

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into on the 21st day of January, 2020, between the **CITY OF SHAKOPEE**, 485 Gorman Street, Shakopee, MN 55379 ("City") and **WSB, INC.**, 701 Xenia Avenue South, Minneapolis, MN 55416 ("Consultant").

Preliminary Statement

The purpose of this Agreement is to set forth terms and conditions for the provision of professional services by the Consultant for the City for the following described Project:

Traffic Study – Cretex/Forterra site

The City and Consultant agree as follows:

1. **Consultant's Services.** The Consultant agrees to provide professional services as described in Exhibit A, Scope of Work and any addenda thereto. The Consultant shall serve as the City's professional consultant in the specified work and shall provide consultation and advice to the City during the performance of its services. The Consultant agrees to use the City's standard specifications in any bidding documents prepared under this Agreement. The requirements of this section may be waived by the City if the City Engineer determines that they are not necessary for the successful completion of the project. A Consultant requesting a requirement to be waived must have written authorization from the City Engineer and must be incorporated into this agreement.
2. **Time for Performance of Services.** The Consultant will endeavor to perform the services outlined in the work program within the prescribed days from the date of the contract award. Any changes in this schedule must be approved in writing by the City.
3. **Term.** The term of this Agreement will be from January 21, 2020, through December 31, 2020, the date of signature by the parties notwithstanding. This Agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the terms and conditions as herein stated.
4. **Compensation for Services.** City agrees to pay the Consultant for services as described in Exhibit A, attached and made a part of this Agreement, which may be amended from time to time by mutual agreement by City and Consultant. The Consultant's hourly rates must be based on the hourly rates approved by the City.

The Agreement amount shall include all services to be rendered by the Consultant as part of this Agreement (including all travel, living and overhead expenses incurred by the Consultant in connection with performing the services herein) except for special services authorized in writing by the City. The amount stipulated shall be considered a "Not to Exceed" cost to the City.

The Consultant must keep track of the costs billable under this contract at all times; any work in excess of the negotiated amount shall not be eligible for payment unless preapproved. The Consultant must notify the City if the Consultant anticipates that the negotiated amount might be exceeded, in order to determine whether or not the City is prepared to increase the compensation. This notification and approval must occur in advance of the work occurring to be considered for compensation.

5. **Payment of Fees.** The Consultant must submit itemized bills for services provided to the City on a monthly basis. The monthly billing must summarize the progress of the project as certified by the Consultant. For work reimbursed on an hourly basis, the Consultant must indicate for each employee, his or her classification, the number of hours worked, rate of pay for each employee, a computation of amounts due for each employee, the total amount due, the original contracted amount, the current requested amount, and the total amount. Consultant must verify all statements submitted for payment in compliance with Minnesota Statutes Sections 471.38 and 471.931. For reimbursable expenses, the Consultant must provide such documentation as reasonably required by the City. Consultant bills submitted will be paid in the same manner as other claims made to the City.
6. **Audit Disclosure.** The Consultant must allow the City or its duly authorized agents reasonable access to such of the Consultant's books and records as are pertinent to all services provided under this Agreement.

Any reports, information, data, etc. given to, or prepared or assembled by the Consultant under this Agreement which the City requests to be kept confidential must not be made available to any individual or organization without the City's prior written approval. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant will become the property of the City upon termination of this Agreement, but Consultant may retain copies of such documents as records of the services provided and may reuse standard portions of such documents in the normal course of its business.

7. **Termination.** Termination for Cause. This Agreement may be terminated by City by seven day's written notice to Consultant delivered to the address written above.

Upon termination under this provision, the Consultant will be paid for services rendered and reimbursable expenses until the effective date of termination.

If, through any cause (except those reasonably beyond Consultant's control), the Consultant shall fail to fulfill in timely and proper manner its obligations under this Contract, or if the Consultant shall violate any of the covenants, agreements, or stipulation of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective date of termination. In that event the Consultant shall have sixty (60) days to furnish all finished or unfinished documents, computer programs, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Consultant under this Contract, which shall, at the option of the City, become its property, and the Consultant shall be entitled to receive just, equitable compensation for any satisfactory work completed on such documents and other materials prior to the effective date of termination.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Consultant, and the City may withhold any payments to the Consultant for the purpose of setoff until such time as the exact amount of damages due the City from the Consultant is determined.

In the event this Contract is terminated for cause, then the City may take over and complete the work, by contract or otherwise, and the Consultant and its sureties shall be liable to the City for any costs over the amount of this contract thereby occasioned by the City. In any such case the City may take possession of, and utilize in completing the work, such materials, appliances and structures as may be on the work site and are necessary for completion of the work. The foregoing provisions are in addition to, and not in limitation of, any other rights which the City may have.

