouchers and memoranda of every description pertaining to this Agreement.
- 5.3.5 *Audits.* If the CONSULTANT expends \$750,000.00 or more in federal awards during the CONSULTANT's fiscal year, the CONSULTANT must have an audit conducted in accordance with 2 CFR Part 200, Subpart F - Audit Requirements, by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the Auditor General's approval should be obtained annually. Approval of an auditor must be obtained by forwarding a copy of the audit engagement letter to:

Department of Legislative Audit A-133
Coordinator
427 South Chapelle Street
% 500 East Capitol Avenue
Pierre, SD 57501-5070

If the CONSULTANT expends less than \$750,000.00 during any Sub-Recipient fiscal year, the State may perform a more limited program or performance audit related to the completion of the Agreement objects, the eligibility of services or costs, and adherence to Agreement provisions.

Audits will be filed with and approved by the State Auditor General by the end of the ninth month following the end of the fiscal year of the entity being audited or thirty (30) days after receipt of the auditor's report, whichever is earlier.

For either an entity-wide, independent financial audit, or an audit under 2 CFR Part 200, Subpart F, the Sub-Recipient will resolve all interim audit findings to the satisfaction of the auditor. The Sub-Recipient will facilitate and aid any such reviews, examinations, and agreed upon procedures, the State or its contractor(s) may perform.

Failure to complete audit(s) as required, including resolving interim audit findings, will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and awards may be suspended, until the audit is completely resolved.

The CONSULTANT will be responsible for payment of any and all audit exceptions which are identified by the State. The State may conduct an agreed upon procedures engagement as an audit strategy. The CONSULTANT may be responsible for payment of any and all questioned costs, as defined in 2 CFR 200.84, at the discretion of the State.

Notwithstanding any other condition of the Agreement, the cooperative audit resolution process applies, as appropriate. The books and records of the CONSULTANT must be made available if needed and upon request at the CONSULTANT's regular place of business for audit by personnel authorized by the State. The State and federal agency each has the right to return to audit the program during performance under the grant or after close-out, and at any time during the record retention period, and to conduct recovery audits including the recovery of funds, as appropriate.

If applicable, the CONSULTANT will comply in full with the administrative requirements and cost principles as outlined in U.S. Office of Management & Budget (OMB) uniform administrative requirements, cost principles, and audit requirements for federal awards – 2 CFR Part 200 (Uniform Administrative Requirements).

- 5.3.6 Payment shall be made subject to audit by duly authorized representatives of the OWNER. Payment shall be made as required in 48 CFR 31 and 2 CFR PART 200:

The CONSULTANT shall pay subcontractors or suppliers within 15 days of receiving payment for work that is submitted for progress payment by the OWNER. If the CONSULTANT withholds payment beyond this time period, written justification by the CONSULTANT shall be submitted to the OWNER upon request. If it is determined that a subcontractor or supplier has not received payment due without just cause, the OWNER may withhold future estimated payments and/or may direct the CONSULTANT to make such payment to the subcontractor or supplier. Prompt payment deviations will be subject to price adjustments.

5.3.7 Funding Provision. The payment of federal funds under this Agreement is subject to the availability of Metropolitan Planning Organizations Federal Highway Administration and Federal Transit Administration funds appropriated by Congress.

5.4 Definitions

Reimbursable Expenses means the expenses incurred by CONSULTANT or CONSULTANT'S independent professional associates or consultants directly in connection with the Project, including expenses for: transportation and subsistence incidental thereto; reproduction of reports, graphics, and similar Project related items; and if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred for computer time and other highly specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques times a factor of 1.0 as determined in accordance with CONSULTANT'S normal accounting practices. All costs must be accumulated and segregated in accordance with Consultant's normal business practice, 48 CFR Part 31 and 2 CFR 200. Lodging and subsistence expenses will be reimbursed according to state guidelines using General Services Administration (GSA) federal per diem rates for Rapid City/Pennington County South Dakota.

5.5 Ownership of Data

Documents and all products of this Agreement are to be the property of the OWNER. Any reuse of documents for extensions of the Project or other projects shall be at the OWNER's sole risk and liability.

5.6 Publication and Release of Information

The CONSULTANT shall not copyright material developed under this Agreement without written authorization from the OWNER. The OWNER reserves a royalty-free non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for government purposes.

5.7 Acquisition of Property or Equipment

The acquisition of property or equipment will be in accordance with 49 CFR 18.32.

5.8 Independent Consulting and Subcontracting

While performing services hereunder, CONSULTANT is an independent contractor and not an officer, agent, or employee of the City of Rapid City.

Any employee of the CONSULTANT engaged in the performance of services required under the agreement shall not be considered an employee of the OWNER, and any and all claims that may or might arise under the Worker's Compensation Act of the State of South Dakota on behalf of said employees or

other persons while so engaged and any and all claims made by any third party as a consequence of any act or omission of the part of the work or service provided or to be rendered herein by the CONSULTANT shall in no way be the obligation or responsibility of the OWNER.

