



Le Sueur County, MN

Tuesday, January 26, 2016

Board Meeting

Item 7

9:30 a.m. Darrell Pettis, County Administrator/Engineer (5 min)

RE: CSAH 3 Reed Street Project Agreement

RE: Mohs Contracting, Inc. Application and Certificate for Payment, Waterville Project

RE: Mohs Contracting, Inc. Draft Agreements, Human Services Remodeling Project

RE: Public Defender

Staff Contact:

AGREEMENT FOR PROFESSIONAL SERVICES
CSAH 3 (S. REED STREET) RECONSTRUCTION/OVERLAY
LE SUEUR COUNTY, MINNESOTA

This Agreement, made this ____ day of _____, 2015, by and between the County of Le Sueur, 88 South Park Avenue, LeCenter, Minnesota, hereinafter referred to as CLIENT, and Bolton & Menk, Inc., 1960 Premier Drive, Mankato, Minnesota, hereinafter referred to as CONSULTANT.

WITNESS, whereas the CLIENT intends to employ professional services required to design and construct the following to CSAH 3 (S. Reed Street) in Waterville, Minnesota, and whereas the CONSULTANT agrees to furnish the various professional services required by the CLIENT:

- TH 60 north to Agri-Systems Driveway (approx. 200-feet): Design a rural section roadway with 12-foot driving lanes and 6-foot paved shoulders. Rural design standards 8820.9920 will be followed. Also the culvert at the TH 60 intersection will be reviewed and repaired/replaced as required.
- Agri-Systems Driveway north to Whitewater Creek Bridge (approx. 700-feet): Design an urban section roadway with 36-foot wide curb face to curb face opening. Appropriate storm sewer improvements will be designed into this section.
- Whitewater Creek Bridge north to Main Street (approx. 2400-feet): Design a tapper mill with 2-inch bituminous overlay, which may include some spot curb repairs and ADA compliant pedestrian ramps.
- Sanitary sewer and watermain extension from the existing utility terminuses north of the Whitewater Creek Bridge, south under the Creek to potentially service the properties between TH 60 and the Creek. These improvements will be directed by the City of Waterville.

NOW, THEREFORE, in consideration of the mutual covenants and promises between the parties hereto, it is agreed:

SECTION I - CONSULTANT'S SERVICES

- A. The CONSULTANT agrees to perform the various Basic Services in connection with the proposed project as described in Exhibit I.
- B. Upon mutual agreement of the parties hereto, Additional Services may be authorized as described in Exhibit I or as described in Paragraph IV.B.

SECTION II - THE CLIENT'S RESPONSIBILITIES

- A. The CLIENT shall promptly compensate the CONSULTANT in accordance with Section III of this Agreement.
- B. The CLIENT shall place any and all previously acquired information in its custody at the disposal of the CONSULTANT for its use. Such information shall include but shall not be limited boundary surveys, topographic surveys, preliminary sketch plan layouts, building plans, soil surveys, abstracts, deed descriptions, tile maps and layouts, aerial photos, utility agreements, environmental reviews, and zoning limitations. The CONSULTANT may rely upon the accuracy and sufficiency of all such information in performing services unless otherwise instructed, in writing, by CLIENT.

- C. The CLIENT will guarantee access to and make all provisions for entry upon both public and private portions of the project and pertinent adjoining properties.
- D. The CLIENT will give prompt notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the proposed project.
- E. The CLIENT shall designate a liaison person to act as the CLIENT'S representative with respect to services to be rendered under this Agreement. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret and define the CLIENT'S policies with respect to the project and CONSULTANT'S services.
- F. The CLIENT shall provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for completion of the consultant services described in this agreement.
- G. The CLIENT will obtain any and all regulatory permits required for the proper and legal execution of the project.
- H. The CLIENT will hire, when requested by the CONSULTANT, an independent test company to perform laboratory and material testing services, and soil investigation that can be justified for the proper design and construction of the project. The CONSULTANT shall assist the CLIENT in selecting a testing company. Payment for testing services shall be made directly to the testing company by the CLIENT and is not part of this Agreement.

SECTION III - COMPENSATION FOR SERVICES

- A. FEES.
 - 1. The CLIENT will compensate the CONSULTANT in accordance with the following schedule of fees for the time spent in performance of Agreement services.

Employee Classification	Hourly Billing Rates
Sr. Principal Engineer/Surveyor	\$120-190/Hour
Sr. Project Manager - Principal Engineer/Surveyor	\$100-150
Senior Transportation/Aviation Planner	\$110-150
Project Manager (Inc. Landscape Architect)	\$100-150
Project/Design Engineer/Planner/Landscape Architect	\$60-135
Licensed Surveyor	\$70-135
Project Surveyor	\$60-100
Specialist (Nat. Resources; GIS; Traffic; Graphics; Other)	\$70-120
Senior Technician (Inc. Survey ¹)	\$70-145
Technician (Inc. Survey ¹)	\$50-90
Administrative Support & Clerical	\$35-80
GPS/Robotic Survey Equipment	NO CHARGE
CAD/Computer Usage	NO CHARGE
Routine Office Supplies	NO CHARGE

Routine Photo Copying/Reproduction	NO CHARGE
Field Supplies/Survey Stakes & Equipment	NO CHARGE
Mileage	NO CHARGE

¹ No Separate charges will be made for GPS or robotic total stations on Bolton & Menk, Inc. survey assignments; the costs of this equipment are included in the rates for Survey Technicians.

2. Charges are based on hours spent at hourly rates in effect for the individuals performing the work. The hourly rates for principals, associates and members of the staff vary according to skill and experience.

These rates include an overhead factor, which accounts for federal and state taxes and required benefits, as well as insurance, office expenses and profit. In addition, the overhead factor includes vehicle and personal expenses, stakes and supplies as noted above. Unusual expenses, such as large quantities of prints, reproductions ordered in connection with subdivision plats, outside professional assistance and other items of this general nature, will be billed out separately. Overtime shall not result in additional costs to the CLIENT, but shall be billed at normal hourly rates.

3. Total cost for the Basic Services, as itemized under Section I.A. of EXHIBIT I shall not exceed the following.

Survey Data Collection & Preliminary Design.....	\$14,000.00
Geotechnical Services.....	\$3,450.00
Plans and Specifications – Street Improvements	\$26,000.00
Plans and Specifications – Sanitary Sewer & Watermain Improvements	\$11,500.00
Bidding Phase	\$3,000.00
TOTAL, BASIC SERVICES (not-to-exceed).....	\$57,950.00

4. The following is the estimated cost for construction services, as itemized under Section I.B. of EXHIBIT I. Construction phase services will be performed on an estimated hourly basis.

Construction Staking	\$6,600.00 ¹
Construction Observation - Street.....	\$27,800.00 ²
Construction Observation – Sanitary Sewer and Watermain.....	\$11,300.00 ²
Construction Administration	\$10,500.00
ESTIMATED CONSTRUCTION SERVICES	\$56,200.00

¹ Total assumes 60 hours of survey crew time at \$110.00/hour

² Total assumes 460 hours of engineering technician time at \$85.00/hour

5. In addition to the foregoing, CONSULTANT shall be reimbursed at cost plus an overhead fee (not-to-exceed 15%) for the following Direct Expenses when incurred in the performance of the work.

- a. CLIENT approved outside professional and technical services.
- b. Other costs for such additional items and services that the CLIENT may require the CONSULTANT to provide to fulfill the terms of this Agreement.

6. Additional services as outlined in Section I.B will vary depending upon project conditions and will be billed on an hourly basis at the rate described in Section III.A.1.

- B. The payment to the CONSULTANT will be made by the CLIENT upon billing at intervals not more often than monthly at the herein rates.

SECTION IV - GENERAL

A. STANDARD OF CARE

Professional services provided under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's profession currently practicing under similar conditions. No warranty, express or implied, is made.

B. CHANGE IN PROJECT SCOPE

In the event the CLIENT changes or is required to change the scope of the project from that described in Section I and/or the applicable addendum, and such changes require Additional Services by the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the applicable hourly rates. The CONSULTANT shall give notice to the CLIENT of any Additional Services, prior to furnishing such additional services. The CLIENT may request an estimate of additional cost from the CONSULTANT, and upon receipt of the request, the CONSULTANT shall furnish such, prior to authorization of the changed scope of work.

C. LIMITATION OF LIABILITY

CONSULTANT shall indemnify, defend, and hold harmless CLIENT and its officials, agents and employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CONSULTANT'S employees, agents, or subconsultants. In no event shall CLIENT be liable to CONSULTANT for consequential, incidental, indirect, special, or punitive damages.

CLIENT shall indemnify, defend, and hold harmless CONSULTANT and its employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CLIENT'S employees, agents, or consultants. In no event shall CONSULTANT be liable to CLIENT for consequential, incidental, indirect, special, or punitive damages.

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 CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services provided hereunder. The CLIENT agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of the paragraph.

In acknowledgment that the CLIENT has previously determined the justification and need for the proposed improvements and also controls operation of the completed project, the CLIENT agrees, to the fullest extent permitted by law, to limit and hold the CONSULTANT harmless from any liability to any person, firm or corporation arising from claims relating to the justification (or improper justification), maintenance and operation of the project.

D. INSURANCE

The CONSULTANT agrees to maintain, at the CONSULTANT'S expense, statutory worker's compensation coverage.

The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, general liability insurance coverage insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT'S general business activities (including automobile use). The liability insurance policy shall provide coverage for each occurrence in the minimum amount of \$1,000,000.

During the period of design and construction of the project, the CONSULTANT also agrees to maintain, at CONSULTANT'S expense, Professional Liability Insurance coverage insuring CONSULTANT against damages for legal liability arising from an error, omission or negligent act in the performance of professional services required by this agreement, providing that such coverage is reasonably available at commercially affordable premiums. For purposes of this agreement, "reasonably available" and "commercially affordable" shall mean that more than half of the design professionals practicing in this state in CONSULTANT'S discipline are able to obtain coverage. The professional liability insurance policy shall provide coverage for each occurrence in the amount of \$1,000,000 and annual aggregate of \$1,000,000 on a claims-made basis.

Upon request of CLIENT, CONSULTANT shall provide CLIENT with certificates of insurance, showing evidence of required coverages.

