

AGREEMENT FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT made as of July 1, 2010 between the City of Racine, Racine County, Wisconsin (OWNER) and Ayres Associates Inc, 3376 Packerland Drive, De Pere, WI 54115 (CONSULTANT).

OWNER intends to retain CONSULTANT for professional services for construction observation of Structure B-51-69 along State Street in the City of Racine, Racine County. The project consists of completing structural repairs along with the cleaning and painting of the structural steel over the Root River. The project is located in the City of Racine, T 3 N, R 23 E.

OWNER and CONSULTANT agree to performance of professional services by CONSULTANT and payment for those services by OWNER as set forth below.

The following Attachments and Exhibits are attached to and made a part of this Agreement.

Attachment A - Scope of Services, consisting of 7 pages.
Attachment B - Period of Services, consisting of 1 pages.
Attachment C - Compensation and Payments, consisting of 3 pages.
Attachment D - Terms and Conditions, consisting of 3 pages.
Attachment E - Insurance, consisting of 2 pages.
Exhibit 1 – Fee Summary Sheets, consisting of 7 pages

This Agreement (consisting of 1 page), together with the Attachments and Exhibits identified above, constitute the entire agreement between OWNER and CONSULTANT and supersede all prior written or oral understandings. This Agreement and said Attachments may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

Proposed by Consultant:

Ayres Associates Inc

Signature

Keith R. Nikolay

Name

Supervisor – Transportation Services

Title

Date

Accepted by Owner:

City of Racine

Signature

Name

Signature

Date

ATTACHMENT A - SCOPE OF SERVICES

This is an attachment to the Agreement dated July 1, 2010 between the City of Racine, Racine County, Wisconsin and Ayres Associates Inc (CONSULTANT).

ARTICLE 1 - BASIC SERVICES

1.1 General

1.1.1 CONSULTANT shall provide professional services for OWNER of the Project to which this Agreement applies. These services will include serving as OWNER's professional representative for the Project, providing professional consultation and advice, and performing the duties and responsibilities of CONSULTANT as provided below.

1.2 Total Project Costs

1.2.1 N/A

1.3 Construction Phase

During the Construction Phase:

1.3.1 General Administration of Construction Contract. CONSULTANT shall consult with and advise OWNER and act as OWNER's representative as defined for the Engineer in the State of Wisconsin, Department of Transportation, Standard Specifications for Highway and Structure Construction, edition in effect as of the date of this Agreement (WisDOT Std. Spec.). The extent and limitations of the duties, responsibilities and authority of CONSULTANT as assigned in said WisDOT Std. Spec. shall not be modified, except to the extent provided hereinafter and except as CONSULTANT may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through CONSULTANT who will have authority to act on behalf of OWNER to the extent provided in said WisDOT Std. Spec. except as otherwise provided in writing.

1.3.2 Visits to Site and Observation of Construction. In connection with observations of the work of Contractor while it is in progress:

1.3.2.1 CONSULTANT shall make visits to the site at intervals appropriate to the various stages of construction as CONSULTANT deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor's work. In addition, CONSULTANT shall provide the services of a Resident Project Representative (and assistants as agreed) at the site to assist CONSULTANT and to provide more continuous observation of such work. Based on information obtained during such visits and on such observations, CONSULTANT shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents (referred to in the WisDOT Std. Spec. as the "Contract") and CONSULTANT shall keep OWNER informed of the progress of the work.

1.3.2.2 The Resident Project Representative (and any assistants) will be CONSULTANT's agent or employee and under CONSULTANT's supervision. The duties and responsibilities of the Resident Project Representative (and assistants) are set forth below.

1.3.2.3 The purpose of CONSULTANT's visits to and representation by the Resident Project Representative (and assistants, if any) at the site will be to enable CONSULTANT to better carry out the duties and responsibilities assigned to and undertaken by CONSULTANT during the Construction Phase, and, in addition, by exercise of CONSULTANT's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor. On the other hand, CONSULTANT shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor furnishing and performing their work. Accordingly, CONSULTANT can neither guarantee the performance of the construction contracts by Contractor nor assume responsibility for Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

1.3.3 Defective Work. During such visits and on the basis of such observations, CONSULTANT may disapprove of or reject Contractor's work while it is in progress if CONSULTANT believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents. CONSULTANT shall not have authority to stop the work, or a portion thereof.

