

Santaquin City Resolution 03-01-2015

A RESOLUTION OF SANTAQUIN CITY AUTHORIZING A SERVICE AGREEMENT WITH MCNEIL ENGINEERING FOR ENGINEERING SERVICES

WHEREAS, the City of Santaquin is a fifth class city of the State of Utah; and

WHEREAS, cities in the state of Utah are authorized to enact ordinances, resolutions and policies to promote and protect the health safety and welfare of the community which include the Santaquin City building and inspection codes; and

WHEREAS, the City desires to conduct a structural analysis of the Santaquin chieftain museum roof to ascertain the integrity of the roof and potential threats to the public safety relative to occupancy of the building; and

WHEREAS, bids for structural engineering services were sought and McNeil Engineering was found to be the preferred service provider out of those firms who submitted proposals.


NOW THEREFORE, be it resolved by the City Council of Santaquin City to authorize the Mayor to enter into a service contract with McNeil Engineering for services related to structural analysis of the Santaquin Chieftain museum as provided in the attached proposal. The amount of the contract is to not exceed \$10,700 without prior council approval.


ADOPTED AND PASSED by the City Council of Santaquin City, Utah, this 18th day of March, 2015.



Attest

SANTAQUIN CITY


Kirk F. Hunsaker, Mayor


Susan B. Farnsworth, City Recorder



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8610 South Sandy Parkway, Suite 200 Sandy, Utah 84070 801.255.7700 mcneilengineering.com

March 26, 2015

Santaquin City
Dennis L. Marker
275 West Main Street
Santaquin, UT 84655

RE: Santaquin City Museum / Utah
MES Job Number: 15118
Proposal for Structural Engineering Services

Dear Dennis,

As requested, we propose to provide engineering services for the above referenced project for an estimated fee of \$22,720.

Our scope of services will include:

- Perform a kick off meeting and 3 coordination meetings with Project Manager and City Staff (4 total meetings);
- Perform site observation visit to perform ASCE 31 and ASCE 41 seismic and gravity study of the structure as a whole and to determine the integrity of the roof weather protection system and shingle system;
- Perform 3D LiDAR survey of the museum in order to generate a roof plan, floor plan and framing plans;
- Perform structural seismic calculations per ASCE 31 and 41 standards (life safety);
- Perform structural calculations on the roof and floor gravity load carrying elements to determine their adequacy with the currently adopted International Building Code 2012 editions;
- Provide signed and sealed structural report with a description of the structure and the structural elements, the deficiencies of the structure we observed or obtained through calculation and will include recommendations for retrofit with construction details/sketches in 8 ½ x 11 format. The report will also include an opinion of probable cost for construction of the recommended retrofits of the roof replacement/repair and for the structure as a whole;
- Present report to City Museum Board; Provide digital copy of report and CAD and .pdf files of the plans generated from the surveying;
- Respond to client questions.

Not included in the scope of work:

- Redesign of additional structural changes beyond this proposal or beyond our control and after design has begun;
- Providing construction documents of the recommended retrofits;
- Destructive or non-destructive testing;
- Demolition or removal of finishes etc. (report will be based on visual observations);

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- Review of items and elements not noted above;
- Additional engineering due to unforeseen circumstances;
- Additional meetings.

If this proposal is acceptable, please sign and return the enclosed Professional Services Agreement, giving us written authorization to proceed. If you have any questions or need additional information, please do not hesitate to call.

Sincerely yours,


Matthew Roblez, S.E.
Manager, McNeil Group Inc.

MR/cg
Enclosure

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PROFESSIONAL SERVICES AGREEMENT

Date: **March 26, 2015**
P.M.: **MR**
Job No.: **15118**

SANTAQUIN CITY, hereinafter CLIENT, does hereby authorize **McNEIL GROUP, INC.**, which sometimes does business as **McNEIL ENGINEERING** hereinafter ENGINEER, a Corporation organized and existing under the laws of the State of Utah, to perform the services set forth below, subject to the terms and conditions set forth below and on the following page.

A. Client Information:

Company: **Santaquin City**
Name: **Dennis Marker**
Address: **275 West Main Street**
City/State/Zip: **Santaquin, UT 84655**
Phone: **801-754-1923**
Fax: **801-420-3725**
E-Mail Address: **dmarker@santaquin.org**

B. Project Description:

Project Name: **Santaquin City Museum**
Location: **Santaquin, UT**
Description of Engineer's Services: **As per proposal letter dated March 26, 2015**

C. Compensation:

Estimated Total Fee: \$22,720

As per Article 1 of Terms and Conditions.

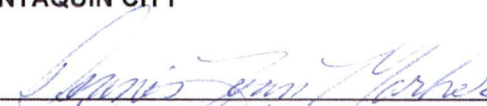
D. See Terms and Conditions on the following page. By signing below, CLIENT acknowledges they have read and agree to the Terms and Conditions of this contract.