E. OPINIONS OR ESTIMATES OF CONSTRUCTION COST

Where provided by the CONSULTANT as part of Exhibit I or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since the CONSULTANT has no control over the cost of labor, materials, competitive bidding process, weather conditions and other factors affecting the cost of construction, all cost estimates are opinions for general information of the CLIENT and the CONSULTANT does not warrant or guarantee the accuracy of construction cost opinions or estimates. The CLIENT acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.

F. CONSTRUCTION SERVICES

It is agreed that the CONSULTANT and its representatives shall not be responsible for the means, methods, techniques, schedules or procedures of construction selected by the contractor or the safety precautions or programs incident to the work of the contractor.

G. USE OF ELECTRONIC/DIGITAL DATA

Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable by this AGREEMENT or except as otherwise explicitly provided in this AGREEMENT, all electronic/digital data developed by the CONSULTANT as part of the PROJECT is acknowledged to be an internal working document for the CONSULTANT'S purposes solely and any such information provided to the CLIENT shall be on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind. As such, the CLIENT is advised and

acknowledges that use of such information may require substantial modification and independent verification by the CLIENT (or its designees). Provision of electronic/digital data, whether required by this Agreement or provided as a convenience to the Client, does not include any license of software or other systems necessary to read, use or reproduce the information. It is the responsibility of the CLIENT to verify compatibility with its system and long-term stability of media. CLIENT shall indemnify and hold harmless CONSULTANT and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from third party use or any adaptation or distribution of electronic/digital data provided under this AGREEMENT, unless such third party use and adaptation or distribution is explicitly authorized by this AGREEMENT.

H. REUSE OF DOCUMENTS

Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by CONSULTANT pursuant to this AGREEMENT are instruments of service in respect to the Project and CONSULTANT shall retain an ownership interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall acquire an ownership interest in all identified deliverables, including Plans and Specifications, for any reasonable use relative to the Project and the general operations of the CLIENT. CLIENT may make and disseminate copies for information and reference in connection with the use and maintenance of the Project by the CLIENT. However, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project and any reuse other than that specifically intended by this AGREEMENT will be at CLIENT'S sole risk and without liability or legal exposure to CONSULTANT.

I. CONFIDENTIALITY

CONSULTANT agrees to keep confidential and not to disclose to any person or entity, other than CONSULTANT'S employees and subconsultants any information obtained from CLIENT not previously in the public domain or not otherwise previously known to or generated by CONSULTANT. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of CONSULTANT; or is furnished to CONSULTANT by a third party who is under no obligation to keep such information confidential; or is information for which the CONSULTANT is required to provide by law or authority with proper jurisdiction; or is information upon which the CONSULTANT must rely for defense of any claim or legal action.

J. PERIOD OF AGREEMENT

This Agreement will remain in effect for the longer of a period of two years or such other explicitly identified completion period, after which time the Agreement may be extended upon mutual agreement of both parties.

K. PAYMENTS

If CLIENT fails to make any payment due CONSULTANT for services and expenses within thirty days after date of the CONSULTANT'S invoice, a service charge of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, will be charged on any unpaid balance. In addition after giving seven days' written notice to CLIENT, CONSULTANT may, without waiving any claim or right against the CLIENT and without incurring liability whatsoever to the CLIENT, suspend services and withhold project deliverables due under this

Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and charges.

L. TERMINATION

This Agreement may be terminated by either party for any reason or for convenience by either party upon seven (7) days written notice.

In the event of termination, the CLIENT shall be obligated to the CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section III of this Agreement.

M. CONTINGENT FEE

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 Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Agreement.

N. NON-DISCRIMINATION

The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein.

The CONSULTANT is an Equal Opportunity Employer and it is the policy of the CONSULTANT that all employees, persons seeking employment, subcontractors, subconsultants and vendors are treated without regard to their race, religion, sex, color, national origin, disability, age, sexual orientation, marital status, public assistance status or any other characteristic protected by federal, state or local law.

O. CONTROLLING LAW

This Agreement is to be governed by the law of the State of Minnesota.

P. DISPUTE RESOLUTION

CLIENT and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law. Any claims or disputes unresolved after good faith negotiations shall first be submitted to mediation utilizing the Minnesota District Court Rule 114 Roster. Disputes not resolved by mediation shall then be submitted to arbitration in accordance with provisions of the Construction Industry Arbitration Rules of the American Arbitration Association. CONSULTANT and the CLIENT agree to require an equivalent dispute resolution process governing all contractors, sub-contractors, suppliers, consultants, and fabricators concerned with this project.

Q. SURVIVAL

All obligations, representations and provisions made in or given in Section IV of this Agreement will survive the completion of all services of the CONSULTANT under this Agreement or the termination of this Agreement for any reason.

R. SEVERABILITY

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and CONSULTANT, who 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.

SECTION V - SIGNATURES

THIS INSTRUMENT embodies the whole agreement of the parties, there being no promises, terms, conditions or obligation referring to the subject matter other than contained herein. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their behalf.

CLIENT: LeSueur County, Minnesota

CONSULTANT: Bolton & Menk, Inc.

EXHIBIT I

PROJECT RELATED SERVICES BY CONSULTANT

CSAH 3 (S. REED STREET) RECONSTRUCTION/OVERLAY LE SUEUR COUNTY, MINNESOTA

I.A. BASIC SERVICES

For purposes of this specific project, Basic Services to be provided by the CONSULTANT are as follows:

1. Upon authorization to proceed, the CONSULTANT shall prepare detailed plans and specifications conforming to the requirements of the Minnesota Department of Transportation State Aid for Local Transportation, LeSueur County, and Minnesota Pollution Control Agency.
2. The CONSULTANT shall submit a preliminary set of plans (approximately 75% complete) to the CLIENT for review.
3. The CONSULTANT shall submit a final set of plans and specifications to the CLIENT for review and approval.
4. CONSULTANT shall submit review plans and specifications with appropriate agencies having jurisdiction over the project including, but not limited to, LeSueur County, Minnesota Department of Transportation State Aid for Local Transportation, Minnesota Department of Natural Resources and Minnesota Pollution Control Agency (MPCA), when required by that agency.
5. The CONSULTANT shall incorporate comments from the CLIENT and MnDOT and submit plans and specifications for final review and approval.
6. The CONSULTANT shall prepare cost estimates as required by the CLIENT.
7. The CONSULTANT, in cooperation with sub-consultants, will provide four (4) soil borings, at 5-10 foot depth along CSAH 3 from TH 60 north to the Whitewater Creek Bridge. In addition to the fieldwork, laboratory tests will be completed, including an R-value test and soil boring logs will be provided in an electronic format. A detailed *Materials Design Recommendation Report* will be provided, specifically addressing recommendations for the pavement design.
8. The CONSULTANT shall assist the CLIENT in the preparation of permit applications for LeSueur County, and Minnesota Pollution Control Agency.

The CONSULTANT'S responsibility on the permit application shall be limited to the provision of information relative to the project. The CLIENT shall assume responsibilities for submittal and delivery of permit applications, necessary bonds, permit application fees and all other work and costs associated with such permits.

9. The CONSULTANT shall prepare the necessary bid documents and proposal forms, and advertisement for bids and shall supply sufficient numbers of plan sets for distribution to bidders for which a charge to cover reproduction expenses and clerical time can be made by the CONSULTANT to plan holders. CLIENT shall assume responsibilities and costs for bid advertisement notices. Up to 15 sets of plans (full or half size) and specifications may be provided to CLIENT, as requested.
10. The CONSULTANT shall address questions from bidders and material suppliers and issue and addenda that may be required for corrections, clarifications or additions to the bidding documents during the bidding period.
11. The CONSULTANT shall assist in securing bids, attend the public bid letting, tabulate unit price bid items and report back to the CLIENT with recommendations on award of bid.

I.B. CONSTRUCTION PHASE SERVICES

For purposes of this specific project, the Construction Phase Services to be provided by the CONSULTANT are as follows:

1. Construction Staking
 - a. The CONSULTANT shall perform construction staking for highway and drainage improvements, furnish necessary equipment and supplies to establish grade and line as necessary for the Contractor's guidance in construction of the project and in accordance with the contract documents
2. Construction Observation:
 - a. The CONSULTANT shall provide an on-site representative during the construction of the street and underground utility improvements. Services consist of observation of the work of the contractor, coordination of testing services and documentation of the work progress. On-site construction representative services do not constitute acceptance or approval of the Contractor's work nor do they relieve any part of the contractor's responsibility under the construction documents.
3. Construction Administration:
 - a. The CONSULTANT shall prepare required contract documents, with the assistance of the CLIENT'S attorney and staff, after award of contract.
 - b. The CONSULTANT shall attend and assist with the preconstruction conference to be attended by the CLIENT, contractors and any affected utility companies.
 - c. The CONSULTANT shall review, for conformance with design concept only, any shop drawings required to be furnished by the Contractor.
 - d. The CONSULTANT shall make visits to the site at intervals appropriate for the various stages of construction, observe the progress and quality of the executed

- work of the contractors, and determine, in general, if such work is proceeding in accordance with the contract documents.
- e. The CONSULTANT shall prepare documentation in accordance with LeSueur County and MnDOT standards for construction observation and record keeping.
 - f. The CONSULTANT and its representatives shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractor or the safety precautions or programs incident to the work of the contractor.
 - g. The CONSULTANT shall review and make a recommendation on the Contractor's request for partial payments. Such review shall be based upon the CONSULTANT'S on-site observations and such written documentation as may be available to the CONSULTANT at the time of review. Such review shall not include verification of unit price contract quantities by physical measurement of individual work items.
 - h. The CONSULTANT shall conduct a final inspection of the project in the company of the CLIENT for conformance with contract documents and review the final payment request from the Contractor.
 - i. The CONSULTANT shall prepare record drawings reflecting constructed conditions from information observed by the CONSULTANT or supplied by others and furnish copies to the CLIENT within 90 days of the end of the construction.

