

December 15, 2023

Jeff Hintz
Department of Public Works
115 2nd Street S.E.
Sidney, MT. 59270

**RE: Letter Agreement between Client and AE2S Nexus
Sidney Water, Wastewater, Parks, and Street Equipment Impact Fee Update**

Dear Mr. Hintz:

Advanced Engineering and Environmental Services, LLC (d/b/a “AE2S Nexus”) proposes to provide Water, Wastewater, Parks, and Street Equipment Impact Fee Update (Assignment) to City of Sidney, MT (CLIENT). This Agreement, including Exhibit A, sets forth the terms and conditions under which the CLIENT and AE2S Nexus shall be governed regarding the services to be provided, and shall take effect upon CLIENT’S acceptance.

Scope of Services

AE2S Nexus will perform the following tasks:

- Prepare and submit an initial information request

- Water System Impact Fee Update
 - This task will update the existing recommendations for the water system impact fee and include items such as, reviewing existing methodology, verifying system capacities and level of service, projecting EDUs, compiling the service area report, and finalizing any fee calculations.

- Wastewater System Impact Fee Update
 - This task will update the existing recommendations for the wastewater system impact fee and include items such as, reviewing existing methodology, verifying system capacities and level of service, projecting EDUs, compiling the service area report, and finalizing any fee calculations.

- Parks Impact Fee Update
 - This task will update the existing recommendations for the city park system impact fee and include items such as updating asset inventories and values, reviewing changes to level of service, integrating growth outlooks, and finalizing any fee calculations.

Mr. Jeff Hintz, City of Sidney MT

RE: Letter Agreement for Water, Wastewater, Parks, and Street Equipment Impact Fee Update

December 15, 2023

Page 2 of 3

- Street Equipment Impact Fee Update
 - This task will update the existing recommendations for the city's street vehicles impact fee and include items such as updating asset inventories and values, reviewing changes to level of service, integrating growth outlooks, and finalizing any fee calculations.

- Meetings & Presentations
 - As part of this project, AE2S will schedule two electronic review meetings with staff, one electronic review meeting with the advisory committee, and one in person presentation to Council.

- Deliverables will include a separate report for each service area / fee and presentation materials to council.

Additional Services

Services resulting from significant changes in the general scope, extent, or character of the Assignment are not included as a part of the general Scope of Services. If authorized in writing by the CLIENT, AE2S Nexus will provide services beyond the scope of this Agreement on an hourly basis in accordance with the Hourly Fee Schedule attached as Exhibit B.

CLIENT's Responsibilities

CLIENT shall do the following in a timely manner, so as not to delay the services of AE2S Nexus:

1. Designate a person to act as CLIENT's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define CLIENT's policies and decisions with respect to services for the Assignment.
2. Provide all criteria and full information as to CLIENT'S requirements for the Assignment.

CLIENT shall bear all costs incident to compliance with its responsibilities pursuant to this section.

Fees

AE2S Nexus shall render services under this Agreement on an hourly basis in accordance with the Hourly Fee Schedule attached as Exhibit B not to exceed **\$44,750** without written authorization from CLIENT, plus reimbursement for all project related expenses.

Schedule

AE2S Nexus shall use commercially reasonable efforts to complete Basic Services within a reasonable time period.

Mr. Jeff Hintz, City of Sidney MT

RE: Letter Agreement for Water, Wastewater, Parks, and Street Equipment Impact Fee Update

December 15, 2023

Page 3 of 3

Contract Documents

This Agreement includes the following documents, incorporated herein by reference:

1. Exhibit A - Terms and Conditions;
2. Exhibit B - Hourly Fee and Expense Schedule; and
3. All other attached Exhibits referenced in this Agreement.

There are no contract documents other than this Agreement and those documents listed above.

