

SPECIAL COUNCIL MEETING
CITY OF CROSSLAKE
THURSDAY, JULY 29, 2021
2:00 P.M. – CITY HALL

1. Call to Order
2. Review Change Order #9 for Fire Hall Remodel – Mold Mitigation (Motion)
 - a. Review Quotes for Air Testing (Motion)
3. Discuss City Hall Sign (Motion)
4. Review Updated Costs for 2 – Lighted Crosswalk Signals (Motion)
5. Crow Wing County Land Services Director Gary Griffin - Discuss VRBO Rental Permit Process and Update on How Process is Working/Complaints
6. Adjourn

2.



Work Order Signature Document

Sourcewell EZIQC Contract No.: MN-NCM-GC05-120518-HTC

New Work Order

Modify an Existing Work Order

Work Order Number: 079439.09

Work Order Date: 05/11/2021

Owner PO No:

Work Order Title: City of Crosslake Fire Hall Remodel Supplemental #9 Mold Mitigation

Owner Name: City of Crosslake

Contractor Name: HY-Tec Construction of Brainerd, Inc.

Contact: David Nevin

Contact: Jack Steinke

Phone: (218) 820-3568

Phone:

Work to be Performed

Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of Sourcewell EZIQC Contract No MN-NCM-GC05-120518-HTC.

Brief Work Order Description:

Time of Performance See Schedule Section of the Detailed Scope of Work

Duration

Liquidated Damages Will apply:

Will not apply:

Work Order Firm Fixed Price: \$9,352.70

Owner Purchase Order Number:

Approvals

Owner

Date

Contractor

Date

 5/21/21

Detailed Scope of Work

To: Jack Steinke
HY-Tec Construction of Brainerd, Inc.
11360 Business 371
Brainerd, MN 56401
No Data Input

From: David Nevin
City of Crosslake
City Hall, 37028 County Rd 66
Crosslake, MN 56442
(218) 820-3568

Date Printed: May 11, 2021

Work Order Number: 079439.09

Owner PO No:

Work Order Title: City of Crosslake Fire Hall Remodel Supplemental #9 Mold Mitigation

Brief Scope:

Preliminary Revised Final

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

Perform testing and inspection of air quality to verify mold has properly been removed.



Contractor

5/21/21

Date

Owner

Date

Contractor's Price Proposal - Summary

Date: May 11, 2021

Re: IQC Master Contract #: MN-NCM-GC05-120518-HTC
Work Order #: 079439.09
Owner PO #:
Title: City of Crosslake Fire Hall Remodel Supplemental #9 Mold Mitigation
Contractor: HY-Tec Construction of Brainerd, Inc.
Proposal Value: \$9,352.70

No Category Input **\$9,352.70**

Proposal Total **\$9,352.70**

The Percentage of NPP on this Proposal: %

Contractor's Price Proposal - Detail

Date: May 11, 2021

Re: IQC Master Contract #: MN-NCM-GC05-120518-HTC
 Work Order #: 079439.09
 Owner PO #:
 Title: City of Crosslake Fire Hall Remodel Supplemental #9 Mold Mitigation
 Contractor: HY-Tec Construction of Brainerd, Inc.
 Proposal Value: \$9,352.70

Sect.	Item	Modifier	UOM	Description	Line Total
Labor	Equip.	Material	(Excluded if marked with an X		
No Category Input					
1	02 82 13 00 0002		HR	Certified Asbestos Air Sampling Technician For Bulk Sampling Or Air Monitoring	\$5,672.95
			Installation	Quantity Unit Price Factor = Total	
				74.00 x 55.99 x 1.3692 = 5,672.95	
				Air quality monitoring and moisture samples to determine mold issues	
2	02 82 13 00 0002		HR	Certified Asbestos Air Sampling Technician For Bulk Sampling Or Air Monitoring	\$3,679.75
			Installation	Quantity Unit Price Factor = Total	
				48.00 x 55.99 x 1.3692 = 3,679.75	
				Air quality testing after	

Subtotal for No Category Input **\$9,352.70**

Proposal Total **\$9,352.70**

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

The Percentage of NPP on this Proposal: %



Braun Intertec Corporation
11001 Hampshire Avenue S
Minneapolis, MN 55438

Phone: 952.995.2000
Fax: 952.995.2020
Web: braunintertec.com

2.a.