I.C. ADDITIONAL SERVICES

Engineering services performed other than those authorized under Section I.A and I.B. shall be considered not part of the Basic Services or Construction Phase Services and may be authorized by the CLIENT as Additional Services. Additional Services consist of those services, which are not generally considered to be Basic Services or Construction Phase Services or are not definable prior to the commencement of the project or vary depending on the technique, procedures or schedule of the project contractor. Additional services may consist of the following:

1. EASEMENT & ACQUISITION SERVICES. Boundary and easement surveys for the purpose of describing project sites and easements, preparation of property descriptions, site maps, assistance with eminent domain proceedings, court preparation and testimony.
2. REMONUMENTATION. Replacing lost or obliterated government survey corners or property corners along the project route.
3. ENVIRONMENTAL SERVICES. Environmental services associated with hazardous materials leaks and contaminated soils.
4. All other services not specifically identified in Section I.A. or I.B.

EXHIBIT I-1

RESIDENT PROJECT REPRESENTATIVE

The CONSULTANT will furnish a Resident Project Representative (RPR), assistants and other field staff to assist CONSULTANT in observing performance of the Work of the CONTRACTOR.

Through more extensive on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, CONSULTANT assists the CLIENT in monitoring the progress and quality of the work; but, it is agreed that the furnishing of such services will not make CONSULTANT responsible for or give CONSULTANT control over construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or responsibility for CONTRACTOR'S failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of CONSULTANT in the construction Contract Documents, and are further limited and described as follows:

A. GENERAL

RPR is CONSULTANT'S agent at the site, will act as directed by and under the supervision of CONSULTANT, and will confer with CONSULTANT regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with CONSULTANT and CONTRACTOR keeping CLIENT advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of CONTRACTOR. RPR shall generally communicate with CLIENT with the knowledge of and under the direction of CONSULTANT.

B. DUTIES AND RESPONSIBILITIES OF RPR

1. Schedules: Review the progress schedule, prepare a schedule of Shop Drawing submittals and review the schedule of values prepared by CONTRACTOR and consult with CONSULTANT concerning acceptability.
2. Conferences and Meetings: Attend meetings with CONTRACTOR, such as preconstruction conferences, progress meetings, job conferences and other project related meetings, and prepare and circulate copies of minutes thereof.
3. Liaison:
 - a. Serve as CONSULTANT'S liaison with CONTRACTOR, working principally through CONTRACTOR'S superintendent and assist in understanding the intent of the Contract Documents; and assist CONSULTANT in serving as CLIENT'S liaison with CONTRACTOR when CONTRACTOR'S operations affect CLIENT'S on-site operations.

- b. Assist in obtaining from CLIENT additional details or information, when required for proper execution of the Work.
- 4. Shop Drawings and Samples:
 - a. Record date of receipt of Shop Drawings and samples.
 - b. Receive samples which are furnished at the site by CONTRACTOR, and notify CONSULTANT of availability of samples for examination.
 - c. Advise CONSULTANT and CONTRACTOR of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by CONSULTANT.
- 5. Review of Work, Rejection of Defective Work, Inspections and Tests:
 - a. Conduct on-site observations of the Work in progress to assist CONSULTANT in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to CONSULTANT whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise CONSULTANT of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - c. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that CONTRACTOR maintains adequate records thereof; and observe, record and report to CONSULTANT appropriate details relative to the test procedures and startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to CONSULTANT.
- 6. Interpretation of Contract Documents: Report to CONSULTANT when clarifications and interpretations of the Contract Documents are needed and transmit to CONTRACTOR clarifications and interpretations as issued by CONSULTANT.
- 7. Modifications: Consider and evaluate CONTRACTOR'S suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to CONSULTANT. Transmit to CONTRACTOR decisions as issued by CONSULTANT.
- 8. Records:
 - a. Maintain orderly files for correspondence, reports or job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, CONSULTANT'S

clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.

- b. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures.
- c. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.

9. Reports:

- a. Furnish CONSULTANT 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. Consult with CONSULTANT in advance of scheduled major tests, inspections or start of important phases of the Work.
- c. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to CONSULTANT Change Orders, Work Directive Changes, and Field Orders.
- d. Report immediately to CONSULTANT and CLIENT upon the occurrence of any accident.

10. Payment Requests: Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to CONSULTANT, 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.

11. Certificates, Maintenance and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to CONSULTANT for review and forwarding to CLIENT prior to final payment for the Work.

12. Completion:

- a. Conduct final inspection in the company of CONSULTANT, CLIENT, and CONTRACTOR and prepare a final list of items to be completed or corrected.
- b. Observe that all items on final list have been completed or corrected and make recommendations to CONSULTANT concerning acceptance.
- c. Assist in preparation of Record Drawings and provide copies of documentation requested by CLIENT for occupation of the Project.

C. LIMITATIONS OF AUTHORITY

It is agreed that Resident Project Representative's responsibility and obligations do not include the following actions nor shall RPR be directed to or be empowered to:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by CONSULTANT.
2. Exceed limitations of CONSULTANT'S authority as set forth in the Contract Documents.
3. Undertake any of the responsibilities of CONTRACTOR, subcontractor or CONTRACTOR'S superintendent.
4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
5. Advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
6. Accept Shop Drawing or sample submittals from anyone other than CONTRACTOR.
7. Authorize CLIENT to occupy the Project in whole or in part.
8. Participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by CONSULTANT.



CONSULTANTS
• ENVIRONMENTAL
• GEOTECHNICAL
• MATERIALS
• FORENSICS

January 13, 2016

Mr. Jason Femrite
Bolton & Menk, Inc.
1960 Premier Drive
Mankato, MN 56001
jasonfe@bolton-menk.com

RE: Proposal for Geotechnical Services
South Reed Street
Waterville, Minnesota
AET #08-12051

Dear Mr. Femrite:

Introduction

American Engineering Testing, Inc. is pleased to offer you subsurface exploration and geotechnical review services for your Proposed South Reed Street Project in Waterville, Minnesota. This letter is intended to define our scope of work, and to present you with an estimate of our fee, the anticipated schedule and other information regarding our services.

Purpose of Study

The purpose of this geotechnical work is to explore the subsurface conditions at the site, and based on our characterization of the obtained data, to prepare a geotechnical engineering report presenting comments and recommendations to assist you and your design team in planning and constructing the project. It is not the intent of this work to provide information on whether or not chemical contamination exists at the site. American Engineering Testing can provide that service; however, a different work approach is needed.

Project Information

We understand that the proposed project will consist of street reconstruction along South Reed Street in Waterville, Minnesota.

Scope of Services

Field Work

Our proposed field work will consist of advancing four (4) 5' to 10' deep flight auger soil test borings within the existing drive lanes at the site.

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1730 First Avenue Mankato, MN 56001

Phone 507-387-2222 • Toll Free 800-972-6364 • Fax 507-387-6999 • www.amengtest.com

Offices throughout Florida, Minnesota, South Dakota & Wisconsin



The flight auger borings will be samples using auger borings methods per ASTM:D1452. Our services will include arranging clearance of underground public utilities through the Gopher State One Call System.

Soil Laboratory Testing

Our services will include mechanical laboratory testing of selected soil samples to aid in judging engineering properties of the soils. In this proposal we have budgeted \$200 for geotechnical laboratory testing. If conditions are encountered which indicate the laboratory program should be expanded for proper evaluation, we will review the recommended tests and associated cost with you prior to proceeding.

Engineering Report

Following the field and laboratory work, a factual report will be prepared and submitted. This report will include logs of the test borings with existing pavement thicknesses, the laboratory test results, and a review of engineering properties of the on-site soils.

The scope of work defined in this proposal is intended for geotechnical purposes only. This scope is not intended to explore for the presence or extent of environmental contamination at the site. However, we will note obvious contamination encountered which can be detected by human sight or smell sensing.

Insurance

For the mutual protection of you and American Engineering Testing, we maintain both general and professional liability insurance. Certificates of such insurance can be provided at your request.

Project Direction

Services we perform on your project will be done under the direction of an experienced geotechnical engineer registered in the State of Minnesota.

Fees

The scope of work defined in this proposal will be performed on a time and materials basis in accordance with the attached schedule of fees. For the scope of work described above, the estimated cost will be as follows:

<u>Task</u>	<u>Cost</u>
Mobilization/Demobilization	\$400.00
Clear Utilities (Site Meet)	\$500.00
Soil Borings	\$800.00
Laboratory Testing	\$200.00
Traffic Control (Flag Person)	\$550.00
Report and Project Management	\$1,000.00
TOTAL	\$3,450.00

We would not exceed \$3,450.00 without prior authorization.

In the event the scope of our work needs to be revised due to unanticipated conditions or for proper evaluation, we will review such adjustments and the associated fees with you, and receive your approval before proceeding.

Conditions

In the event the scope of our work needs to be revised due to unanticipated conditions or for proper evaluation, we will review such adjustments and the associated fees with you; and receive your approval before proceeding.

Our services will be performed per the attached "Service Agreement," along with the "Subsurface Boring Supplement."

Performance Schedule

Weather permitting; we anticipate drilling operations can begin within about four (4) to five (5) weeks after receiving authorization to proceed. Verbal results of the drilling activities can be obtained shortly after completion of the drilling. We anticipate the geotechnical report can be prepared within about one (1) week after completion of the field work. We are available to review special schedule needs with you.

Terms and Conditions

All AET Services are provided subject to the Terms and Conditions set forth in the enclosed Service Agreement—Terms and Conditions, which, upon acceptance of this proposal, are binding upon you as the Client requesting Services, and your successors, assignees, joint venturers and third-party beneficiaries. Please be advised that additional insured status is granted upon acceptance of the proposal.

Acceptance

AET requests written acceptance of this proposal in the Proposal Acceptance box below, but the

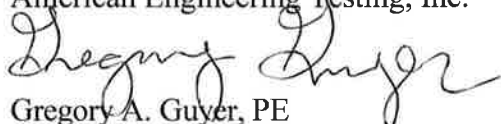
Bolton & Menk, Inc.
Page 4 of 4
January 13, 2016
AET #08-12051

following actions shall constitute your acceptance of this proposal together with the Terms and Conditions and Amendments: 1) issuing an authorizing purchase order for any of the Services described above, 2) authorizing AET's presence on site or 3) written or electronic notification for AET to proceed with any of the Services described in this proposal. Please indicate your acceptance of this proposal by signing below and returning a copy to us. When you accept this proposal, you represent that you are authorized to accept on behalf of the Client.

