PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made on this 19 day of March, 2018 between the City of Rapid City, 300 Sixth Street, Rapid City, South Dakota 57701, hereinafter referred to as OWNER, and Nelson Nygaard, hereinafter referred to as CONSULTANT. This project will encompass the preparation of the revised/updated Coordinated Public Transit-Human Services Transportation Plan.

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

SECTION 1 - BASIC SERVICES TO CONSULTANT

1.1 General

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

1.2 Scope of Work

The Basic Services Scope of Work is described in detail in Exhibit A and shall include tasks 1 through 5 to include project management, coordination, and administration, public involvement, analysis of needs, services, and gaps, defining service opportunities and recommendations, and the draft and final plan.

SECTION 2 - ADDITIONAL SERVICES OF CONSULTANT

2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, CONSULTANT shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.3, inclusive, subject to CONSULTANT’s approval, which will not be unreasonably withheld. These services are not included as part of Basic Services except to the extent provided otherwise in Exhibit A on the Request for Proposals, the RFP shall be considered a part of this agreement as if attached herein. These will be paid for by OWNER as indicated in Section 5.

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

2.1.2 Preparing to serve or serving as consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project (except for assistance in consultations which is included as part of Basic Services).
2.1.3 Additional services in connection with the Project, excluding services that are to be furnished by OWNER in accordance with Article 3, and services not otherwise provided for in this Agreement.

SECTION 3 - OWNER’S RESPONSIBILITIES

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

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

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

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

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

3.5 Furnish or direct CONSULTANT to provide Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.

SECTION 4 - PERIOD OF SERVICE

The CONSULTANT’S period of service shall complete the scope of work stated in Exhibit A by November 1, 2018, provided a written “Notice to Proceed” is issued by March 20, 2018. The CONSULTANT’S services shall be provided in general accordance with the schedule as defined in Exhibit B. The OWNER may consider a failure by Consultant to meet the schedule in Exhibit B with regard to any phase of the work as a breach of this Agreement.

SECTION 5 - PAYMENTS TO CONSULTANT

5.1 Methods of Payment for Services and Expenses of CONSULTANT

5.1.1 For Basic Services. The OWNER will pay the CONSULTANT the actual costs for services provided in an amount not to exceed $83,302.62 as detailed in the attached Exhibit C “Cost Estimate” for services rendered under Section 1 as detailed in Attached Exhibit A. This includes a lump sum profit/fixed fee in the amount of $8,728.83.

5.1.1.1 Payment will be made pursuant to invoices submitted by the
CONSULTANT with a signed voucher.

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

5.1.2.1 General. For additional services of CONSULTANT’S principals and employees engaged directly on the Project and rendered pursuant to paragraph 2.1 on the same basis as outlined in paragraphs 5.1.1.1, 5.1.1.2 and 5.1.1.3.

5.2 Times of Payments

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

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

5.3 Other Provisions Concerning Payments and Record Keeping

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

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

5.3.3 Records. The CONSULTANT shall maintain an accurate cost keeping system as to all costs incurred in connection with the subject 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 study. Time records and payroll records for said personnel shall be similarly retained by CONSULTANT for a period of three years from the conclusion of the study.

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

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

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

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

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

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

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

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

The CONSULTANT will be responsible for payment of any and all audit exceptions which are identified by the State. The State may conduct an agreed upon procedures engagement as an audit strategy. The CONSULTANT may be responsible for payment of any and all questioned costs, as defined in 2 CFR 200.84, at the discretion of the State.
Notwithstanding any other condition of the Agreement, the cooperative audit resolution process applies, as appropriate. The books and records of the CONSULTANT must be made available if needed and upon request at the CONSULTANT’s regular place of business for audit by personnel authorized by the State. The State and federal agency each has the right to return to audit the program during performance under the grant or after close-out, and at any time during the record retention period, and to conduct recovery audits including the recovery of funds, as appropriate.

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

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

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

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

5.4 Definitions

Reimbursable Expenses means the 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, 48 CFR Part 31 and 2 CFR 200.