E. It is understood and agreed that the Consultant's Basic Services under this Agreement do not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided for by CLIENT. CLIENT assumes all responsibility for interpretation of the Contract Documents and for all construction observation and CLIENT waives any claims against the Consultant that may be in any way connected thereto. *Refer to Article 2.7 of Terms and Conditions on reverse side.*

F. Having read, understood and agreed to the foregoing, CLIENT and ENGINEER, by and through their authorized representatives, have subscribed their names hereon effective the 26 day of March 2015.

SANTAQUIN CITY

McNEIL ENGINEERING



Title Asst. City Manager
Date March 27, 2015



Title: **Manager**
Date: **March 26, 2015**

TERMS AND CONDITIONS

ARTICLE 1. COMPENSATION

- 1.1 **INVOICING PROCEDURE:** CLIENT will be invoiced at the end of the first calendar month following the effective date of this Agreement and at the end of each calendar month thereafter. Such invoices shall reflect billing for work performed by ENGINEER or SURVEYOR during the month invoiced. Payment of invoice is due upon receipt of invoice by CLIENT.
- 1.1.1 If CLIENT objects to all or any portion of an invoice, CLIENT shall, nevertheless, pay timely the full amount of such invoice and CLIENT shall notify ENGINEER or SURVEYOR within fourteen (14) calendar days of the invoice date the cause of disagreement and the portion of the invoice in dispute. Thereafter, ENGINEER or SURVEYOR and CLIENT shall make a good faith effort to resolve such dispute.
- 1.2 **LATE PAYMENT:** ENGINEER or SURVEYOR will assess a carrying charge of 1.5% per month on invoice amounts due and not paid within thirty (30) days of date of invoice, which charge CLIENT warrants will be paid on demand. Application of the percentage rate indicated above as a consequence of CLIENT's late payments does not constitute any willingness on ENGINEER or SURVEYOR's part to finance CLIENT's operation and no such willingness should be inferred. If CLIENT fails to pay invoiced amounts within thirty (30) calendar days of the date of the invoice, ENGINEER or SURVEYOR may, at any time, without waiving any other claim against CLIENT and without thereby incurring any liability to CLIENT, suspend or terminate this Agreement. Termination shall not relieve CLIENT of its obligation to pay amounts incurred up to termination. ENGINEER or SURVEYOR further reserves the right to withhold any instruments of its service, or copies thereof, from CLIENT on any project pending payment on CLIENT's outstanding indebtedness.
- 1.3 **OBLIGATION TO PAY:** CLIENT's obligation to pay for the services performed under this Agreement is in no way contingent upon CLIENT's ability to obtain financing, zoning, approval of governmental or regulatory agencies or final adjudication of a lawsuit in which ENGINEER or SURVEYOR is not involved, or upon CLIENT's successful completion of the project. No deduction shall be made from any invoice on account of penalty, liquidated damages, retentions or other sums withheld from payments to CLIENT. It is agreed that all expenses incurred by ENGINEER or SURVEYOR in enforcing this Agreement, or in obtaining liens judgments or collecting any delinquent amounts due, including reasonable attorney fees, shall be recoverable from CLIENT.
- 1.4 **REIMBURSABLE EXPENSES:** Reimbursable Expenses include, but are not limited to:
 - 1.4.1 Expense of transportation, subsistence and lodging when traveling in connection with the Project.
 - 1.4.2 Expense of long distance or toll telephone calls, telegrams, messenger service, field office expenses and fees paid for securing approval of authorities having jurisdiction over the Project.
 - 1.4.3 Expense of all reproduction, postage and handling of drawings, specifications, reports or other Project-related instruments of service of ENGINEER or SURVEYOR.
 - 1.4.4 Expense of preparing perspectives, renderings or models.

