

AGREEMENT

THIS AGREEMENT, made and executed, on this day of 2024 by and between **Remington & Vernick Engineers II, Inc. d/b/a Remington & Vernick Engineers**, a New Jersey corporation, as **Storm Water GIS Mapping**, with its principal place of business located at 2059 Springdale Road, Cherry Hill, NJ 08003, hereinafter referred to as “CONSULTANT,” and the **Township of Barnegat**, in the County of Ocean, a municipal corporation of the State of New Jersey, hereinafter referred to as “CLIENT” and collectively referred to as “PARTIES”.

WITNESSETH

WHEREAS CONSULTANT and CLIENT in consideration of the promises and covenants contained herein, hereby agree, covenant, and promise as follows:

1. Services and Compensation in General. CONSULTANT shall hold available to CLIENT all officers, employees, and facilities of CONSULTANT to perform all engineering services normally provided by the CONSULTANT as requested by CLIENT. CLIENT shall compensate CONSULTANT for any and all engineering and engineering related services requested by CLIENT and performed by CONSULTANT in accordance with the terms of this Agreement.

2. Costs and Expenses. All costs and expenses incurred by CONSULTANT shall be borne solely by CONSULTANT unless specifically reimbursable under another provision of this Agreement or specifically authorized in writing by the CLIENT.

3. Scope of Services.

A. CONSULTANT shall provide a proposal detailing the scope of work for each project requested by CLIENT unless authorized otherwise by CLIENT in writing. Any proposal submitted and approved by CLIENT during the Term of this Agreement shall be made a part hereof by reference. The scope of services set forth in the aforementioned proposal shall specify the engineering, planning, surveying, construction phase or other engineering related, and/or contract operations services to be offered by CONSULTANT to CLIENT.

B. CONSULTANT’s services are for the sole and exclusive benefit of the CLIENT and no third party beneficiary is intended. The provision of

these services by CONSULTANT shall not relieve others of their responsibility to the CLIENT.

4. CLIENT Responsibilities. The CLIENT shall:

A. Provide full and specific information as to its requirements for any project for which it requests CONSULTANT'S services and CONSULTANT shall reasonably rely upon such information in performing its services.

B. Assist CONSULTANT by placing at CONSULTANT'S disposal all available information pertinent to the site of any project, including prior reports, design documents, and any other data relative or necessary to the design or the construction of said project.

C. Guarantee access to and make all provisions for CONSULTANT to enter upon public and private lands as required for CONSULTANT to perform its work.

D. Examine all studies, reports, sketches, estimates, drawings, specifications, proposals, and other documents presented and produced by CONSULTANT in furtherance of CONSULTANT'S duties under this Agreement and provide, in writing, decisions pertaining thereto within a reasonable time so as not to delay the work of the CONSULTANT.

E. Advertise for proposals from bidders, open the proposals at the appointed time and place in accordance with the applicable rules and laws, and pay for all costs incidental thereto.

F. Provide such legal, accounting and insurance counseling support services as may be required for any and all projects for which CONSULTANT'S services are required and/or a proposal is approved.

G. Designate in writing a person to act as the authorized representative with respect to any and all work to be performed by CONSULTANT. CLIENT'S authorized representative shall have complete authority to transmit instruction, receive information, interpret, and define policies and decisions with respect to materials, equipment elements, and systems pertinent to the work.

H. Give prompt written notice to CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in any project for which CONSULTANT is providing services.

I. Obtain approval of any and all governmental authorities having jurisdiction over any and all projects and any and all approvals and consents from such other individuals or bodies as may be necessary to complete the project. CLIENT is further responsible for any and all fees required by any governmental agency related to any project for which CLIENT is utilizing CONSULTANT'S services unless otherwise set forth as part of the Scope of Services in any approved proposal.

5. Compensation to CONSULTANT. CONSULTANT will be compensated by CLIENT as detailed in CONSULTANT'S proposal and as approved by CLIENT. CONSULTANT shall be compensated via one of the two options as provided below in subsections A and B.

A. Hourly Rates. All services rendered by CONSULTANT, unless provided through Fixed Fee as set forth below, will be compensated on the basis of the hourly rates for personnel performing the services as set forth in CONSULTANT'S project proposal and as set forth in the rate schedule attached hereto as **EXHIBIT "A."**

B. Fixed Fee. When it is possible to precisely define the scope of any project and the services to be performed by CONSULTANT, a fixed fee based on estimated services required and other factors considered relevant by the PARTIES may be determined and agreed upon for total compensation. In the event a fixed fee arrangement is agreed upon by the PARTIES, progress payments will be made by CLIENT on a percentage of completion basis as described within the specific project proposal.