Remarks

We appreciate the opportunity to submit this proposal to you and look forward to working with you on this project. If you have any questions regarding our services, or need additional information, please do not hesitate to contact me.

Sincerely,
American Engineering Testing, Inc.


Gregory A. Guyer, PE
Manager - Mankato

GAG/lmh

Attachments

ACCEPTANCE:

SIGNATURE: _____

PRINTED NAME: _____

COMPANY: _____

EMAIL ADDRESS: _____

DATE: _____

I. Engineering/Technical Personnel Rates				
A.	Administrative Assistant	9500	\$64.00	hr.
B.	Draftperson	9501	\$67.00	hr.
C.	Senior Engineering Technician	9545	\$77.00	hr.
D.	Drill Technician	9535	\$87.00	hr.
E.	Sr. Environmental Field Technician	9546	\$99.00	hr.
F.	Engineering Asst.	9560	\$109.00	hr.
G.	Engineer I / Geologist I	9565	\$117.00	hr.
H.	Environmental Engineer II	9585	\$134.00	hr.
I.	Senior Engineer	9600	\$150.00	hr.
J.	Principal Engineer	9615	\$179.00	hr.
II. Vehicle Mileage				
A.	Personal Automobile/Truck	5008	\$0.75	mi.
B.	Auxiliary Truck	358M	\$1.00	mi.
C.	1½ to 2½ ton Truck with Drill Rig	R24R	\$1.35	mi.
D.	CPT Truck Rig (20-ton push capacity)	R85R	\$1.60	mi.
E.	Tractor/Lowboy Trailer	T95M	\$1.80	mi.
Vehicle mileage rates are subject to change if fuel prices increase significantly.				
III. Site Exploration Equipment Rental				
A. Drill Rig Rental				
1.	Rotary Drill - 1½-2½ ton Truck	R24R	\$82.00	hr.
2.	Rotary Drill-All-Terrain	R84R	\$110.00	hr.
3.	Portable, Non-rotary Rig	R52R	\$80.00	hr.
B. Auxiliary Vehicle Rental				
C. Cone (CPT) Rig/Equipment Rental				
1.	CPT Truck Rig (20-ton push)	R21R	\$143.00	hr.
2.	Electronic Cone w/computer	3310	\$41.00	hr.
3.	Soil Sampler	3250	\$3.50	hr.
4.	Water Sampler	3252	\$20.00	hr.
D. Geotechnical Equipment Rental				
1.	Field Vane Shear	3305	\$320.00	day
2.	Inclinometer Equipment	3315	\$330.00	day
3.	Pneumatic Transducer Reading Equip (pore pressure, settlement or earth pressure)	3320	\$170.00	day
4.	Borehole Pressuremeter	3330	\$69.00	hr.
5.	Double Ring Infiltrometer	3340	\$260.00	day
6.	Pile Driving Analyzer (PDA)	3350	\$740.00	day
7. Auxiliary PDA Equipment				
a.	Generator	4000	\$80.00	day
b.	Calibrated SPT Rod	3352	\$200.00	day
8.	GPS Mapping System Equip.	3345	\$15.25	hr.
IV. Environmental Equipment Rental				
A.	Photoionization Detector (PID)	3005	\$115.00	day
B.	LEL Meter	3040	\$100.00	day
C.	pH Meter	3025	\$25.00	day
D.	Bailers	3065	\$15.00	each
E.	Water Level Probe	3078	\$50.00	day
F.	Turbidity Meter	3129	\$25.00	day
G.	Steam Cleaner	3090	\$140.00	day
V. Laboratory Tests of Soil				
A.	Water Content	1500	\$13.00	test
B.	Dry Density (includes water content)	1505	\$56.00	test
C. Atterberg Limits (ASTM:D4318)				
1.	Plasticity Index	1510	\$108.00	test
2.	Liquid Limit or Plastic Limit separately	1511	\$93.00	test
D.	Shrinkage Limit (ASTM:D427)	1515	\$115.00	test
E.	Sieve Analysis (includes #200)	1520	\$100.00	test
F.	Hydrometer Analysis (sieve included)	1525	\$195.00	test
G. Specific Gravity (ASTM:D854)				
1.	Mineral Soil	1530	\$135.00	test
2.	Organic Soil	1531	\$155.00	test
H.	Hand Penetrometer/Torvane	1535	\$10.00	test

I.		Unconfined Compression	1540	\$92.00	test
J.		Permeability Tests			
1.	Clay Permeability (ASTM:D5856)	1560	\$275.00	test	
2.	Remolded Clay Perm (Rigid) (ASTM:D5856)	1812	\$375.00	test	
3.	Sand Permeability (ASTM:D2434)	1562	\$215.00	test	
4.	Clay Permeability (Flex) (ASTM:D5084)	1563	\$378.00	test	
5.	Remolded Clay Permeability (ASTM:D5084) (Flex)	1813	\$478.00	test	
K.		Electric Resistivity	1570	\$96.00	test
L.		Organic Content of Soil	1575	\$62.00	test
M.		Topsoil Borrow Test (Mn/DOT 3877)	1580	\$290.00	test
N.		Soil pH	1585	\$53.00	test
O.		R-value (Hveem Stabilometer)	1595	\$388.00	test
P.		California Bearing Ratio (excludes Proctor, includes three molded densities at one moisture content)			
1.	Granular	1600	\$610.00	test	
2.	Cohesive	1601	\$690.00	test	
Q.		Miscellaneous			
1.	Thin-wall samples (extrusion)	1610	\$25.00	tube	
VI.		Expenses			
A.		Direct Project Expenses: includes out-of town per diem; plowing & towing; special materials & supplies; special travel, transportation and freight; sub-contracted services and miscellaneous costs			Cost + 15%
B.		Equipment Replacement (when abandonment is more feasible than recovery)			Cost
C.		Equipment Recovery (when required by regulatory agencies or project specifications)			Cost + 15%
VII.		Expert Witness Service Rates			
A.		Litigation Preparation	9702	\$248.00	hr.
B.		Deposition or Court Time (4-hr min.)	9701	\$315.00	hr.
VIII.		Other Services			
A.		Report Reproduction		\$50.00	rpt.
B.		Color Photographs	3004	\$1.50	pg.
C.		A minimum charge of \$100.00 per project may be assessed to cover administrative costs			
The rates presented are portal-to-portal with vehicle mileage, expenses and equipment rentals being additional. Reduced rates may be negotiated for long-term projects.					
Overtime for personnel charged at above cost plus 25% for over 8 hours per day or Saturday; and at above cost plus 50% for Sundays or Holidays. Hazardous work charged at an additional 25%. Night time shift work will include a premium charge of \$30.00 per person per shift.					

SECTION 1 - RESPONSIBILITIES

1.1 - This Service Agreement – Terms and Conditions (“terms and conditions”) is applicable to all Services provided by American Engineering Testing, Inc. (AET). As used herein “Services” refers to the scope of services described in the proposal submitted by AET to Client. The proposal, these terms and conditions and any appendices attached hereto shall comprise the Agreement between AET and Client for Services described in the proposal and are binding upon the Client, its successors, assignees, joint ventures and third-party beneficiaries. AET requests written acceptance of the Agreement, but the following actions shall also constitute Client’s acceptance of the Agreement: 1) issuing an authorizing purchase order for any of the Services, 2) authorizing AET’s presence on site, or 3) written or electronic notification for AET to proceed with any of the Services.

1.2 – Prior to AET performing Services, Client will provide AET with all information that may affect the cost, progress, safety and performance of the Services. This includes, but is not limited to, information on proposed and existing construction, all pertinent sections of contracts between Client and property owner, site safety plans or other documents which may control or affect AET’s Services. If new information becomes available during AET’s Services, Client will provide such information to AET in a timely manner. Failure of Client to timely notify AET of changes to the project including, but not limited to, location, elevation, loading, or configuration of the structure or improvement will constitute a release of any liability or indemnity obligations of AET for loss or damages related to such changes. Client will provide a representative for timely answers to project-related questions by AET.

1.3 - AET is responsible only for performance of the Services. AET will not be held responsible for work or omissions by Client or any other party working on the project. The Services do not include construction management, general contracting or surveying services. AET will not be responsible for directing or supervising the work of other parties, unless specifically authorized and agreed to in writing.

1.4 – Client acknowledges the limitations inherent in sampling to characterize buried subsurface conditions. Variations in soil conditions occur between and beyond sampled/tested locations. The passage of time, natural occurrences and direct or indirect human activities at the site or distant from it may alter the actual conditions. Client assumes all risks associated with such variations in soil and subsurface conditions.

1.5 - AET is not responsible for interpretations or modifications of AET’s recommendations by other persons.

1.6 - Should changed conditions be alleged, Client agrees to notify AET before evidence of alleged change is no longer accessible for evaluation.

1.7 – Pricing in the proposal assumes use of these terms and conditions. AET reserves the right to amend pricing if Client requests modifications to the Agreement or use of Client’s alternate contract format. Any contract amendments made after Client has authorized the Services shall be applicable only to Services performed after the effective date of such amendment. The proposal and these terms and conditions, including terms of payment, shall apply to all Services performed prior to the effective date of such amendment.

1.8 - The AET proposal accompanying these terms and conditions is valid for sixty (60) days after the proposal issuance date to the Client. Any attempt to authorize Services after the expiration date is subject to AET’s right to revise the proposal as necessary.

SECTION 2 - SITE ACCESS AND RESTORATION

2.1 - Client will furnish AET safe and legal site access.

2.2 Client acknowledges that in the normal course of its Services, AET may unavoidably alter existing site conditions or affect the environment in the area being studied. AET will take reasonable precautions to minimize alterations to the site or existing materials. Restoration of the site is the responsibility of the Client.

SECTION 3 - UNDERGROUND UTILITY AND STRUCTURE CLEARANCE

3.1 - Borings, excavations and other penetrations must be located at safe distances from underground utilities or other man-made objects. Client shall advise AET of all utilities that service or are located on the site, and any underground improvements located on the site. Prior to drilling, AET will contact state notification centers, where available, or individual utility owners where a state notification center is not available. AET shall be entitled to rely on the location information provided by locating vendors.

3.2 – If Public utility owners do not provide the locating service on private property or the property owner has private underground improvements which cannot be cleared through the state notification center or public utility owners, Client shall be responsible for location of such utilities prior to drilling, or for payment of a private utility clearance subcontractor.

