BANNER
Engineering | Architecture | Surveying
Banner Associates, Inc. | 409 22nd Ave So | PO Box 298
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July 28, 2016

Brookings County Highway Department
Attn: Richard Birk, Highway Superintendent
422 Western Avenue
Brookings, SD 57006

RE: Letter of Contract for Engineering Services for Replacement of Existing Structure (Str. No. 06-080-044-U)
Brookings County, South Dakota

Dear Mr. Birk:

Banner Associates, Inc. ("Banner") is pleased to submit this letter of contract to prepare structure replacement plans for the structure located approximately 4.0 miles west and 2.6 miles north of Bruce, SD on Brookings County Highway 4.

It is our understanding the proposed replacement structure will be a precast box culvert. It is also our understanding the schedule to replace the structure is during the summer of 2017 and our work will consist of the following:

1. Perform a limited bridge site survey.
2. Preform a hydraulic analysis of the structure site.
3. Preparation of the nationwide permit submittal to the USACE.
4. Preparation of structure replacement plans.
5. Review of shop fabrication drawings.
6. Provide construction staking as required.
7. Perform construction site visits.

Based upon the above description of the work, we propose to provide our professional services for a fee based upon direct labor and expenses at fixed rates as set forth in the attached "Schedule of Labor Rates and Expenses, dated January 2016". We estimate the total fee for the above services will not exceed $15,000.00.

This letter of contract incorporates and includes Banner's Schedule of Labor Rates and Expenses and General Conditions.

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If the proposed letter of contract is acceptable to you, please complete the acknowledgement below and return one copy as your notice for us to proceed. If you should have any questions, or be in need of additional information, please do not hesitate to contact me at (605) 692-6342.

Respectfully submitted,

Douglas J. Wessel, PE
Sr. Vice President

Enclosure:

1. Schedule of Labor Rates/General Conditions

ACKNOWLEDGEMENT OF ACCEPTANCE

Accepted this _____ day of _____, 20___

Company: _____

Signature: _____

Title: _____

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SCHEDULE OF LABOR RATES AND EXPENSES

January, 2016

Administrative	$40.00 to $79.00/Hour
Surveying/Geomatics	$50.00 to $100.00/Hour
CADD Drafting	$60.00 to $90.00/Hour
Staff Engineer and Architect	$70.00 to $85.00/Hour
Project Engineer and Architect	$85.00 to $105.00/Hour
Project Manager	$105.00 to $135.00/Hour
Sr. Project Manager	$135.00 to $180.00/Hour

1. Meals at State Rates.
2. Lodging at actual cost.
3. Reimbursables:

Mileage	$0.55/Mile
Photocopy	0.07/Copy
Color Copies	0.30/Copy
Black & White 11x17 Laser Prints	0.15/Sheet
Vellabond & Plain Paper Plots	0.70/Sq.Ft.
Mylar Film Copies and Plots	1.25/Sq.Ft.

4. All other direct project expenses at actual cost of materials.

We reserve the right to adjust the rates.

GENERAL CONDITIONS

Agreement. The entire Agreement between the Client and Banner shall consist of the Letter of Contract, the Schedule of Labor Rates and Expenses and these General Conditions ("Agreement"). The Agreement represents the entire, integrated Agreement and supersedes all other negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written agreement of the Parties. Banner's services are limited to those specifically identified in the Agreement.

Authorization to Proceed. Execution of this Agreement by the Client will be authorization for Banner to proceed with the Services, unless otherwise provided in the Agreement.

Cost Opinions. Any opinion of cost provided by Banner will be on a basis of experience and judgment, but, since construction costs are dependent upon many market and other conditions over which Banner has no control, Banner shall not be responsible for variations between actual costs and any opinion of cost.

Standard of Care. In the performance of its professional services, Banner will use that degree of care and skill ordinarily exercised by similarly situated professionals under like and similar circumstances. No express or implied warranties are applicable to, or provided with, any of Banner's services

Payment. Monthly invoices will include charges incurred during the preceding month. Payment of the invoice is due within thirty (30) days following the date of the invoice. A charge of one and one-half percent (1 1/2%) per month, or the maximum legal rate for commercial accounts, whichever is less, will be charged for late payment. Client shall be responsible for reimbursing Banner for all costs incurred in collecting delinquent amounts owed by Client.

Termination. This Agreement may be terminated for convenience upon 30 days' written notice, or for cause, if either party fails to substantially perform as required under the Agreement through no fault of the other party and does not commence to diligently correct such nonperformance within 5 days of receipt of written notice. Upon termination, Banner will be paid for all services authorized and performed up to the termination date plus reasonable termination expenses incurred by Banner as a result of the termination.. This Agreement will otherwise terminate upon completion of all applicable requirements of the Agreement. The Indemnity and Limitation of Liability Provision shall survive any termination of this Agreement.

Indemnity and Limitation of Liability. The Client agrees to defend, indemnify and hold Banner and its professionals, officers, employees representatives and agents harmless from and against all claims, costs, expenses (including attorney's fees and expenses) asserted against Banner in connection with the Project, including, but not limited to claims involving hazardous substances, except to the extent caused by the sole negligence of Banner. Banner's liability to the Client for losses, damages or injuries arising out of the performance of Banner's services or the Project will be limited to a sum not to exceed the greater of $50,000 or Banner's fee (to a maximum of $1,000,000 or the amount of any insurance available to cover such liability if less than $1,000,000).

Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

Hazardous Substances. Unless specifically stated in this Agreement, Banner shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site

Interpretation. This Agreement and any claims or disputes arising out of, or relating to, the Agreement shall be governed by the laws of the State of South Dakota, other than any choice of law provisions under South Dakota law.

No Third Party Beneficiaries. This Agreement is for the sole benefit of Client and Banner and nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, any third party against either Client or Banner.

Responsibility for Construction. The Client agrees that in accordance with generally accepted construction industry standards, Banner shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Project, since they are solely the responsibility of the contractor, and Banner shall not have control over or charge of, and shall not be responsible for, acts or omissions of the contractor, including, but not limited to the contractor's failure to perform its work in accordance with industry standards and the requirements of any plans and specifications.