CLIENT will only make direct payment to consultants that it directly engages. CONSULTANT shall be responsible for payment to any and all sub-consultants it retains in connection with services provided to CLIENT provided said sub-consultants are not directly contracted by the CLIENT.

CONSULTANT reserves the right to add an administrative fee of ten per cent (10%) to any services provided by a sub-consultant for any work authorized by CLIENT under this Agreement.

6. Payment to CONSULTANT.

A. Hourly Billing

i. Invoices shall be submitted by CONSULTANT to the CLIENT on a monthly basis.

ii. CONSULTANT shall append to each invoice for payment a detailed breakdown of services and charges in accordance with this Agreement.

B. Fixed Fee

i. Invoices shall be submitted by CONSULTANT to the CLIENT in accordance with the progress payment schedule outlined in the project proposal and accepted by CLIENT.

ii. CONSULTANT shall NOT be required to submit a detailed breakdown of services and charges for Fixed Fee billing.

C. CLIENT shall make payment to CONSULTANT within thirty (30) days of receipt of the invoice for payment by CLIENT. Payments not made within thirty (30) days of receipt of voucher for payment shall be assessed an interest rate of 1.5%, unless otherwise prescribed for by State law. No deduction shall be made from CONSULTANT'S compensation on account of penalty, liquidated damages or other sums withheld from payments to others or on account of the cost of changes in the work other than those for which CONSULTANT is directly responsible.

D. Disputes of invoices for payments, or portions thereof, shall be brought to CONSULTANT'S attention in writing within fifteen (15) days of the receipt of the invoice for payment by CLIENT.

E. Pursuant to the Scope of Services described herein, CONSULTANT shall perform the services, which may include the preparation of design documents, all of which will be subject to CLIENT's review and reasonable approval and all of which CONSULTANT shall perform and prepare within

the fee terms described herein and/or any approved proposal. If CLIENT requests revisions to the services and/or design documents, and if same is within the Scope of Services and/or the approved proposal, CONSULTANT shall make the requested revisions without additional compensation, such that CONSULTANT performs the services and prepares the design documents in accordance with this Agreement.

7. Changes in Scope. At any time either party may give the other party notice that renegotiations of any or all fees payable hereunder is necessary. Such notice shall be in writing and shall specify which fees must necessarily be renegotiated and shall expressly identify any changes to the Scope of Services. All fees payable under the terms of the Agreement shall be effective until the approval of the renegotiation of fees. Following such renegotiation, fee changes agreed upon shall be set forth in writing, executed by both PARTIES. In the event the PARTIES are unable to agree on revised fee(s), the existing fees shall remain in effect until the termination of the Agreement or until agreement is reached.

8. CLIENT Requests; Private Request. The CONSULTANT shall respond to only those requests by the CLIENT'S authorized representative or member of the governing body, but in no case shall respond to, or provide any services or work hereunder upon the request of any private citizen, person, firm, or other entity, except as expressly authorized in writing by CLIENT.

9. Filing of Deliverables with the CLIENT

A. CONSULTANT is accustomed to fully incorporating end-user specifications into the design and construction documents and will submit the documents for CLIENT's review and approval. CONSULTANT will deliver, by way of filing to the CLIENT a true copy of all maps, charts, documents, work sheets and data for which CONSULTANT has been compensated by the CLIENT, hereinafter "Deliverables." CONSULTANT will also deliver an electronic version, in PDF Format (unless another electronic format is requested by CLIENT through RFP or as set forth in CONSULTANT's Proposal), of all Deliverables. Should CLIENT desire additional Reproduction of Deliverables, beyond as set forth herein, either

hard copy or electronic format, CLIENT shall bear the cost for reproduction as indicated in the attached schedule of reproduction costs.

B. All documents prepared or furnished by CONSULTANT are instruments of service, and CONSULTANT retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the project is completed. CLIENT shall have a limited license to use the documents on the project, extensions of the project, and for related uses of the CLIENT, subject to receipt by CONSULTANT of full payment for all services relating to preparation of the documents and subject to the following limitations: (1) CLIENT acknowledges that such documents are not intended or represented to be suitable for use on the project unless completed by CONSULTANT, or for use or reuse by CLIENT or others on extensions of the project, on any other project, or for any other use or purpose, without written verification or adaptation by CONSULTANT; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by CONSULTANT, as appropriate for the specific purpose intended, will be at CLIENT's sole risk and without liability or legal exposure to CONSULTANT or to its officers, directors, members, partners, agents, employees, and consultants; (3) CLIENT shall indemnify and hold harmless CONSULTANT and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by CONSULTANT; and (4) such limited license to CLIENT shall not create any rights in third parties.

