

**SHORT FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of **September 16, 2013** (“Effective Date”) between **City of Gillette** (“Owner”) whose address is **201 East 5<sup>th</sup> Street, Gillette WY 82716** and **Kadrmass, Lee & Jackson, Inc.**, (“Engineer”) whose address is **640 N. HWY 14/16 Unit K, Gillette WY 82716**. The Engineer agrees to provide the services described below to Owner for **Energy Park Rail Spur Utilization Study** (“Project”). The services Engineer shall provide, or cause to be provided, are further defined in attached Exhibit A – Engineer’s Services and are generally described as follows: **Provide planning and preliminary engineering services for the Energy Park Rail Spur Utilization Study. Services shall include an evaluation of the existing spur/facility, coordination with BNSF and property owners, site assessments for expanded use, and conceptual improvement layouts and cost estimates for the project.** Owner shall provide, or cause to be provided, the payment for these services as set forth in attached Exhibit B – Payment for Services.

Owner and Engineer further agree as follows:

**1.01 Basic Agreement**

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement, and Owner shall pay Engineer for such Services as set forth in Paragraph 10.01.

**2.01 Payment Procedures**

- A. *Preparation of Invoices.* Engineer will prepare a monthly invoice in accordance with Engineer’s standard invoicing practices and submit the invoice to Owner.
- B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer’s invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal

### 3.01 Additional Services

- A. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above.
- B. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

### 4.01 Termination

- A. The obligation to provide further services under this Agreement may be terminated
  - 1. For cause,
    - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.
    - b. By Engineer:
      - 1) Upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a provider of professional services; or
      - 2) Upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
      - 3) Engineer shall have no liability to Owner on account of such termination.
    - c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 4.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
  - 2. For convenience,
    - a. By Owner effective upon Engineer's receipt of notice from Owner.
- B. The terminating party under paragraphs 4.01.A.1 or 4.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

### 5.01 Controlling Law

- A. This Agreement is to be governed by the law of the state in which the Project is located.

#### 6.01 Successors, Assigns, and Beneficiaries

- A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

#### 7.01 General Considerations

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its engineers may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.
- B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.
- C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.
- D. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Engineer.
- E. All project documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.
- F. To the fullest extent permitted by law, Owner and Engineer agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.
- G. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the

portion of the Project affected thereby until Owner: (i) retains appropriate specialist engineers or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

#### 8.01 KLJ Additions to EJCDC E-520

- A. The Engineer agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Owner, its officers, directors and employees (collectively, Owner) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Engineer's negligent performance of professional services under this Agreement and that of its sub-Engineer's or anyone for whom the Engineer is legally liable. The Owner agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Engineer, its officers, directors, employees and sub-Engineer's (collectively, Engineer) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the Owner's negligent acts in connection with the Project and the acts of its Contractor's, sub-Contractor's or Engineer's or anyone for whom the Owner is legally liable. Neither the Owner nor the Engineer shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence. The Owner shall not reuse or make any modification to the project documents without Engineer's prior written authorization. The Owner agrees, to the fullest extent permitted by law, to indemnify and hold harmless Engineer's officers, directors, employees and sub-engineers (collectively) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the project documents by the Owner or any person or entity that acquires or obtains the project documents from or through the Owner without Engineer's written authorization.
- B. In the event of a dispute arising out of or relating to the agreement or the services to be rendered hereunder, both parties hereby agree to (1) attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party, (2) if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by both parties, and (3) if the dispute or any issues remain unresolved after the first two steps, either party may seek to have the dispute resolved by a court of competent jurisdiction.
- C. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Owner nor the Engineer, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Owner and the Engineer shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.
- D. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render

decisions relative to the Project on behalf of the respective party whom the individual represents. Each Party may change its designated individual(s) at any time by written notice to the other Party.

#### 9.01 Total Agreement

- A. This Agreement (together with any expressly incorporated exhibits and appendices), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

#### 10.01 Payment and Schedules

- A. Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer as follows:
  - 1. In accordance with Exhibit B – Payment of Services.
- B. The Engineer's compensation is conditioned on the time to complete the services by February 28, 2014. Should the time to complete services be extended beyond this period, total compensation to Engineer may be appropriately adjusted. Engineer is authorized to begin rendering services as of the Effective Date.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: City of Gillette

ENGINEER: Kadrmas, Lee & Jackson, Inc.