1.3.4 Interpretations and Clarifications. CONSULTANT shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare field orders and change orders as required. CONSULTANT may issue field orders authorizing minor variations from the requirements of the Contract Documents that do not involve an adjustment in contract amount or time. Change orders shall be approved by OWNER.

1.3.5 Shop Drawings. CONSULTANT shall review (and take other appropriate action in respect of) shop drawings, samples and other data which Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

1.3.6 Substitutes. CONSULTANT shall evaluate and determine the acceptability of substitute materials and equipment proposed by Contractor, but subject to the provision of paragraph 2.2.2.

1.3.7 Inspections and Tests. CONSULTANT shall have authority, as OWNER's representative, to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testings and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents).

1.3.8 Disputes Between OWNER and Contractor. CONSULTANT shall act as initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work

thereunder and make decisions on all claims of OWNER and Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. CONSULTANT shall not be liable for the results of any such interpretations or decisions rendered in good faith.

1.3.9 Applications for Payment. Based on CONSULTANT's on-site observations as an experienced and qualified design professional, on information provided by the Resident Project Representative and on review of applications for payment and the accompanying data and schedules:

1.3.9.1 CONSULTANT shall determine the amounts owing to Contractor and recommend in writing payments to Contractor in such amounts. Such recommendations of payment will constitute a representation to OWNER, based on such observations and review, that the work has progressed to the point indicated, and that, to the best of CONSULTANT's knowledge, information and belief, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation). In the case of unit price work, CONSULTANT's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).

1.3.9.2 By recommending any payment CONSULTANT will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made by CONSULTANT to check the quality or quantity of Contractor's work as it is furnished and performed beyond the responsibilities specifically assigned to CONSULTANT in this Agreement and the Contract Documents. CONSULTANT's review of Contractor's work for the purposes of recommending payment will not impose on CONSULTANT responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto or Contractor compliance with laws, rules, regulations, ordinances, codes or orders applicable to its furnishing and performing the work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the contract amount, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

1.3.10 Contractor's Completion Documents. CONSULTANT shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with, the Contract Documents); and shall transmit them to OWNER with written comments.

1.3.11 Inspections. CONSULTANT shall conduct an inspection to determine if the completed work is acceptable so that CONSULTANT may recommend, in writing, final payment to Contractor and may give written notice to OWNER and the Contractor that the work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 1.3.9.2.

1.3.12 Limitation of Responsibilities. CONSULTANT shall not be responsible for the acts or omissions of Contractor, or of any subcontractor or supplier, or any of the Contractor's or subcontractor's or supplier's agents or employees or any other persons (except CONSULTANT's own employees and agents) at the site or otherwise furnishing or performing any of the Contractor's work; however, nothing contained in paragraphs 1.3.1 thru 1.3.11 inclusive, shall be construed to release CONSULTANT from liability for failure to properly perform duties and responsibilities assumed by CONSULTANT in the Contract Documents.

ARTICLE 2 - ADDITIONAL SERVICES

2.1 Services Requiring Authorization in Advance

If authorized in writing by OWNER, CONSULTANT shall furnish or obtain from others Additional Services as provided below. These services are not included as part of Basic Services and will be paid for by OWNER as indicated in Attachment C.

2.1.1 Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2 Services (in addition to those furnished under Basic Services) to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

2.1.3 Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, or design documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond CONSULTANT's control.

2.1.4 Providing renderings or models for OWNER's use.

2.1.5 Investigations and studies involving, but not limited to, detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design or construction; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

2.1.6 Furnishing services of independent professional associates and consultants for other than Basic Services and providing data or services of the types described in paragraph 3.4 when OWNER employs CONSULTANT to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.7 Services resulting from the award of more than one prime contract for construction, materials or equipment for the Project.

2.1.8 Services during out-of-town travel required of CONSULTANT other than visits to the site or OWNER's office as required by Basic Services.

2.1.9 Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services.

2.1.10 Providing any type of property surveys or related engineering services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys and staking to enable Contractor to proceed with its work; and providing other special field surveys (except for those included as part of Basic Services).

2.1.11 Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project (except for those included as part of Basic Services).

2.1.12 Additional services in connection with the Project, including services which are to be furnished by OWNER as listed below, and services not otherwise provided for in this Agreement.