July 26, 2021

Proposal QTB143173

Mr. Michael Lyonais
City of Crosslake
13888 Daggett Bay Road
Crosslake, MN 56442

Re: Proposal for Fungal Air Sampling – Fire Department/Old City Hall Building
37028 County Road 66
Crosslake, MN

Dear Mr. Lyonais:

This proposal provides our scope of services and cost estimate to conduct fungal air sampling within the above-referenced facility in Crosslake, Minnesota.

Scope of Services

Braun Intertec Corporation is proposing to provide the following scope of services. All of the site work will be conducted by an environmental representative under the direction of a certified industrial hygienist.

- We will collect a total of six indoor air samples and one outdoor air sample for total fungal spores. The samples will be collected using Zefon Air-o-Cell cassettes and a calibrated air sampling pump. The cassettes will be mounted on a tripod stand at an approximate height of 4-5 feet up from the floor/ground relative to the employee breathing zone area. The sample duration for each respective air sample will be 10-minutes. The sample analyses will be performed by EMLab P&K (Braun Intertec sub-contractor laboratory).

Note: the air sampling as outlined below cannot be conducted if there is any rain at the time.

Upon completion of the site work and sample analyses, we will submit a written report to you. Our report will include a summary of the air sampling data and results, along with an interpretation of the results relative to current applicable indoor air quality guidelines.

Project Schedule

We will require a five working day advance notice to schedule in the specified scope of services. All site work will be conducted during normal business hours. Typical laboratory turnaround time for the specified analyses is three working days. Upon our receipt of the laboratory report, our final written report will be submitted to you within two business days thereafter. Preliminary verbal results will be provided to you as they become available.

AA/EOE

Fee Schedule

The following provides a breakdown of our cost estimate to provide the specified scope of services.

Service Description	Lump Sum Cost
Labor - includes all preparation, travel, site, and report times	\$1,520
Expenses - includes mileage, equipment, and sampling media	319
Analytical - Air samples – total fungal spores (7) samples	<u>338</u>
Total:	\$2,177

Discussion

We will require a designated representative from the City be available to coordinate access into the facility.

Our scope of services will be conducted in accordance with the attached General Conditions (1/1/18). The cost estimate presented in this proposal is based on the scope of services described and the assumption that the proposal will be authorized within 60 days and that the project will be completed within the proposed schedule. If the project is not authorized within 60 days, we may need to modify the proposal. If the project cannot be completed within the proposed schedule due to circumstances beyond our control, revising the proposal may be required for completion of the remaining tasks.

This proposal is being sent to you in an electronic form only. Please sign and return a copy of this proposal in its entirety as authorization to proceed.

We appreciate this business opportunity and look forward to working with your team. If you have any questions or require further assistance, please call me at 952.995.2482.

Sincerely,

BRAUN INTERTEC CORPORATION



Gregory G. Olson, CIH
Principal Scientist

Attachment: General Conditions (1-1-2018)

Authorization to Proceed:

Please proceed according to the described scope of services and General Conditions:

Authorizer's Name (please print or type)

Authorizer's Signature

Authorizer's Title

Authorizer's Firm

Date

General Conditions

Section 1: Agreement

1.1 Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

1.2 The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

1.3 In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

Section 2: Our Responsibilities

2.1 We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

2.2 In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

2.3 We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and further that site conditions may vary over distance or change over time.

2.4 Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

2.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

2.6 You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

2.7 Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

Section 3: Your Responsibilities

3.1 You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

3.2 You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

3.3 You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, losses, penalties and expenses (including attorney fees) involving buried objects that were not properly marked or identified or of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others furnished to us.*

3.4 You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site or in a sample provided to us. You agree to provide us with information in your possession or control relating to such materials or samples. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

3.5 Neither this Agreement nor the providing of Services will operate to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous substances. *You agree to hold us harmless, defend, and indemnify us from any damages, claims, damages, penalties or losses resulting from the storage, removal, hauling or disposal of such substances.*

3.6 Monitoring wells are your property, and you are responsible for their permitting, maintenance, and abandonment unless expressly set forth otherwise in this Agreement.

3.7 You agree to make all disclosures required by law. In the event you do not own the project site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, penalties, or losses and expenses, including attorney fees, related to failures to make disclosures, disclosures made by us that are required by law, and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.*

Section 4: Reports and Records

4.1 Unless you request otherwise, we will provide our report in an electronic format.

4.2 Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval. *You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

4.3 If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

4.4 Samples and field data remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your property. They may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

4.5 Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

Section 5: Compensation

5.1 You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

5.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

5.3 If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

5.4 Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

5.5 If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

5.6 You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

5.7 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

5.8 If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

Section 6: Disputes, Damage, and Risk Allocation

6.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s)

attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

6.2 *Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of business opportunity, loss of profit or revenue, loss of product or output, or business interruption.*

6.3 You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

6.4 *For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or \$50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken.* This increased fee is not the purchase of insurance.

