City of Rapid City, South Dakota

REQUEST FOR PROPOSALS
FOR
DIGITAL GIS BASE MAP DEVELOPMENT SERVICES

Deadline:
5 copies and one digital pdf of proposal due
November 30, 2020 at 4:00 PM MST

Correspondence Shall Be Addressed to:

Angela Tallon
GIS Division
300 Sixth Street
Rapid City, SD 57701
605-716-3654

Proposals shall be addressed to:

Kelly Brennan
Community Development Department
300 Sixth Street
Rapid City, SD 57701
605-394-4120

Any technical questions regarding this document or processes should be directed to Angela Tallon at 605-716-3654 or angela.tallon@rcgov.org.
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INTRODUCTION

Overview
The Rapid City Area Metropolitan Planning Organization (RCMPO) in conjunction with the South Dakota Department of Transportation (SDDOT), the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA), is soliciting proposals from professional mapping firms for Spring of 2021 leaf-off aerial flights for natural color digital orthorectified photography which will be used to create a new digital orthophoto base map for the RCMPO. The project will consist of three components plus one optional component. The RCMPO area is 484.229 sq mi. Orthophotography production for the project will use the RCMPO’s existing DTM/DEM and the USGS DEM. The third component involves digital compilation of select planimetric features.

The RCMPO desires that the aerial photography be flown in the Spring of 2021 in snowfree, leaf-off conditions. The aerial photography specifications should be adequate (scale, resolution, etc.) to support production of the products desired by the RCMPO under this RFP, including:

• Color digital orthophotography with an approximate 0.5 ft. ground resolution intended to be used at a scale of 1” = 200’ that meets National Standards for Spatial Data Accuracy (NSSDA) at a 1:2400 scale as indicated in the areas on the map in Appendix 1.

• Digital planimetric mapping, specifically the footprints of buildings. Respondents are invited to propose options for updating the RCMPO’s 2018 footprint feature class. The existing building footprint boundary is shown on the map in Appendix 2.

• Other products. Respondents are invited to propose other value-added products as part of the project.

It is the RCMPO’s intention to select one successful aerial photography firm to deliver all of these services with the City of Rapid City/Pennington County GIS Division managing this project, including coordination of work between the data processing and the aerial photography firms.

Background
The Rapid City Area Metropolitan Planning Organization (RCMPO) includes the City of Rapid City, the City of Box Elder, the City of Summerset, the City of Piedmont, Ellsworth Air Force Base, the unincorporated area of Black Hawk and the developing areas of Pennington County and Meade County. This includes the existing urbanized area and the area which is projected to become urbanized within the twenty year horizon of the Metropolitan Transportation Plan. The total project area includes approximately 485 square miles. A shape file of the project area and tiling scheme may be downloaded from https://www.rcgov.org/departments/public-works/geographic-information-system/gis-rfp-3754.html.
Excellent survey control exists within and around the RCMPO. The approximately 165 control locations may be seen in Appendix 3. Two types of control stations have been established: primary and secondary. Primary stations are surveyed using GPS to better than first order accuracy horizontally and are "bluebooked." Secondary stations are GPS surveyed to first order accuracy. Vertical accuracy for both types is 0.1 foot, plus or minus. All stations have NAVD88 datum elevations. Horizontal control uses South Dakota State Plane, south zone, feet in NAD83(2011) coordinates. Given the distribution of stations, it is anticipated that sufficient points will be available as photographic panel points for the project. Respondents may download a shape file containing the control network at https://www.rcgov.org/departments/public-works/geographic-information-system/gis-rfp-3754.html for use in project planning. The selected firm will coordinate panel requirements with the GIS Division. Respondents may propose the use of aircraft equipped with GPS technology in order to minimize the amount of ground control necessary to meet the defined standards for the photogrammetric and planimetric requirements of the project. The RCMPO will be responsible for providing photography panels at the selected locations.

**Project Details**
The RCMPO desires that the aerial photography be flown in the Spring of 2021 in snowfree, leaf-off conditions. The aerial photography specifications should be adequate (scale, resolution, etc.) to support production of the products desired by the RCMPO under this RFP.

Product delivery may be phased to extend into the Fall of 2021 and beyond, depending upon the requirements of the RCMPO and negotiations with the selected firm. The RCMPO will retain ownership and rights to all photographs and digital products created during the performance of this project. Responses to this RFP should include a schedule for completion of tasks in general compliance with the time line on page 8.

**INSTRUCTIONS TO PROPOSERS**

**Solicitation**
The RCMPO will negotiate a professional services agreement with the successful respondent. All respondents are responsible for the costs incurred in responding to this proposal.

**Submission of Proposals**
It is intended that each respondent furnish all information requested in this document. Unless specifically requested, promotional literature is not desired and will not be considered to meet any of the requirements.