5.5 Ownership of Data

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

5.6 Publication and Release of Information

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

5.7 Acquisition of Property or Equipment

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

5.8 Independent Consulting and Subcontracting

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

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

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

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

5.9 Personnel Employment

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

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

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

5.11 Acceptance and Modification

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

SECTION 6 – TERMINATION

6.1 Notice

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

6.2 Take over Work

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

6.3 Delivery of Work

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

6.4 Payment upon Termination

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

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

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

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

**SECTION 7 – GOVERNING LAW**

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

7.1 **Forum Selection**

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

7.2 **Compliance Provision**

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

**SECTION 8 – MERGER CLAUSE**

This written agreement which includes the Request for Proposals and associated exhibits, to include Exhibit A Scope of Work, Exhibit B Schedule, Exhibit C Billing Rates, Exhibit D Cost Estimate and Appendix A constitute the entire agreement of the parties. No other promises or considerations are a part of this agreement.
SECTION 9 – COMPLIANCE WITH CLEAN AIR ACT

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

SECTION 10 – TITLE VI ASSURANCE

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

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

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

SECTION 12 – INSURANCE AND REPORTING

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

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

B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance: CONSULTANT agrees to procure and maintain professional liability insurance or miscellaneous professional liability Insurance with a limit not less than $1,000,000.00 per claim and aggregate.

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

C. Business Automobile Liability Insurance: CONSULTANT shall maintain business automobile liability insurance or equivalent form with a limit of not less than $1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

D. Worker’s Compensation Insurance: CONSULTANT shall procure and maintain
workers’ compensation as required by South Dakota law and Employer’s Liability with limits of $1,000,000 per accident, $1,000,000 policy limit – disease, and $1,000,000 each employee – disease.

Before beginning work under this Agreement, the CONSULTANT shall furnish the OWNER with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days’ prior written notice to the OWNER. The CONSULTANT shall furnish copies of insurance policies if requested by the OWNER. With respect to the professional liability policy, upon the written request of the OWNER, to the extent available, CONSULTANT will provide, within ten (10) days, copies of the professional liability insurance policies required to be purchased and/or maintained hereunder by CONSULTANT for review by OWNER’s legal or risk management staff at a mutually agreeable location and manner. Such review and information obtained is confidential business proprietary information of the CONSULTANT and the OWNER will exercise commercially reasonable efforts to maintain the confidentiality of such information and will, as part of and not a limitation on such efforts, limit distribution to those persons within the OWNER’s organization with a reasonable need to know (including specifically, but not by way of limitation, legal and risk management personnel), who will be made aware of the confidential nature of such information and agree to be bound by the confidentiality obligations set forth in this Section.

SECTION 13- REPORTING

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

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

SECTION 14 – DISCLOSURE TO REPORT LOBBYING

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

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

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

SECTION 15 - SEVERABILITY PROVISION

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

SECTION 16 – CONFLICT OF INTEREST

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

SECTION 17 – ASSIGNMENT PROVISION

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

SECTION 18 – EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this Agreement, the CONSULTANT will not discriminate against any employee, or applicant for employment, because of race, religions, color, sex, disability, or national origin. Such actions will include, but not be limited to, the following: employment, upgrading, demotion, 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

Carla Cushman 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
Attn: Kelly Brennan
300 Sixth Street
Rapid City, South Dakota 57701

Nelson\Nygaard Consulting Associates, Inc.
Attn: Paul Jewel
116 New Montgomery Street, Suite 500
San Francisco, CA 94105
Exhibit A
Scope of Work

TASK 1  PROJECT MANAGEMENT, COORDINATION, AND ADMINISTRATION

1.1  Project Kick-Off Meeting
An initial face-to-face meeting is recommended to confirm the project goals and objectives, methodology and project schedule. Joey Goldman and Meredith Greene from Nelson\Nygaard will attend to ensure we have a clear and consistent understanding of the project, the proposed methodology, and desired outcomes.

Key objectives of the kick-off meeting are:

- Discuss and come to a common understanding on the goals, objectives, and outcomes of the project; this will include reviewing deliverables for each task, the project schedule, and staffing levels.
- Collect background data and studies, as available, to prepare for the assessment of needs and gaps.
- Identify key stakeholders who are not part of the Study Advisory Team and develop a approach to reach them.
- Review different coordination strategies and models that, from our previous efforts, would appear to have applicability to the region.
- Confirm the assumptions to be used during the course of the study.