6.5 *You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.*

6.6 This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

6.7 No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

Section 7: General Indemnification

7.1 *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible.*

7.2 To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

7.3 You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

Section 8: Miscellaneous Provisions

8.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

8.2 You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

8.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

8.4 This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

8.5 If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8.6 No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.

2.a.

IEA, INC.

PROPOSAL



Contact Us:

BROOKLYN PARK OFFICE
9201 W. BROADWAY, #600
BROOKLYN PARK, MN 55445
763-315-7900

MANKATO OFFICE
610 N. RIVERFRONT DRIVE
MANKATO, MN 56001
507-345-8818

ROCHESTER OFFICE
210 WOOD LAKE DRIVE SE
ROCHESTER, MN 55904
507-281-6664

BRAINERD OFFICE
601 NW 5TH ST. SUITE #4
BRAINERD, MN 56401
218-454-0703

MARSHALL OFFICE
1420 EAST COLLEGE DRIVE
MARSHALL, MN 56258
507-476-3599

VIRGINIA OFFICE
5525 EMERALD AVENUE
MOUNTAIN IRON, MN 55768
218-410-9521

www.ieasafety.com

800-233-9513

Indoor Air Quality (IAQ) Assessment at Crosslake Fire Hall for City of Crosslake

JULY 28, 2021

IAQ Assessment

PROPOSAL PROVIDED TO:

Mike Lyonais
City of Crosslake

PROPOSAL CONTACT:

Taylor Dickinson, CSP
IEA, Inc.

PROJECT INTRODUCTION

IEA, Inc. was requested by Hy-Tec Construction of Brainerd, Inc. to submit a proposal for an indoor air quality (IAQ) assessment (the Assessment) in the Crosslake Fire Hall to conduct an overall IAQ assessment of the building to assess for fungal growth.

SCOPE OF WORK

Visual Inspection

- IEA will obtain general project information from the building representative for site documentation.
- IEA will visually assess concern areas, where accessible, for evidence of conditions and/or activities with potential to impact air quality. Photo documentation will be collected to illustrate the site conditions, as necessary.

Air Sample Spore-Trap Sampling

- IEA will collect three (3) spore-trap air samples in various areas and one required outdoor sample for comparison purposes (four (4) samples total).
- Spore trap samples will be collected with Air-O-Cell™ cassettes. This type of sampling involves impacting fungal spores and other structures onto a sticky medium. The samples provide an overview of the total number of airborne spore's present (both viable and non-viable).
- The samples will be analyzed by EMSL Analytical Laboratory in New Hope, Minnesota on a 24-hour turnaround timeframe.

Air Quality Measurements

- IEA will measure carbon dioxide, carbon monoxide, temperature, and relative humidity in various locations and outdoors, for comparison purposes.

Documentation

- A final report including site observations, laboratory results and discussion, conclusions, and recommendations will be provided. The report will be reviewed by an Indoor Environmental Professional.

LIMITATIONS & ASSUMPTIONS

IEA assumes the areas of concern will be accessible during the Assessment. Non-accessible areas will not be included in this scope of work.

IEA assumes that the ventilation system will be operating in typical occupied mode during the site assessment.

COMPENSATION

IEA's fee associated with this project as outlined above is **\$1,850**. This fee includes travel and reimbursables, laboratory fees, equipment costs, project management and coordination, and report time.

IAQ Assessment

For project work beyond the services outlined in this proposal and/or changes to the agreed upon scope of work, IEA will obtain approval through a client-authorized change order.

SCHEDULE

IEA's services will commence upon receipt of the signed proposal.

We anticipate completing the project within 30 business days upon receipt of authorization to proceed.

PROPOSAL TERMS

Terms on payment of services are net 30 days after invoicing, with interest added to unpaid balances. Please review the attached General Conditions, which are a part of this proposal, for more detail.

AUTHORIZATION TO PROCEED

We appreciate the opportunity to present this proposal for IAQ Reactive Assessment. Please sign this authorization to proceed and e-mail to Taylor Dickinson at Taylor.Dickinson@ieasafety.com. Retain the original for your records. We will begin the project at the time we receive this written documentation to proceed.