3.3 - AET will not be responsible for any damages to underground utilities/improvements not located or incorrectly identified by the foregoing location methods.

SECTION 4 - CONTAMINATION

4.1 - Client acknowledges and accepts all contamination risks which may be associated with the Services. Risks include, but are not limited to, cross contamination created by linking contaminated zones to uncontaminated zones during the drilling process; containment and proper disposal of known or suspected hazardous materials, drill cuttings and drill fluids; and decontamination of equipment and disposal and replacement of contaminated consumables. Discovery of actual or suspected hazardous materials shall entitle AET to take immediate measures it deems necessary in its sole discretion, including regulatory notification, to protect human health and safety, and/or the environment. Further, discovery of such materials constitutes a changed condition for which Client agrees to pay associated additional cost.

4.2 - Client shall indemnify and hold AET harmless from all liability, damages, claims or costs resulting from contaminants on the site.

SECTION 5 - SAFETY

5.1 - Client shall inform AET of any known or suspected hazardous materials or unsafe conditions at the site. If, during the course of AET’s Services, such materials or conditions are discovered, AET reserves the right to take measures to protect AET personnel and equipment or to immediately terminate Services. Client shall be responsible for payment of such additional protection costs.

5.2 - AET shall only be responsible for safety of AET employees at the site; the safety of all others shall be Client’s or other persons’ responsibility.

SECTION 6 – SAMPLES

6.1 - Client shall inform AET of any known or suspected hazardous materials prior to submittal to AET. All samples obtained by or submitted to AET remain the property of the Client during and after the Services. Any known or suspected hazardous material samples will be returned to the Client at AET’s discretion.

6.2 - Non-hazardous samples will be held for thirty (30) days and then discarded unless, within thirty (30) days of the report date, the Client requests in writing that AET store or ship the samples. Storage and shipping costs shall be borne solely by Client.

SECTION 7 - PROJECT RECORDS

The original project records prepared by AET will remain the property of AET. AET shall retain these original records for a minimum of three years following submission of the report, during which period the project records can be made available to Client at AET's office at reasonable times.

SECTION 8 - STANDARD OF CARE

AET performs its Services consistent with the level of care and skill normally performed by other firms in the profession at the time of this service and in this geographic area, under similar budgetary constraints.

SECTION 9 - INSURANCE

AET maintains insurance with coverage and limits shown below. AET will furnish certificates of insurance to Client upon request.

9.1 – AET maintains the following insurance coverage and limits of liability:

Workers' Compensation Employer's Liability	Statutory Limits \$100,000 each accident \$500,000 disease policy limit \$100,000 disease each employee
Commercial General Liability	\$1,000,000 each occurrence \$1,000,000 aggregate
Automobile Liability	\$1,000,000 each accident
Professional Liability Insurance	\$1,000,000 per claim \$1,000,000 aggregate

9.2 - Commercial General Liability insurance will include coverage for Products/Completed Operations extending one (1) year after final acceptance of the Project by Owner, Property Damage including Completed Operations, Personal Injury, and Contractual Liability insurance applicable to AET's indemnity obligations under this Agreement.

9.3 - Automobile Liability insurance shall include coverage for all owned, hired and non-owned automobiles.

9.4 - Professional Liability Insurance is written on a claims-made basis and coverage will be maintained for one (1) year after final acceptance of the Project by Owner. Renewal policies during this period shall maintain the same retroactive date.

9.5 - To the extent permitted by applicable state law, and only upon Client's signing of the proposal and return of the same to AET, Client and Owner shall be named an "additional insured" on AET's Commercial General Liability Policy (Form CG D4 14 04 08, which includes blanket coverage for Products/Completed Operations and on a Primary and Non-Contributory basis) and Automobile Liability Policy. Client and Owner shall be extended "waiver of subrogation" status for applicable coverages. Any other endorsement, coverage or policy requirement shall result in additional charges.

9.6 - AET will maintain in effect all insurance coverage required by this Agreement at its sole expense, provided such insurance is reasonably available, with insurance carriers licensed to do business in the state in which the project is located and having a current A.M. Best rating of no less than A minus (A-). Such insurance shall provide for thirty (30) days prior written notice to Client for notice of cancellation or material limitations for the policy or ten (10) days' notice for non-payment of premium.

9.7 - AET reserves the right to charge Client for AET's costs for additional coverage requirements unknown on the date of the proposal, e.g., coverage limits or policy modification including waiver of subrogation, additional insured endorsements and other project specific requirements.

SECTION 10 - DELAYS

If delays to AET's Services are caused by Client or Owner, work of others, strikes, natural causes, weather, or other items beyond AET's control, a reasonable time extension for performance of work shall be granted, and AET shall receive an equitable fee adjustment.

SECTION 11 - PAYMENT, INTEREST, AND BREACH

11.1 - Invoices are due net thirty (30) days. Client will inform AET of invoice questions or disagreements within fifteen (15) days of invoice date; unless so informed, invoices are deemed correct.

11.2 – Client agrees to pay interest on unpaid invoice balances at a rate of one and a half percent (1.5%) per month, or the maximum allowed by law, whichever is less, beginning thirty (30) days after invoice date.

11.3 – Invoices remaining unpaid for sixty (60) days shall constitute a material breach of this Agreement, permitting AET, in its sole discretion and without limiting any other legal or equitable remedies for such breach, to terminate performance of this Agreement and be relieved of any associated duties to the Client or other persons. Further, AET may withhold from Client data and reports in AET's possession. If Client fails to cure such breach, all reports associated with the unpaid invoices shall immediately upon demand be returned to AET and Client may neither use nor rely upon such reports or the Services.

11.4 - Client will pay all AET expenses and attorney fees relating to collection of past due invoices.

SECTION 12 - MEDIATION

12.1 - Except for enforcement of AET's rights to payment for Services rendered or to assert and/or enforce its lien rights, including without limitation assertion and enforcement of mechanic's lien rights and foreclosure of the same, Client and AET agree that any claim, dispute or other matter in

question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party; provided however that if either party fails to respond to a request for mediation within sixty (60) days, the party requesting mediation may without further notice, proceed to arbitration or the institution of legal or equitable proceedings.

12.2 - Mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Request for mediation shall be in writing and the parties shall share the mediator's fee and any filing fees equally. The mediator shall be acceptable to both parties and shall have experience in commercial construction matters.

SECTION 13 - LITIGATION REIMBURSEMENT

Except for matters relating to non-payment of fees, which is governed by Section 9.4 hereof, payment of attorney's fees and costs associated with lawsuits or arbitration of disputes between AET and Client, which are dismissed or are judged substantially in either party's favor, shall be paid by the non-prevailing party. Applicable costs include, but are not limited to, attorney and expert witness fees, court costs, and AET costs.

SECTION 14 - MUTUAL INDEMNIFICATION

14.1 - Subject to the limitations contained in Sections 13 and 14, AET agrees to indemnify Client from and against damages and costs to the extent caused by AET's intentional acts or negligent performance of the Services.

14.2 - Client agrees to indemnify AET from and against damages and costs to the extent caused by the intentional acts or negligence of the Client, Owner, Client's contractors and subcontractors or other third parties.

14.3 - If Client has an indemnity agreement with other persons or entities relating to the project for which AET's Services are performed, the Client shall include AET as a beneficiary.

14.4 - AET's indemnification to the Client, including any indemnity required or implied by law, is limited solely to losses or damages caused by its failure to meet the standard of care and only to the extent of its negligence or intentional acts.

SECTION 15- WAIVER OF CONSEQUENTIAL DAMAGES

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES INCURRED EVEN IF THE POSSIBILITY OF SUCH DAMAGES WAS FORESEEABLE. CONSEQUENTIAL DAMAGES INCLUDE, BUT ARE NOT LIMITED TO LOSS OF USE AND LOSS OF INCOME OR PROFIT.

SECTION 16 - LIMITATION OF LIABILITY

Client agrees to limit AET's liability to Client resulting from AET's negligent acts, errors or omissions, such that the total liability of AET shall not exceed \$20,000.

SECTION 17 - UNIONIZATION

AET reserves the right to negotiate an appropriate fee increase or to terminate its contract on three (3) days written notice to Client without incurring penalties or costs from Client, Owner and their successors, assignees, joint-venturers, contractors and subcontractors, or any other parties involved with the project for claims, liabilities, damages or consequential damages, directly or indirectly related to AET being required to provide unionized personnel on the project. Reservation of this right on the part of AET represents neither approval nor disapproval of unions in general or the use of collective bargaining agreements.

SECTION 18 - POSTING OF NOTICES ON EMPLOYEE RIGHTS

Effective June 21, 2010, prime contracts with a value of \$100,000 or more and signed by federal contractors on projects with any agency of the United States government must comply with 29 CFR Part 471, which requires physical posting of a notice to employees of their rights under Federal labor laws. The required notice may be found at *29 Code of Federal Regulations Part 471, Appendix A to Subpart A*. The regulation also has a "flow-down" requirement for subcontractors under the prime agreement for subcontracts with a value of \$10,000 or more. AET requires strict compliance of its subcontractors working on federal contracts subject to this regulation. The regulation has specific requirements for location of posting and language(s) for the poster.

SECTION 19 - TERMINATION

After 7 days written notice, either party may elect to terminate this Agreement for justifiable reasons. In this event, the Client shall pay AET for all work performed, including demobilization and reporting costs to complete the file.

SECTION 20 - SEVERABILITY

Any provisions of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, Client and AET will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

SECTION 21 - GOVERNING LAW

This Agreement shall be construed in accordance with the Laws of the State of Minnesota without regard to its conflicts of law provisions.

SECTION 22 - ENTIRE AGREEMENT

This Agreement, including these terms and conditions and attached proposal and appendices, is the entire agreement between AET and Client. Regardless of method of acceptance of this Agreement by the Client, this Agreement supersedes any previous written or oral agreements, including purchase/work orders or other Client agreements submitted to AET after the start of our Services. Any modifications to this Agreement must be mutually acceptable to both parties and accepted in writing. No considerations will be given to revisions to AET's terms and conditions or alternate contract format submitted by the Client as a condition for payment of AET's accrued Services.