1.2  Methods and Assumptions Document
Nelson\Nygaard will develop a Methods and Assumptions Document using the Method and Assumptions Template for RCMPO Planning Studies. Federal law requires that projects selected for funding under the Section 5310 Program (Enhanced Mobility for Individuals and Individuals with Disabilities) must be included in a locally developed, coordinated public transit-human services transportation plan that must identify the transportation needs of people with disabilities, older adults, and people with low incomes, provide strategies for meeting these needs, and prioritize transportation services for funding and implementation. Nelson\Nygaard brings our extensive experience developing these plans with federal guidance to this project. We will ensure the Methods and Assumptions Document includes a methodology that is consistent with federal requirements.

1.3  Ongoing Administration
Joey Goldman will serve as the project manager, working closely with staff from the MPO, cities, Meade and Pennington counties, stakeholders, and RTS and Prairie Hills Transit. Throughout the project, he will be responsible for communicating closely with the RCMPO project manager. Such communication will involve regular telephone and email correspondence, and meetings in person.

Joey, along with Meredith Greene, will focus on proactive project management. In line with this, we will organize regular calls (weekly, biweekly, or monthly, as preferred by MPO staff) to discuss project status, critical-path issues, next steps and timelines. Nelson\Nygaard will also provide progress reports to the MPO and Study Advisory Team, including a summary of all work completed during the month, in-progress and upcoming tasks/next steps, invoices, and remaining budget.

TASK 2  PUBLIC INVOLVEMENT
Public involvement is both a required element of a Coordinated Public Transit-Human Services Transportation Plan and critical and valuable component of such a plan. Nelson\Nygaard will work closely with MPO staff to ensure the Study Advisory Team is engaged in the planning process, and that meetings with stakeholders, the public, transit providers are fruitful, informative, and allow for consensus on priority strategies.
2.1 **Study Advisory Team Meetings**

The role of the Study Advisory Team is to help guide and support our efforts, and provide a “reality check” to study team recommendations and deliverables. The Study Advisory Team will also help develop ownership of the plan and play a key role in establishing support for future recommendations and programs. Because this endorsement/ownership is critical, we plan to involve the Study Advisory Team throughout the project, listen to its members, and translate their ideas and suggestions—as well as issues and concerns—into a coordination model/design for the region that makes sense and has the best chance of meeting short- and long-term goals on an ongoing basis. We intend to meet with this group in two or three face-to-face meetings, allowing for additional meetings by videoconference and email discussions as needed. Nelson\Nygaard staff will work with MPO staff to schedule these meetings. We will prepare agendas and presentations, facilitate the meetings, and summarize meeting outcomes.

2.2 **Stakeholder Meetings**

We already have identified stakeholders through the Regional Transit Feasibility Study, and will work with MPO staff to expand that list. Possible stakeholders include staff from local cities, both counties, the MPO, Ellsworth Air Force Base, organizations identified in the 2013 Coordinated Plan (e.g., the Good Samaritan Society/Senior Companions, Black Hills Works, Disabled American Veterans, etc.), and other organizations that are providing services (e.g., Chairlift, Feeding South Dakota, Regional Health, etc.). We will also reach out to senior centers, disability advocates, social service agency staff, or other organizations serving low-income residents, non-English speakers, and minority populations.

Through these various stakeholder activities, we anticipate that interaction will result in the following:

- Provision of useful and relevant information about local transportation programs and unmet transportation needs
- Sharing results of previous planning efforts or documentation of unmet needs
- Representation of a range of interests to ensure broad-based participation in the planning process
- Provision of comments and input from the group’s stakeholders at major milestones of the project
- Participation in public outreach efforts
- Provision of comments, and confirmation of project planning assumptions

2.2.1 **General Stakeholder Meetings**

We envision two rounds of stakeholder meetings in this process and some additional organizational stakeholder meetings (described in 2.2.2).

- The first meeting will provide an opportunity to gather input on transit needs, opportunities, coordination issues, funding constraints, and planned uses of 5310 funding. We will also solicit stakeholders to share opinions, perceptions, and insight from the public on transportation challenges. These stakeholder efforts will focus on the identification of unmet transportation needs and on corresponding strategies.
- We recommend the second set of stakeholder meetings be conducted as part of an extensive evaluation and consensus-building effort, with the goal of confirming findings, prioritizing strategies, and seeking input on potential coordination activities.

Nelson\Nygaard will work with MPO staff to schedule these meetings. We will prepare the public meeting notice, agendas and presentations, facilitate the meetings, and summarize meeting outcomes.