Termination Not For Cause. The City may terminate this Contract at any time, with or without cause, by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, the Consultant shall have sixty (60) days to furnish all finished or unfinished documents, computer programs, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Consultant under this Contract, which shall, at the option of the City, become its property. If the Contract is terminated by the City as provided in this paragraph, the Consultant will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total

services of the Consultant covered by this Contract, less payments or compensation previously made.

8. **Subcontractor.** The Consultant must not enter into subcontracts for any of the services provided for in this Agreement without the express written consent of the City.
9. **Independent Contractor.** At all times and for all purposes hereunder, the Consultant is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Consultant an employee of the City.
10. **Assignment.** Neither party will assign this Agreement, nor any interest arising herein, without the written consent of the other party.
11. **Services not Provided for.** No claim for services furnished by the Consultant not specifically provided for herein will be honored by the City.
12. **Severability.** The provisions of this Agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision will not affect the remaining provisions of the Agreement.
13. **Entire Agreement.** The entire agreement of the parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when expressed in writing and duly signed by the parties unless otherwise provided herein.
14. **Compliance with Laws and Regulations.** In providing services hereunder, the Consultant must abide by all statutes, ordinances, rules and regulations pertaining to the provision of services to be provided. Any violation will constitute a material breach of this Agreement and entitle the City to immediately terminate this Agreement.
15. **Equal Opportunity.** During the performance of this contract, the Consultant must not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age. The Consultant must post in places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and stating that all qualified applicants

will receive consideration for employment. The Consultant must incorporate the foregoing requirements of this paragraph in all of its subcontracts for program work, and will require all of its subcontractors for such work to incorporate such requirements in all subcontracts for program work.

16. **Waiver.** Any waiver by either party of a breach of any provisions of this Agreement will not affect, in any respect, the validity of the remainder of this Agreement.
17. **Liability and Indemnity.** The Consultant must indemnify and hold harmless the City, its employees and agents, for all claims, damages, losses, and expenses, including, but not limited to, attorney's fees, which they may suffer or for which they may be held liable, as a result of, and to the extent of, the negligent or wrongful acts of the Consultant, his employees, or anyone else for whom he is legally responsible in the performance of this Agreement.

The Consultant assumes full responsibility for relations with its subcontractors, and must hold the City harmless and must defend and indemnify the City, its employees and agents, for any claims, damages, losses, and expenses in any manner caused by such subcontractors, arising out of or connected with this contract.

18. **Insurance.** During the term of this Agreement, Consultant must procure and maintain during the life of this Contract, and provide the City with a certificate of insurance showing, the following coverage for each occurrence and in aggregate:
 - A. Comprehensive General Liability Insurance, including Broad Form Property Damage, Completed Operations and Contractual Liability for limits not less than \$1,500,000 each occurrence for damages of bodily injury or death to one or more persons and \$1,500,000 each occurrence for damage to or destruction of property.
 - B. Insurance coverage for Special Hazards, including but not limited to explosion hazard, collapse hazard, underground property damage hazard, (commonly known as XCU).
 - C. Comprehensive Automobile Liability Insurance, in an amount not less than \$1,500,000 for each occurrence. Coverage shall include all owned autos, non-owned autos, and hired autos.
 - D. Errors and Omissions Insurance against errors and omissions resulting from the performance of Consultant's work under this Agreement. Said

coverage shall be in an amount not less than \$2,000,000 per claim, \$2,000,000 annual aggregate.

E. Workmen's Compensation insurance for all its employees as required by the Minnesota Worker's Compensation Act.

F. The City of Shakopee must be named as "ADDITIONALLY INSURED" on the insurance described in paragraphs A, B, and C, and must receive 30 day written notice in the event of cancellation of any of the specified insurance. If the deductible provisions of the Consultant's coverage or any subcontractor's coverage is questioned by the City, the Consultant shall provide the City, upon request, "Proof of Assets".

This policy must provide, as between the City and the Consultant, that the Consultant's coverage shall be the primary coverage in the event of a loss. If the Consultant is providing either architectural or engineering services, the Consultant must also maintain during the term of this Agreement a professional liability insurance policy with the same limits as for general liability. A certificate of insurance on the City's approved form which verifies the existence of these insurance coverages must be provided to the City before work under this Agreement is begun.

19. **Governing Law.** This Agreement will be controlled by the laws of the State of Minnesota.
20. **Whole Agreement.** This Agreement embodies the entire agreement between the parties including all prior understanding and agreements, and may not be modified except in writing signed by all parties.

Executed as of the day and year first written above.