Each respondent shall be required to include the following items in their proposal. These items should be used as the format around which the proposal is organized. Exclusion of any of these items could be grounds for proposal rejection by the RCMPO.
1. **Transmittal Letter.** A letter of transmittal, not to exceed two pages in length, which bears the signature of an authorized representative of the respondent and designates by name not more than two individuals authorized to negotiate and sign an agreement with the RCMPO on behalf of the respondent.

2. **Organizational Description.** A description of your organization, including qualifications addressing your organization’s capability to provide the services requested. This must also include a description of subcontractors and associations with other firms you wish to utilize in the performance of the tasks, including the intended working relationships and responsibilities of each. Also include a description of your understanding of the RCMPO’s needs in the proposed project and your staffing commitments to assure your ability to meet the RCMPO’s time frame. Please describe past client projects you have completed that are similar in nature to that proposed in this document.

3. **Proposed Project Team Members.** Provide a written description of the consultant team composition, including disciplines, primary role in regards to the project, and relevant experience. The information provided must clearly indicate the consultant team’s point of contact, the team leader for the project (if different) and the responsible party in each firm who will be providing the required professional experience.

   Provide a table showing the number of person-hours (not percentages of time) that will be devoted to each task by consultant team members. List the names of principal investigators and other key professionals who will be involved. Support personnel may be identified by classification. If subcontracting is necessary, include subcontractors' key personnel and support staff in a separate table. Clearly identify subcontractors' involvement.

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

4. **Product Procedures.** Describe how you will produce each of the products requested in this RFP. This must include the methods used and the quality control/quality assurance procedures that will be observed. The minimum data product specifications described under each work component must be met. Subcontractors or other firms that will work on any part of the project must also be identified, including the general nature and scope of work that will be undertaken by these firms, along with each firm’s work location. The vendor shall retain full responsibility for all work completed or uncompleted by any subcontractor.
5. **Mobilization.** Describe the plan for mobilization of aerial resources including the location from which the resources will be staged and the flight time to the project area. If the aerial collection firm is not part of the proposing firm, this information should be included in the proposal.

6. **Project Schedule.** Include a schedule for completing the work specified in this request, including a progress reporting strategy.

7. **RCMPO Obligations.** Provide a list of all items to be provided by the RCMPO to assist you in completing the requested work. This should include any data (i.e. existing control, additional control with placement costs, etc.) and/or proposed use of staff, office space, and any equipment or materials/supplies that will be expected from the RCMPO. This component should also describe a strategy for project management indicating the mechanisms intended to be used to coordinate the proposed work with the RCMPO.

8. **Product Example.** Provide an example digital orthophoto image file and example planimetric data set(s) from similar work completed by your organization. The orthophoto image should be delivered in a TIF file format accompanied by an ESRI standard world header file (*.tfw) for viewing in ArcGIS. The planimetric data set(s) should be delivered in ArcGIS feature class format as part of a file geodatabase. Example data should be submitted on a CD-ROM. The RCMPO will assume the samples are representative of the data the Respondent will provide to the RCMPO in this project. *Only one copy of the example data sets is necessary.*

9. **References.** Each proposal must provide the name, address and phone number for five (5) individuals from organizations that have procured similar services to act as references for the respondent. The individuals identified must at least hold a position of project management or other contract authority.

10. **Budget.** The lump sum cost proposal shall include a sub-total, including any effort by a subcontractor, for each component as identified in the Scope of Work. The lump sum cost proposal for each component shall include sufficient detail to identify the calculations for the estimated cost proposal. The proposed budget shall be allocated by RCMPO fiscal year. RCMPO's fiscal years run from January 1 through December 31.

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

11. **Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion – Lower Tier Covered Transactions:** By signing and submitting this
12. **Non-Discrimination Statement**: The RCMPO, in conjunction with the State of South Dakota, requires that all contractors, vendors, and suppliers doing business with any State agency, department, institution or recipient of pass-through grants, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

13. **Modification or Withdrawal of Proposals**: Proposals may be modified or withdrawn by the offeror prior to the established due date and time. No oral, telephonic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

14. **Proprietary Information**: The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. Pricing and service elements are not considered proprietary. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the RCMPO. All materials submitted become the property of the RCMPO and may be returned only at the RCMPO’s option.

15. **Governing Law**: Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of South Dakota. The laws of South Dakota shall govern this transaction.