2.2.2 **Organizational Stakeholder Meetings**

In addition to the scheduled stakeholder meetings, we are budgeting resources for up to four additional organizational stakeholder meetings earlier in the study process, allowing us to attend scheduled activities at selected senior centers, the Rapid City Community Health Center, Black Hills Works, or
elsewhere. Nelson\Nygaard will work with MPO staff to determine the best use of these resources. At each location, Nelson\Nygaard will provide presentations, meeting facilitation, and a summary of meeting outcomes.

2.2.3 **Transit Provider Meetings**

We believe it is critical to meet with transit providers to understand operational issues, capacity constraints or excess capacity, expansion plans, and short-term goals. As one of the first steps in the stakeholder process, we will meet with the local and regional transit providers to better understand their services and objectives for the Coordinated Plan.

Nelson\Nygaard will prepare a summary of meetings with the operators and use the information provided to develop the analysis in Task 3.

2.3 **Public Meetings and Comment Forms**

In accordance with the RFP, a minimum of two public meetings will be held during the project period. It is our expectation that the stakeholder meetings will allow for robust participation by organizations with a stake in transportation and that these public meetings will allow members of the public to understand the outcomes of these stakeholder consensus-building meetings and the recommended actions in the Coordinated Plan. The objective of these public meetings is to share the proposed outcomes, solicit input, and get buy-in on strategies and approaches – as well as recommended investments for 5310 funds – from older adults, people with disabilities, and people with low incomes.

Nelson\Nygaard will work with MPO staff to schedule these meetings. We will ensure that meetings are in accessible locations, and that accommodations are made to meet any specialized needs of participants. We will prepare the public meeting notice, agendas and presentations, facilitate the meetings, and summarize meeting outcomes.

In addition to the meetings, we propose to develop an on-line comment form that will be distributed to stakeholder organizations to share with constituents, clients, and consumers. The accessible and easy-to-use input tool will allow us to capture challenges and ideas from members of the public at the same time we gather input from stakeholders.

2.4 **MPO Meetings**

Nelson\Nygaard will prepare draft and final memos, staff memos, and presentations for MPO Meetings. Although these presentations will mostly be led by city staff, Nelson\Nygaard will also be available to present in person if meetings coincide with other scheduled Coordinated Plan meetings, or by videoconference.

Upon completion of the draft plan, Nelson\Nygaard will present the draft plan to the Executive Policy Committee, Technical Coordinating Committee, and the Citizens Advisory Committee.

**TASK 3  ANALYSIS OF NEEDS, SERVICES, AND GAPS**

The objective of Task 3 is to identify the collective services, both public and private, that are currently available to address needs within the MPO region. Understanding needs from the perspective of the stakeholders in Task 2 will aid in identifying service gaps. Our approach involves five subtasks which will be integrated with the Task 2 subtasks.

3.1 **Review Existing Plans, Studies, and Reports**

As a first step, we will review existing relevant plans, studies, and reports that pertain to previous efforts on coordination, paratransit, human service transportation, and public transit in the region and produce an
annotated literature review of this analysis. We anticipate this process will help us develop a general overview of available services, service gaps, needs and redundancies and potential opportunities and challenges.

As part of this effort, we will make sure to highlight findings from the 2013 Coordinated Plan that should be carried forward as needs or gaps in the development of this updated plan.

### 3.2 Data Acquisition from Transportation Providers

With a goal of updating an inventory of existing services, Nelson\Nygaard will collect information from public transit providers (notably, RTS and Prairie Hills Transit) and nonprofit human services providers.

We will collect this information a number of ways, including using findings from studying existing plans, making phone calls, and emailing a survey where needed. Our experience has taught us that personal follow-up is the most effective way to collect detailed information about service and operating characteristics. Accordingly, we will develop a questionnaire that collects the desired information, including areas serviced, eligibility/intake, days/hours of operation, fares, rider profiles, revenues/funding, fleet data, facilities, scheduling practices, and management/staffing structure.

As we telephone each provider, we will email their survey to them, so we are both looking at the same information. The task will be to confirm or change old information and add in new information by the end of the telephone call. This data will support establishment of a database of existing providers and information materials about available services.

As we contact existing providers we will collect trip manifest data (as available) so that we can map trip origins and destinations. This data will help us analyze and evaluate existing travel patterns and show where limited or no services exist.