By: \_\_\_\_\_  
(signature)

By: [Signature]  
(signature)

By: Tom Murphy  
(printed or typed name)

By: Robert Cheek  
(printed or typed name)

Title: Mayor

Title: Municipal Practice Area Leader

Date  
Signed: \_\_\_\_\_

Date  
Signed: 9/5/13

Attest: \_\_\_\_\_  
(signature)

Witnessed By: Charlene B. Blocker  
(signature)

\_\_\_\_\_  
(printed or typed name)

Witnessed By: Charlene B. Blocker  
(printed or typed name)

Title: \_\_\_\_\_

Address for giving notices:  
City of Gillette  
Attention: Kurt Siebenaler, PE

Address for giving notices:  
KLJ - Attention John How

P.O. Box 3003

640 N. HWY 14/16 Unit K

Gillette, WY 82717

Gillette, WY 82716

Designated Representative:

Designated Representative:

Attn: Kurt Siebenaler, PE

Attn: John How

Title: City Engineer of Capital Projects

Title: Project Manager

Phone Number: 307.686.5265

Phone Number: 406-548-5667

Facsimile Number: 307.685.8889

Facsimile Number: 307.682.9510

E-Mail Address: kurt@gillettewy.gov

E-Mail Address: john.how@kljeng.com

This is **EXHIBIT A**, consisting of 7 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated September 16, 2013.

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## **Engineer's Services**

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The Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

### **PART 1 – BASIC SERVICES**

#### *A1.01 Evaluation Phase*

A. Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project and available data.
2. Advise Owner of any need for Owner to provide data or services of the types which are not part of Engineer's Basic Services including infrastructure, traffic patterns and lot/parcel information.
3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Engineer.
4. Coordinate with Owner and BNSF to evaluate the utilization of the existing spur line, equipment and track layout as well as collect data regarding current deliveries and pickups to and from Energy Park and how they are accommodated by local freight trains, whether there are any current difficulties or capacity limits of the spur.
5. Analyze track layouts and connections within the park as well as connections that provide critical access to the Energy Park to determine possible alternative alignments.

#### *A1.02 Coordination Phase*

A. Engineer shall:

1. Solicit BNSF's desires and expectations for expanded transportation services via the Energy Park Spur including the types of new commodities, shipping patterns,

and other conditions BNSF would like to see as a result the Energy Park expansion and rail spur.

2. Obtain data from BNSF about current inbound and outbound rail shipments by industrial facilities in Energy Park (within limits set by customer confidentially and BNSF standards) and other possible uses of the spur such as car storage.
3. Obtain BNSF's comments and observations about existing operations, which may possibly include issues related to train movements, switching, positioning and movement of cars, and other operational areas.
4. Coordinate BNSF's expectations and standards that any new traffic or other actions on the Energy Park spur not impede movement of its through trains on the main line.
5. Coordinate with the City to schedule meeting and interviews with Energy Park companies. To maximize time, efforts and budget, meeting will be scheduled during for a one-week period with Engineer interviewing as many companies as possible during that time.
  - a. Meetings to be tentatively scheduled for one week in October, 2013.
6. Conduct meetings with selected existing rail-using companies located in the Park. (Engineer understands these to be Viking Explosives and Homex Oil.) If available, obtain data for each company's use of rail service such as commodities received and purchased, frequency and volume of shipments, points of shipment origin and destination, types of rail car used, means of loading and unloading cars, and needs for positioning and moving cars within the customer's location. Any problems or concerns will be noted. Opportunities for improving service according to customer standards and preferences will be sought.
7. Conduct meetings with selected existing non-rail using companies. (Engineer understands there are five existing companies with rail-served sites that do not use rail access). Tactfully probe about whether the company wishes to maintain rail access, with the objective of using rail transportation in the future, or whether it might be open to relocation within Gillette to make its rail access available to new facilities with an immediate need.

#### *A1.03 Site Assessment Phase*

##### *A. Engineer Shall:*

1. Assess expanding rail shipments for current companies within the park, potential companies located elsewhere in Gillette (as identified by the City and its economic development partners), and open parcels for future development with the goal of maximizing rail access and attracting companies that have an immediate need for rail use.