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0 50 100 FEET

SANITARY SEWER & WATERMAIN EXTENSION- REED ST
 CITY OF WATERVILLE
 LE SUEUR COUNTY, MINNESOTA

Figure 1
 MAY, 2015

Waterville Shop Costs

	<u>Work Certified</u>	<u>10% retainage</u>	<u>Retainage Released</u>	<u>Deductions</u>	<u>Payment</u>
Payment #1	\$ 18,122.13	\$ 1,812.21	\$ -	\$ -	\$ 16,309.92
Payment #2	\$ 304,536.03	\$ 30,453.60	\$ -	\$ -	\$ 274,082.43
Payment #3	\$ 171,442.46	\$ 17,144.25	\$ -	\$ -	\$ 154,298.21
Payment #4	\$ 248,451.47	\$ 24,845.15	\$ -	\$ -	\$ 223,606.32
Payment #5	\$ 324,942.54	\$ 32,494.25	\$ -	\$ -	\$ 292,448.29
Payment #6	\$ 203,253.20	\$ 20,325.32	\$ -	\$ -	\$ 182,927.88
Payment #7	\$ 272,018.17	\$ 27,201.82	\$ -	\$ -	\$ 244,816.35
Payment #8	\$ -	\$ -	\$ 154,276.60	\$ (7,000.00)	\$ 147,276.60
	\$ 1,542,766.00	\$ 154,276.60	\$ 154,276.60	\$ (7,000.00)	\$ 1,535,766.00

	<u>Payments</u>		<u>total</u>
	<u>City of Waterville</u>	<u>Le Sueur County</u>	
Payment #1	\$ 12,558.64	\$ 3,751.28	\$ 16,309.92
Payment #2	\$ 211,043.47	\$ 63,038.96	\$ 274,082.43
Payment #3	\$ 118,809.62	\$ 35,488.59	\$ 154,298.21
Payment #4	\$ 172,176.87	\$ 51,429.45	\$ 223,606.32
Payment #5	\$ 225,185.18	\$ 67,263.11	\$ 292,448.29
Payment #6	\$ 140,854.47	\$ 42,073.41	\$ 182,927.88
Payment #7	\$ 188,508.59	\$ 56,307.76	\$ 244,816.35
Payment #8	\$ 113,402.98	\$ 33,873.62	\$ 147,276.60
	\$ 1,182,539.82	\$ 353,226.18	\$ 1,535,766.00

Application and Certificate for Payment

TO OWNER: City of Waterville 200 3rd St. S, Waterville, MN 56096	PROJECT: Waterville Maintenance Facility City Block between Reed Street South and 1st Street Along Hoosac Street Waterville, MN 56096	APPLICATION NO: 008 PERIOD TO: November 30, 2015
FROM CONTRACTOR: Mohs Contracting, Inc. 969 39th Ave. NW Suite A Owatonna, MN 55606	VIA ARCHITECT: Widseth Smith Notling & Associates 6301 Bandel Road NE Suite 301 Rochester, MN 55901	CONTRACT FOR: General Construction CONTRACT DATE: November 25, 2014 PROJECT NOS: 1080R0005.000 / 14-019 /
		Distribution to: OWNER: ARCHITECT: X CONTRACTOR: FIELD: OTHER:

CONTRACTOR'S APPLICATION FOR PAYMENT

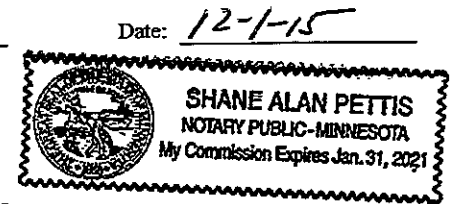
Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$ 1,250,500.00
2. NET CHANGE BY CHANGE ORDERS	\$ 292,266.00
3. CONTRACT SUM TO DATE (Line 1 + 2)	\$ 1,542,766.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$ 1,542,766.00
5. RETAINAGE:	
a. 10 % of Completed Work (Column D + E on G703)	\$ 154,276.60
b. 0 % of Stored Material (Column F on G703)	\$ 0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$ 154,276.60
6. TOTAL EARNED LESS RETAINAGE	\$ 1,388,489.40
(Line 4 Less Line 5 Total)	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT	\$ 1,388,489.40
(Line 6 from prior Certificate)	
8. CURRENT PAYMENT DUE	\$ 0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE	
(Line 3 less Line 6)	\$ 154,276.60

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ 299,070.00	\$ 7,050.00
Total approved this Month	\$ 246.00	\$ 0.00
TOTALS	\$ 299,316.00	\$ 7,050.00
NET CHANGES by Change Order		\$ 292,266.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:
By:
State of: MN
County of: Steele
Subscribed and sworn to before me this 1st day of December
Notary Public:
My Commission expires: _____



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

Deduct \$7,000 for connection of reel wheel & in floor heating.

AMOUNT CERTIFIED \$ 147,276.60
~~154,276.60~~

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:
By:
Date: 12/7/2015

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

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Continuation Sheet

Description	Original Budget	Approved Change Orders	Revised Budget	Previous Completed & Stored	Current Invoice		Total Completed & Stored	% Complete	Balance To Finish	Retainage
					Work Completed	Stored Material				
010000: General Conditions	\$76,603.00	\$16,761.00	\$93,364.00	\$93,364.00	\$0.00	\$0.00	\$93,364.00	100.00	\$0.00	\$0.00
013113: Project Coordination - Site Supervision	\$43,200.00	\$10,200.00	\$53,400.00	\$53,400.00	\$0.00	\$0.00	\$53,400.00	100.00	\$0.00	\$0.00
017833: Bonds	\$16,600.00	\$5,870.00	\$22,470.00	\$22,470.00	\$0.00	\$0.00	\$22,470.00	100.00	\$0.00	\$0.00
033000: Cast-In-Place Concrete	\$109,304.00	\$0.00	\$109,304.00	\$109,304.00	\$0.00	\$0.00	\$109,304.00	100.00	\$0.00	\$0.00
055700: Misc. Metals	\$5,840.00	\$0.00	\$5,840.00	\$5,840.00	\$0.00	\$0.00	\$5,840.00	100.00	\$0.00	\$0.00
061700: Wood Trusses	\$49,097.00	\$0.00	\$49,097.00	\$49,097.00	\$0.00	\$0.00	\$49,097.00	100.00	\$0.00	\$0.00
061100: Wood Framing	\$113,857.00	-\$1,015.00	\$112,842.00	\$112,842.00	\$0.00	\$0.00	\$112,842.00	100.00	\$0.00	\$0.00
071100: Waterproofing	\$5,400.00	\$0.00	\$5,400.00	\$5,400.00	\$0.00	\$0.00	\$5,400.00	100.00	\$0.00	\$0.00
072100: Thermal Insulation	\$15,456.00	\$0.00	\$15,456.00	\$15,456.00	\$0.00	\$0.00	\$15,456.00	100.00	\$0.00	\$0.00
074100: Roof Panels	\$264,364.00	-\$3,705.00	\$260,659.00	\$260,659.00	\$0.00	\$0.00	\$260,659.00	100.00	\$0.00	\$0.00
079200: Joint Sealents	\$1,575.00	\$0.00	\$1,575.00	\$1,575.00	\$0.00	\$0.00	\$1,575.00	100.00	\$0.00	\$0.00
070003: Rigid Insulation	\$17,442.00	\$0.00	\$17,442.00	\$17,442.00	\$0.00	\$0.00	\$17,442.00	100.00	\$0.00	\$0.00
081100: Metal Doors and Frames	\$23,204.00	\$455.00	\$23,659.00	\$23,659.00	\$0.00	\$0.00	\$23,659.00	100.00	\$0.00	\$0.00
083600: Overhead Doors	\$45,873.00	\$0.00	\$45,873.00	\$45,873.00	\$0.00	\$0.00	\$45,873.00	100.00	\$0.00	\$0.00
085200: Windows	\$1,605.00	\$0.00	\$1,605.00	\$1,605.00	\$0.00	\$0.00	\$1,605.00	100.00	\$0.00	\$0.00
088100: Glass Glazing	\$1,358.00	\$0.00	\$1,358.00	\$1,358.00	\$0.00	\$0.00	\$1,358.00	100.00	\$0.00	\$0.00
092700: FRP	\$9,809.00	\$0.00	\$9,809.00	\$9,809.00	\$0.00	\$0.00	\$9,809.00	100.00	\$0.00	\$0.00
096500: Resilient Flooring	\$2,010.00	\$0.00	\$2,010.00	\$2,010.00	\$0.00	\$0.00	\$2,010.00	100.00	\$0.00	\$0.00
099100: Painting	\$10,320.00	\$0.00	\$10,320.00	\$10,320.00	\$0.00	\$0.00	\$10,320.00	100.00	\$0.00	\$0.00
092900: Drywall	\$6,974.00	\$0.00	\$6,974.00	\$6,974.00	\$0.00	\$0.00	\$6,974.00	100.00	\$0.00	\$0.00
101400: Signage	\$150.00	\$0.00	\$150.00	\$150.00	\$0.00	\$0.00	\$150.00	100.00	\$0.00	\$0.00
102800: Toilet, Bath, and Laundry Accessories	\$545.00	\$0.00	\$545.00	\$545.00	\$0.00	\$0.00	\$545.00	100.00	\$0.00	\$0.00
104400: Fire Protection Specialties	\$680.00	\$0.00	\$680.00	\$680.00	\$0.00	\$0.00	\$680.00	100.00	\$0.00	\$0.00
105100: Lockers	\$4,143.00	\$0.00	\$4,143.00	\$4,143.00	\$0.00	\$0.00	\$4,143.00	100.00	\$0.00	\$0.00
123500: Custom Casework	\$3,116.00	\$0.00	\$3,116.00	\$3,116.00	\$0.00	\$0.00	\$3,116.00	100.00	\$0.00	\$0.00
220500: Common Work Results for Plumbing	\$102,380.00	\$0.00	\$102,380.00	\$102,380.00	\$0.00	\$0.00	\$102,380.00	100.00	\$0.00	\$0.00
230500: Common Work Results for HVAC	\$100,000.00	\$0.00	\$100,000.00	\$100,000.00	\$0.00	\$0.00	\$100,000.00	100.00	\$0.00	\$0.00
260500: Common Work Results for Electrical	\$74,185.00	\$0.00	\$74,185.00	\$74,185.00	\$0.00	\$0.00	\$74,185.00	100.00	\$0.00	\$0.00
310500: Common Work Results for Earthwork	\$80,000.00	\$8,700.00	\$88,700.00	\$88,700.00	\$0.00	\$0.00	\$88,700.00	100.00	\$0.00	\$0.00
321400: Unit Paving	\$57,910.00	\$0.00	\$57,910.00	\$57,910.00	\$0.00	\$0.00	\$57,910.00	100.00	\$0.00	\$0.00
321600: Curbs, Gutters, Sidewalks, and Driveways	\$2,500.00	\$0.00	\$2,500.00	\$2,500.00	\$0.00	\$0.00	\$2,500.00	100.00	\$0.00	\$0.00
329200: Turf and Grasses	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00	\$0.00	\$0.00	\$5,000.00	100.00	\$0.00	\$0.00
017124: Geo-Pier	\$0.00	\$255,000.00	\$255,000.00	\$255,000.00	\$0.00	\$0.00	\$255,000.00	100.00	\$0.00	\$0.00
Invoice Total =	\$1,250,500.00	\$292,266.00	\$1,542,766.00	\$1,542,766.00	\$0.00	\$0.00	\$1,542,766.00	100.00	\$0.00	\$0.00