2.2 Required Additional Services

When required by the Contract Documents in circumstances beyond CONSULTANT's control, CONSULTANT shall furnish or obtain from others, as circumstances require during construction and without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 2.2.1 through 2.2.6, inclusive. These services are not included as part of Basic Services. CONSULTANT shall advise OWNER promptly after starting any such Additional Services which will be paid for by OWNER as indicated in Attachment C.

2.2.1 Services in connection with field orders and change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

2.2.2 Services in making revisions to drawings and specifications occasioned by the acceptance of substitutions proposed by Contractor; and services after the award of contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor.

2.2.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.2.4 Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, and (4) default by any Contractor.

2.2.5 Services in connection with any partial utilization of any part of the Project by OWNER prior to completion.

2.2.6 Evaluating an unreasonable or extensive number of claims submitted by Contractor or others in connection with the work.

OWNER'S RESPONSIBILITIES

OWNER shall do the following in a timely manner so as not to delay the services of CONSULTANT:

3.1 Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to CONSULTANT's services for the Project.

3.2 Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, capacity and performance requirements, and budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Project.

3.3 Place at CONSULTANT's disposal all available pertinent information including previous reports and any other data relative to design or construction of the Project.

3.4 Furnish to CONSULTANT, as required for performance of CONSULTANT's Basic Services, the following, all of which CONSULTANT may use and rely upon in performing services under this Agreement:

3.4.1 Data prepared by or services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; including appropriate professional interpretations.

3.4.2 Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the site, and adjacent areas.

3.4.3 Property, boundary, easement, right-of-way, topographic and utility surveys.

3.4.4 Property descriptions.

3.4.5 Zoning, deed and other land use restriction.

3.4.6 Other special data or consultations not covered under Basic Services and Additional Services.

3.5 Arrange for access to and make all provisions for CONSULTANT to enter upon public and private property as required for CONSULTANT to perform services under this Agreement.

3.6 Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by CONSULTANT; obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination; and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.

3.7 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

3.8 Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as OWNER may require or CONSULTANT may reasonably request with regard to legal issues pertaining to the Project.

3.9 Acquire necessary right-of-way in fee and easement as may be required.

3.10 Prepare public interest finding and other Wisconsin Department of Transportation documentation to support the Agreed Unit Price (AUP) contracting method, if required.

3.11 Furnish to CONSULTANT data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.6 through 3.10) so that CONSULTANT may make the necessary findings to support opinions of probable Total Project Costs.

3.12 Give prompt written notice to CONSULTANT whenever OWNER observes or otherwise becomes aware of a hazardous environmental condition or any other development that affects the scope or timing of CONSULTANT's services, any defect or nonconformance in CONSULTANT's services, or any defect or nonconformance in the work of any Contractor.

3.13 Furnish, or direct CONSULTANT to provide, Additional Services as stipulated in paragraph 2.1 or other services as required.

3.14 Bear all costs incident to compliance with the requirements of Article 3.

ATTACHMENT B - PERIOD OF SERVICES

This is an attachment to the Agreement dated July 1, 2010 between the City of Racine, Racine County, Wisconsin and Ayres Associates Inc (CONSULTANT).

ARTICLE 4 - PERIOD OF SERVICES

4.1 The provisions of this Article 4 and the compensation for CONSULTANT's services have been agreed to in anticipation of the orderly and continuous progress of the Project, which is anticipated to take eight (8) weeks. CONSULTANT's obligation to render services hereunder will extend for a period which may reasonably be required, including extra work and required extensions thereto. If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided below and if such dates are exceeded through no fault of CONSULTANT, compensation provided herein shall be subject to equitable adjustment.

4.2 The services called for in Attachment A will be completed as listed below in paragraph 4.6, provided written authorization to proceed is given by OWNER within thirty days after CONSULTANT has signed this Agreement.

4.3 CONSULTANT's services under each item of work shall each be considered complete at the earlier of (1) the date when the submissions have been accepted by OWNER or (2) thirty days after the date when such submissions are delivered to OWNER, plus such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the design of the Project.

4.4 If OWNER has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of CONSULTANT's services shall be adjusted equitably.