AE2S Nexus Designated Representative

Ryan Graf, Senior Consultant
4050 Garden View Dr, Ste 200
Grand Forks, ND 58201
(218) 791-5847
Ryan.Graf@ae2s.com

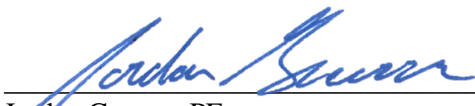
Acceptance

If this Agreement sets forth your understanding of our agreement, including the scope of work desired, fees, terms, and conditions, please sign in the space provided and return a copy to AE2S Nexus. Thank you for the opportunity to assist in this project and we look forward to working with you.

Sincerely,

Ryan Graf, Senior Consultant

AE2S Nexus

By: 
Jordan Grasser, PE
Operations Manager

Accepted this _____ day of _____, 202_____

By: _____
Name and Title

Standard Terms and Conditions

The Agreement is supplemented to include the following terms and conditions:

1. **Standard of Care**
 - a. The standard of care for all professional services performed or furnished by AE2S Nexus under this Agreement will be the care and skill ordinarily used by members of AE2S Nexus's profession practicing under similar circumstances at the same time and in the same locality. AE2S Nexus makes no warranties, express or implied, under this Agreement or otherwise, in connection with AE2S Nexus's services.
 - b. CLIENT shall be responsible for, and AE2S Nexus may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by CLIENT to AE2S Nexus pursuant to this Agreement. AE2S Nexus may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.
 - c. AE2S Nexus's services do not include serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission.
2. **Payments to AE2S Nexus**
 - a. Invoices will be prepared in accordance with AE2S Nexus's standard invoicing practices and will be submitted to CLIENT by AE2S Nexus monthly, unless otherwise agreed. Invoices are due and payable within 30 days. If CLIENT fails to make any payment due AE2S Nexus for services and expenses within 30 days, the amounts due AE2S Nexus will be increased at the rate of 1.75% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, AE2S Nexus may, after giving seven days written notice to CLIENT, suspend services under this Agreement until AE2S Nexus has been paid in full all amounts due for services, expenses, and other related charges. All payments shall be made in United States Dollars.
 - b. AE2S Nexus' estimate of the amounts that will become payable are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to AE2S Nexus under the Agreement.
 - c. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to AE2S Nexus that a compensation amount thus estimated will be exceeded, AE2S Nexus shall give CLIENT written notice thereof. Promptly thereafter CLIENT and AE2S Nexus shall review the matter of services remaining to be performed and compensation for such services. CLIENT shall either agree to such compensation exceeding said estimated amount or CLIENT and AE2S Nexus shall agree to a reduction in the remaining services to be rendered by AE2S Nexus, so that total compensation for such services will not exceed said estimated amount when such services are completed.
 - d. AE2S Nexus' compensation is conditioned on time to complete the Assignment not exceeding the time identified in in this Agreement. Should the time to complete the Assignment be extended beyond this period due to reasons not the fault of and beyond the control of AE2S Nexus, the total compensation to AE2S Nexus shall be appropriately adjusted.
3. **Insurance**

AE2S Nexus will maintain insurance coverage for Workers' Compensation, Professional Liability, General Liability, and Automobile Liability and will provide certificates of insurance to CLIENT upon request.
4. **Indemnification and Allocation of Risk**
 - a. To the fullest extent permitted by law, AE2S Nexus shall indemnify and hold harmless CLIENT and CLIENT's officers, directors, members, and employees from any and all costs, losses, and damages (including but not limited to all reasonable fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of AE2S Nexus or AE2S Nexus's officers, directors, members, partners, employees, or Consultants. The parties expressly agree that AE2S Nexus or AE2S Nexus's officers, directors, members, partners, or employees have no duty to defend CLIENT and CLIENT's officers, directors, members, and employees against any claims, causes of action, demands, lawsuits, or proceedings of any kind.
 - b. To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless AE2S Nexus, AE2S Nexus's officers, directors, partners, employees, and consultants from and against costs, losses, and damages (including but not limited to reasonable fees and charges of engineers, architects, attorneys, and other professionals, and reasonable court or arbitration or other dispute resolution costs) to the extent caused by the negligent acts or omissions of CLIENT or CLIENT's officers, directors, partners, employees, and consultants with respect to this Agreement.
 - c. To the fullest extent permitted by law, AE2S Nexus's total liability to CLIENT and anyone claiming by, through, or under CLIENT for any injuries, losses, damages and expenses caused in part by the negligence of AE2S Nexus and in part by the negligence of CLIENT or any other negligent entity or individual, shall not exceed the AE2S Nexus's negligence bears to the total negligence of CLIENT, AE2S Nexus, and all other negligent entities and individuals.
5. **Exclusion of Special, Incidental, Indirect, and Consequential Damages**