16. **Discussions with Respondents (Oral Presentation/Negotiations)**: An oral presentation by a respondent to clarify a proposal may be required at the sole discretion of the RCMPO. However, the RCMPO may award a contract based on the initial proposals received without discussion with the respondent. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the respondent’s expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the RCMPO’s request. The RCMPO reserves the right to negotiate on any and/or all Components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as
such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

One (1) original and four (4) copies of the proposal document should be submitted, along with one digital pdf of the complete proposal submission. The Proposer’s response should contain only the information requested. All cost proposals shall be valid for a period of not less than ninety (90) days from the date of receipt. Articles should be submitted to the following address by the proposal receipt date and time specified:

   Attention: Kelly Brennan  
   Community Development Department  
   300 Sixth Street  
   Rapid City, SD 57701

Proposals are due no later than 4:00 P.M., MST, on November 30, 2020. Clarification and/or revisions to the specifications and requirements. Respondents are expected to raise any questions, exceptions, or additions they have concerning the RFP document. If a respondent discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP, they should immediately contact Angela Tallon at angela.tallon@rcgov.org and request modification or clarification of the RFP document.

In the event that it becomes necessary to provide additional clarifying data or information, or to revise any part of this RFP, revisions/amendments and/or supplements will be posted to the City of Rapid City web site on the GIS RFP page at https://www.rcgov.org/departments/public-works/geographic-information-system/gis-rfp-3754.html. It is the responsibility of the respondent to check the web page for change documents.

Questions/clarifications on proposal, consultant evaluation, and professional services agreement will be accepted by the RCMPO until November 16, 2020, at 4:00 p.m. MST.

Time Line
The proposed schedule for the RFP process is as follows:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>Deadline for submission of written inquiries</td>
<td>November 16, 2020</td>
</tr>
<tr>
<td>Responses to inquiries posted at GIS RFP webpage</td>
<td>November 20, 2020</td>
</tr>
<tr>
<td>Proposals due</td>
<td>November 30, 2020</td>
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<tr>
<td>Selection of successful firm</td>
<td>December 8, 2020</td>
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<tr>
<td>Signed Contract due from selected firm</td>
<td>December 18, 2020</td>
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<tr>
<td>Notice to Proceed</td>
<td>January 5, 2021</td>
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<tr>
<td>Paneling of identified ground control points</td>
<td>March/April 2021</td>
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<tr>
<td>Aerial photography acquisition</td>
<td>April/May 2021</td>
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<tr>
<td>Delivery of orthos</td>
<td>September 2021</td>
</tr>
<tr>
<td>Delivery of planimetric data</td>
<td>November 2021</td>
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Basis of Award
The award resulting from this request for services will be made to one firm submitting a response that best serves the needs of the RCMPO. Proposals will be evaluated on criteria that include:

- The extent the proposed approach to services meets the RCMPO’s needs.
- Demonstrated competence to meet quality requirements based on QA/QC
- Procedures and overall approach to project management.
- Proven experience of the firm to provide similar products to similar clients, including recommendations from those clients, and/or previous experience with the RCMPO.
- Ability to deliver products within proposed time frame.
- Costs of services/products. The RCMPO will consider its costs for providing additional control points that are not in the existing network if a respondent requires such points.
- This list of criteria is meant for informational purposes only. The RCMPO reserves the right to make its selection on any subjective criteria it deems appropriate.

A short list of firms will be developed from a review of written responses. These firms may be required to make a presentation by phone and/or video conferencing to supplement their proposals if requested by the RCMPO. The RCMPO will make every reasonable attempt to schedule presentation times convenient for the short-listed respondents. Failure of a respondent to conduct a requested presentation to the RCMPO on the date scheduled may result in rejection of their proposal.

The RCMPO reserves the right to reject any and all proposals and to negotiate the terms of the contract, including the award amount, with one or more, or none of the respondents prior to entering into a contract. Omissions, alterations, or irregularities of any kind shall constitute sufficient cause for rejection of a proposal. However, the RCMPO reserves the right to waive irregularities in the proposals. The RCMPO reserves the right to advertise for new proposals if, in its judgment, the best interest of the RCMPO will be served. Non-disclosure cannot be guaranteed after the selection stage of this procurement due to public record laws.

Ownership of Completed Products
All maps, photographs, documents, reports or digital data prepared or completed during the performance of services specified in this RFP shall become the property of the RCMPO and shall not be copyrighted by the proposer. Also, the same materials shall not
be released or made available to any third party or used for other purposes at any time without the written approval of the RCMPO.

SCOPE OF WORK

Project Components
The proposed project involves color digital aerial photography acquisition for the RCMPO area (Appendix 1), digital orthophoto production, and digital planimetric feature compilation.

A description of each component including minimum specifications is provided below to help guide firms in the formulation of responses to this RFP.

Respondents are invited to recommend any alternative approaches to photography, and/or rectification that will result in a better product and/or cost savings to the RCMPO. Respondents are also invited to recommend any alternative approaches to planimetric feature compilation that should be considered by the RCMPO with respect to level of detail, attribution, etc.