ARTICLE 2. SPECIAL TERMS AND CONDITIONS

- 2.1 **SCOPE OF WORK:** The scope of work shall include all services to be provided by ENGINEER or SURVEYOR which are reasonable, necessary and appropriate for the effective and prompt fulfillment of ENGINEER or SURVEYOR's obligations outlined in the proposal.
- 2.2 **ADDITIONAL SERVICES:** It is understood that the scope of work and time schedule defined in the Proposal are based on the information provided by CLIENT. If this information is incomplete or inaccurate, or if unexpected conditions are discovered, the scope of work may change even as the work is in progress. If CLIENT requests additional services, or when a change in the scope of work or time schedule is necessary, a written amendment (Supplemental Agreement) to the Agreement shall be executed by CLIENT and ENGINEER or SURVEYOR as soon as is practicable and consent to such amendments shall not be unreasonably withheld.
- 2.3 **TERMINATION:** This agreement may be terminated by either party with or without cause upon seven (7) days written notice. If this agreement is terminated through no fault of ENGINEER or SURVEYOR, CLIENT shall pay ENGINEER or SURVEYOR for services performed and expenses incurred through the date of termination.
- 2.4 **CONSTRUCTION ESTIMATES:** ENGINEER or SURVEYOR's opinions, if any, of probable construction costs, quantities or time are subject to change and are contingent upon persons and factors over which ENGINEER or SURVEYOR has no control. ENGINEER or SURVEYOR does not guarantee the accuracy of such estimates.
- 2.5 **LIMITATION OF LIABILITY:** In recognition of equitable allocation of the relative risks and benefits of the project, CLIENT agrees to limit the total aggregate liability of ENGINEER or SURVEYOR, et al. to CLIENT and its successors and assigns on all Claims for whatever reason to ENGINEER or SURVEYOR's base fee. Prior to the initiation of ENGINEER or SURVEYOR's services hereunder, this limitation may be increased up to ENGINEER or SURVEYOR's then effective professional liability insurance limits upon mutual agreement and CLIENT's payment of an additional fee of 0.5% of the requested limitation. ENGINEER or SURVEYOR, et al. is not in any event, liable to CLIENT for consequential or incidental damages for any Claim, and any and all liability shall end one year from Substantial Completion.
- 2.6 **PERFORMANCE STANDARD:** ENGINEER or SURVEYOR's services shall be performed in accordance with and judged solely by the skill and care ordinarily exercised by members of the same profession performing like services in the State of Utah at the same time. ENGINEER or SURVEYOR disclaims and CLIENT waives any and all other standards or warranties, express or implied, regarding the quality of its services or the instruments thereof including, but not limited to, warranties of fitness, merchantability or compliance with Federal, State or local laws, rules, regulations, ordinances or design, or building codes or standards.
- 2.7 **CONSTRUCTION SERVICES:** ENGINEER or SURVEYOR's construction observation or monitoring services, if any, or unless specified otherwise, are neither exhaustive nor continuous and consist solely of periodic visits to the Project site to determine whether construction is progressing in general conformance with the technical plans and specifications. ENGINEER or SURVEYOR's approval or recommendation of payments to the contractor, if any, is based solely upon said services. ENGINEER or SURVEYOR is not responsible for the timeliness, means, methods, or sequences of construction, nor for the safety of workers or others at or near the Project site. ENGINEER or SURVEYOR does not guarantee the performance of the contractor, subcontractors, suppliers or others providing labor, material, equipment or services for the Project, nor is it responsible for their acts, errors or omissions. Should ENGINEER or SURVEYOR not be retained to provide construction observation, monitoring or similar services, CLIENT waives and agrees to hold harmless, indemnify and defend ENGINEER or SURVEYOR, et al. from and against any and all Claims against ENGINEER or SURVEYOR, et al. based in whole or in part upon actual or alleged defects in construction, workmanship and/or materials, excepting Claims arising out of the indemnitee's sole negligence.

