December 15, 2020

City of Ivins
55 N. Main St.
Ivins, UT 84738

Subject: **Proposal/Agreement for Engineering Services for**:

Public Safety Impact Fee Facilities Plan and Impact Fee Analysis

Dear City Official,

Sunrise Engineering, Inc. (ENGINEER) is pleased to provide the following proposal/agreement to provide professional engineering services for the City of Ivins (CLIENT) for the Scope of Services defined below. SEI agrees, upon receipt of your acceptance to this proposal/agreement, to perform the following identified scope of services in accordance with the Terms and Conditions attached hereto.

Scope of Services

1 - Conduct Kickoff Meeting & Site Visits

a) Meet on-site with representatives of the CLIENT to deepen our understanding of the existing Level of Service, perceived deficiencies and anticipated future needs of the public safety system.
b) Review existing public safety facilities, identifying square footages of buildings and sites, condition of sites, inventory of apparatuses assigned to each site, and absorbed vs. excess capacity of each site.
c) Receive remaining GIS database files and an updated list of the CLIENT's public safety facilities, assets and personnel.

2 - Prepare GIS Analysis of Public Safety Services

a) Using GIS databases maintained by Sunrise and/or provided by the CLIENT, identify service areas of each public safety facility.
b) Prepare map exhibits illustrating estimated response time coverages based on drive routes, including consideration of limiting roadway networks, traffic congestion, time-of-day variations, and other obstacles or barriers.

c) Using digital call data provided by the CLIENT, quantify current public safety demand by land use and predict future public safety demand hot spots using historical data and current zoning maps. Prepare map exhibits illustrating the analysis results.

3 - Establish Existing Levels of Service

a) Calculate existing Levels of Service of public safety facilities by response time, square footage of facilities per population, apparatuses per population, and/or personnel per population as appropriate for each service.

4 - Define Desired Levels of Service

a) Communicate with the CLIENT to understand the combined community's objectives and goals for the public safety system.
b) Define the CLIENT's desired Levels of Service for public safety facilities based on perceived local needs and industry standards.

5 - Establish Population & Growth Projections

a) Review existing growth projections from recent planning efforts and building permit history provided by the CLIENT.
b) Using collected data and in consultation with the CLIENT, calculate existing and projected demands on public safety facilities in the CLIENT.

6 - Prepare an Impact Fee Facilities Plan & Impact Fee Analysis

a) Communicate with the CLIENT regularly through the contract period to incorporate the CLIENT's preferences into the Impact Fee Facilities Plan.
b) Identify the anticipated impact on or absorption of existing public safety facilities by anticipated growth in the city.
c) Recommend capital improvements needed to maintain the existing Levels of Service within a 5-year planning period and at buildout.
d) Propose approximate placement and size of improvements with input from the CLIENT based on response time, public safety demand maps, and other factors.
e) Provide opinions of probable cost for the recommended 5-year planning period improvements.
f) Recommend an implementation or phasing plan for the proposed capital improvements.
g) Suggest actions to increase or decrease the Levels of Service if necessary.
h) Identify which facilities are eligible to be entirely or partially funded with Impact Fee funds under the Utah Impact Fees Act.
i) Calculate the maximum allowable Impact Fee and provide an Impact Fee Certification in accordance with the requirements of the Utah Impact Fees Act.
j) Provide a 90% draft plan for review by the CLIENT.
k) Incorporate one iteration of review comments by the CLIENT into the final Impact Fee Facilities Plan and Impact Fee Analysis and deliver a final document to the CLIENT in .pdf format.

l) Prepare the analysis in report format and present to CLIENT.
   a. Generate a master plan report from the tasks listed above, including conclusions and recommendations to CLIENT.
   b. Attend one Ivins City Council Meeting to present the master plan report to the City Council. Additional meetings will be additional services.

Compensation

CLIENT agrees to compensate ENGINEER for the lump sum amount of Sixteen Thousand Dollars ($16,000).

Any additional services requested by CLIENT, and agreed to by ENGINEER, will be completed on a Time and Materials basis at the rates and fees shown in the attached Exhibit A.