Component 1 – Aerial photography acquisition for the RCMPO area
The RCMPO desires to obtain natural color aerial photography in the Spring of 2021 to support development of large-scale digital orthophotography and planimetric mapping. Respondents are asked to propose an approach to the photography acquisition that will best meet these and other needs of the RCMPO.

The proposed approach to aerial photography acquisition for the RCMPO area should outline the respondent’s intended flight plan including date and time of photography, flight height and negative scale, flight lines, endlap and sidelap, planned aerial equipment and materials, and relevant quality control procedures.

Specifications
Specifications associated with this work component will meet or exceed the requirements of the National Standards for Spatial Data Accuracy (NSSDA). In addition:

- Photographic coverage for the RCMPO area will be for approximately 485 square miles of land. The geographic area of interest is depicted in Appendix 1. Respondents may download a shape file containing the data grid at https://www.rcgov.org/departments/public-works/geographic-information-system/gis-rfp-3754.html for use in project planning.

- The color aerial photography shall be captured utilizing a direct digital aerial mapping camera. The digital frame shall capture natural color and near infrared (NIR).

- Respondents should identify ground control needed to support the photography.
• Any points in addition to the existing RCMPO control points must be clearly identified in the proposal, as this will raise the total cost of the project to the RCMPO.

• Respondents that require additional points are invited to include the cost of placing and surveying those points as an option in the price proposal. Any additional points should be placed on public land or in the public right of way. Land ownership information is available online at www.rapidmap.org.

• The RCMPO will be responsible for paneling all needed ground control. All panels will be in place prior to flight date. Approximately 40 additional quality control points, distributed randomly throughout the project area, will be used to determine the positional accuracy of the digital orthophotos using the NSSDA standards. The NSSDA positional accuracy testing will be performed by the RCMPO.

• Photography shall not be acquired when the ground is obscured by haze, snow, smoke, dust, flood waters, or environmental factors that may obscure ground detail. Photography with cloud coverage of any amount of thin cirrus, thin cirrostratus, and/or thin altostratus clouds is acceptable as long as sufficient light is available to produce the shadows and contrast necessary for good quality aerial photographs. Clouds and/or shadows of clouds shall not appear in the photographs. The solar altitude should not be less than 30 degrees. Photography will be collected in snowfree, leaf-off conditions.

• Unacceptable aerial photography shall be re-flown at the earliest opportunity, weather permitting, by the vendor at no additional cost to the RCMPO, with the re-flight coverage overlapping the accepted photography by at least two stereo models.

Component 2 – Digital orthophotography production
The second work component involves production of digital orthophotography from the aerial photography work in Component 1. Respondents should present a strategy for creating and delivering digital orthophoto images that shall conform to NSSDA whereby 95% of the ortho images shall not exceed a horizontal positional error of 2.0 feet. The photos shall be at a resolution suitable for generating digital orthophotos with a 6 inch pixel resolution or better and at a scale sufficient for 1:1200 scale mapping. Orthophotography production will use the RCMPO’s existing DTM/DEM (LiDAR based) and the USGS DEM. Appendix 4 shows the coverage area for the LiDAR based DTM/DEM.

Specifications
• Images are to be geo-referenced to the South Dakota State Plane Coordinate System (South Zone) based on the NAD83(2011) adjusted horizontal and NAVD88 vertical data.

• Individual digital images will be edge matched with no pixel gaps or overlaps between geographic tiles.
• Color and density matching of digital ortho images will be controlled to create the appearance of a seamless mosaic. Respondents are expected to identify the quality assurance and checking procedures that will be employed to guarantee proper tone balancing and overall image quality.

• Digital images will be delivered in a standard TIFF file format with accompanying ESRI standard world header files (*.tfw) that are appropriate for use within the RCMPO’s ArcGIS and AutoCAD software environments.

• Digital images will be delivered as individual files. Vendors are asked to suggest a tiling scheme; tiles should be approximately 1 square mile in size. Individual files will use the exact same pixel resolution and be cut exactly at the tile boundary to facilitate loading them into a mosaic in an ArcGIS Enterprise geodatabase.

**Deliverables**

• 4 band (RGB, NIR) digital orthophotography images in .tif files with .tfw header.

• FGDC-compliant metadata that can be imported into ArcGIS Desktop.

**Optional Deliverables**

• Color-infrared (CIR) digital orthophotography images in .tif files with .tfw header.

**Component 3 – Digital planimetric feature compilation – building footprints** The third work component involves digital compilation and delivery of select planimetric features within the RCMPO project area which will include the footprints for buildings.