2. Study physical constraints of the Energy Park as well as opportunities on how best to utilize existing nearby rail spurs with BNSF input on future rail spur locations.
  - a. Visit sites to document existing constraints, topography, infrastructure, land use, access to street network and potential contamination or other development inhibitors.
3. Collaborate with BNSF on operational constraints with sites and new development that may impact main-line usage.

#### *A1.04 Conceptual Improvements and Cost Estimates Phase*

##### *A. Engineer shall:*

1. Identify key upgrades at specific locations and plot them on a map for ease of use and understanding. Improvements may include but are not limited to road reconfigurations, property line adjustments, new warehouse, storage and loading facilities and spur realignments to allow for BNSF locomotives to access rail cars from both ends.
2. Analyze the potential for new connections to the main line (existing spur east of Energy Park) while preserving access for through trains. The new connections will be shown on a map and may or may not be located within the Energy Park depending upon track curve radii and speed requirements.
3. Prepare two conceptual layouts for rail spur utilization including the use of a circle track concept.
4. Produce planning-level cost estimates for all identified improvements, which will accompany the conceptual map alternatives. Prioritize improvements with City and BNSF input.
5. Prepare a phased approach for improvements and costs. Phases to include 5, 10 and 20-year phased development.

#### *A1.05 Report Phase*

##### *A. Engineer shall:*

1. Prepare a report (the "Report") which will, as appropriate, contain photographs, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. For each recommended solution Engineer will provide a preliminary, planning-level cost estimate.

2. Furnish 10 review copies of the Report and any other deliverables to Owner and review it with Owner. Within 30 calendar days of receipt, Owner shall submit to Engineer any comments regarding the Report and any other deliverables.
  3. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and furnish 10 copies of the revised Report and any other deliverables to the Owner after receipt of Owner's comments.
- B. Engineer's services under the Report Phase will be considered complete on the date when the revised Report and any other deliverables have been delivered to Owner.

#### *A1.06 Public Participation*

A. Engineer Shall:

1. Conduct a Kick-Off meeting with City Staff in September.
2. Conduct Public Input Meeting #1 in October; meeting will include a project overview and general discussion on the goal of the study.
3. Conduct Public Input Meeting #2 in January; meeting will include a review of conceptual layouts and project costs.
4. Conduct City Council Workshop in December whereby Council will help prioritize projects within the Energy Park.
5. Conduct a final presentation to City Council in January/February depending upon comments from the prioritization workshop and Public Input Meeting #2.

#### *A1.07 Owner Responsibilities*

A. Owner Shall:

1. Provide city data, which is relevant to the project, to Engineer.
2. Assist Engineer in making and coordinating meeting arrangements with local companies within the Energy Park as well as potential future tenants
  - a. Advise companies of the purpose of the meetings and assure businesses their data and comments will be treated in a respectful manner and only used for the purposes of this study.
3. Participate in company interview meetings as needed.
4. Provide input during the Council Workshop and prioritize improvement projects within the Energy Park.

5. Review and pay for all public meeting notices to local news agencies.
6. Reserve rooms for all public input meetings.

## **PART 2 – ADDITIONAL SERVICES**

### **A2.01 *Additional Services Requiring Owner's Written Authorization***

A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.

1. Attend more meetings other than those outlined in A1.02 or A1.06.
2. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
3. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
4. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
5. Services resulting from Owner's request to evaluate additional Conceptual Layout and Cost Estimates Phase or Report Phase alternative solutions beyond those identified in Paragraph A1.04 and A1.05.
6. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
7. Providing renderings or models for Owner's use.
8. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity

surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.

9. Furnishing services of Consultants for other than Basic Services.
10. Services during out-of-town travel required of Engineer other than for visits to the Site, Owner's office or meetings as outlined in Paragraph A1.02 and A1.06.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
13. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
14. Providing construction surveys and staking and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
15. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
16. Preparing Record Drawings showing appropriate record information based on Project annotated record documents.
17. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
18. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
25. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

#### *A2.02 Additional Services Not Requiring Owner's Written Authorization*

- A. Engineer shall advise Owner in advance that Engineer will immediately commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from

Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.

