

Professional Service Agreement

THIS AGREEMENT is made and entered into by and between the County of Le Sueur, State of Minnesota (County), 88 South Park Ave, Le Center, MN 56057, and Rory Jensen with Jensen Land Surveying, LLC (Contractor), 2516 Crystal Cove Road, Madison Lake, MN 56063.

RECITALS

WHEREAS, pursuant to Minnesota Statutes 389.011, Subd. 2, the County approved a resolution on February 1, 2022 making the Office of the Le Sueur County Surveyor an appointed office commencing no later than November 1, 2022;

WHEREAS, the County wishes to purchase the services of Contractor for these purposes;

WHEREAS, there are funds available for the purchase of these services; and

WHEREAS, the County appoints Contractor as the County Surveyor for a one (1) year term, subject to renewal on an annual basis, and that the appointed person will serve at the pleasure of the County Board of Commissioners/County Administrator of Le Sueur County.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertakings and agreements hereinafter set forth, the County and the Contractor agree as follows:

1) **Term and Cost of the Agreement**

- A. The Contractor agrees to furnish services on behalf of the County during the period commencing January 1, 2026, and terminating December 31, 2026, subject to annual renewal in December of each year.
- B. The cost of this Agreement shall not exceed \$80,000 in 2026, of which up to \$65,000 is for compensation and up to \$15,000 is for related expenses. These maximum amounts may be adjusted after consultation with the County Administrator, but the total amount shall not exceed \$80,000.
- C. Contractor will be paid according to the schedule set forth on the attachment hereto.
- D. Contractor shall submit monthly invoice for services with detailed explanation of expenditures.
- E. This agreement covers only the usual and customary services and expenses of the County Surveyor position. To the extent there is a need for extraordinary services or the incurring of extraordinary expenses, the Contractor shall secure approval from the County before providing the extraordinary services or incurring extraordinary expenses.

2) **Services to be Provided**

Contractor will provide services as Le Sueur County Surveyor as provided by Minnesota Statute, such services are more completely described on the Attachment hereto, which is incorporated into and made a part of this agreement. Such services shall be referred to as "Purchased Services".

3) **Payment for Services**

- A. Payment for services shall be made directly to the Contractor after completion of services upon the presentation of a claim in the manner provided by law for payment of claims against the County according to the schedule set forth on the Attachment hereto.
- B. Claims are to be submitted on a monthly basis.
- C. Pursuant to the provisions of Minn. Stat. §290.97, final payment under this Agreement may be withheld until such time as the Contractor shall furnish to the County, proof that payment has been made of all outstanding withholding taxes, penalties, and interest. Proof shall be in the form of a certificate issued by the Commissioner of Revenue.

4) **Independent Contractor Status**

- A. That at all times and for all purposes hereunder, Contractor shall be an independent contractor and is not an employee of the County for any purpose. No statement contained in this Agreement shall be construed so as to find Contractor to be an employee of the County, and Contractor shall not be entitled to any of the rights, privileges, or benefits of employees of the County of Le Sueur, including but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.
- B. Contractor acknowledges and agrees that no withholding or deduction for State or Federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due Contractor and that it is Contractor's sole obligation to comply with the applicable provisions of all Federal and State Tax laws.
- C. Contractor shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein.
- D. Contractor is responsible for hiring sufficient workers to perform the services/duties required by this contract, withholding their taxes, and paying all other employment tax obligations on their behalf.
- E. With County Administrator or Department Head approval, Surveyor can hire contract services for certain professional work and the selected vendor can invoice the County directly. Services shall not exceed \$15,000.