Respondents are asked to propose an approach to the planimetric compilation that ensures a product derived from aerial photography that meets National Map Accuracy Standards for scales of 1”=200’. Respondents should address planned quality control practices to ensure compilation completeness and topological consistency. Respondents are asked to update the feature class from the 2018 project.

**Specifications**

• The feature class will be geo-referenced to the South Dakota State Plane Coordinate System (South Zone) based on the NAD83(2011) adjusted horizontal and NAVD88 vertical data. The RCMPO will supply the spatial reference and the database schema for the feature class, or the existing feature class if the respondent chooses to update it rather than creating an entirely new feature class.

• The building feature class has attributes for the average elevation of the roof, the building type (commercial or non-commercial), and date of edit. The selected
respondent will only be responsible for entering the average elevation of the roof and the edit date for each polygon.

• Polygons will be topologically clean.

• The minimum size of buildings to be digitized will be 10 feet by 10 feet.

**Deliverables**

• A polygon building footprint feature class in a project-wide ArcGIS file geodatabase.

• FGDC-compliant metadata that can be imported into ArcGIS Desktop.
APPENDIX 1

Proposed 6 inch Ortho Area
APPENDIX 3

Proposed 6 inch Ortho Project Bndy

Primary Control
Secondary Control

**ADDITIONAL CONTROL CAN BE FOUND ON WWW.GEODESY.NOAA.GOV**
# Consultant Evaluation Form

**PROPOSAL EVALUATION**

**FORM (75 Total Points Possible)**

<table>
<thead>
<tr>
<th>Project Name:</th>
<th>Interviewer: __________________________</th>
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<tr>
<td>Firm Name:</td>
<td>Date: ________________________________</td>
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## PROPOSAL EVALUATION CRITERIA

### P1: Firm’s Approach – 35% of total

The evaluator should consider the following information when scoring this category:

- The extent the proposed approach to services meets the project needs.

Evaluator notes: ____________________________________________

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### P2: Firm’s Competence – 20% of total

The evaluator should consider the following information when scoring this category:

- Demonstrated competence to meet quality requirements based on QA/QC procedures and overall approach to project management

Evaluator notes: ____________________________________________

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### P3: Firm’s Experience – 25% of total

The evaluator should consider the following information when scoring this category:

- Proven experience of the firm to provide similar products, including recommendations from those clients, and/or previous experience with the RCMPO.

Evaluator notes: ____________________________________________

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### P4: Firm’s Management Procedures – 20% of total

The evaluator should consider the following information when scoring this category:

- Ability to deliver products within proposed time frame.

Evaluator notes: ____________________________________________

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1 = Fails to meet the expectations of the reviewer in this category
10 = Fully meets the expectation of the reviewer in this category

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Digital GIS Base Map RFP – November 2020
INTERVIEW EVALUATION
(if necessary)
FORM (25 Total Points Possible)

Project Name:  
Firm Name:  
Interviewer:  
Date:  

<table>
<thead>
<tr>
<th>PROPOSAL EVALUATION CRITERIA</th>
<th>Scoring (Circle One)</th>
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<tbody>
<tr>
<td><strong>P1: Firm’s Approach - 35% of total</strong></td>
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<tr>
<td>The evaluator should consider the following information when scoring this category:</td>
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<tr>
<td>The extent the proposed approach to services meets the project needs.</td>
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<tr>
<td>Evaluator notes:</td>
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<td>1 2 3 4 5 6 7 8 9 10</td>
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| **P2: Firm’s Competence – 20% of total**                         |                       |
| The evaluator should consider the following information when scoring this category: |                       |
| Demonstrated competence to meet quality requirements based on QA/QC procedures and overall approach to project management |                       |
| Evaluator notes:                                                |                       |
| 1 2 3 4 5 6 7 8 9 10                                           |                       |

| **P3: Firm’s Experience – 25% of total**                        |                       |
| The evaluator should consider the following information when scoring this category: |                       |
| Proven experience of the firm to provide similar products, including recommendations from those clients, and/or previous experience with the RCMPO. |                       |
| Evaluator notes:                                                |                       |
| 1 2 3 4 5 6 7 8 9 10                                           |                       |

| **P4: Firm’s Management Procedures – 20% of total**             |                       |
| The evaluator should consider the following information when scoring this category: |                       |
| Ability to deliver products within proposed time frame.        |                       |
| Evaluator notes:                                                |                       |
| 1 2 3 4 5 6 7 8 9 10                                           |                       |

1 = Fails to meet the expectations of the reviewer in this category
10 = Fully meets the expectation of the reviewer in this category
PROFESSIONAL SERVICES AGREEMENT
Digital GIS Base Map Development Services

THIS AGREEMENT made on this ____ day of January, 2018 between the City of Rapid City, 300 Sixth Street, Rapid City, South Dakota 57701, hereinafter referred to as OWNER, and (Consultant), hereinafter referred to as CONSULTANT. This project will encompass the preparation of the Digital GIS Base Map Development Services.