1. Services in connection with work change directives and change orders to reflect changes requested by Owner.
2. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
3. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) work damaged by fire or other cause during Report preparation, or (4) a significant amount of inaccurate or delayed responses from Energy Park companies or potential Energy Park companies.

While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites

**Payments to Engineer for Services and Reimbursable Expenses**

**Basic Services – Fixed Fee with Standard Hourly Rates plus Reimbursable Expenses**

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The Agreement is supplemented to include the following agreement of the parties:

**B1.01 Compensation for Basic Services (other than Resident Project Representative) – Fixed Fee Method of Payment**

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A as follows:

1. **A Fixed Fee amount of \$40,000** to complete the **Energy Park Rail Spur Utilization Study** (A1.01 – A1.07).
2. Engineer shall not exceed the total Fixed Fee amount unless approved in writing by the Owner.
3. The total compensation for services under Paragraph B1.01 is based on the following estimated distribution of compensation:

a. Evaluation Phase	\$ <u>3,981.00</u>
b. Coordination Phase	\$ <u>12,317.00</u>
c. Site Assessment Phase	\$ <u>3,456.50</u>
d. Conceptual Improvements/Cost Estimate Phase	\$ <u>9,504.50</u>
e. Report Phase	\$ <u>4,323.50</u>
f. Public Participation	\$ <u>5,415.50</u>
g. Project Management/Subconsultant Coordination	\$ <u>1,002.00</u>
4. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner.
5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph B1.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer's Consultant charges.

6. The amounts billed for Engineer's services under Paragraph B1.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultant charges.
  7. Subconsultant fee to be billed directly to Engineer. Engineer's bill to Owner will include subconsultant fee as a reimbursable expense on Engineer's billing report.
- B. *Period of Service:* The compensation amount stipulated is conditioned on a period of service not exceeding February 28, 2014. If such period of service is extended, the compensation amount for Engineer's services shall be appropriately adjusted.

## **Additional Services – Standard Hourly Rates**

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The Agreement is supplemented to include the following agreement of the parties:

### **B1.02 Compensation for Additional Services – Standard Hourly Rates Method of Payment**

A. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.17, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant charges, if any.

B. *Compensation For Reimbursable Expenses:*

1. For those Reimbursable Expenses that are not accounted for in the compensation for Basic Services under Paragraph B1.01 and are directly related to the provision of Additional Services, Owner shall pay Engineer at the Engineer's cost.
2. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
3. The amounts payable to Engineer for Reimbursable Expenses, if any, will be the Additional Services-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to such Additional Services, the latter multiplied by a factor of 1.15.
4. The Reimbursable Expenses Schedule will be adjusted annually to reflect equitable changes in the compensation payable to Engineer.

*C. Other Provisions Concerning Payment For Additional Services:*

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.15 .
2. *Factors:* The external Reimbursable Expenses and Engineer's Consultant Factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
3. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