If you are interested in having ENGINEER complete the services, please execute the agreement below, make a copy for your files and return the original to our office. We look forward to providing this and other services. Please call me at (435) 652-8450 with any questions or concerns.

Sincerely,



Joseph K. Phillips, P.E., W.R.S.
Principal Engineer
Sunrise Engineering, Inc.

Accepted and Agreed:

CITY OF IVINS

_____
Signature Date

_____
Printed Name

_____
Title

TERMS AND CONDITIONS

1. **SERVICES TO BE PROVIDED**. These Terms and Conditions are enclosed with, attached to and/or incorporated by referenced into a proposal or agreement (the "Proposal/Agreement") prepared by Sunrise Engineering, Inc. ("SEI") offering/agreeing to provide the consulting services described in the Proposal/Agreement as such consulting services are changed by agreement of the Parties (hereinafter, the "Services"). SEI agrees to provide the Services for the sole and exclusive use and benefit of the person or entity described in the Proposal/Agreement to be SEI's client for the provision of the Services (the "Client"). If the Proposal/Agreement does not expressly identify the Client, the Client shall be the person or entity to whom SEI provides the Services. The Proposal/Agreement shall become binding on SEI and Client upon its written acceptance by Client, or Client's acceptance of the performance by SEI of the Services without written objection to the terms of the Proposal/Agreement, whichever first occurs. SEI may use the services of subconsultants in the performance of the Services ("SEI's Consultants") when, in SEI's sole discretion, it is appropriate to do so. For purposes of the Proposal/Agreement and these Terms and Conditions, the "Parties" are SEI and Client, and their successors and permitted assignees.

2. **EFFECT OF TERMS AND CONDITIONS**. If any of the Services are performed by SEI or SEI's Consultants prior to the acceptance by Client of the Proposal/Agreement, such Services shall be governed by these Terms and Conditions the same as if they had been performed after the acceptance by Client of the Proposal/Agreement. These Terms and Conditions shall be binding upon the Parties except to the extent these Terms and Conditions directly conflict with the Proposal/Agreement. In the event of direct conflict between the Proposal/Agreement and these Terms and Conditions, the Proposal/Agreement shall supersede and replace these Terms and Conditions.

3. **PAYMENT TERMS**. Payment on account of Services rendered, including fees and Reimbursable Expenses, shall be made monthly upon presentation of SEI's statement of services. No deductions shall be made from SEI's compensation on account of penalty, liquidated damages, or other sums withheld from payments to contractors ("Contractor") performing all or a portion of the work or services (the "Work") for the construction of improvements designed by SEI or SEI's Consultants, or on account of the cost of changes in the Work other than those for which SEI has been adjudicated to be liable. If payment is not received within thirty (30) calendar days from the invoice date (i) Client agrees to pay interest on the past due amount at the rate of 18% per annum until paid in full; (ii) Client agrees to pay reasonable attorneys' fees and collection costs incurred by SEI to collect or obtain an award or judgment to collect all or any portion of the past due amount; (iii) SEI reserves the right to suspend all Services until payment of the past due amount is received in full; and (iv) SEI may terminate the Proposal/Agreement for cause if payment of the past due amount is not received in full within forty-five (45) calendar days of the date it is due.

4. **TERMINATION/SUSPENSION OF PROPOSAL/AGREEMENT** Either Party may terminate the Proposal/Agreement for cause if the other Party shall fail substantially to perform in accordance with its terms through no fault of the Party initiating the termination upon ten (10) calendar days prior written notice and failure of the Party in default to cure the default within such ten (10)-day period. Client may terminate the Proposal/Agreement without cause and for Client's convenience upon delivery to SEI of a written notice of termination for convenience. Client may suspend all or a portion of the Services upon written notice to SEI, provided that (i) Client shall compensate SEI for extra fees and costs due to such suspension of the Services; and (ii) SEI may terminate the Proposal/Agreement for cause if the Services or any portion of the Services are suspended in the aggregate for more than one hundred twenty (120) calendar days due to suspensions of the Services for Client's convenience. In the event of a termination of the Proposal/Agreement not the fault of SEI, SEI shall be compensated for the Services performed prior to termination, together with Reimbursable Expenses then due and all expenses directly attributable to the termination. In the event of a termination of the Proposal/Agreement for cause, the terminating Party shall be entitled to recover from the defaulting Party all damages caused by the defaulting Party's breach of the Proposal/Agreement.