4.5 OWNER shall be liable for all costs and damages incurred by CONSULTANT for delays caused in whole or in part by OWNER's interference with CONSULTANT's ability to provide services, including, but not limited to, OWNER's failure to provide specified facilities or information, or if CONSULTANT's services are extended by OWNER's actions or inactions for more than ninety days. OWNER agrees to indemnify and hold CONSULTANT harmless for any delays caused by OWNER. If delays are caused by unpredictable occurrences including, without limitation, terrorism, fires, floods, riots, strikes, unavailability of labor or materials, delays or defaults by suppliers of material or services, process shutdowns, acts of God or the public enemy, or acts or regulations of any governmental agency, the costs for services and schedule commitments shall be subject to change.

4.6 The following items of work shall be completed and submitted to the OWNER by the indicated dates:

Construction Finals – March 31, 2011

ATTACHMENT C - COMPENSATION AND PAYMENTS

This is an attachment to the Agreement dated July 1, 2010 between the City of Racine, Racine County, Wisconsin and Ayres Associates Inc (CONSULTANT).

ARTICLE 5 - COMPENSATION AND PAYMENTS

5.1 Compensation for Services and Expenses

5.1.1 Basic Services. OWNER shall pay CONSULTANT for Basic Services set forth in Attachment A as follows:

5.1.1.1 An amount equal to CONSULTANT's Direct Labor Costs times a factor of 2.98 for services of CONSULTANT's employees engaged directly on the Project, plus Reimbursable Expenses and charges of CONSULTANT's independent professional associates and subconsultants, if any.

5.1.1.2 CONSULTANT's Reimbursable Expenses Schedule is shown in Exhibit 2.

5.1.1.3 The independent professional associates and subconsultants to be retained for this project are:

N/A

5.1.1.4 The total compensation for services under paragraph 5.1.1 is estimated to be \$48,500.00. CONSULTANT shall not exceed the total estimated compensation amount unless approved in writing by OWNER.

5.1.1.5 The total estimated compensation for CONSULTANT's services as noted herein incorporates all labor, overhead, profit, Reimbursable Expenses, and charges of CONSULTANT's independent professional associates and subconsultants. The Fee Summary Sheets are attached as Exhibit 1.

5.1.2 Additional Services. OWNER shall pay CONSULTANT for Additional Services, if any, as follows:

5.1.2.1 For services of CONSULTANT's employees engaged directly on the Project pursuant to Attachment A, paragraph 2.1 or 2.2 (except for services as a consultant or witness under Attachment A, paragraph 2.1.11), an amount equal to CONSULTANT's Direct Labor Costs times a factor of 2.98, plus related Reimbursable Expenses and charges of CONSULTANT's independent professional associates and subconsultants, if any.

5.1.3 Reimbursable Expenses. OWNER shall pay CONSULTANT for all Reimbursable Expenses incurred in connection with services as follows:

5.1.3.1 For Internal Reimbursable Expenses. An amount equal to the Project-related internal Reimbursable Expenses actually incurred or allocated by CONSULTANT based on the rates set forth in Exhibit 1.

5.1.3.2 For External Reimbursable Expenses. An amount equal to invoiced external Reimbursable Expenses allocable to the Project multiplied by a factor of 1.0.

5.1.4 Amounts Billed. The amounts billed for CONSULTANT's services will be based on the applicable Direct Labor Costs for the cumulative hours charged to the Project during the billing period by CONSULTANT's employees multiplied by the above designated factor, plus Reimbursable Expenses and charges of CONSULTANT's independent professional associates and subconsultants.

5.1.5 Annual Adjustments. The Direct Labor Costs will be adjusted annually (as of January) and the factor applied to Direct Labor Costs and the Reimbursable Expenses Schedule will be adjusted annually (as of May) to reflect equitable changes in the compensation payable to CONSULTANT.

5.1.6 Other Provisions Concerning Compensation

5.1.6.1 Charges of CONSULTANT's Independent Professional Associates and Subconsultants. Whenever CONSULTANT is entitled to compensation for the charges of CONSULTANT's independent professional associates and subconsultants, those charges shall be the amounts billed to CONSULTANT times a factor of 1.0.

5.1.6.2 Factors. The factors for external Reimbursable Expenses and CONSULTANT's independent professional associates and subconsultants include CONSULTANT's overhead and profit associated with CONSULTANT's responsibility for the administration of such services and costs.

5.1.6.3 N/A

5.1.6.4 Records. Records pertinent to CONSULTANT's compensation will be kept in accordance with generally accepted accounting practices. To the extent necessary to verify CONSULTANT's charges and upon OWNER's timely request, CONSULTANT shall make copies of such records available to OWNER at cost.