AIA[®]

Document A101[™] – 2007

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the 22nd day of January in the year 2016
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Le Sueur County
88 South Park Avenue
Le Center, MN 56057

and the Contractor:
(Name, legal status, address and other information)

Mohs Contracting, Inc.
969 39th Avenue NW
Suite A
Owatonna, MN 56060

for the following Project:
(Name, location and detailed description)

Le Sueur County Human Services Remodeling
88 South Park Avenue
Le Center, MN 56057

The Architect:
(Name, legal status, address and other information)

BKV Group, Inc.
222 North 2nd Street
Minneapolis, MN 55401

The Owner and Contractor agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201[™]-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS
- 10 INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

The Work under this Agreement specifically excludes the furnishing of the materials, supplies and equipment as indicated on the attached Purchasing Agent Agreement (collectively, "Tax-Exempt Materials"), which Tax-Exempt Materials shall be furnished by the Owner for incorporation into the Project. However, the Work does include receiving, unloading, safely storing, maintaining, protecting, insuring, and incorporating the Tax-Exempt Materials into the Project.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The date will be fixed in a Notice to Proceed

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

§ 3.2 The Contract Time shall be measured from the date of commencement.

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§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than () days from the date of commencement, or as follows:

~~(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)~~

On or before June 3, 2016

~~Portion of Work~~

~~Substantial Completion Date~~

, subject to adjustments of this Contract Time as provided in the Contract Documents.

~~(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)~~

ARTICLE 4 — CONTRACT SUM

ARTICLE 4 LABOR CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Hundred Twenty Five Thousand Six Hundred Forty-Six Dollars (\$125,646.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

~~(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)~~

Alternate 1

Alternate 2

Alternate 3

Alternate 5

§ 4.3 Unit prices, if any:

~~(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)~~

~~Item~~

~~Units and Limitations~~

~~Price Per Unit (\$0.00)~~

§ 4.4 Allowances included in the Contract Sum, if any:

~~(Identify allowance and state exclusions, if any, from the allowance price.)~~

~~Item~~

~~Price~~

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

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§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 30th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of five percent (5 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of five percent (5 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

Per the Contract Documents

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

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§ 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

§ 6.2 BINDING DISPUTE RESOLUTION

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 15.4 of AIA Document A201-2007
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

%

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§ 8.3 The Owner's representative:
(Name, address and other information)

Jim McMillen
Le Sueur County
88 South Park Avenue
Le Center, MN 56057

§ 8.4 The Contractor's representative:
(Name, address and other information)

Scott Mohs
Mohs Contracting, Inc.
969 39th Avenue NW
Suite A
Owatonna, MN 56060

§ 8.5 Neither the Owner's nor the Contractor's representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

All notices and other communications pursuant to this Agreement shall be in writing and shall be deemed to have been duly given to the other party (a) on the day it is personally delivered or transmitted by facsimile or e-mail; (b) on the day after being sent by Federal Express (or comparable overnight delivery service), all fees prepaid; or (c) on the second day after being mailed by United States certified or registered mail, postage prepaid. Notices shall be sent to the other party at the address, fax number, or email address set forth in this Agreement, or at such other address, fax number or e-mail address for receiving notices and other communications as shall be given in writing by the receiving party to the other party.

This Agreement, including any Change Order thereto, may be executed in several counterparts, each of which shall be deemed to be an original and all of which together shall constitute one Agreement binding on both parties, notwithstanding that the parties shall not have signed the same counterpart, A facsimile, xerographic, electronically transmitted, or similar copy of a handwritten signature to this Agreement or an electronic signature to this Agreement, including any Change Order thereto, shall be deemed an original signature for purposes of enforcing this Agreement.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
<u>Specification Section</u> <u>007300</u>	<u>Supplementary</u> <u>Conditions</u>		

§ 9.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)
See Exhibit 1

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User Notes:

(1781889604)

Section	Title	Date	Pages
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§ 9.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)
See Exhibit 2

Number	Title	Date
--------	-------	------

§ 9.1.6 The Addenda, if any:

Number	Date	Pages
<u>1</u>	<u>December 28, 2015</u>	<u>40</u>
<u>2</u>	<u>January 4, 2016</u>	<u>30</u>

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- .1 AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

- .2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

Type of insurance or bond	Limit of liability or bond amount (\$0.00)
<u>Contractor’s General Liability Insurance</u>	<u>See Specifications</u>
<u>Performance Bond</u>	<u>Full amount of the Contract Sum</u>
<u>Payment Bond</u>	<u>Full amount of the Contract Sum</u>

This Agreement entered into as of the day and year first written above.

 OWNER (Signature)

 CONTRACTOR (Signature)

 (Printed name and title)

 (Printed name and title)

Int.

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User Notes:

(1781889604)

PURCHASING AGENT AGREEMENT

THIS AGREEMENT is made by and between Mohs Contracting, Inc. (“Agent”) and Le Sueur County (“Owner”), a Minnesota County generally exempt from paying state sales and use tax under Minn. Stat. § 297A.70; and

WHEREAS, Owner is undertaking the construction on its property of certain improvements generally described as Le Sueur County Human Services Remodeling (“the Project”); and

WHEREAS, Owner wishes to purchase on its own account materials, supplies and equipment for the Project (collectively “Tax-Exempt Materials”); and

WHEREAS, Owner has solicited separate bids for the Tax-Exempt Materials, the award of which was not contingent upon the successful award of any other part of the Project; and

WHEREAS, Agent is the successful bidder for the Tax-Exempt Materials; and

WHEREAS, Agent desires to act as Owner’s purchasing agent for purposes of acquiring the Tax-Exempt Materials for use exclusively in the Project

IT IS THEREFORE AGREED between the parties hereto that:

1. This Agreement is made with reference to, and where applicable shall be governed by, the specifications and provisions set forth in the Contract Documents as such are defined in the Owner/Contractor Agreement for the Project.
2. Owner appoints Agent to act as its purchasing agent for purchasing the Tax-Exempt Materials, and further authorizes Agent to appoint such subagents as Agent deems appropriate for carrying out the purposes of this Agreement, which subagents shall have similar powers of appointment.
3. It is understood and agreed that: (a) Owner takes title to the Tax-Exempt Materials at the point of delivery; (b) Owner assumes the risk of loss for all Tax-Exempt Materials; and (c) Owner bears all risk for defects in the Tax-Exempt Materials, including Tax-Exempt Materials incorporated into the real estate.
4. Agent (and any subagents) shall include the following Notice to Vendors/Suppliers in all purchase orders and other documents furnished to a vendor or supplier in connection with the purchase of any Tax-Exempt Materials:

NOTICE TO VENDORS/SUPPLIERS

The materials to which this document relates are being purchased by Mohs Contracting, Inc. (*name of Agent*) as the purchasing agent of Le Sueur County (“the Owner”). It is the Owner’s obligation, not the purchasing agent’s, to pay for the materials. Because the Owner is a County in the State of Minnesota, this purchase is exempt from sales tax under Minn. Stat. § 297A.70.

5. Agent shall exercise reasonable care in performance of its duties as purchasing agent, including the inspection of the Tax-Exempt Materials for obvious or apparent defects or the failure of such materials to conform to the plans, specifications and all Contract Documents relating to the Project.

6. Owner shall pay the sum of \$152,825.00 for all of the Tax-Exempt Materials purchased by Agent under this Agreement. Agent shall direct vendors and suppliers to deliver invoices for the Tax-Exempt Materials to Owner in care of Agent at Mohs Contracting, Inc., 969 39th Avenue NW, Suite A, Owatonna, MN 56060 (*Agent's address*). Agent shall submit invoices for payment to Owner, less retainage of Five Percent which invoices shall be due and payable upon Owner's receipt of the invoices.

7. Agent shall promptly notify Owner of any sales and use tax audit by the Minnesota commissioner of Revenue or of the threatened imposition or assessment of any sales or use taxes. Owner may, at its sole option and cost, dispute, contest or otherwise resist the imposition or assessment of any such taxes. Upon reasonable notice to Owner, Agent may (but is not obligated to) take such actions as it deems reasonable in response to the threatened imposition or assessment of taxes, which actions shall be deemed to have been taken on Owner's behalf. If any Minnesota sales or use taxes are imposed or assessed with respect to any Tax-Exempt Materials purchased pursuant to this Agreement, Owner shall be solely responsible for the payment of such taxes, including any related penalties and interest, and shall hold Agent harmless and indemnify Agent from any such cost or expense related thereto, including any legal fees and costs incurred by Agent in connection therewith or in connection with the enforcement of this paragraph.

8. The agency relationship created by this Agreement is intended to be in compliance with Minnesota Rule 8130.1200 and its current interpretation by the Minnesota Department of Revenue.

9. The alternative dispute resolution provisions (if any) in the Owner/Contractor Agreement are incorporated herein by reference and are applicable to any dispute between the parties hereto arising out of this Agreement.