CONSULTANT shall perform all work except specialized services. Specialized services are considered to be those items not ordinarily furnished by CONSULTANT which must be obtained for proper execution of this Agreement. Specialized services required by the study, if any, will be provided pursuant to Section 2 of this Agreement.

Neither this Agreement nor any interest therein shall be assigned, sublet or transferred unless written permission to do so is granted by the OWNER. Subcontracts are to contain all the required provisions of the prime contract as required by 49 CFR Part 18, definitions.

5.9 Personnel Employment

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any other considerations, contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the OWNER shall have the right to annul this Agreement without liability or, in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fees, commission, percentage, brokerage fee, gift or contingent fee.

5.10 Claims

To the extent authorized by law, the CONSULTANT shall indemnify and hold harmless the OWNER, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses and reasonable attorney fees to the extent such claims are caused by any performance of professional services by the CONSULTANT, its employees, agents, subcontractors or assignees.

It is further agreed that any and all employees of either party, while engaged in the performance of any work or services, shall not be considered employees of the other party, and that any and all claims that may or might arise under the Worker's Compensation Act of the State of South Dakota on behalf of said employees, while so engaged on any of the work or services provided to be rendered herein, shall in no way be the obligation or responsibility of the other party.

5.11 Acceptance and Modification

This Agreement together with the Exhibits and schedules identified above constitute the entire agreement between OWNER and CONSULTANT and supersede all prior written or oral understandings. This Agreement and said Exhibits and schedules may only be amended, supplemented, modified or canceled after consultation with, and approval in writing by, the parties to this Agreement.

SECTION 6 – TERMINATION

6.1 Notice

If the CONSULTANT breaches any of the terms or conditions of this Agreement, the OWNER may terminate this Agreement or any portion of the Agreement at any time with or without notice. In any other case, the OWNER may terminate the entire Agreement or any portion of the Agreement upon ten (10) days' written notice to CONSULTANT.

6.2 Take over Work

Upon termination, the OWNER may take over the work and/or may award another party an agreement to complete the work under this Agreement.

6.3 Delivery of Work

Upon termination, the CONSULTANT shall deliver to the OWNER all work product completed to the date of termination. The CONSULTANT'S work product shall become the OWNER'S property.

6.4 Payment upon Termination

6.4.1 *Termination for Default.* If the OWNER terminates the Agreement due to CONSULTANT'S default, the OWNER may pay the CONSULTANT for work satisfactorily performed and delivered to the OWNER up to the date of termination. After audit of the CONSULTANT'S billed costs to the date of termination and after determination by the OWNER of the amount of work satisfactorily performed, the OWNER will determine the amount to be paid to the CONSULTANT. The OWNER may adjust any payment to cover any additional costs to the OWNER due to the CONSULTANT'S default. The OWNER shall be entitled to recover payments made to the CONSULTANT for the work which is the cause of the termination.

6.4.2 *Termination not for Default.* If the OWNER terminates the Agreement for a reason other than default, the CONSULTANT shall be paid for the value of work performed and services rendered up to the date of termination, in an amount decided by OWNER. Any such payment shall constitute total payment for such work and services. This payment to CONSULTANT may be a portion of the fixed fee, plus actual costs. The portion of the fixed fee may be based on the ratio of the actual costs uncured to the estimated

actual costs. Actual costs to be reimbursed shall be determined by audit of such costs to the date of termination.

6.4.3 *Termination at Completion of Phase.* If the Agreement is terminated at the completion of any phase of Basic Services, any progress payments paid to CONSULTANT for services rendered through such phase shall constitute total payment for such services.

6.4.4 *Termination During Phase.* If the Agreement is terminated during any phase of the Basic Services, CONSULTANT may be reimbursed for the charges of independent professional associates and consultants employed by CONSULTANT to render Basic Services incurred through such phase. CONSULTANT may also be paid for unpaid Reimbursable Expenses incurred during such phase.

SECTION 7 – GOVERNING LAW

This Agreement and any dispute arising out of this Agreement shall be governed by the laws of the State of South Dakota, without regard for any conflicts of laws provisions contained therein.

7.1 Forum Selection

Any dispute arising out of this contract shall be litigated in the Circuit Court for the 7th Judicial Circuit, Rapid City, South Dakota.

7.2 Compliance Provision

The CONSULTANT shall comply with all federal, state and local laws, together with all ordinances and regulations applicable to the work and will be solely responsible for obtaining current information on such requirements. The CONSULTANT shall procure all licenses, permits or other rights necessary for the fulfillment of its obligation under the Agreement.