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

SECTION 1 - BASIC SERVICES TO CONSULTANT

1.1 General

CONSULTANT shall provide to OWNER services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include new acquisition of digital ortho-rectified photography, digital planimetric mapping and other value-added products, serving as OWNER’S professional aerial photography and processing services representative for the Project, providing professional planning consultation and advice and furnishing selected planning services.

1.2 Scope of Work

The Basic Services Scope of Work is described in detail in Exhibit A and shall include Components 1 through 5 to include aerial photography acquisition, digital orthophoto production, and digital planimetric feature compilations (building footprints).

SECTION 2 – OWNER’S RESPONSIBILITIES

2.1 The Community Planning and Development Services Director or their designee shall act as OWNER’S representative with respect to the services to be rendered under this Agreement. The Community Planning and Development Services Director shall have complete authority to transmit instructions, receive information, interpret and define OWNER’S policies and decisions with respect to CONSULTANT’S services for the Project.

2.2 Assist CONSULTANT by placing at CONSULTANT’S disposal all available information pertinent to the Project including previous reports and any other data
relative to the Project.

2.3 Examine all studies, reports, sketches, drawings, proposals and other documents presented by CONSULTANT, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.

2.4 Give prompt written notice to CONSULTANT whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT’S services.

SECTION 3 - PERIOD OF SERVICE

The CONSULTANT’S period of service shall complete the scope of work stated in Exhibit A by December, 2018, provided a written “Notice to Proceed” is issued by January 3, 2018. The CONSULTANT’S services shall be provided in general accordance with the schedule as defined in Exhibit B.

SECTION 4 - PAYMENTS TO CONSULTANT

4.1 Methods of Payment for Services and Expenses of CONSULTANT

For Basic Services. The OWNER will pay the CONSULTANT in a lump sum amount of $_________ as detailed in the attached Exhibit C “Cost Estimate” for services rendered under Section 1 as detailed in Exhibit A.

Payment will be made pursuant to invoices submitted by the CONSULTANT with a signed voucher. Progress payments may be made upon completion of each Component as detailed in Exhibit A or at the OWNER’s discretion based on work completed and documented on progress reports.

4.2 Times of Payments

CONSULTANT may submit vouchers for Basic Services by each Component as that Component is completed or for all completed Components. OWNER shall make prompt payments in response to CONSULTANT’S signed vouchers.

For these services, the OWNER shall make prompt payments to the CONSULTANT based on Component billings submitted by the CONSULTANT up to 90% of the maximum fee for each Component as shown on Exhibit C, “Cost Estimate”. The remaining 10% shall be due upon approval of the deliverables for the Project as accepted by OWNER.

4.3 Other Provisions Concerning Payments

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

4.3.2 The employees of CONSULTANT, professional associates and consultants, whose time is directly assignable to the program shall keep and sign a time record showing the element of the Project, date and hours worked, title of position and compensation rate.

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

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

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

4.3.4 Inspection of Work. The CONSULTANT shall, with reasonable notice, afford OWNER or representative of OWNER reasonable facilities for review and inspection of the work in this Agreement. OWNER shall have access to CONSULTANT’S premises and to all books, records, correspondence, instructions, receipts, vouchers and memoranda of every description pertaining to this Agreement.

4.3.5 Audits. If the CONSULTANT expends $750,000.00 or more in federal awards during the CONSULTANT’s fiscal year, the CONSULTANT must have an audit conducted in accordance with 2 CFR Part 200, Subpart F - Audit Requirements, by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the Auditor General’s approval should be obtained annually. Approval of an auditor must be
obtained by forwarding a copy of the audit engagement letter to:

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

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

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

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

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

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

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

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

4.3.6 Payments. Payment shall be made subject to audit by duly authorized representatives of the OWNER. Payment as required in Super Circular 200.

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

4.3.7 The OWNER may terminate the entire Agreement or any portion of the Agreement upon ten (10) days’ written notice. If the CONSULTANT breaches any of the terms or conditions of this Agreement, the OWNER may terminate this Agreement, at any time with or without notice. If termination for such a default is effected by the OWNER, any payments due to the CONSULTANT at the time of termination may be adjusted to cover any additional costs to the OWNER due to the CONSULTANT'S default. Upon termination, the OWNER may take over the work and may award another party an agreement to complete the work under this Agreement.