5.2 Payments

5.2.1 Times of Payments. CONSULTANT shall submit monthly invoices for Basic and Additional Services rendered and for Reimbursable Expenses incurred. OWNER shall make prompt monthly payments in response to CONSULTANT's invoices.

5.2.2 Failure to Pay. If OWNER fails to make any payment due CONSULTANT for services and expenses within thirty days after receipt of CONSULTANT's invoices, the amounts due CONSULTANT will be increased at the rate of 1-1/2% per month (18% A.P.R.) from said thirtieth day, and in addition, CONSULTANT may, after giving seven days' written notice to OWNER, suspend services under this Agreement until CONSULTANT has been paid in full all amounts due for services and expenses.

5.2.3 Payments Upon Termination. In the event of termination by OWNER under Attachment D, paragraph 7.5, CONSULTANT will be entitled to invoice OWNER and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. In the event of termination by OWNER for convenience or by CONSULTANT for cause, CONSULTANT also shall be entitled to invoice OWNER and to

payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with CONSULTANT's independent professional associates and subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in this Attachment C.

5.2.4 Payments for Taxes Assessed on Services. The amount of any excise, value-added, gross receipts, or sales taxes that may be imposed on payments shall be added to the compensation as determined above.

5.2.5 Deductions or Offsets. No deductions or offsets shall be made from CONSULTANT's compensation or expenses on account of any setoffs or back charges.

5.3 Definitions

5.3.1 Direct Labor Costs. Direct Labor Costs means salaries and wages paid to employees but does not include payroll related costs or benefits.

5.3.2 Reimbursable Expenses. Reimbursable Expenses mean the actual expenses incurred by CONSULTANT, directly or indirectly in connection with the Project, such as expenses for: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; facsimile transmissions; expenses incurred for computer time, survey and testing instruments, and other highly specialized equipment; and reproduction of reports, drawings, specifications, bidding documents, and similar Project-related items.

ATTACHMENT D - TERMS AND CONDITIONS

This is an attachment to the Agreement dated July 1, 2010 between the City of Racine, Racine County, Wisconsin and Ayres Associates Inc (CONSULTANT).

ARTICLE 6 - CONSTRUCTION COST AND OPINIONS OF COST

6.1 Construction Cost

N/A

6.2 Opinions of Probable Cost

N/A

ARTICLE 7 - GENERAL CONSIDERATIONS

7.1 Standard of Performance

The standard of care for all professional services performed or furnished by CONSULTANT under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. CONSULTANT does not make any warranty or guarantee, expressed or implied, nor is this Agreement or contract subject to the provisions of any uniform commercial code. Similarly, CONSULTANT will not accept those terms and conditions offered by OWNER in its purchase order, requisition, or notice of authorization to proceed, except as set forth herein or expressly agreed to in writing. Written acknowledgement of receipt or the actual performance of services subsequent to receipt of such purchase order, requisition, or notice of authorization to proceed is specifically deemed not to constitute acceptance of any terms or conditions contrary to those set forth herein.

7.2 Reuse of Documents

All documents including drawings and specifications prepared or furnished by CONSULTANT (and independent professional associates and subconsultants) pursuant to this Agreement are instruments of service and CONSULTANT shall retain an ownership and property interest therein whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with use of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by CONSULTANT for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to CONSULTANT, or to independent professional associates or subconsultants, and OWNER shall indemnify and hold harmless CONSULTANT and independent professional associates and subconsultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle CONSULTANT to further compensation at rates to be agreed upon by OWNER and CONSULTANT.

7.3 Electronic Files

7.3.1 OWNER and CONSULTANT agree that any electronic files furnished by either party shall conform to the specifications agreed to at the time this Agreement is executed and listed elsewhere. Any changes to the electronic specifications by either OWNER or CONSULTANT are subject to review and acceptance by the other party. Additional services by CONSULTANT made necessary by changes to the electronic file specifications shall be compensated for as Additional Services.

7.3.2 Electronic files furnished by either party shall be subject to an acceptance period of 60 days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

7.3.3 OWNER is aware that differences may exist between the electronic files delivered and the printed hard-copy documents. In the event of a conflict between the hard-copy documents prepared by CONSULTANT and electronic files, the hard-copy documents shall govern.

7.4 Insurance

CONSULTANT shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom. Requirements for insurance are amended and supplemented as indicated in Attachment E.