- 2.8 **RECORD DOCUMENTS:** Any record documents drafted by ENGINEER or SURVEYOR intended to record variations between design and actual construction are based solely upon information provided by the contractor. ENGINEER or SURVEYOR is entitled to rely upon, and has no legal or contractual duty to verify, the accuracy or completeness of such information and does not warrant the accuracy or completeness of record documents. CLIENT waives and agrees to hold harmless, indemnify and defend ENGINEER or SURVEYOR, et al. from and against any and all Claims against ENGINEER or SURVEYOR, et al. arising out of actual or alleged deficiencies in any such information, excepting Claims arising out of the indemnitee's sole negligence.
- 2.9 **DOCUMENT REUSE:** Documents including, but not limited to, technical reports, field notes, test data, calculations, plans and estimates furnished to the CLIENT, or its agents, pursuant to this Agreement are not intended or represented to be suitable for reuse by the CLIENT or others on extensions of the Project or on any other project. Any reuse without ENGINEER or SURVEYOR's written consent will be at the CLIENT's sole risk and without liability to ENGINEER or SURVEYOR, et al. and CLIENT shall indemnify and hold harmless ENGINEER or SURVEYOR, et al. from all claims, damages, losses and expenses, including attorney fees arising out of or resulting therefrom.
- 2.10 **CHANGE ORDERS:** Under no circumstances shall ENGINEER or SURVEYOR be liable for extra work or other consequences due to changed conditions or for costs related to failure of the construction contractor, materialmen or service providers to install work in accordance with the plans and specifications.
- 2.11 **INTERPRETATION OF INFORMATION:** Any surveys, testing, exploration or analysis associated with the work will be performed by ENGINEER or SURVEYOR for CLIENT's sole use to fulfill the purpose of this Agreement and ENGINEER or SURVEYOR is not responsible for interpretation by others of the information developed.
- 2.12 **OWNERSHIP OF DOCUMENTS:** Unless otherwise agreed, ENGINEER or SURVEYOR retains ownership of and all proprietary rights in and to all plans, drawings, specifications, reports, notes, data, calculations, documents, electronic media, CADD documents and all other instruments of ENGINEER or SURVEYOR's professional service, regardless of medium or content, prepared by or on behalf of ENGINEER or SURVEYOR, et al. Except where this agreement is terminated prior to completion, CLIENT is granted a nonexclusive, nontransferable license to use said instruments on and for this Project only. Payment of all sums due ENGINEER or SURVEYOR hereunder are a condition precedent to any and all rights CLIENT has in and to said instruments. Said instruments are intended for use solely by CLIENT as an integrated set on this project. Modification, use on other projects or dissemination of such instruments to others by, through or on behalf of CLIENT, except as necessary for the completion, operation, maintenance or repair of the Project, without ENGINEER or SURVEYOR's prior express written consent, is at CLIENT's sole risk. CLIENT waives and agrees to hold harmless, indemnify and defend ENGINEER or SURVEYOR, et al. from and against any and all Claims against ENGINEER or SURVEYOR, et al. arising out of any such non-permissive modification, use or dissemination.
- 2.13 **RETURN OF DOCUMENTS:** CLIENT agrees that all documents, plans, reports and other work furnished to CLIENT not paid for in full will be returned to ENGINEER or SURVEYOR upon demand and will not be used for design, construction, permits or licensing.
- 2.14 **SUPPLIED INFORMATION:** ENGINEER or SURVEYOR, et al. are entitled to rely on any and all information supplied by, through or on behalf of CLIENT and has no legal or contractual duty to verify the accuracy or reliability of such information. CLIENT waives and agrees to hold harmless, indemnify and defend ENGINEER or SURVEYOR, et al. from and against any and all Claims against ENGINEER or SURVEYOR, et al. arising out of actual or alleged deficiencies in any such information.
- 2.15 **SUBMITTALS:** Any review of contractor's shop drawings and other submittals by ENGINEER or SURVEYOR, et al. is for the sole purpose of determining the general conformance of the information contained therein with design intent. It is not intended to verify the accuracy or completeness of the details contained therein, which remains the sole responsibility of the contractor.

ARTICLE 3. GENERAL TERMS AND CONDITIONS

- 3.1 **APPLICABLE LAW, JURISDICTION AND VENUE:** This agreement shall be interpreted and enforced according to the laws of the State of Utah. Venue of any dispute resolution process arising out of or related to this agreement, or the services hereunder provided, shall be exclusively in Salt Lake County, State of Utah.
- 3.2 **ASSIGNMENT AND SUBCONTRACTING:** Neither party shall assign its rights under this agreement without the prior express written consent of the other. ENGINEER or SURVEYOR may subcontract any portion of its services without such consent.
- 3.3 **FORCE MAJEURE:** Any default in the performance of this agreement caused by any of the following events and without fault on the part of the defaulting party shall not constitute a breach of contract: act of God, government or public enemy, strike, embargo, fire, flood, epidemic, unusually severe weather and/or other extraordinary natural event or disaster, and/or quarantine.
- 3.4 **DISPUTE RESOLUTION:** Any dispute related to this agreement, either parties' performance hereunder and/or ENGINEER or SURVEYOR's, et al. services, shall be submitted to mediation before a mutually acceptable mediator prior to initiation of litigation or other formal adjudicative procedures. In the event the parties are unable to agree on a mediator, said mediator shall be appointed by a court of competent jurisdiction and of proper venue.
- 3.5 **NO THIRD PARTY RIGHTS:** Third party beneficiary rights are not intended or created under this agreement in others, nor does this agreement create any cause of action in favor of any third party against either party hereto.
- 3.6 **LIMITATION PERIODS:** As to Claims between the parties hereto, any and all applicable statutes of limitation shall begin to run and any said Claims shall be deemed to have accrued no later than the date of substantial completion or occupancy of the Project, or the portion of the project as to which the Claim is made, or the date of abandonment of the project, whichever date is earliest.
- 3.7 **MISCELLANEOUS:** This agreement constitutes the entire and integrated agreement between the parties and supersedes all prior or contemporaneous negotiations, representations and/or agreements, whether written or oral, and may be amended only by written instrument expressly referring hereto and duly signed by the parties. CLIENT's unilateral modification, alteration or change of this agreement, as prepared by ENGINEER or SURVEYOR, shall not be effective unless accepted in writing by ENGINEER or SURVEYOR. Acceptance or use of ENGINEER or SURVEYOR's services hereunder shall constitute acceptance of this agreement whether or not signed by CLIENT. In the event any provision herein, or portion thereof, is invalid or unenforceable, the remaining provisions shall remain valid and enforceable. Waiver of a breach of any provision is not a waiver of a subsequent breach of the same or any other provision.