If the OWNER terminates this Agreement without fault on the part of the CONSULTANT, the CONSULTANT will deliver to the OWNER all work product completed to the date of termination. The CONSULTANT’S work product will become the OWNER'S property and the CONSULTANT will be paid for work performed and delivered up to the date of termination. The value of work performed and services rendered and delivered, and the amount to be paid as actual costs will be mutually satisfactory to the OWNER and to the CONSULTANT. The CONSULTANT will be paid a portion of the fixed fee, plus actual costs. The portion of the fixed fee will be based on the ratio of the actual costs incurred to the estimated actual costs. Actual costs to be reimbursed will be determined by audit of such costs to the date of termination, except that actual costs to be reimbursed will not exceed the Maximum Limiting Fee.

If the OWNER terminates the CONSULTANT’S services for fault on the part of the CONSULTANT, the OWNER will be entitled to recover payments made to the CONSULTANT for the work which is the cause of the at-fault termination. The OWNER will pay the CONSULTANT for work satisfactorily performed and delivered to the OWNER up to the date of termination. The OWNER may adjust any payment due to the CONSULTANT at the time of
termination to cover any additional costs to the OWNER due to the CONSULTANT’S default. After audit of the CONSULTANT’S actual costs to the date of termination and after determination by the OWNER of the amount of work satisfactorily performed and the additional costs incurred by the OWNER due to CONSULTANT’S default, the OWNER will determine the amount to be paid to the CONSULTANT. Upon termination, the OWNER may take over the work and may award another party an agreement to complete the work under this Agreement.

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

4.4 Definitions

Reimbursable Expenses means the actual expenses incurred by CONSULTANT or CONSULTANT’S independent professional associates or consultants directly in connection with the Project, including expenses for: transportation and subsistence incidental thereto; reproduction of reports, graphics, and similar Project related items; and if authorized in advance by OWNER, overtime work requiring higher than regular rates. In addition, if authorized in advance by OWNER, Reimbursable Expenses will also include expenses incurred for computer time and other highly specialized equipment, including an appropriate charge for previously established programs and expenses of photographic production techniques times a factor of 1.0 as determined in accordance with CONSULTANT’S normal accounting practices. All costs must be accumulated and segregated in accordance with Consultant's normal business practice and FAR Part 31.

4.5 Ownership of Data

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

4.6 Publication and Release of Information

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

4.7 Acquisition of Property or Equipment

The acquisition of property or equipment will be in accordance with Super Circular 200.
4.8 Independent Consulting and Subcontracting

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

Any employee of the CONSULTANT engaged in the performance of services required under the agreement shall not be considered an employee of the OWNER, and any and all claims that may or might arise under the Worker's Compensation Act of the State of South Dakota on behalf of said employees or other persons while so engaged and any and all claims made by any third party as a consequence of any act or omission of the part of the work or service provided or to be rendered herein by the CONSULTANT shall in no way be the obligation or responsibility of the OWNER.

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

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

4.9 Personnel Employment

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

4.10 Claims

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

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

4.11 Acceptance and Modification

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

SECTION 5 – GOVERNING LAW

This agreement and any dispute arising out of this agreement shall be governed by the laws of the State of South Dakota.

5.1 Forum Selection

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

5.2 Compliance Provision

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

SECTION 6 – MERGER CLAUSE

This written agreement which includes the Request for Proposals and associated exhibits, to include Exhibit A – Scope of Work, Exhibit B – Project Schedule, Exhibit C – Cost Estimate, Attachment A – Standard Title VI / Nondiscrimination Assurances, Attachment B - Debarment, Attachment C – Certification Regarding Lobbying, and Attachment D - Request for Proposals, constitute the entire agreement of the parties. No other promises or consideration are a part of this agreement.

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

SECTION 7 – COMPLIANCE WITH CLEAN AIR ACT

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

SECTION 8 – TITLE VI ASSURANCE

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

SECTION 9 – CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

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

SECTION 10 – INSURANCE AND REPORTING

Before the CONSULTANT begins providing service, the CONSULTANT will be required to furnish the OWNER the following certificates of insurance, with the City listed as an additional insured, and assure that the insurance is in effect for the life of the contract:

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

B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance: CONSULTANT agrees to procure and maintain professional liability insurance or miscellaneous professional liability Insurance with a limit not less than $1,000,000.00.
The insurance provided for general liability and errors and omissions shall be adequate for the liability presented.

C. Business Automobile Liability Insurance: CONSULTANT shall maintain business automobile liability insurance or equivalent form with a limit of not less than $500,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

D. Worker's Compensation Insurance: CONSULTANT shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

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

SECTION 11 - REPORTING

CONSULTANT agrees to report to the OWNER any event encountered in the course of performance of this Agreement which results in injury to any person or property, or which may otherwise subject CONSULTANT, or the OWNER or its officers, agents or employees to liability. CONSULTANT shall report any such event to the OWNER immediately upon discovery.