5) **Indemnification and Insurance**

- A. To the fullest extent permitted by law, Contractor shall indemnify and defend County, its officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of Contractors or Contractor's officers, directors, members, partners, agents, employees, or subcontractors in the performance of services under this Agreement. With respect to Claims insured only under Contractor's professional liability policy, this indemnity shall apply only to the extent such claims arise out of or result from the negligent acts, errors, or omissions of Contractor, or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable in the performance of professional services and the Contractor's defense obligation shall be the reimbursement of County's reasonable legal expenses recoverable under applicable law in defending against an allegation of harm caused by the Contractor's failure to meet the standard of care for professional services once that failure is determined.
- B. To the fullest extent permitted by law and subject to the maximum limits of liability set forth in Minnesota Statutes Section 466.04, County shall indemnify, defend and hold harmless Contractor from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from third-party claims or actions relating to the work performed pursuant to this Agreement, but only to the extent caused by a negligent act or omission of County or County's employees, agents, or other consultants.
- C. Contractor further agrees that in order to protect itself as well as the County under the indemnity provision set forth above, it will at all times during the term of this contract keep in force:
- A single limit or combined limit or excess umbrella general liability insurance policy of an amount of not less than:
- \$1,000,000 for property damage;
 - \$1,000,000 for total bodily or personal injuries or death and/or damages; and
 - \$1,000,000 for contractual liability coverage protecting the County, officers, agents, and employees by specific endorsement or certificate acknowledging the contract between the Contractor and the County, naming the County as an additional insured.
 - Workers' Compensation Insurance, if applicable.
- D. Prior to the effective date of this Agreement, the Contractor will furnish the County, with certificates of insurance.

- E. The County may withhold payment for failure of the Contractor to furnish certificates of insurance as required above.
 - F. In the event that claims or lawsuits shall arise jointly against the Contractor and the County, and the County elects to present its own defense, using its own counsel, in addition to or as opposed to legal representation available by the insurance carriers providing the coverage as stated above, then such legal expense shall be borne by the County.
 - G. Any policy obtained and maintained under this clause shall provide that it shall not be cancelled, materially changed, or not renewed without thirty (30) days' prior notice by the insured to the County.
- 6) **Data Practices**
All data collected, created, received, maintained, or disseminated for any purposes by the activities of Contractor because of this contract is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as amended, the Minnesota Rules implementing such act now in force or as adopted, as well as federal regulations on data privacy.
- 7) **Records-Availability and Retention**
 - A. Pursuant to Minn. Stat. § 16C.05, subd. 5, the Contractor agrees that the County, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonable deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Contractor and involve transactions relating to this Agreement.
 - B. Contractor agrees to maintain these records for a period of six years from the date of termination of this Agreement.
 - C. All county-related work records, data and files will be electronically stored on the County's computer file servers.
- 8) **Merger and Modification**
 - A. It is understood and agreed that the entire Agreement between the parties is contained here and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.
 - B. Any material alterations, variations, modifications, or waivers of provisions of this Agreement shall be valid only when they have been reduced to writing as an amendment and signed by the parties.
- 9) **Default and Cancellation**
 - A. If the Contractor fails to adequately perform the Purchased Services, or otherwise fails to perform any of the provisions of this Agreement and does not cure such failure within thirty (30) days of receiving written notice thereof, this shall constitute default.
 - B. Unless the Contractor's default is excused, the County, may, upon written notice, immediately cancel this Agreement in its entirety.

- C. This Agreement may be cancelled with or without cause by either party upon thirty days' written notice.
- D. In the event of termination by either party for convenience, the County shall be obligated to the Contractor for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination. Contractor shall deliver and County shall have, at its sole risk, right of use of any completed or partially completed deliverables.
- E. In event of termination by County for cause and in addition to any other remedies available to County, Contractor shall deliver to County and County shall have right of use of any completed or partially completed deliverables. County shall compensate Contractor for all undisputed amounts owed Contractor as of date of termination.

10) **Subcontracting and Assignment**

Contractor shall not enter into any subcontract for performance of any services contemplated under this Contract without the prior written approval of the County Administrator and subject to such conditions and provisions as the County may deem necessary. The Contractor shall be responsible for the performance of all subcontractors.

11) **Nondiscrimination**

During the performance of this Agreement, the Contractor agrees to the following:
No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance status, criminal record, creed or national origin be excluded from full employment rights in, participation in, be denied the benefits of or be otherwise subjected to discrimination under any and all applicable federal and state laws against discrimination.

12) **Reuse of Documents**

- A. Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by Contractor pursuant to this Agreement are instruments of service in respect to work performed pursuant to this Agreement and Contractor shall retain an ownership interest therein. Upon payment of all fees owed to the Contractor, the County shall acquire full ownership interest of all identified deliverables (including Reports, Plans and Specifications) for any reasonable use relative to such and the general operations of the County.
- B. County may make and disseminate copies for information and reference in connection with the use and maintenance of the work by the County. However, such documents are not intended or represented to be suitable for reuse by County or others on extensions of any other project. Any reuse by County or, any other entity acting under the request or direction of the County, without written verification or adaptation by Contractor for such reuse will be at County's sole risk and without liability or legal exposure to Contractor and County shall indemnify and hold harmless Contractor from all claims, damages, losses and expenses including attorney's fees arising out of or resulting from such reuse.

