

This is **EXHIBIT I**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated September 16, 2014.

Allocation of Risks

Paragraph 6.10 of the Agreement is amended and supplemented to include the following agreement of the parties:

16.10.E *Mutual Waiver*

1. Consistent with the terms of Paragraph 6.10.E the Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants, or any of them, shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, or warranties, express or implied, of Engineer or Engineer's officers, directors, partners, employees, agents, or Engineer's Consultants.

16.10.F *Limitation of Engineer's Liability*

1. *Engineer's Liability Limited to Amount of Engineer's Compensation.* To the fullest extent permitted by law, notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants, and any of them, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Engineer or Engineer's officers, directors, partners, employees, agents, or Engineer's Consultants, or any of them, shall not exceed the total compensation received by Engineer under this Agreement or the total amount of Eighty Thousand dollars (\$80,000), whichever is greater.

16.11.G *Conditions Beyond the Control of the Engineer*

1. The Owner recognizes that in the course of completing the services under this agreement, the Engineer may encounter conditions which are beyond the control of the Engineer and which create potential for claims against and

additional costs to the Engineer which are not covered in fees earned for services provided. This category includes, but is not limited to the following:

- Unknown underground utilities or other man-made objects not properly located underground.
- Unavoidable contamination of subsurface areas, aquifers, etc. or the disturbance of natural underground resources during the design and construction of the project.
- Changed codes or standards during the course of the work.
- Information provided by others which is not accurate or complete.
- Conditions that may arise and differ significantly from those existing at the beginning of the project.

Should any such condition occur during the performance of this Agreement, judged to be beyond the control of the Engineer, the Engineer will promptly notify the Owner, and the parties will renegotiate the Agreement. If terms cannot be agreed to, the parties agree that either party has the right to terminate the Agreement. The Owner agrees to compensate the Engineer for any time spent and expenses incurred by the Engineer in defense of any such claim with such compensation to be based upon the Engineer's prevailing fee schedule and expense reimbursement policy.

16.11.H *Statutes of Limitations*

1. Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitations shall commence to run in any and all events not later than either the date of Substantial Completion of the project for acts or failures to act occurring prior to Substantial Completion or the date of Final Payment for acts or failures to act occurring after Substantial Completion.

16.11.I *Betterment*

1. If Engineer mistakenly leaves out of the Construction Documents any component or item required for the Project, Engineer shall not be responsible for the cost or expense of constructing or adding the component or item to the extent such item or component would have been required and included in the original construction documents. In no event will the Engineer be responsible for any cost or expense that provides betterment, upgrades or enhances the value of the Project.

E-500 Exhibit I Sept 2004

This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated September 16, 2014.

AMENDMENT NO. _____ TO OWNER-ENGINEER AGREEMENT

PROJECT NO. _____

1. Background Data:

- a. Effective date of OWNER-ENGINEER Agreement: _____
- b. OWNER: _____
- c. ENGINEER: Morrison-Maierle, Inc.
- d. Project: _____

2. Nature of Amendment: *[Check those that are applicable.]*

- ☐ Additional Services to be performed by ENGINEER
- ☐ Modifications to Services of ENGINEER
- ☐ Modifications to Responsibilities of OWNER
- ☐ Modifications to Payment to ENGINEER
- ☐ Modifications to Time(s) for rendering Services
- ☐ Modifications to other terms and conditions of the Agreement

3. Description of Modifications

- ☐ Attachment 1, "Modifications"
- ☐ Other attachments as listed below:

OWNER and ENGINEER hereby agree to modify the above-referenced Agreement as set forth in this agreement. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

OWNER:

The City of Gillette, Wyoming

By: _____

Title: _____

Date Signed: _____

ENGINEER:

Morrison-Maierle, Inc.

By: _____

Title: Vice-President, Billings Office Manager

Date Signed: _____