7.5 Termination

The obligation to provide further services under this Agreement may be terminated by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

7.6 Controlling Law

This Agreement is to be governed by the law of the place of business of CONSULTANT at the address hereinbefore stated.

7.7 Successors and Assigns

7.7.1 OWNER and CONSULTANT each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and CONSULTANT (and to the extent permitted by paragraph 7.7.2 the assigns of OWNER and CONSULTANT) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.7.2 Neither OWNER nor CONSULTANT shall assign, sublet or transfer any rights under or interest in this Agreement (including, but without limitation, moneys that may become due or

moneys that are due) without the written consent of the other, except to the extent mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent CONSULTANT from employing such independent professional associates and subconsultants as CONSULTANT may deem appropriate to assist in the performance of services hereunder.

7.7.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and CONSULTANT and not for the benefit of any other party.

7.8 Dispute Resolution

7.8.1 Negotiation. OWNER and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under the dispute resolution provision below or other provisions of this Agreement, or under law.

7.8.2 Mediation. If direct negotiations fail, OWNER and CONSULTANT agree that they shall submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association effective on the date of this Agreement prior to exercising other rights under law.

7.9 Exclusion of Special, Indirect, Consequential, and Liquidated Damages

CONSULTANT shall not be liable, in contract or tort or otherwise, for any special, indirect, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, claim of third parties, or similar damages arising out of or connected in any way to the Project or this Agreement.

ATTACHMENT E - INSURANCE

This is an attachment to the Agreement dated July 1, 2010 between the City of Racine, Racine County, Wisconsin and Ayres Associates Inc (CONSULTANT).

ARTICLE 8 - INSURANCE

8.1 Workers' Compensation

Workers' Compensation insurance covering the CONSULTANT for any and all claims which may arise against the CONSULTANT because of Workers' Compensation and Occupational Disease Acts shall be carried. The Employer's Liability Section shall have limits of not less than the following:

Each Accident:	\$ 100,000
Disease, Policy Limit:	\$ 500,000
Disease, Each Employee:	\$ 100,000

8.2 Commercial General Liability

Commercial General Liability insurance protecting the CONSULTANT against any and all general liability claims which may arise in the course of performance of this Agreement shall be carried. The limits of liability shall not be less than the following:

General Aggregate:	\$ 1,000,000
Products-Completed Operations Aggregate:	\$ 1,000,000
Personal and Advertising Injury:	\$ 1,000,000
Each Occurrence:	\$ 1,000,000

Property damage liability coverage shall not exclude explosion, collapse, and underground perils if CONSULTANT is engaged in these activities.

Commercial General Liability coverage shall also protect the CONSULTANT for the same limits of liability for claims which may arise because of the indemnity or contractual liability agreement contained within this Agreement.

8.3 Business Automobile Liability

Business Automobile Liability insurance including Owned, Non-Owned, and Hired vehicles shall be carried with a limit of not less than the following:

Bodily Injury and Property Damage, Combined Single Limit:	\$ 1,000,000
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8.4 Umbrella Excess Liability

Excess liability insurance (umbrella form) over underlying Employer's Liability, Commercial General Liability, and Business Automobile Liability shall be carried. The limits of liability shall be not less than the following:

Each Occurrence:	\$ 1,000,000
Aggregate:	\$ 1,000,000

8.5 Professional Liability (Errors and Omissions)

Professional Liability insurance protecting the CONSULTANT against Professional Liability claims which may arise in the course of this Agreement shall be carried. The limits of liability shall be not less than the following:

Each Claim:	\$ 1,000,000
Aggregate:	\$ 1,000,000

8.6 Valuable Papers

During the life of this Agreement, the CONSULTANT shall maintain in force Valuable Papers and Records insurance in an amount equal to the maximum exposure to loss of written, printed, or otherwise inscribed documents and records, including books, maps, films, drawings, abstracts, deeds, mortgages, and manuscripts as shall be required and/or produced in the completion of this Agreement by the CONSULTANT.