### 3.3 Transportation Services Summary and Inventory

The outcome of Task 3.2 will be an updated inventory of available services, combined with service area maps highlighting the various transportation providers. Although this information will be used in Task 3.5 to identify gaps, it also tells a story about any duplicative services, opportunities for streamlining or coordinating services, service areas covered, the location(s) of facilities that could be shared by providers, and other information that can be used in developing recommended approaches. The information will also be valuable to present to stakeholders (see Task 2) to ensure they have a complete understanding of the breadth and depth of available services.

### 3.4 Demographic Analysis: Focus on People with Disabilities, Older Adults, and Low-Income Populations

Understanding demographic, land use, and travel patterns in the MPO region is an important element of this Plan. We expect to use demographic information from the 2010 Census and updated data from the American Community Survey, as well as any projections from the MPO and from the State of South Dakota. Our objective is to develop a profile that illustrates the following characteristics: older adults, youth, low-income households, veterans, people with limited English proficiency, zero-auto households, and people with disabilities.

Based on the background review, stakeholder feedback, and surveys, we will also identify the residential location and distribution of population segments with attributes that make them more likely to use or rely on public transportation or human services transportation. We will also identify employment destinations, commercial activity centers, medical facilities, and institutional and recreational facilities that are, or could become, significant transit trip generators.

The product of this task will consist of a series of maps and tables that effectively communicate this information. Each will be framed by a concise narrative discussion that directly addresses the relevance of the data to existing and planned transportation.
3.5 **Identification of Needs and Gaps**

In this task, we will identify where gaps and underserved areas are for target populations. These findings will be developed based on data illustrates from Tasks 3.1 through 3.4, as well as feedback from the Study Advisory Team, project stakeholders, and public comment (Tasks 2.1 and 2.2).

We anticipate that some of the identified needs may have service options available to address them, but that information and coordination can help make those services more effective. At the same time, a number of needs will likely be identified that cannot be met with existing services. Some examples of the types of findings we expect to document include the following:

- Spatial gaps: Where is service needed and not currently provided?
- Temporal gaps: When is service needed and not currently provided?
- Lack of transportation options in specific areas, especially for those without access to an automobile
- Need for specialized services for people with disabilities above and beyond what is required by the ADA
- Need for specialized services for people with low incomes who are seeking or working at entry-level jobs during non-traditional hours
- Need for better connectivity between communities
- Need for transportation to key destinations
- Need to better coordinate land-use decisions with transportation programs
- Need to enhance bicycle and pedestrian access and road safety in rural areas

These and other categories of unmet needs will be discussed and highlighted for the MPO area as a whole, as well as for sub-regions within the MPO area with unique demographic, land use, or transit demand characteristics.

**TASK 4  DEFINING SERVICE OPPORTUNITIES AND RECOMMENDATIONS**

In this task, we complete the assessment with a set of strategies to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies.

4.1 **Goals and Objectives**

Following our understanding of needs and gaps, we believe it is important for the Coordinated Plan to include a set of goals and objectives. Our team has a combined 35 years of experience working specifically with stakeholders and steering committees to establish consensus around goals and objectives for coordinated transportation plans.

The development of these goals and objectives will take place at a meeting of the Study Advisory Team. Our team will guide participants through the analysis to date, and discuss strengths, challenges, and opportunities for current and future services. Through this guided discussion, we will work with the Study Advisory Team to develop a draft series of goals and objectives that are critical to developing sustainable, coordinated services. These draft goals and objectives will be shared with the stakeholders in the region during the second round of general stakeholder meetings and will then be updated to reflect community priorities.

4.2 **Draft Strategies: Alternative Approaches**

Based on the work from the preceding tasks, we will develop a set of solutions and strategies that can be applied throughout the MPO region to eliminate or reduce duplication in services, fill service gaps, and otherwise provide more efficient utilization of transportation services and resources pertinent to the target populations.

As we identify potential coordination strategies, we will draw on our extensive experience with coordination planning, our knowledge of successful coordination and mobility management activities throughout the U.S., and
any actions recommended in the Regional Transit Feasibility Study and 2013 Coordinated Plan. Both short- and long-term strategies will be considered.