CITY OF SHAKOPEE

By: _____
William H. Reynolds, City Administrator

Date: _____

By: _____
Bill Mars, Mayor

Date: _____

WSB, INC.

By: _____

Its: Principal

Date: 1/10/2020

December 31, 2019

EXHIBIT A

Mr. Micah Heckman P.E.
Project Engineer
City of Shakopee, Engineering Division
485 Gorman Street,
Shakopee, MN 55379

Re: Cretex/Forterra Site
Proposal to Provide Traffic Engineering Services
City of Shakopee, Minnesota

Dear Mr. Heckman:

WSB is pleased to submit this proposal to prepare a Traffic Study for a proposed development of the Cretex / Forterra site located south of CR 101 between Stagecoach Road and 70th Street in the City of Shakopee.

The purpose of the Traffic Study will be to document the traffic impacts the proposed Cretex / Forterra Site development will have on the existing roadway network and determine possible access alternatives and/or improvements, if required, to mitigate any traffic impacts for the short term (2025) and long term (2040) conditions.

The site is proposed to consist of general industrial uses on approximately 61.3 acres. The developer has prepared a conceptual site plan that includes a total of 251,200sf however, the City believes the site has potential for up to 700,000sf of uses. Therefore, the Traffic Study will include analysis of both development scenarios.

The existing site currently has access to 70th Street however, the planned site development is proposing access to both 70th Street and Stagecoach Road using a new Frontage Road connection through the site. The Traffic Study will include preparation of access concept alternatives for the site, including Stagecoach Road concept alternatives.

Our project team will be led by Mr. Chuck Rickart, PE, PTOE. He will serve as project manager and coordinate all activities with the City of Shakopee. He will be assisted by Mallori Fitzpatrick PE - lead traffic engineer and Mary Schwartz - engineering specialist.

Based on our understanding of the project we have developed the attached Scope of Work, Estimated Cost and Schedule to complete the Cretex / Forterra Site Traffic Study.

If you have any questions concerning the work plan or fee as presented, please feel free to contact me at (612) 360-1283. We look forward to working with you and greatly appreciate the opportunity to assist you with this project.

Sincerely,

WSB



Charles T. Rickart, PE, PTOE
Project Manager/Principal

Cretex / Forterra Site Traffic Study Proposal City of Shakopee

Scope of Work

Task 1 – Project Management:

This task includes planning and coordination of all work tasks, establishment and monitoring of budgets, and correspondence with the City. The project manager will provide technical direction on all aspects of the project, all work products, and keep the City informed on the project progress. The project manager will serve a primary role in the traffic analysis and recommendation of any mitigation improvements.

Task 2 - Data Collection / Document Existing Conditions:

WSB will collect available data from the City of Shakopee, Scott County, MnDOT and Developer including but not limited to:

- Existing and historic traffic volume data
- Updated crash history
- Proposed Site development plans
- Area development plans and Land Use plans
- As built roadway plans
- Existing traffic control and lane configuration at the key intersections
- Survey/topographic data previously obtained or readily available
- Wetland and floodplain locations from available GIS or other mapping
- Other available studies

WSB will also collect updated traffic volume data including: 48-hour average daily traffic (ADT) directional and heavy vehicle counts at up to 5 locations (one on Stagecoach Road, one on 70th Street and three on CR 101), and; peak hour (AM and PM) turning movement counts on at the intersections of:

- CR 101 at Stagecoach Rd
- Stagecoach Rd at Driveways south of CR 101
- CR 101 at 70th St
- 70th Str at Frontage Road
- CR 101 at Frontage Road

Task 3 - Traffic Generation:

WSB will estimate the number of daily, weekday AM peak hour and weekday PM peak hour trips that will be generated by the proposed site development, as well as any traffic generation from any anticipated future development adjacent to the site using the existing and projected land use data provided by the City. The traffic generation will be developed using trip generation rates from the ITE Trip Generation Manual, 10th Edition.

Task 4 – Traffic Forecasts

Projected 2025 and 2040 ADT and turning movement counts will be developed for each of the primary corridors and intersections within the project area. The forecasts will be developed for both the no-build (without site) and build conditions, using the traffic generation for the proposed site development and/or anticipated land use in the area, the historical traffic count trends for the area, or other assumptions that can be assembled from available data.

Task 5 - Traffic Analysis:

A traffic operations analysis will be completed evaluating the existing and projected traffic operations on the area roadways for the following scenarios:

- Existing
- 2025 No-Build
- 2025 Build A (251,200sf)
- 2025 Build B (700,000sf)
- 2025 Build A with Improvements
- 2025 Build B with Improvements
- 2040 Build A with Improvements
- 2040 Build B with Improvements

The traffic operations will be evaluated using Synchro/SimTraffic software for the signal and stop sign analysis and RODEL software for the roundabout analysis. Output from Synchro is transferred to SimTraffic, a micro-simulation computer modeling software that simulates each individual vehicle's characteristics and driver behavior in response to traffic volumes, intersection configuration, and signal operations. The model simulates drivers' behaviors and responses to surrounding traffic flow as well as different vehicle types and speeds. Its outputs estimated vehicle delay and queue lengths at each intersection being analyzed.