Fee Computation Summary by Engineering Task

PROJECT TOTAL

Project ID: **66-09 (K9-067), State Street Bridge**

Task	Activity Code	Direct Labor Costs	Overhead Costs	Fixed Fee/Profit	Direct Expenses	Total
Administration/Coordination	740	\$175.20	\$310.42	\$36.42	\$538.45	\$1,060.49
Project Meetings	747	\$826.72	\$1,464.78	\$171.86	\$1,076.90	\$3,540.26
Construction Observation	272	\$10,124.76	\$17,939.05	\$2,104.79	\$8,076.74	\$38,245.34
Materials Testing & Reporting	274	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Survey	271	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Finals	881	\$1,536.07	\$2,721.61	\$319.33	\$1,076.90	\$5,653.90
TOTAL:		\$12,662.75	\$22,435.86	\$2,632.40	\$10,768.99	\$48,500.00

Reimbursable Expense Schedule (May 3, 2010)

Policy: It is the policy of Ayres Associates that costs associated with equipment and supplies identified as having been used on a specific project be charged to that project and not to general overhead.

BOATS

Company Boats\$310/Day

COPIES - Black & White (without labor)

Paper	\$0.07 Each
Paper (EC high volume copies)	Upon Request
Divider and Tab Sheets	\$0.20 Each
Binding w/Cover & Back	\$1.00/Unit
Transparenc y or Stickv-Back.....	\$0.50 Each

COPIES - Color (without labor)

Paper\$19 Each
Paper (graphics copier) Upon Request

LARGE FORMAT PRINTS (without labor)

Laser Plotter: Paper.....	\$0.24/SF
Mylar.....	\$0.58/SF
Inkjet Plotter: Paper.....	\$0.36/SF
Mylar.....	\$0.84/SF

TELEPHONE..... Facsimile \$1.50/Sheet

EXPENDABLES: Rebar, nails, stakes, flags, field books, etc. at cost.

MATERIALS TESTING

Concrete Air Meter.....	\$17/Day or \$10/Test
Nuclear Density	\$53/Day
Portable Drill and Accessories	\$45/Day
Vibration Monitoring.....	\$60/Day (Plus \$42/Roll of Film)

PHOTOGRAMMETRIC

Digital Photogrammetric Workstation \$22.20/Hour

PHOTOGRAPHIC

Camcorder\$25/Day

SURVEY

GPS	\$285/Day
Handheld Sub-meter GPS	\$75/Day
Total Station	\$23/Hour
High Precision Digital Level.....	\$66/Day
Laser/Automatic Level	\$25/Day
Driver/Hammer Drill (gas powered)	\$24/Hour
Fathometer	\$250/Day
Stream Flow Gauge.....	\$50/Day
Traffic Counter	\$36/Day

TESTS/SAMPLING

Wastewater Sampler	\$50/Day
Turbidimeter	\$40/Day
Sewer Smoke Machine.....	\$5/Day
Sanitary Sewer Flow Meter.....	\$138/Week

UNDERWATER

Equipment (surface supplied air/diver)	\$110/Day
Equipment (scuba dive gear/diver)	\$25/Day
Exposure Suit/ Diver	\$55/Day
Air	\$10/Tank
General Inspection Equipment	\$20/Day
Climbing Gear	\$50/Day
NDT/Testing Equipment	\$75/Day

VEHICLES

All-Terrain Vehicle (ATV).....	\$210/Day
Company Trucks	\$0.94/Mile
Automobile.....	Current IRS Rate

PERSONAL EXPENSES

Lodging: actual cost.

Meals: Meal allowance is dependent upon where the meal is purchased, not necessarily where the office is located.

Meal allowances are consistent with rates posted on the US government's Federal Travel Regulations web at www.gsa.gov/perdiem.

* The M&IE rates listed across correspond to specific cities/counties across the country. Look up a specific city or county on the website to find the respective M&IE rate, then use this table to get the appropriate daily meal breakdown. If a city or county is not listed, then use the Basic Rate column.

Meal Allowance Chart Effective October 1, 2009

Rate description	Explanation	Basic Rate Continental U.S. (CONUS)	* Specific Location Web Site Rates (If location is not listed in the web site use the Basic Rate)			
M&IE	Meals and incidentals as listed in the federal web site	\$46	\$51	\$56	\$61	\$66
Less incidental expenses (not reimbursed)	Company reimbursement excludes incidentals	(5)	(5)	(5)	(5)	(5)
Ayres Associates' rates	Net reimbursement rate	41	46	51	56	61
Breakfast	Rates for meals segregated by type	7	8	9	10	11
Lunch		11	12	13	15	16
Dinner		23	26	29	31	34