To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, AE2S Nexus and AE2S Nexus's officers, directors, partners, employees, agents, and Consultants, or any of them, shall not be liable to CLIENT or anyone claiming by, through, or under CLIENT for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Services or this 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 AE2S Nexus or AE2S Nexus's officers, directors, partners, employees, agents, or AE2S Nexus's Consultants, or any of them.
6. **Limit of Liability**

To the fullest extent permitted by law, notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of AE2S Nexus and AE2S Nexus's officers, directors, partners, employees, agents, and AE2S Nexus's Consultants, and any of them, to CLIENT and anyone claiming by, through, or under CLIENT 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 AE2S Nexus or AE2S Nexus's officers, directors, partners, employees, agents, or AE2S Nexus's Consultants, or any of them, shall not exceed total compensation received by AE2S Nexus as part of this Agreement.
7. **Termination of Contract**

Either party may at any time, upon seven days prior written notice to the other party, terminate this Agreement. Upon such termination, CLIENT shall pay to AE2S Nexus all amounts owing to AE2S Nexus under this Agreement, for all work performed up to the effective date of termination, plus reasonable termination costs.

8. Access
CLIENT shall arrange for safe access to and make all provisions for AE2S Nexus and AE2S Nexus's Consultants to enter upon public and private property as required for AE2S Nexus to perform services under this Agreement.
9. Ownership and Reuse of Documents
All documents prepared or furnished by AE2S Nexus pursuant to this Agreement are instruments of service, and AE2S Nexus shall retain an ownership and property interest therein. Reuse of any such documents by CLIENT shall be at CLIENT's sole risk; and CLIENT agrees to indemnify, and hold AE2S Nexus harmless from all claims, damages, and expenses including attorney's fees arising out of such reuse of documents by CLIENT or by others acting through CLIENT.
10. Force Majeure
AE2S Nexus shall not be liable for any loss or damage due to failure or delay in rendering any service called for under this Agreement resulting from any cause beyond AE2S Nexus's reasonable control.
11. No Third Party Beneficiaries
All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of CLIENT and AE2S Nexus and not for the benefit of any other party. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either CLIENT or AE2S Nexus. AE2S Nexus's services under this Agreement are being performed solely for CLIENT's benefit, and no other entity shall have any claim against AE2S Nexus because of this Agreement or the performance or nonperformance of services hereunder.
12. Assignment
Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.
13. Binding Effect
This Agreement shall bind, and the benefits thereof shall inure to the respective parties hereto, their legal representatives, executors, administrators, successors, and assigns.
14. Severability and Waiver of Provisions

Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and AE2S Nexus, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

15. Survival
All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.
16. Headings
The headings used in this Agreement are for general reference only and do not have special significance.
17. Controlling Law
This Agreement is to be governed by the law of the State of Montana without regard to its conflicts of laws principles.
18. Notices
Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
19. Executed in Counterparts
This Agreement may be executed in counterparts, each of which together will constitute one and the same instrument. Delivery of an executed counterpart of this Agreement shall constitute effective delivery of this Agreement. Each party agrees that the delivery of the Agreement by facsimile or electronic mail shall have the same force and effect as delivery of original signature and that each Party may use such facsimile or electronic mail signatures as evidence of the execution and delivery of the Agreement by the parties to the same extent that an original signature could be used.