Coordination is not a single strategy, but a range of options and processes from relatively simple actions to complex implementation strategies. This “coordination continuum” ranges from information sharing to the consolidation of services under a single provider, as described below:

- Networking—the simplest form of partnerships where participants share a common interest, but with no significant action other than information exchange
- Cooperation—involves low-level linkages, informal agreements, and some possible resource sharing
- Coordination—more intense linkages that include resource sharing to pursue common goals
- Collaboration—the most sophisticated partnership form with strong, formal linkages among partners and complex goals implemented over longer periods of time
- Consolidation—one organization assumes responsibility for service delivery of other participant organizations

We fully expect the proposed solutions to cover a very broad spectrum. Other types of strategies to increase mobility that might also merit further consideration may include volunteer driver programs implementation of a proposed flexible voucher program; travel training for fixed-route buses; transit fare subsidies; improved transit customer information content and dissemination; bus fleet enhancements; timed transfers between regional and local bus services; shuttles and other hybrid services; accessible vehicle sharing; and other approaches.

In developing strategies, we will consider existing coordination activities currently underway and assess potential new opportunities for service coordination. Such opportunities may include application of new technology, integration of services, enhanced information and sharing, shared use of vehicles, or other strategies that have proved effective elsewhere.

4.3 Costs and Funding Opportunities

For each strategy option, Nelson\Nygaard will prepare an estimate of cost or cost savings, as well as funding potential and constraints on current funding sources.

This information will be presented in a summary sheet for each potential coordination activity; strategies proposed will be summarized in a series of overall strategy tables.

The plan will include a chapter identifying current funding sources utilized in area, as well as national best practices in obtaining adequate transportation funding. We will also review funding sources identified in other plans developed within the last five years. We will add national best practices in transportation funding that we have collected since the implementation of the FAST Act.

The output will include an overview of funding available in the region, any obstacles noted for the use of these funds, and a discussion on whether these funds are adequate to provide coordinated services. It will also include innovative funding sources found elsewhere in South Dakota and around the country.

4.4 Prioritization of Strategies

We will review these proposed approaches with the Study Advisory Team to review recommendations and select criteria to evaluate and prioritize the solutions and strategies. We will then work with the team as well as the stakeholders in the second stakeholder meeting to prioritize strategies.

The strategies will be based on an agreed-upon set of criteria. A preliminary list of criteria and key questions might include:

- **Does the strategy meet the documented gap or need?** How well does the strategy address transportation gaps or barriers identified in this planning process? Strategies are evaluated based on how successfully they accomplish each of the following:
o Provide service where there are few transportation options
o Have stakeholder acknowledgement of the importance of the strategy
o Serve locations where the greatest number of people will benefit
o Improve the level of service available
o Improve the quality of service available
o Improve the mobility of low-income populations and other disadvantaged groups
o Provide a higher level of service than currently provided with existing resources
o Preserve and protect existing services

- **How feasible is the strategy to implement?** How likely is the strategy to be successfully implemented given available resources, funding opportunities, and the willingness of stakeholders to take the lead? What is the role for the Rapid City Area MPO versus other entities in the region? The most successful strategies would rank highly for each of the following:
  o Possibly be eligible for grant funding
  o Understand the likely costs, including ongoing operational costs
  o Efficiently use available resources
  o Have a potential project sponsor with staff or vehicles (or equipment) to carry out the strategy
  o Be sustainable beyond a short-term grant period
  o Offer the potential for savings in unit costs (cost/trip, cost/hour) (if applicable)
  o Have stakeholder support and availability of lead agencies

- **How much does the strategy reflect a coordinated effort?** Is coordination an element of the solution? How would the strategy encourage agencies to work with one another? Strategies are evaluated based on how successfully they accomplish the following:
  o Avoid duplication of services
  o Encourages agencies to work together to find efficient, effective solutions
  o Promote coordination of transportation services and other programs
  o Offer value to economic and regional development

### 4.5 Recommendations

The Recommendations will summarize the process of identifying, evaluating, and ranking possible coordination strategies in the MPO region, and will include the summary sheets for the priority strategies chosen and confirmed during the Study Advisory Team meeting and second round of stakeholder meetings. The full list of considered strategies, as well as the summary sheets of coordination strategies that were not prioritized will be documented in a separate appendix of the plan.

Based on the rankings and outcomes, Nelson\Nygaard will synthesize the recommended strategies, providing a five-year prioritization and the costs for implementing the preferred strategies, as well as a prioritization for funding the recommended transportation services.

