

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

THIS IS AN AGREEMENT effective as of  
February 6, 2018 ("Effective Date")

between

CITY OF GILLETTE, WYOMING ("Owner")

and

STRUCTURAL DYNAMICS, LLC ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

GURLEY AVENUE OVERPASS  
DECK REHABILITATION FINAL DESIGN & BIDDING PHASES  
("Project").

Engineer's Services under this Agreement are generally identified as follows:

A. DECK REHABILITATION – FINAL DESIGN PHASE (PHASE 30)

1. Prepare a set of Design Drawings to include:
  - a. Cover Sheet
  - b. Structural Notes
  - c. Summary of Estimated Quantities & Construction Sequence
  - d. General Plan & Elevation
  - e. Enlarged Deck Plans
  - f. Breakout and Repair Details
  - g. Approach Rehabilitation Plan
  - h. Traffic Control Plan
2. Project Manual: Prepare a Project Manual to include advertisement for bids, information for bidders, bid form, standard forms, general conditions, supplementary conditions, technical specifications, and special provisions.
3. Prepare a final estimate of probable construction cost based on the final estimate quantities.
4. Submit 90% progress Design Drawings, cost estimate, and Project Manual electronically to the City Engineering staff for review.

B. Engineer shall complete the described Deck Rehabilitation – Final Design Phase services by February 26, 2018. Deck Rehabilitation – Bidding Phase services will commence shortly after in anticipation for award of project on April 3, 2018.

~~C. If the Project includes construction-related professional services, then Engineer's time for completion of services is conditioned on the time for Owner and its contractors to complete construction not exceeding \_\_\_\_ months. If the actual time to complete construction exceeds the number of months indicated, then Engineer's period of service and its total compensation shall be appropriately adjusted.~~

#### 2.01 *Payment Procedures*

A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. 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, then 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, 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. Owner waives any and all claims against Engineer for any such suspension. Payments will be credited first to interest and then to principal.

#### 3.01 *Termination*

A. The obligation to continue performance 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. Failure to pay Engineer for its services is a substantial failure to perform and a basis for termination.

b. By Engineer:

1) upon seven days' written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days' written notice if the Engineer's services for the Project are delayed for more than 90 days for reasons beyond Engineer's control.

Engineer shall have no liability to Owner on account of a termination by Engineer under Paragraph 3.01.A.1.b.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform



furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

- ~~B. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.~~
- C. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.
- ~~D. 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. Engineer is not responsible for variations between actual construction bids or costs and Engineer's opinions or estimates regarding construction costs.~~
- ~~E. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made regarding the construction contract requirements, or any application, interpretation, or clarification of the construction contract other than those made by Engineer.~~
- F. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (EJCDC C-700, 2007 Edition) unless the parties agree otherwise.
- G. All 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. Owner shall have a limited license to use the documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) Owner acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

7.02 *Additional Services:* For additional services of Engineer's employees engaged directly on the Project, Owner shall pay Engineer 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. Engineer's standard hourly rates are attached as Appendix 1.

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: STRUCTURAL DYNAMICS, LLC

By: Louise Carter-King

By: Philip P. Hohn

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

Signed: 

Title: Mayor

Title: Senior Engineer

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

Date: January 18, 2018

Attest: \_\_\_\_\_

Address for giving notices:

Address for giving notices:

201 E. Fifth Street

PO Box 2767

Gillette, Wyoming 82716

Gillette, Wyoming 82717

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## **SCHEDULE OF FEES**

June 21, 2017

### **PROFESSIONAL FEES (per hour):**

Principal Engineer .....	\$135.00
Senior Engineer .....	\$135.00
Senior Project Engineer.....	\$125.00
Project Engineer/Manager .....	\$115.00
Sr. Design Engineer .....	\$105.00
Design Engineer .....	\$ 98.00
Sr. Construction Engineer.....	\$115.00
Construction Engineer .....	\$ 95.00
Resident Project Representative (RPR) .....	\$ 90.00
Sr. Engineering Technician .....	\$ 91.00
Engineering Technician .....	\$ 80.00
Clerical .....	\$ 50.00

### **CHARGEABLE EXPENSES:**

Travel Expenses: Mileage (per mile) .....	\$ 0.65
Overnight Travel (meals & incidentals/per diem) .....	\$50.00
Lodging .....	actual cost
Blackline Prints, B&W, 24"x36" .....	\$ 3.00
Drafting Plots: Mylar (each) .....	\$11.00
Bond (each) .....	\$ 4.00
Photocopies, B&W, 8½ x 11 (each) .....	\$ 0.15
Photocopies, Color, 8½ x 11 (each) .....	\$ 0.30
Photocopies, B&W, 11 x 17 (each) .....	\$ 0.30
Photocopies, Color, 11 x 17 (each) .....	\$ 1.00
Special tests, services of sub-consultants, and equipment rental .....	Cost + 15%