SECTION 8 – MERGER CLAUSE

This written agreement which includes the Request for Proposals and associated exhibits, to include Exhibit A - Scope of Work, Exhibit B - Project Schedule, Exhibit C – Cost Proposal, Exhibit D – Standard Title VI/Nondiscrimination Assurances (Appendix A&E), Exhibit E – Debarment, Exhibit F – Certification of Consultant, and Exhibit G – Evaluation forms constitute the entire agreement of the parties. No other promises or consideration are a part of this agreement.

SECTION 9 – COMPLIANCE WITH CLEAN AIR ACT

Consultant stipulates that any facility to be utilized in the performance of this contract, under the Clean Air Act, as amended, Executive Order 11738, and regulations in implementation thereof is not listed on the U.S. Environmental Protection Agency List of Violating Facilities pursuant to 40 CFR 15.20 and that the OWNER and the State Department of Transportation shall be promptly notified of the receipt by the CONSULTANT of any communication from the Director, Office of Federal Activities, EPA, indication that a facility to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

SECTION 10 – TITLE VI ASSURANCE

The CONSULTANT will be bound by **Exhibit D**, attached to and made a part of this Agreement, said assurance being entitled, “STANDARD TITLE VI/NONDISCRIMINATION ASSURANCES APPENDIX A & E.”

SECTION 11 – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

CONSULTANT certifies, by signing this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

SECTION 12 – INSURANCE AND REPORTING

Before the CONSULTANT begins providing service, the CONSULTANT will be required to furnish the OWNER the following certificates of insurance and assure that the insurance is in effect for the life of the contract:

- A. Commercial General Liability Insurance: CONSULTANT shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.
- B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance: CONSULTANT agrees to procure and maintain professional liability insurance or miscellaneous professional liability Insurance with a limit not less than \$1,000,000.00.

The insurance provided for general liability and errors and omissions shall be adequate for the liability presented, and shall be written by an admitted carrier in the State of South Dakota.

- C. Business Automobile Liability Insurance: CONSULTANT shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.
- D. Worker's Compensation Insurance: CONSULTANT shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, the CONSULTANT shall furnish the OWNER with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the OWNER. The CONSULTANT shall furnish copies of insurance policies if requested by the OWNER.

SECTION 13- REPORTING

CONSULTANT agrees to report to the OWNER any event encountered in the course of performance of this Agreement which results in injury to any person or property, or

which may otherwise subject CONSULTANT, or the OWNER or its officers, agents or employees to liability. CONSULTANT shall report any such event to the OWNER immediately upon discovery.

CONSULTANT'S obligation under this section shall only be to report the occurrence of any event to the OWNER and to make any other report provided for by their duties or applicable law. CONSULTANT'S obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the OWNER under this section shall not excuse or satisfy any obligation of CONSULTANT to report any event to law enforcement or other entities under the requirements of any applicable law.

SECTION 14 – DISCLOSURE TO REPORT LOBBYING

CONTRACTOR certifies, to the best of CONTRACTOR'S knowledge and belief, that: No Federal appropriated funds have been paid or will be paid, by or on CONTRACTOR'S behalf, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any of the above mentioned parties, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The CONSULTANT will require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients will certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 - Any CONSULTANT who applies or bids for an award of \$100,000.00 or more will file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying". Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier will also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant, or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

SECTION 15 - SEVERABILITY PROVISION

In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 16 – CONFLICT OF INTEREST

The CONSULTANT agrees to establish safeguards to prohibit any employee or other person from using their position for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain as contemplated by SDCL §§ 5-18A-17 through 5-18A-17.6. Any potential conflict of interest must be disclosed in writing and approved, in writing, by the OWNER. In the event of a conflict of interest, the CONSULTANT expressly agrees to be bound by the conflict of interest resolution process set forth in SDCL §§ 5-18A-17 through 5-18A-17.6.

SECTION 17 – ASSIGNMENT PROVISION

The CONSULTANT will not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment, or change order, or obligate the CONSULTANT in any manner with any third party with respect to the CONSULTANT'S rights and responsibilities under this Agreement without the OWNER'S prior written consent.

SECTION 18 – EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this Agreement, the CONSULTANT will not discriminate against any employee, or applicant for employment, because of race, religions, color, sex, disability, or national origin. Such actions will include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff or termination, rates of pay, other forms of compensation, and selection for training, including apprenticeship.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement by their duly authorized officers on the day, month and year first written above.

OWNER:

Attest:

Mayor

Date

Finance Director

Date

APPROVED AS TO FORM

Kinsley Groote

Assistant City Attorney

Date

CONSULTANT:

By: _____

Name/Title: _____

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 2022, before me, a Notary Public, personally appeared _____, a Principal of _____, and acknowledged to me that s/he did sign the foregoing document as such officer and for the purposes therein stated.

Notary Public

My Commission Expires:

(SEAL)

Address for Giving Notices:

City of Rapid City
Community Development Department
300 Sixth Street
Rapid City, South Dakota 57701

Consultant
Attn:
Street Address
City, State Zip Code

SAMPLE