5. **STANDARD OF SKILL AND CARE**. The Services (whether performed by SEI or SEI's Consultants) shall be performed in accordance with the standard of skill and care ordinarily exercised by licensed professionals of the same discipline in the state in which the Project is located on projects of similar size and scope and under like circumstances. SEI disclaims that any warranties, expressed or implied, are made or intended by SEI regarding the quality, fitness, accuracy, suitability or completeness of the Services or the Instruments of Service, or regarding any other matter.

6. **INSURANCE**. SEI shall maintain the following insurance coverages with insurance limits not less than specified below:

a) Worker's Compensation Insurance – statutory limits;

b) Employer's Liability Insurance – $1,000,000;

c) Automobile Liability – Combined single limits per accident, $1,000,000;

d) Commercial General Liability Insurance – Combined single limits per occurrence, $1,000,000;

e) Professional Liability – $1,000,000 per claim

7. **LIMITATION OF LIABILITY**. Client agrees that the liability of SEI and SEI's Consultants, and their former and current officers, directors, employees and agents to Client, and any third party, due to any negligent acts, errors or omissions, breach of contract or breach of any other legal duty shall be limited in the aggregate to $50,000, or the total fee paid to SEI for the Services, whichever is greater. If Client prefers to have higher limits of liability, SEI agrees to increase the aggregate limit of liability applicable to the Services to a maximum of $1,000,000 upon Client's written request at or prior to the commencement of the Services, provided Client pays an additional consideration to SEI equal to five percent (5%) of the total fee for the Services, or $600, whichever is greater. The additional charge for the higher limitation of liability is because of the greater risk assumed by SEI and is not a charge for additional professional liability insurance. Client shall indemnify, defend and hold harmless SEI and SEI's Consultants, and their past and current officers, directors, employees and agents, and each of them, from and against any liability arising or resulting from liabilities in excess of the

applicable aggregate limit of liability of SEI and SEI's Consultants for the Services.

8. **SITE OBSERVATIONS AND SOIL CONDITIONS**. SEI shall have access to the Project site and to all areas where the Work is performed or located. Client shall procure all permits, licenses, rights-of-entry and access for SEI to enter upon and to perform Services at any public or private property required for SEI to perform the Services.

By virtue of entering into this Agreement or providing the Services, SEI does not assume control of or responsibility for the Project site or the persons at the Project site, or undertake responsibility for reporting to any federal, state or local public agencies any conditions at the Project site that may present a potential danger to public health, safety or the environment.

Unless SEI provides a soils report or conducts soils testing as Services under the Proposal/Agreement, SEI makes no representations concerning soils conditions and is not responsible for any claims, damages, liabilities, losses or expenses that may arise out of the making or failure to make soils investigations or reports, or soils testing.

If a Contractor is involved in the Project, Client agrees that Contractor will be solely and completely responsible for the conditions at all locations where the Work is performed, including the safety of all persons and property during performance of the Work, and compliance with OSHA regulations. These requirements will apply continuously and will not be limited to normal working hours. It is agreed that SEI will not be responsible for job or site safety on the Project.

Client acknowledges and agrees that SEI is not responsible for the performance of the Work by third parties, including, but not limited to, the Contractor and the Contractor's subcontractors, sub-subcontractors of any tier and suppliers. Client further agrees to indemnify, defend and hold harmless SEI and SEI's Consultants, and their officers, directors, employees and agents from and against any and all claims, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs and expenses of dispute resolution) arising out of or based in whole or in part upon the operations of such third parties in the performance of the Work unless such claims, liabilities, damages, costs or expenses are adjudicated to be caused by the sole negligence or other fault of SEI and/or SEI's Consultants.

9. **RELIANCE ON OWNER FURNISHED INFORMATION**. SEI and SEI's Consultants shall be entitled to rely upon the accuracy and completeness of services and information furnished by Client and Client's consultants, agents and representatives, and SEI and SEI's Consultants shall have no duty to investigate the accuracy or completeness of such services or information.