2023 Hourly Fee and Expense Schedule

Labor Rates*

Administrative 1	\$65.00	I&C Assistant	\$100.00
Administrative 2	\$79.00	I&C 1	\$148.00
Administrative 3	\$95.00	I&C 2	\$175.00
		I&C 3	\$198.00
Communications Specialist 1	\$105.00	I&C 4	\$210.00
Communications Specialist 2	\$122.00	I&C 5	\$220.00
Communications Specialist 3	\$141.00		
Communications Specialist 4	\$170.00	IT 1	\$130.00
Communications Specialist 5	\$187.00	IT 2	\$175.00
		IT 3	\$215.00
Construction Services 1	\$125.00		
Construction Services 2	\$153.00	Land Surveyor Assistant	\$95.00
Construction Services 3	\$170.00	Land Surveyor 1	\$115.00
Construction Services 4	\$188.00	Land Surveyor 2	\$139.00
Construction Services 5	\$208.00	Land Surveyor 3	\$157.00
		Land Surveyor 4	\$173.00
Engineering Assistant 1	\$85.00	Land Surveyor 5	\$190.00
Engineering Assistant 2	\$99.00		
Engineering Assistant 3	\$125.00	Operations Specialist 1	\$100.00
Engineer 1	\$135.00	Operations Specialist 2	\$125.00
Engineer 2	\$162.00	Operations Specialist 3	\$155.00
Engineer 3	\$190.00	Operations Specialist 4	\$177.00
Engineer 4	\$220.00	Operations Specialist 5	\$199.00
Engineer 5	\$235.00		
		Project Coordinator 1	\$116.00
Engineering Technician 1	\$84.00	Project Coordinator 2	\$130.00
Engineering Technician 2	\$105.00	Project Coordinator 3	\$145.00
Engineering Technician 3	\$126.00	Project Coordinator 4	\$160.00
Engineering Technician 4	\$141.00	Project Coordinator 5	\$180.00
Engineering Technician 5	\$161.00		
		Project Manager 1	\$205.00
Financial Analyst 1	\$112.00	Project Manager 2	\$225.00
Financial Analyst 2	\$127.00	Project Manager 3	\$240.00
Financial Analyst 3	\$153.00	Project Manager 4	\$254.00
Financial Analyst 4	\$167.00	Project Manager 5	\$272.00
Financial Analyst 5	\$186.00	Project Manager 6	\$284.00
GIS Specialist 1	\$105.00	Sr. Designer 1	\$178.00
GIS Specialist 2	\$127.00	Sr. Designer 2	\$198.00
GIS Specialist 3	\$150.00	Sr. Designer 3	\$212.00
GIS Specialist 4	\$168.00		
GIS Specialist 5	\$187.00	Sr. Financial Analyst 1	\$210.00
		Sr. Financial Analyst 2	\$230.00
		Sr. Financial Analyst 3	\$250.00
		Technical Expert 1	\$325.00
		Technical Expert 2	Negotiable

Reimbursable Expense Rates

Transportation	\$0.75/mile
Survey Vehicle	\$0.95/mile
Laser Printouts/Photocopies	\$0.30/copy
Plotter Printouts	\$1.00/s.f.
UAS - Photo/Video Grade	\$100.00/day
UAS – Survey	\$50.00/day
Total Station – Robotic	\$35.00/hour
Mapping GPS	\$25.00/hour
Fast Static/RTK GPS	\$50.00/hour
All-Terrain Vehicle/Boat	\$100.00/day
Cellular Modem	\$75.00/month
Web Hosting	\$26.00/month
Legal Services Reimbursement	\$250.00/hour
Outside Services	cost *1.15
Geotechnical Services	cost *1.30
Out of Pocket Expenses	cost*1.15
Rental Car	cost*1.20
Project Specific Equipment	Negotiable

**These rates are subject to adjustment each year on January 1.*

Position titles are for labor rate grade purposes only