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

SECTION 12 – DISCLOSURE TO REPORT LOBBYING

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

CONTRACTOR shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty or not less than $10,000 and not more than $100,000 for each such failure.

SECTION 13 - SEVERABILITY PROVISION

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

SECTION 14 – SUPERCESSION PROVISION

All other prior discussions, communications, and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and, except as specifically provided in this Agreement, this Agreement constitutes the entire agreement with respect to the subject matter.

SECTION 15 – CONFLICT OF INTEREST

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

SECTION 16 – ASSIGNMENT PROVISION

The CONSULTANT will not assign any portion of the work to be performed under this Agreement, or execute any contract, amendment, or change order, or obligate the CONSULTANT in any manner with any third party with respect to the CONSULTANT’S rights and responsibilities under this Agreement without the STATE’S prior written consent.
SECTION 17 – EQUAL EMPLOYMENT OPPORTUNITY

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

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

OWNER:

Attest: ____________________________
Mayor ____________________________ Date ____________________________

Finance Officer ____________________________ Date ____________________________

APPROVED AS TO FORM

Wade Nyberg ____________________________ Date ____________________________
Assistant City Attorney

STATE OF SOUTH DAKOTA
COUNTY OF PENNINGTON

On this _____ day of ____________, 2018, before me, a Notary Public, personally appeared Steve Allender, Mayor of the City of Rapid City, and acknowledged to me that he did sign the foregoing document as such officer and for the purposes therein stated.

______________________________
Notary Public

My Commission Expires:

__________________________________________
(SEAL)

CONSULTANT:

By: ____________________________
Title ____________________________

STATE OF ________________
COUNTY OF ________________
On this _____ day of __________, 2018, before me, a Notary Public, personally appeared __________________, a Principal of ____________________________, and acknowledged to me that s/he did sign the foregoing document as such officer and for the purposes therein stated.

______________________________
Notary Public

My Commission Expires:

______________________________
(SEAL)

Address for Giving Notices:

City of Rapid City
Community Planning and Development Services
300 Sixth Street
Rapid City, South Dakota 57701

Consultant
Attn:
Street Address
City, State Zip Code
During the performance of this contract, the CONSULTANT, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

(1) **Compliance with Regulations:** The contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended (hereinafter referred to as the “Regulations”), incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, religion, national origin, sex, age or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor’s obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, religion, national origin, sex, age or disability.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the South Dakota Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the South Dakota Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain this information.

(5) **Sanctions for Noncompliance:** In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the South Dakota Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not
limited to:

(a) withholding of payments to the contractor under the contract until the contractor complies, and/or
(b) cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as the South Dakota Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that, in the event of a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the South Dakota Department of Transportation to enter into such litigation to protect the interest of the State, and, in addition, the contractor may request the United States to enter such litigation to protect the interests of the United States.

During the performance of this Agreement, the CONSULTANT, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq. [78 stat. 252]) (prohibits discrimination on the basis of race, color, national origin), and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973 (23 U.S.C. § 324 et seq.) (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), as amended (prohibits discrimination on the basis of disability), and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC Ch. 471, § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age
Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. Ch. 471, § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

*******
CERTIFICATION FOR DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The CONSULTANT certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental agency (federal, state or local) with commission of any of the offenses listed in paragraph (2) of this certification; and

4. Have not within a three-year period preceding this application had one or more public transactions (federal, state or local) terminated for cause or default.

The CONSULTANT certifies that if it becomes aware of any later information that contradicts the statements of paragraph (1) through (4) above, it will promptly inform the City of Rapid City.
Attachment C
Professional Services Agreement
CERTIFICATION OF CONSULTANT

I certify that I am the _______ and duly authorized representative of the firm of ____________
__________________________, whose address is ________________________________, and
that neither I nor the above firm I represent has:

1. employed or retained for a commission, percentage, brokerage, contingent fee,
or other consideration, any firm or person (other than a bona fide employee
working solely for me or the above CONSULTANT) to solicit or secure this
Agreement.

2. agreed, as an expressed or implied condition for obtaining this Agreement to
employ or retain the services of any firm or person in connection with carrying
out the Agreement, or

3. paid, or agreed to pay, to any firm, organization or person (other than a bona
fide employee working solely for me or the above CONSULTANT) any fee,
contribution, donation, or consideration of any kind for, or in connection with,
procuring or carrying out the Agreement; except as here expressly stated (if
any):

I acknowledge that this certificate is to be furnished to the State of South Dakota
Department of Transportation, the Federal Highway Administration, and United States
(U.S.) Department of Transportation, in connection with this Agreement involving
participation of Federal-aid Highway Funds, and is subject to applicable state and federal
laws, (both criminal and civil).

________________________________________
Signature

Title: ______________________________

Date: ______________________________