IEA, Inc.



Taylor Dickinson, CSP
Virginia & Brainerd Regional Manager

Please proceed according to the above stated fees, terms, attached General Conditions, and proposal dated July 28, 2021.

Printed Name

Authorized Signature

Date

PO Number

Appendix A

General Conditions

General Conditions

The word "Consultant" refers to the Institute for Environmental Assessment ("IEA"), the contracting company is referred to as the "Client". Client agrees to be bound by these General Conditions by accepting the Proposal and engaging Consultant.

The Agreement with you, the Client, is comprised of this Agreement and accompanying written proposal.

1. Scope of Work

Consultant will furnish and perform the professional services specified in Consultant's proposal (the "Proposal"). The services as set forth in the Proposal (the "Services") will be provided by Consultant's personnel at the location of the Client (the "Site") (hereinafter referred to as the "Project"). If any portion of the Proposal is inconsistent with this Agreement, the terms of this Agreement shall control:

Consultant's obligation to perform the Services shall terminate upon delivery of a final report within 45 days of Project completion.

In addition to the Proposal, Consultant and Client agree as follows:

A. Right of Access

Unless otherwise agreed in writing, Client will furnish Consultant with right-of-access to the Site and accurate information necessary to conduct the Services, as requested by Consultant.

B. Confidential & Proprietary Information

The Consultant and Client agree not to disclose to others or use any confidential or proprietary information or trade secrets of the other, which may become known to each prior to, during or after the performance of this Agreement without the prior written consent of the other. "Confidential or propriety information" and "trade secrets" shall mean any information about the other which is neither publicly known nor legally accessible to the other parties from third parties. Prior to the disclosure of any such confidential or proprietary information or trade secrets, each shall obtain the written approval of the other.

C. General

Consultant warrants that the Services it performs under this Agreement will be performed with the care and skill ordinarily exercised by reputable members of its profession practicing under similar conditions during the period of this Agreement and in the same or similar locality. The AIHA-certified IEA laboratory will perform PCM analysis if specified. Other field PCM analysis will be completed by laboratory-approved field technicians, generally under AAR Guidelines.

2. Payment for Services

A. Fee Schedule & Maximum Costs

The fee schedule in the Proposal specifies the amounts due to Consultant from Client for its Services performed under this Agreement.

B. Schedule of Payment

Invoices will be submitted to Client once a month for services performed during the prior month. Payment to Consultant is due upon presentation to Client, and past due after thirty (30) days of receipt of the invoice, in which case a service fee of 1.5% monthly shall be added to the invoice, unless specifically arranged otherwise by Consultant and communicated in writing. Client reserves the right to question any item on any invoice and Consultant agrees, upon Client's request, to supply such documentation as is necessary to reasonably justify such invoice amount to Client's reasonable satisfaction. Client agrees to pay Consultant any costs of collection including reasonable attorneys' fees and costs if payment for Services are not made when due.

C. Expert Fee Expenses

If Client requests Consultant to participate on behalf of Client in litigation regarding the subject matter of this Agreement, Client agrees to pay all of Consultant's expenses arising therefrom at the prevailing rate for Consultant's time plus out-of-pocket costs and expenses, including reasonable attorney fees incurred by Consultant in conjunction with the participation.

3. Indemnity & Insurance

A. Indemnity

Consultant shall indemnify and hold harmless Client against losses, damages and claims, demands, actions, costs (including reasonable attorney fees), and fines of any kind resulting from any breach of this Agreement by Consultant, its employees, agents, subcontractors or licensees, of their obligation under this Agreement, or from any negligence or misconduct by Consultant, its employees, agents, subcontractors or licensees, but only for the proportion of damages which is equal to Consultant's proportion of the total fault which directly caused the damages. Client shall indemnify and hold harmless Consultant against losses, damages and claims, demands, actions, costs (including reasonable attorney fees), and fines of any kind resulting from any breach of this Agreement by Client, its employees, agents, subcontractors or licensees, of their obligation under this Agreement, or from any negligence or misconduct by Client, its employees, agents, subcontractors or licensees, but only for the proportion of damages which is equal to Client's proportion of the total fault which directly caused the damages.