10. Owner may terminate this Agreement at any time and for any reason. Upon receiving notice of termination, Agent shall cease making any purchases and shall promptly notify any subagents it has appointed that such appointment has likewise been terminated, that they are to cease initiating any new purchases, and that they are to likewise notify any subagents they have appointed that they are to cease initiating any new purchases. Any purchases that were initiated by Agent or subagent prior to its receiving notice of termination and that cannot be reasonably reversed after it received notice of termination shall be deemed to have been made with authority.

11. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, assigns, and any subagents appointed pursuant to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this 22nd day of January, 2016.

OWNER: By: _____

Its: _____

AGENT: By: _____

Its: _____

Attachments:

- Project Manual, dated November 30, 2015
- Drawings, dated November 30, 2015
- Addendum 1, dated December 28, 2015
- Addendum 2, dated January 4, 2016

EXHIBIT 1

SECTION 000110 TABLE OF CONTENTS

DIVISION 00 - PROCUREMENT AND CONTRACTING REQUIREMENTS

000101	Project Title Page
000105	Certifications
000110	Table of Contents
001116	Advertisement For Bids
002113	Instructions To Bidders
004100	Bid Form
	Purchasing Agent Agreement
	Exhibit A, Tax-Exempt Materials (Example)
004325	Substitution Request Form - Bid Phase
005200	Agreement And Bond Forms
	AIA A101 Owner-Contractor Agreement Form sample
	AIA A312 Performance Bond sample
	AIA A312 Payment Bond Form sample
	AIA A310 Bid Bond sample
007200	General Conditions
	AIA A201 General Conditions Form sample
007300	Supplementary Conditions

DIVISION 01 - GENERAL REQUIREMENTS

011000	Summary
011321	Electronic Files And Cad Release Form
012000	Price And Payment Procedures
013000	Administrative Requirements
014000	Quality Requirements
015000	Temporary Facilities And Controls
016000	Product Requirements
016001	Product Substitution Request Form
017000	Execution And Closeout Requirements
017419	Construction Waste Management

DIVISION 02 - EXISTING CONDITIONS

024119	Selective Demolition
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DIVISION 03 - CONCRETE

030130	Maintenance Of Cast-in-place Concrete
033053	Miscellaneous Cast-in-place Concrete

DIVISION 06 - WOOD, PLASTICS, AND COMPOSITES

060153	Miscellaneous Rough Carpentry
064000	Architectural Woodwork
066116	Solid Surfacing

DIVISION 07 - THERMAL AND MOISTURE PROTECTION

070150	Maintenance of Membrane Roofing
077200	Roof Accessories
078413	Firestopping
079200	Joint Sealants

DIVISION 08 - OPENINGS

081113 Hollow Metal Doors And Frames
081400 Wood Doors
085653 Transaction Windows
087100 Door Hardware
088000 Glazing

DIVISION 09 - FINISHES

092216 Non-structural Metal Framing
092900 Gypsum Board
093000 Tiling
095113 Acoustical Panel Ceilings
096500 Resilient Flooring
096800 Carpeting
099123 Interior Painting

DIVISION 10 - SPECIALTIES

102800 Toilet And Bath Accessories

DIVISION 22 - PLUMBING

220500 Common Work Results For Plumbing
220523 General-duty Valves For Plumbing Piping
220529 Hangers And Supports For Plumbing Piping And Equipment
220553 Identification For Plumbing Piping And Equipment
220700 Plumbing Insulation
221116 Domestic Water Piping
221123 Domestic Water Pumps
221316 Sanitary Waste And Vent Piping
221319 Sanitary Waste Piping Specialties
224000 Plumbing Fixtures

DIVISION 23 - HEATING VENTILATING AND AIR CONDITIONING

230500 Common Work Results For HVAC
230593 Testing, Adjusting, And Balancing
230700 HVAC Insulation
230900 HVAC Instrumentation And Controls
233423 HVAC Power Ventilators

DIVISION 26 - ELECTRICAL

260500 Common Work Results For Electrical
260519 Low-voltage Electrical Power Conductors And Cables
260526 Grounding And Bonding For Electrical Systems
260529 Hangers And Supports For Electrical Systems
260533 Raceway And Boxes For Electrical Systems
260553 Identification For Electrical Systems
260923 Lighting Control Devices
262416 Panelboards
262726 Wiring Devices
262813 Fuses
262816 Enclosed Switches And Circuit Breakers
262913 Enclosed Controllers
265100 Interior Lighting

DIVISION 28 - ELECTRONIC SAFETY AND SECURITY

288000 Addressable Fire-alarm System

DIVISION 33 - UTILITIES

334600 Subdrainage

END OF EXHIBIT 1

EXHIBIT 2

GENERAL

G100	COVER SHEET
G140	ACCESSIBILITY & MOUNTING HEIGHTS

ARCHITECTURE

AD101	LOWER LEVEL DEMOLITION PLAN
AD301	LOWER LEVEL DEMO REFLECTED CEILING PLAN
A101	LOWER LEVEL FLOOR PLAN
A201	ENLARGED AREA PLANS
A301	LOWER LEVEL REFLECTED CEILING PLAN
A602	CONSTRUCTION TYPES - PARTITION TYPES
A801	INTERIOR ELEVATIONS AND DETAILS
A910	DOOR TYPES, FRAME TYPES AND DOOR SCHEDULE

INTERIORS

I101	LEVEL 1 FINISH PLAN
I301	LOWER LEVEL FURNITURE PLAN

MECHANICAL

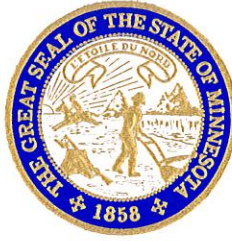
M001	MECHANICAL COVERSHEET
MPD100	LOWER LEVEL MECHANICAL & PLUMBING DEMOLITION PLAN
M100	LOWER LEVEL HVAC PLAN

PLUMBING

P099	UNDERFLOOR PLUMBING PLAN
P100	LOWER LEVEL PLUMBING PLAN

ELECTRICAL

E000	ELECTRICAL COVERSHEET
ED100	LOWER LEVEL ELECTRICAL DEMOLITION PLAN
E101	LOWER LEVEL ELECTRICAL LIGHTING FLOOR PLAN
E201	LOWER LEVEL ELECTRICAL POWER FLOOR PLAN



TERRENCE E. CONKEL
CHIEF JUDGE
MCLEOD COUNTY COURTHOUSE
830 E. 11TH STREET
GLENCOE, MINNESOTA 55336

CARVER, DAKOTA, GOODHUE, LE SUEUR,
MCLEOD, SCOTT AND SIBLEY COUNTIES
(320) 864-1281

STATE OF MINNESOTA
FIRST JUDICIAL DISTRICT

January 21, 2016

RE: Funding Pursuant to Minnesota Statute 611.21


Dear County Administrator:

Enclosed is a copy of a letter from Mr. Steve Holmgren, Chief Public Defender for the First Judicial District. In the letter Mr. Holmgren informs me that his office no longer has funds available to pay for expert witnesses, transcripts, medical records and similar services until July 1, 2016. Consequently, in the interim your County may be ordered to pay some of these expenses pursuant to Minn. Stat.

611.21. Please be aware that a careful screening process is used before any expenses are submitted to your County. A public defender seeking such services for their client is first required to obtain approval from Mr. Holmgren. If approved, the request is forwarded to the District Court for review. Court approval is conditioned upon a determination that the expenses are necessary for an adequate defense. Any expenses that are estimated to exceed \$1,000.00 must be approved by either myself or the Assistant Chief Judge.

If you have any questions, comments or concerns about this information please feel free to contact me. Thank you.

Sincerely,



Terrence E. Conkel
Chief Judge, First Judicial District

CC: Hon. Kathryn Messerich
Brent Christian, Le Sueur County Attorney
Mr. Steve Holmgren
Mr. Brian Jones, District Administrator



FIRST JUDICIAL DISTRICT PUBLIC DEFENDER

919 Vermillion Street, Suite 200
Hastings, Minnesota 55033
(651) 480-0122
Fax: (651) 480-0121

January 11, 2016

The Honorable Terrence E. Conkel
Chief Judge of the 1st Judicial District
McLeod County Courthouse
830 11th Avenue E.
Glencoe, MN 55336

Re: Funding of Expert Witnesses, Transcripts, Interpreters, etc. pursuant to
Minnesota Statute 611.21

Dear Judge Conkel:

I am writing to inform you that my office no longer has funds available for expert witnesses, transcripts, interpreters, medical records and similar services necessary for an adequate defense. It will therefore be necessary to again petition for payment of these expenses pursuant to Minnesota Statute 611.21 until our next fiscal year begins on July 1, 2016.

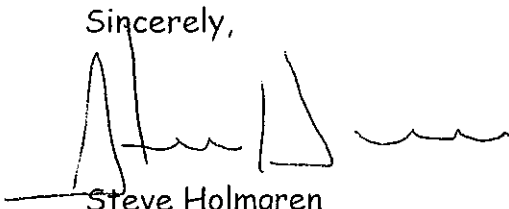
Unless you prefer that we use a different procedure, public defenders who seek funding will again be required to contact me before making a request to the court. If I agree that their request is appropriate, I will provide them with a signed *Ex Parte Application for 611.21 Funds* stating that my office no longer has funds available for the requested expense. The defender will then present the *Ex Parte Application* and a proposed 611.21 Order to the court, along with such other information as the court may require to show that the requested service is necessary for an adequate defense.

As in the past, requests for funding of \$1000 or less will be presented to the judge assigned to the case. However if no judge has been assigned, they will be presented to any judge chambered in the county where the case originated. Requests for funding exceeding \$1000 will be made to Assistant Chief Judge Messerich for cases in Dakota and Goodhue Counties, and to you for cases in any of the other five counties in the District.

Please let me know if you have any questions, concerns, or if you would like us to use a different procedure.

I regret the inconvenience this will cause to everyone involved.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Holmgren". The signature is fluid and cursive, with a prominent initial "S" and a long horizontal stroke.

Steve Holmgren

Chief Public Defender

1st Judicial District

Email: steve.holmgren@pubdef.state.mn.us

Telephone: 651-539-1029

cc: Honorable Kathryn Davis Messerich
Assistant Chief Judge
Dakota County Judicial Center
1560 W. Highway 55
Hastings, MN 55033