10. **UNKNOWN CONDITIONS.** Conditions or occurrences may be encountered during the performance of the Services and/or the Work that require changes in the Services or impose risk to SEI and/or SEI's Consultants, or their employees or agents, in the performance of the Services not known to SEI when the Proposal/Agreement was entered ("Unknown Conditions"). If Unknown Conditions are encountered, SEI shall notify Client of the Unknown Conditions and the probable impact of the Unknown Conditions on the Services and the Work, and SEI shall consult with Client regarding possible actions, including:

a) Suspend the Services and/or the Work until the Unknown Conditions are further studied by Client and the additional risks imposed by the Unknown Conditions are eliminated by Client or are reduced by Client to levels acceptable to both SEI and Client;

b) Complete the Services in accordance with the scope of Services described in the Proposal/Agreement, if to do so is agreed by both SEI and Client to be practical;

c) Agree to a change in the Services; or

d) Agree to a termination of the Proposal/Agreement for Client's convenience.

11. **HAZARDOUS MATERIALS**. Client agrees to give written disclosure to SEI prior to the execution of the Proposal/Agreement of any hazardous material or toxic substances existing in, on or near the Project site known to Client that may present a potential for harm to human health, the environment or equipment. Unless otherwise included in the Services, SEI and SEI's Consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site, unless the hazardous materials or toxic substances were brought to the Project site by SEI or SEI's Consultants.

In the event SEI or any other person or entity encounters hazardous materials or toxic substances at the Project site, or should it become known that such materials or substances are present at the Project site or its adjacent areas that may affect the performance of SEI's Services, SEI may, at its option, and without liability for consequential or other damages, suspend performance of the Services until Client retains appropriate specialist consultants or contractors to identify, abate and/or remove the hazardous materials or toxic substances and such consultants represent that such hazardous materials or toxic substances have been rendered harmless. Client shall indemnify, defend and hold harmless SEI and SEI's Consultants and their past and current officers, directors, employees and agents, and each of them, from and against all claims, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs and expenses of dispute resolution) arising out of or based in whole or in part upon any hazardous materials or toxic substances in any form at the Project site, including claims, damages, costs and expenses caused by the negligence or fault of the persons or entities being indemnified, unless such claims, liabilities, damages, costs or expenses are adjudicated to be caused by the hazardous materials or toxic substances brought to the Project site by SEI or SEI's Consultants.

12. **INDEMNITY**. To the fullest extent permitted by law, Client agrees to indemnify and hold harmless SEI and SEI's Consultants, and their past and current officers, directors, employees and agents, and each of them, from and against any and all claims, demands, suits, losses, costs and damages for injuries to persons (including bodily injury and death), damage to tangible property and economic loss caused by any negligent act, error or omission or intentionally wrongful conduct of Client or Client's consultants or their employees or agents.

13. **INSTRUMENTS OF SERVICE**. Drawings, specifications, reports and other documents, including those in electronic form, prepared by SEI and SEI's Consultants for the Project are Instruments of Service for use solely with respect to the Project. SEI and SEI's Consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. Engineer grants to Client a nonexclusive license to reproduce SEI's Instruments of Service solely for the purpose of constructing, using and maintaining the Project, provided that Client shall comply with all obligations, including prompt payment to SEI of all consideration when due under the Proposal/Agreement. Except for the license granted in this Paragraph 13, no other license or right shall be deemed granted or implied under the Proposal/Agreement.

Client shall not use the Instruments of Service for future additions or alterations of the Project or for other projects, unless Client obtains the prior written agreement of SEI and SEI's Consultants. Any unauthorized use or modification of the Instruments of Service shall be at Client's sole risk and

without liability to SEI or SEI's Consultants.

To the fullest extent permitted by law, Client shall indemnify, defend and hold harmless SEI and SEI's Consultants and their past and current officers, directors, employees and agents, and each of them, from and against any and all claims, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs and expenses of dispute resolution) arising out of or based in whole or in part upon any unauthorized use or modification of the Instruments of Service by Client or any person or entity that obtain the Instruments of Service from or through Client or Client's agents or representatives.