**Gillette Rail Spur Utilization Study**  
Professional Services Fee Summary - Kadmas, Lee & Jackson, Inc.

STAFF TYPE		Engineer II	Engineer I	Planner III	Planner II	Planner I	Document Design Specialist	Administrative Assistant II	Subconsultant	DIRECT LABOR	SUB CONSULTANT FEE	TASK COST	TASK HOURS
Task	Hourly Rate	\$148.75	\$168.75	\$191.25	\$142.75	\$103.25	\$63.75	\$74.75					
Project Assignment Labor Code													
TASK													
<b>1 Evaluation Phase</b>													
1.1 Data collection						16				\$ 1,604.00		\$ 1,604.00	16
1.2 Evaluation existing track layouts and connections		8				8				\$ 1,976.00			16
1.3 Coordinate with BNSF on existing layout and operations						4				\$ 401.00			4
<b>Total</b>										\$ 3,981.00	\$ -	\$ 3,981.00	36
<b>2 Coordination Phase</b>													
2.1 Coordinate with BPPC & BNSF to obtain inbound/outbound shipments						16				\$ 1,604.00		\$ 1,604.00	16
2.2 Calculate preliminary traffic impacts and review with BNSF					12					\$ 1,713.00		\$ 1,713.00	12
2.3 Solicit expectations from BNSF on expanded service (Subconsultant)									1000	\$ -	\$ 1,000.00	\$ 1,000.00	-
2.4 Coordinate with BNSF about impacts/solutions to mainline operations (Subconsultant)									1000	\$ -	\$ 1,000.00	\$ 1,000.00	-
2.5 Conduct meetings with existing rail users (Subconsultant)									3000	\$ -	\$ 3,000.00	\$ 3,000.00	-
2.6 Conduct meetings with existing non-rail users (Subconsultant)									3000	\$ -	\$ 3,000.00	\$ 3,000.00	-
2.7 Coordinate meetings with City and companies (Subconsultant)									1,000	\$ -	\$ 1,000.00	\$ 1,000.00	-
<b>Total</b>										\$ 3,317.00	\$ 9,000.00	\$ 12,317.00	28
<b>3 Site Assessment Phase</b>													
3.1 Assess expanding rail shipments from company interview meetings		4				4				\$ 988.00		\$ 988.00	8
3.2 Study physical constraints of site including on-site visits		2				8				\$ 1,696.50		\$ 1,696.50	14
3.3 Collaborate with BNSF on operational constraints/solutions with new sites						8				\$ 802.00		\$ 802.00	8
<b>Total</b>										\$ 3,486.50	\$ -	\$ 3,486.50	30
<b>4 Conceptual Improvements and Cost Estimates Phase</b>													
4.1 Identify and map key upgrades to site		4			4	8				\$ 1,960.00		\$ 1,960.00	16
4.2 Analyze and map new connections to the mainline		4				8				\$ 1,389.00		\$ 1,389.00	12
4.3 Prepare two conceptual layouts		8	12			4				\$ 2,880.00		\$ 2,880.00	24
4.4 Produce planning-level cost estimates for improvements		8	4		4	4				\$ 2,581.00		\$ 2,581.00	20
4.5 Prepare phased-approach to improvements and costs		2				4				\$ 694.50		\$ 694.50	6
<b>Total</b>										\$ 9,504.50	\$ -	\$ 9,504.50	78
<b>5 Report Phase</b>													
5.1 Prepare draft report (10 copies)		2		4		4	8	2		\$ 2,118.00		\$ 2,118.00	20
5.2 Prepare and revise final report (10 copies)		2		2		4	2			\$ 1,204.50		\$ 1,204.50	10
5.3 Subconsultant Fee									1,000	\$ -	\$ 1,000.00	\$ 1,000.00	-
<b>Total</b>										\$ 3,323.50	\$ 1,000.00	\$ 4,323.50	30

STAFF TYPE											
Task	Hourly Rate	Engineer II	Engineer I	Planner III	Planner II	Planner I	Document Design Specialist	Administrative Assistant II	Subconsultant	DIRECT LABOR	TASK COST
		\$146.75	\$108.75	\$191.25	\$142.75	\$100.25	\$53.75	\$74.75	-		
	Project Assignment Labor Code										
	TASK										
6 Public Participation											
6.1 Kick-Off Meeting					2	2				\$ 486.00	\$ 486.00
6.2 Public Input Meeting #1			2			2	2	2		\$ 695.00	\$ 695.00
6.3 Public Input Meeting #2			2			2	2	2		\$ 695.00	\$ 695.00
6.4 City Council Workshop		2				2				\$ 484.00	\$ 484.00
6.5 City Council Presentation Final Report			2			2	2			\$ 545.50	\$ 545.50
6.6 Subconsultant Fee									2500	\$ -	\$ 2,500.00
Total										\$ 2,915.50	\$ 5,415.50
7 Project Management & Subconsultant Coordination											
7.1 Project Management & Subconsultant Coordination						10				\$ 1,002.50	\$ 1,002.50
Total Hours		46	22	6	26	120	16	6	12500	\$ 27,500.50	\$ 40,000.50
LABOR		\$ 6,750.50	\$ 2,392.50	\$ 1,147.50	\$ 3,711.50	\$ 12,030.00	\$ 1,020.00	\$ 448.50		\$ 27,500.50	\$ 40,000.50
TOTAL FEE										\$	\$ 40,000.50

NOTE: The hours and fees are based on a preliminary understanding of project scope and are subject to change should the scope  
Revised Date 9/4/2013

Subconsultants	Fee
BFPD	\$12,500