### TASK 5 DRAFT AND FINAL PLAN

#### 5.1 Draft Plan

Nelson\Nygaard will prepare a draft report after all recommendations have been reviewed by MPO staff. The Draft Plan will address all items identified in the FTA checklist to ensure the updated plan meets all federal transit regulations associated with the Section 5310 program. The report will include a synthesis of the results of all previous work in logical chapter format with technical appendices and supporting graphics. MPO staff will provide
a consolidated set of comments from any other organizations reviewing the report and Nelson\Nygaard will respond with changes and updates.

5.2 Final Plan

Based upon one set of non-conflicting comments from MPO staff, Nelson\Nygaard will revise the Draft Plan and produce a Final Coordinated Plan. We will deliver the final document (including all supporting analysis files) in electronic form (Word and PDF), as well as provide 60 bound paper copies and one unbound original of the final document.

Before completion of the plan, Nelson\Nygaard will also submit all original sign-in sheets from all public involvement meetings and all supporting meeting materials for the public involvement process including presentations, handouts and comment forms.
## Exhibit B

**Project Schedule**

<table>
<thead>
<tr>
<th>Task Description</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Project Management, Coordination, and Administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1 Kick-Off Meeting</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.2 Methods and Assumptions Document</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.3 Ongoing Administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Public Involvement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1 Study/Advisory Team Meetings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.2 Stakeholder Meetings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.3 Public Meetings and Comm Unit Formulations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.4 MPO Meetings</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 Analysis of Needs, Services, and Gaps</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1 Review Existing Plans, Studies, and Reports</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2 Data Acquisition From Transportation Providers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.3 Transportation Services Summary and Inventory</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Defining Service Opportunities and Recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.1 Goals and Objectives</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.2 Draft Strategies: Alternative Approaches</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.3 Costs and Funding Opportunities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.4 Prioritization of Strategies</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.5 Recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 Draft and Final Plan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.1 Draft Plan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.2 Final Plan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Exhibit C
### Cost Proposal

<table>
<thead>
<tr>
<th>Item</th>
<th>Rate</th>
<th>Total Estimated Hours</th>
<th>Total Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salaries</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R Weiner, Principal 4</td>
<td>$84.52</td>
<td>12</td>
<td>$1,014.24</td>
</tr>
<tr>
<td>M Greene, Principal 1</td>
<td>$56.73</td>
<td>185</td>
<td>$10,495.05</td>
</tr>
<tr>
<td>B Kaufman, Associate 2</td>
<td>$30.41</td>
<td>138</td>
<td>$4,196.58</td>
</tr>
<tr>
<td>E Pincus-Roth, Associate 3</td>
<td>$31.03</td>
<td>110</td>
<td>$3,413.30</td>
</tr>
<tr>
<td>K Wetzel, Associate 1</td>
<td>$26.44</td>
<td>48</td>
<td>$1,269.12</td>
</tr>
<tr>
<td>R Job-Reese, Junior Designer</td>
<td>$28.85</td>
<td>20</td>
<td>$577.00</td>
</tr>
<tr>
<td>P Latham, GIS Analyst</td>
<td>$38.42</td>
<td>40</td>
<td>$1,536.80</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td></td>
<td></td>
<td><strong>$22,502.09</strong></td>
</tr>
<tr>
<td><strong>Fringe Benefits</strong></td>
<td></td>
<td></td>
<td><strong>Fringe Contained in overhead amount below</strong></td>
</tr>
<tr>
<td><strong>Overhead/Indirect Costs</strong></td>
<td></td>
<td></td>
<td><strong>$39,846.70</strong></td>
</tr>
<tr>
<td><strong>Fixed Fee (Max of 14% of Subtotal + Overhead)</strong></td>
<td>14%</td>
<td></td>
<td><strong>$8,728.83</strong></td>
</tr>
<tr>
<td><strong>In-State Travel</strong></td>
<td></td>
<td></td>
<td><strong>$9,775.00</strong></td>
</tr>
<tr>
<td><strong>Out-of-State Travel</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Expendable Expenses</strong></td>
<td></td>
<td></td>
<td><strong>$450.00</strong></td>
</tr>
<tr>
<td><strong>Computer Time</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Report Publication</strong></td>
<td></td>
<td></td>
<td><strong>$2,000.00</strong></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td></td>
<td><strong>$83,302.82</strong></td>
</tr>
</tbody>
</table>
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.
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: _______________