14. **OPINIONS OF COST**. If the Services include the evaluation of Client's budgets for construction costs or include providing SEI's opinions of probable construction costs, Client understands that SEI has no control over regional economies, availability of materials or labor or the competitive climate existing at the time of bidding or negotiation, over the costs or the prices of labor, equipment or materials, or over Contractor's methods of pricing, and that the evaluations of Client's budgets and/or opinions of probable construction costs provided by SEI are SEI's professional judgment as a design professional familiar with the construction industry. SEI makes no warranty, expressed or implied, as to the accuracy of such opinions or evaluations as compared to bids or negotiated prices or actual construction costs, and SEI does not represent or warrant that bids or negotiated prices or actual construction costs will not vary from Client's budget for the Project or from opinions of probable construction costs or from evaluations of Client's budgets prepared or agreed to by SEI.

15. **PROVIDING EVIDENCE**. If SEI or an employee of SEI is requested by Client or is compelled by subpoena or other legal process by Client or a third party to provide testimony, documents or evidence in relation to the Services and in connection with any public hearing, dispute resolution proceeding or legal proceeding in which SEI is not a party, Client agrees to compensate SEI on the basis of hourly rates and Reimbursable Expenses according to SEI's Rate Schedule then in effect for the time and expenses reasonably incurred by SEI in providing such evidence, provided that SEI is not compensated in full for such reasonable time and expenses by the party compelling or requesting the evidence.

16. **SEVERABILITY**. In the event that any provision of these Terms and Conditions is found to be unenforceable, the other provisions shall remain in full force and effect.

17. **SURVIVAL**. All obligations arising prior to the termination of the Proposal/Agreement and all provisions of these Terms and Conditions allocating responsibility or liability between Client and SEI shall survive the completion of the Services and the termination of the Proposal/Agreement, and Paragraphs 5, 6, 7, 9, 11, 12, 13, and 15 shall survive the completion of the Services and the termination of the Proposal/Agreement.

18. **INTEGRATION**. The Proposal/Agreement and these Terms and Conditions incorporated therein constitute the entire agreement between the Parties and cannot be changed except by written instrument signed by both Parties.

19. **GOVERNING LAW**. The Proposal/Agreement and these Terms and Conditions incorporated therein shall be governed in all respects by the laws of the state in which the Project is located.

20. **THIRD PARTY FEES**. SEI shall pay the fees and costs specifically required by the Proposal/Agreement and these incorporated Terms and Conditions. Unless specifically required by the Proposal/Agreement, SEI shall not be required to pay the fees and costs of the checking and/or inspection of the Instruments of Service and/or the Work by persons or entities other than SEI or SEI's Consultants, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title insurance charges, costs of reproductions of the Instruments of Service or other documents, and other charges not specifically required to be paid by SEI by the Proposal/Agreement.

21. **THIRD PARTY BENEFICIARIES**. Nothing contained in the Proposal/Agreement and these incorporated Terms and Conditions shall create a contractual relationship with or a cause of action in favor of a third party against either Client or SEI. SEI's Services under the Proposal/Agreement are being performed solely for Client's benefit, and no other person or entity shall have any claim against SEI arising under the Proposal/Agreement or arising from the performance or non-performance of the Services.

22. **EMPLOYMENT FEES**. In the event Client hires directly any employee of SEI within one (1) year after final payment is due to SEI for the Services, Client agrees to reimburse SEI a monetary amount equal to six (6) months' wages for the employee so hired by Client as an employment fee. The employment fee shall be calculated as six (6) times the gross monthly full-time wages of the employee immediately prior to the hiring.

23. **ASSIGNMENTS**. Neither Client nor SEI shall assign the Proposal/Agreement or any right, interest or claim for damages arising under the Proposal/Agreement without the written consent of the other, except that Client may make a conditional collateral assignment of the Proposal/Agreement to an institutional lender providing financing for the Project, conditioned on Client's default in its obligations to such lender regarding the financing for the Project. In the event the condition of such collateral assignment is satisfied, the lender shall assume Client's rights and obligations under the Proposal/Agreement. If SEI's Services are affected or delayed by Client's default or the assignment of the Proposal/Agreement to the lender, SEI's fees for the remaining Services of the Project and the time schedules for performance of the remaining Services of the Project shall be equitably adjusted.