B. Limitation of Liability

EXCEPT AS EXPRESSLY SET FORTH IN SECTION 1(C) HEREOF, CONSULTANT DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL EITHER CONSULTANT OR CLIENT BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND WHETHER FOR BREACH OF ANY WARRANTY, FOR BREACH OR REPUDIATION OF ANY OTHER TERM OR CONDITION OF THIS AGREEMENT, FOR NEGLIGENCE ON THE BASIS OF STRICT LIABILITY OR OTHERWISE.

General Conditions (cont'd)

C. Insurance

(1) Consultant carries coverage and limits of liability insurance as follows:

- (a) Workers Compensation with statutory limits.
- (b) Employers' Liability with a minimum policy limit of \$1,000,000.00.
- (c) Comprehensive General Liability with the following coverage:
 - I. Limit \$1,000,000.00 per occurrence
 - II. \$2,000,000.00 general aggregate
 - III. \$2,000,000.00 products completed/ operations aggregate
 - IV. \$1,000,000.00 personal and advertising injury
 - V. \$300,000.00 fire Damage (any one fire)
 - VI. \$25,000.00 medical expenses (any one person)
- (d) Automobile insurance covering all owned, non-owned or hired automobiles used in connection with the work covering bodily injury and property damage with a minimum combined occurrence limit of \$1,000,000.00
- (e) Professional Liability (claims made) with the following coverage:
\$1,000,000.00 per occurrence
- (f) Contractor Pollution Liability (claims made):
\$1,000,000.00 each occurrence
- (g) Umbrella Liability.
\$5,000,000.00 each occurrence

(2) Client (or Owner if applicable), Subcontractors and Agents agree to provide Consultant, upon request, Certificate(s) of Insurance signed by the insurer evidencing insurance for premise liability, general liability, auto and workers comp. equal or greater than those limits carried by the Consultant.

(3) Consultant shall promptly deliver to Client (or Owner if applicable), upon request, certificate(s) of insurance signed by the insurer for the policies described in (3) (C) above, or certified copies of such insurance policies indicating the existence of such coverage. IEA must be listed as both certificate holder and insured, or additional insured on each certificate of insurance.

4. Assignment

This Agreement shall not be assigned by Consultant without prior written consent of the Client.

5. Independent Contractor

Consultant is an independent Contractor and shall not be considered an employee, partner or joint venturer of the Client for any purpose.

6. Restriction to hire employees of Consultant

Client agrees to refrain from hiring, contracting, or retaining the services of Consultant's employees during or within 12 months after the termination of Consultant's services. If Client hires an employee of Consultant in violation of this Section 6 without Consultant's written consent, Client shall pay Consultant a placement fee equal to twenty-five percent (25%) of such employee's annual wages.

7. Notices

Any notice under this Agreement shall be in writing and shall be deemed to be properly given when delivered to an officer of Client or the Consultant's Chief Financial Officer, as the case may be, at their addresses as set forth in the Proposal. The courts located in the State of Minnesota shall have exclusive jurisdiction in any actions commenced by Consultant or Client in connection with this Agreement, the Project or the Services.

8. Applicable Law

This Agreement shall be governed by and construed under the laws of the State of Minnesota. Parties agree to participate in pre-suit mediation prior to commencement of an action.

9. Extent of Agreement

This Agreement, together with the Proposal, represents the entire Agreement between Client and Consultant, and supersedes all prior obligations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument, dated and executed by both Client and Consultant.

10. Termination

Upon completion of the Project, Consultant will, at Client's request, deliver to Client or its designee all records, documents or materials in its possession or control of Consultant which are owned by Client. The obligations and provisions of Sections 1B, 2, 3, 5, 6 and 10 shall survive completion of the Project or termination of this Agreement.

MEMO TO: City Council
 FROM: Ted Strand
 DATE: July 27, 2021
 SUBJECT: Updated Costs for Crosswalks

At its Regular Meeting on June 14, 2021, the Council made a motion to approve the purchase of 3 lighted crosswalk signals without poles, contingent on Crow Wing County approving the plan. The County approved the installation of 2 crosswalk signals on County Road 66 at Swann Drive and at County Road 3. The cost for the 2 signals was \$10,782. I have received updated costs on the installation of the lighted crosswalks and would like Council approval to proceed.

- Crosswalk Signals: **\$10,782**
- Posts: **\$ 2,280** (We planned to use 2" posts and the Engineer's plans required 2.5" breakaway posts)
- Quote for Cement: **\$8,661**
- Quote for Asphalt: **\$5,000**
- Engineering Estimate **\$10,000** (includes inspection costs)

TOTAL ESTIMATED COST = \$36,723