The analysis will document the corridor level of service, intersection level of service, site access accommodations, vehicle queue lengths, any operational deficiencies and recommendation for intersection control and lane configuration improvements.

In addition, the analysis will include conducting a crash analysis and evaluating the physical characteristics of the corridors including right-of-way impacts.

Task 6 – Access Alternatives / Concept Plan

WSB will prepare access alternatives to accommodate the existing and forecasted area traffic conditions including at a minimum: alternatives on Stagecoach Road; reviewing existing 70th Street access onto CR 101, and; closure of access and rerouting of traffic using the south CR 101 Frontage Road.

Up to 6 conceptual layouts will be prepared in a schematic format to be presented at a meeting with Scott County. Based on the meeting with the County up to two concept layouts will be selected for additional development and detail traffic analysis (**Task 5**). The detailed layouts will include the following features:

- Recommended roadway geometric improvements (colored concept layout format)
- Intersection signing and pavement markings
- Preliminary intersection control design (i.e. stop condition, signal, or roundabout)
- Preliminary construction limits
- Right-of-way needs
- Access recommendations
- Heavy vehicle turning

The proposed detailed concept layouts will be prepared based on the City, County and State Aid design standards. It is assumed that existing survey information and/or Lidar information will be used to develop the concept layouts on aerial base mapping.

This task will also include preparation of a preliminary project cost estimate for the two detailed concept alternatives.

Task 7 - Report Preparation:

WSB will prepare a report documenting the Traffic Study methodologies and analysis from the above tasks including any recommendations for short term and long-term improvements. WSB would submit a draft report to the City for their review. WSB would then prepare a final report to the City addressing any comments received.

Task 8 – Agency Coordination/Meetings:

WSB will coordinate the preparation of the Cretex / Forterra Site Traffic Study with the City of Shakopee and other impacted agencies through use of phone and email correspondence.

In addition, this task will include four (4) meetings; two with City staff; one with City staff and developer, and; one with Scott County. If additional meetings are required, WSB would bill those costs at our standard hourly rates.

Estimated Cost

The estimated cost to prepare the Cretex / Forterra Site Traffic Study has been developed based on the above Scope of Work. The cost has been split into two components. **Table 1** outlines the cost for the base study with the developers site plan and assumptions. **Table 2** is the additional cost to study the 700,000sf site development alternative requested by the City. The detailed hourly cost breakdown is attached.

Table 1 – Base Traffic Study Cost (Developer Cost)

Tasks	Cost
Task 1 – Project Management	\$1,480.00
Task 2 – Data Collection	\$4,593.00
Task 3 – Traffic Generation	\$621.00
Task 4 – Traffic Forecasts	\$1,057.00
Task 5 – Traffic Analysis	\$3,612.00
Task 6 – Access Alternative / Concept Plan	\$9,036.00
Task 7 – Report Preparation	\$2,086.00
Task 8 – Agency Coordination / Meetings	\$2,172.00
Total Hours	213
	\$24,657.00

Table 2 – Additional Traffic Study Cost (City Cost)

Tasks	Cost
Task 1 – Project Management	\$0
Task 2 – Data Collection	\$0
Task 3 – Traffic Generation	\$403.00
Task 4 – Traffic Forecasts	\$621.00
Task 5 – Traffic Analysis	\$1,313.00
Task 6 – Access Alternative / Concept Plan	\$0
Task 7 – Report Preparation	\$0
Task 8 – Agency Coordination / Meetings	\$0
Total Hours	19
	\$2,337.00

WSB will bill for the actual hours worked at each employee classification times the current WSB hourly rates for that employee classification up to the maximum of **\$26,994.00**.

Schedule

Based on the above Scope of Work WSB will complete the Cretex / Forterra Site Traffic Study on the following schedule.

Notice to Proceed.....	January 10, 2020
Begin Data Collection.....	Week of January 13, 2020
Kick-off Meeting with City Staff.....	Week of January 20, 2020
Preliminary Study Findings.....	February 21, 2020
Meeting with City Staff and Developer.....	Week of February 24, 2020
Meeting with Scott County.....	Week of March 2, 2020
Draft Report.....	March 27, 2020
Meeting with City Staff.....	Week of April 6, 2020
Final Report.....	April 17, 2020