

◇ August 16, 2018

Tim Volk  
Campbell County School District  
109 North Gurley Avenue  
Gillette, WY 82716

**Re: Meadowlark Elementary School - Entrance & Parking Lot Improvements**

Dear Mr. Volk:

Thank you for considering KLJ to provide Civil Engineering services for the Meadowlark Elementary School - Entrance and Parking Lot Improvements project. Below is a description of our scope and maximum fee not to exceed to perform the work based on our recent discussions and site visit.

**Topographic Survey:**

- Complete topographic survey of existing parking lot area along with the proposed parking lot area (~0.5 Acres), main entrance, northwest corner of the building (Kindergarten area), the north and east sides of the gymnasium, loading dock and refuse area, as well as adjacent lawn areas, curb & gutter, sidewalk, landscaping planters and walls, alley and accesses with utilities
- ACAD Base Drawing Preparation  
Survey Fee = \$4,500

**Preliminary Design:**

- Field Visit & Review
- Additional pick up survey, if necessary
- Preliminary parking lot layout including drop off zone, accesses utilizing East 7<sup>th</sup> Street and the alley to the west, lighting, landscape elements and necessary irrigation components
- Stormwater Utility Research, Layout and Design. This will include incorporation of the existing downspouts from the school building as is feasible without disturbing unnecessary surfacing. This will include review of the existing stormwater utility along East 7<sup>th</sup> Avenue, the alley, and Green Avenue, and may include proposed surface drainage components, as necessary.
- Site demolition plan for typical existing site components. Additionally, the various existing landscaping and vegetation areas to approve what is to be saved, stored for use by the District on this project or elsewhere, and what is to be disposed.

- Addressing the main entrance of the school and the northwest corner of the school to address concerns with surface flow and other grading components.
- Non-destructive investigation of the north and east walls of the school gymnasium to evaluate the best approach to exposing and dampproofing only the outside of the walls. Additional direction on the approach to regrading landscaping, treatment of the outer wall that will be exposed will be necessary. No work on the interior of the gymnasium is anticipated.
- Adjacent to the east wall of the gymnasium, determine an approach to rehabilitation of the loading dock, and refuse area off of Green Avenue.
- Typical Sections for Concrete Paving and Asphalt Overlay
- Grading plan of main entrance, northwest corner of the school, north and east sides of the gymnasium, and parking lot areas including spot grading for critical areas including ADA ramps and sidewalks
- Landscape & Irrigation Design
- Electrical Lighting
- Civil and Landscape Details including parking, striping, designated walk ways and drop off zone, handicap ramps, final striping, plantings, irrigation components storm drainage utility components, etc.
- Civil and Landscape Specifications based on City of Gillette 2017 Standard Construction Specifications
- Preliminary Design Review Meeting

#### Final Design:

- Final Design Development
- Final Design Meeting
- Final Plan Production for Bidding
- Construction Estimate of Probable Cost  
Design Fee = \$45,000

#### Bidding Assistance:

- Pre-Bid Meeting
- Distribution of Meeting Minutes and any Addenda
- Bid Opening
- Analysis of Bid Results with Engineers Recommendation  
Bidding Fee = \$2,000



Construction Administration:

- Weekly observation of construction activities as well as coordination with Contractor as needed (estimated an average 6 hours per week with ten weeks of construction)
- Onsite Progress Meetings
- Construction Staking
- Pay Applications and Change Orders, if needed.
- As Built Construction Drawings

**Construction Administration Fee = \$16,000**

**\*Note that this is an estimate and may need to be revisited once final plans are complete.**

KLJ hourly rate includes mileage, survey equipment & supplies and printing costs. This contract would be time and materials not to exceed a maximum of the total fee of \$67,500.

Items to be requested from the School District include:

- Any as built information for site or building itself.
- Geotechnical Information from the site. If geotechnical information is not available, we would strongly recommend at least one boring location in the parking lot to ensure an adequate pavement section is installed. We have a MSA with STRATA in place to expedite this item if necessary.

Please give me a call at 307.682.9500 if you have any questions or concerns regarding this proposal. Thank you and we look forward to working with you on this project.

Sincerely,

KLJ

A handwritten signature in blue ink that reads 'Adrienne Hahn'.

Adrienne Hahn, PE  
Project Manager

SHORT FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of August 20, 2018 (“Effective Date”) between

Campbell County School District (“Owner”)

and

Kadrmass, Lee & Jackson, Inc., 4585 Coleman Street, Bismarck, ND 58503 (“Engineer”).

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

Meadowlark Elementary School – Entrance & Parking Lot Improvements (“Project”).

Engineer’s Services under this Agreement are generally identified as follows:  
Refer to attached scope of services and fee letter dated August 16, 2018.

Owner and Engineer further agree as follows:

1.01 *Basic Agreement and Period of Service*

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above. Owner shall pay Engineer for its services as set forth in Paragraphs 7.01 and 7.02.
- B. Engineer shall complete its services within a reasonable time, or within the following specific time period: Bid Opening on or before February 15, 2019.
- 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 4 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 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, by Owner effective upon Engineer's receipt of written notice from Owner.

B. The terminating party under Paragraph 3.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer 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.

- C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

#### 4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the 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.
- C. Unless expressly provided otherwise, nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any contractor, subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

#### 5.01 *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. Subject to the foregoing standard of care, Engineer and its consultants may use or rely upon design elements and information ordinarily or customarily 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.
- H. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) 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.
- I. 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 as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or 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: (1) retains appropriate specialist consultants or contractors to

identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

- J. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

#### 6.01 *Total Agreement*

- A. This Agreement (including any expressly incorporated attachments), 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.

#### 7.01 *Basis of Payment—Direct Labor Costs Times Factor, Plus Reimbursables*

- A. Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer as follows:
1. An amount equal to Engineer's Direct Labor Costs times a factor for services of Engineer's employees engaged on the Project, plus reimbursable expenses, and Engineer's consultants' charges, if any.
  2. The total compensation for services and reimbursable expenses is estimated to be \$67,500.

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.~~

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

The Owner and Engineer each agree to assume its own liability for claims of any nature including all costs, expenses and reasonable attorney's fees, which may in any manner result from or arise out of this agreement. 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.

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.

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.

Affirmative Action: This Engineer and sub-contractor or sub-consultant shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

Attachments: Scope and Fee Proposal Letter dated August 16, 2018

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

OWNER:

By: \_\_\_\_\_

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

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

Address for giving notices:

Campbell County School District

Attn: Tim Volk

109 N Gurley Avenue

Gillette, WY 82716

ENGINEER: Kadrmas, Lee & Jackson, Inc.,

By: \_\_\_\_\_

Title: Rodney Senn, Rapid City Office Manager

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

Engineer License or Firm's Certificate

Number: ES-0605

State of: Wyoming

Address for giving notices:

KLJ

Attn: Adrienne Hahn

640 N. Hwy 14-16 Unit K

Gillette, WY 82716