24. **CONSEQUENTIAL DAMAGES WAIVER**. SEI and Client mutually waive as to one another and as to the present and current officers, directors, partners, members, employees, agents and consultants of one another, any and all consequential damages for claims, disputes or other matters in question arising out of or relating to the Proposal/Agreement or the performance or non-performance of the Services. This mutual waiver is applicable, without limitation, to all consequential damages due to either Parties' termination of the Proposal/Agreement or suspension of the Services.

25. **DISPUTE RESOLUTION**. All claims, counterclaims, disputes and other matters in question between Client and SEI arising out of or relating to the Proposal/Agreement or these incorporated Terms and Conditions, or the breach of the Proposal/Agreement or these incorporated Terms and Conditions, or the Services performed pursuant thereto, shall be decided in such dispute resolution proceedings as Client and SEI shall mutually agree upon in writing after the dispute arises or, in the absence of mutual agreement, in a court of competent jurisdiction within the State in which the Project is located.

SUNRISE ENGINEERING
FEE SCHEDULE
EXHIBIT A

Work Code	Work Classification	Hourly Rate	Work Code	Work Classification	Hourly Rate
101	Engineer Intern (E.I.T.) I	$99	451	Training Specialist I	$130
102	Engineer Intern (E.I.T.) II	$108	456	Training Manager	$156
103	Engineer III	$139	460	Training Director	$180
104	Engineer IV	$162	500	Funding Specialist	$129
105	Engineer V	$183	510	Plan Reviewer	$115
110	Principal Engineer	$199	511	Building Inspector I	$68
121	Electrical Engineer Intern (E.I.T.) I	$114	512	Building Inspector II	$91
122	Electrical Engineer Intern (E.I.T.) II	$128	513	Building Inspector III	$113
123	Electrical Engineer III	$145	525	Building Official	$132
124	Electrical Engineer IV	$167	601	GIS Tech	$71
125	Electrical Engineer V	$190	602	GIS Tech II	$82
126	Principal Electrical Engineer	$206	611	GIS Specialist I	$103
301	Engineering Tech I	$79	613	GIS Analyst	$118
302	Engineering Tech II	$95	614	GIS Programmer	$103
303	Engineering Tech III	$109	615	GIS Team Leader	$134
304	Engineering Tech IV	$135	624	GIS Mapping Technician	$54.50
311	Electrical Tech I	$88	625	GIS Mapping Supervisor	$97.25
312	Electrical Tech II	$100	51	Administrative I	$45
313	Electrical Tech III	$118	52	Administrative II	$59
314	Electrical Tech IV	$130	53	Administrative III	$74
315	Electrical Tech V	$143	96	Public Information Manager	$115
351	Construction Observer I	$67	705	Planner V	$140
352	Construction Observer II	$83	712	Project Manager II	$173
353	Construction Observer III	$99	723	Water Rights Specialist III	$129
354	Construction Observer IV	$113	921	Survey Tech	$80
401	CAD Drafter I	$69	930	Survey CAD Tech	$115
402	CAD Drafter II	$79	935	One Man Survey Crew	$150
403	CAD Drafter/Designer III	$99	940	Survey Manager	$160
404	CAD Drafter/Designer IV	$110	945	Registered Surveyor	$170
			950	Principal Surveyor	$185

REIMBURSABLE EXPENSE SCHEDULE

Expense	Rate	Mark-Up
Mileage	$0.59 per mile	N/A
Field Vehicle (on site)	$50 per day	N/A
Per Diem Meals	$57 per day	N/A
Troxler Nuclear Density Gauge	$40 per day	N/A
High Density Scanner	$150 per hour	N/A
Material Testing Lab Work	Actual Cost	15%

Outside Consultants, Aerial Photography, etc.	Actual Cost	15%
Lodging	Actual Cost	10%
Other Expenses incurred	Actual Cost	10%