- C. Previously Created Works and Documents of Contractor. Notwithstanding the foregoing, Contractor retains title and interest in all of its standard details, plans, specifications, and engineering computation documents (“Previously Created Works and Documents”), whether in written or electronic form, which have been incorporated into the deliverables and documents to County, but which were developed by Contractor independent of this Agreement. Contractor issues to County a royalty-free, nonexclusive and irrevocable license to use the Previously Created Works and Documents in connection with the deliverables under this Agreement.

12) **Standards and Licenses**

- A. The Contractor warrants and represents that he/she is currently licensed as a surveyor by the State of Minnesota (or other regulatory authority). In the event said license is cancelled, revoked, suspended, or expires during the term of this contract, Contractor agrees to immediately inform the County. The County will pay only for services provided pursuant to such licensing requirements.
- B. The Contractor shall comply with all applicable federal and state statutes and regulations as well as local ordinances now in effect or hereafter adopted.
- C. Failure to meet the requirements of Parts A and B above may be cause for cancellation of this contract effective the date of receipt of the Notice of Cancellation.
- D. The Contractor shall file a bond, oath, and certified evidence of license, with county and the County Recorder [M.S. §389.011]

Contractor

County of Le Sueur

Rory Jensen, Principal

By _____
Its Chair

Dated: _____

Dated: _____

By _____
Its County Administrator

Dated: _____

Approved as to form and execution

County Attorney

Dated: _____

ATTACHMENT

Services to be Provided (Purchased Services)

The County Surveyor shall perform duties as outlined within this document or as adjusted working with staff and as outlined by Minnesota Statute 389.

• **PRIMARY DUTIES**

- Serve as Point of Contact & Maintain Office Hours
 - Serving as main point of contact for county staff and residents who have survey related questions.
 - Maintain regularly scheduled office hours at County Government Center to provide access to expertise for staff, members of the public and other private surveyors performing work in the County (minimum of 8 hours per week).
- Planning
 - Work with County staff to create annual goals and priorities. Report on progress and adjust as necessary.
- Plats and Property Splits
 - Reviewing new subdivision plats and working with multiple County departments in the legal filing of a plat.
 - Reviewing existing plats and identifying and correcting errors.
 - Reviewing submitted surveys and legal descriptions, and working with applicant's surveyor to correct errors.
 - Coordinating with and advising department staff on survey related issues such as platting and easements.
- Section Corner Work
 - Finding and installing section corners and drafting certificates.
 - Digitizing section corners for use in GIS system.

• **SECONDARY DUTIES**

- Records Review and Management
 - Developing records management and filing systems to allow for records access by multiple parties.

• **OTHER POTENTIAL DUTIES**

- Highway Department Coordination
 - Work with Highway Department for preparation of new right-of-way plats associated with projects; perpetuation of section corner monuments associated with highway projects; interpreting and writing legal descriptions for road construction; etc.

Other specific duties might include:

1. Replace destroyed or unsuitable monuments along with preparation of updated certificates of location. Minnesota Statutes require the Land Surveyor to file a new certificate of location if the physical ties are missing or a new monument is set. This would also require a full research of the history of the corner and preparation of the tie sheet and evidence of location. Some certificates do not contain this information.
2. Permit other Land Surveyors to inspect copies of the maps and certificates of location of corners, and provide copies according to the county fee schedule.
3. Review all certificates of location filed by other surveyors.
4. Assist the Recorder, Title Examiner, County Attorney and other County offices with review of legal descriptions.
5. Preparation of Auditor's Plats, if required.
6. Preparation of easement descriptions and highway plats for the county engineer.
7. Review plat corrections, if required.
8. Review all proposed final plats to be filed within the county. If a plat is located outside of a municipality, then the county surveyor is to submit a preliminary report on the preliminary plat to the county. If the employer of the Contractor prepares the plat, another licensed land surveyor will review the plat for the fee established [M.S. §389.09].

Compensation of Surveyor

Pursuant to M.S. §389.03 (a) the County Board shall fix the compensation of the county surveyors and deputies, including their necessary expenses.

- A. All duties will be charged the following rate:
 - a. \$90 per hour
- B. Travel time and mileage to a project or meeting is billable, but travel time and mileage to the office is not billable.
- C. Contractor will be provided office space, phone, desktop computer, and necessary software to complete the duties.