10. Limitation of Liability. To the fullest extent permitted by law, the CLIENT agrees to limit CONSULTANT'S liability to the CLIENT, it's agents, officers or employees on any and all projects or related to the professional services CONSULTANT provides for CLIENT, due to CONSULTANT'S professional sole negligent acts, errors or omissions, regardless of the form or type of loss or damages whether direct, indirect,

consequential or the result of contract, tort, indemnification or contribution which results in bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than the work itself) such that the total aggregate liability of CONSULTANT shall not exceed \$15,000 or CONSULTANT'S total fee for services rendered on any specific project or service, whichever is higher. CONSULTANT's liability for reasonable and necessary defense costs incurred by the indemnified persons shall be limited to the extent caused by the sole negligent acts, errors, or omissions herein and recoverable under applicable law on account of CONSULTANT's negligence.

11. No Damage for Delay. CONSULTANT and the CLIENT waive consequential damages for claims, disputes, delays, or other matters in question, arising out of or relating to this Agreement including but not limited to any monetary damages that are alleged to be the result of any delay which is not the fault of the CLIENT. The CLIENT further agrees to obtain by contract, to the fullest extent permitted by law, similar waivers from any and all contractors and subcontractors, if any, to any and all work for which CONSULTANT provides services to CLIENT.

12. Waiver of Construction Phase Services. If CLIENT does not retain CONSULTANT to render construction phase services, CLIENT waives any claim it may have against the CONSULTANT and agrees to indemnify, defend and hold harmless CONSULTANT from any loss or liability, including attorney's fees and other costs of defense, arising out of or related to the interpretation of CONSULTANT'S plans and specifications, the review of shop drawings, the evaluation of contractor's request for change orders, or the failure to detect and correct obvious errors or omissions in CONSULTANT'S plans and specifications.

13. Dispute Resolution.

A. The PARTIES agree to attempt to resolve any dispute, claim or controversy arising out of or relating to this Agreement without the need for any intervention of third parties. However, should the PARTIES be unable to resolve disputes amicably without intervention, the PARTIES shall attempt to resolve any and all disputes through mediation conducted in accordance with the Commercial Mediation Rules of the American Arbitration Association. The PARTIES further agree that their respective

good faith participation in mediation is a condition precedent to pursuing any other available legal or equitable remedy, including litigation.

B. Either party may commence the mediation process by providing to the other party written notice, setting forth the subject of the dispute, claim or controversy and the relief requested. Within ten (10) days after the receipt of the foregoing notice, the other party shall deliver a written response to the initiating party's notice. The initial mediation session shall be held within thirty (30) days after the initial notice. The PARTIES agree to share equally the costs and expenses of the mediation (which shall not include the expenses incurred by each party for its own legal representation in connection with the mediation).

C. The PARTIES further acknowledge and agree that mediation proceedings are settlement negotiations, and that, to the extent allowed by applicable law, all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the PARTIES or their agents shall be confidential and inadmissible in any legal proceeding involving the PARTIES; provided, however, that evidence which is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

D. The provisions of this section may be enforced by any court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees, and expenses, including reasonable attorneys' fees, to be paid by the party against whom enforcement is ordered.

14. Insurance. CONSULTANT shall procure, and further require any and all sub-contractors and sub-consultants to procure, prior to the commencement of services, and maintain, at its own expense, until final acceptance by the CLIENT of all services required under this Agreement, insurance for liability for damages imposed by law and assumed under this Agreement, of the kinds and in the amounts hereinafter provided, with insurance companies admitted to do business in the State of New Jersey, which may be provided in a combination of primary and excess policies. The insurance carriers shall have a Best's rating of "A-" or better and a Best's financial size of "VII" or larger. All of the

policies of insurance required to be purchased and maintained and the certificates, declaration pages, or other evidence thereof shall contain a provision or endorsement that the coverage afforded is not to be cancelled, materially changed or non-renewed without at least 30 days prior written notice to the CLIENT in accordance with the policy terms and conditions.

A. Commercial General Liability Insurance. The minimum limit of liability shall be \$1,000,000 per occurrence (combined single limit for bodily injury and property damage) /2,000,000 aggregate, including products/completed operations and contractual liability insurance.

B. Commercial Automobile Liability Insurance. The policy shall cover owned, non-owned, hired, leased, and rented vehicles with minimum limits of liability in the amount of \$1,000,000 per accident as a combined single limit for bodily injury and property damage. The coverage provided shall include automobile contractual liability covering liability assumed under this Agreement.

C. Worker's Compensation and Employer's Liability Insurance. Worker's Compensation and Employer's Liability insurance shall be provided in accordance with the requirements of the laws of the State of New Jersey.

D. Professional Liability (Errors & Omissions). Written on a "claims made" basis, with not less than \$2,000,000 for CONSULTANT and not less than \$2,000,000 for any licensed professional retained by CONSULTANT against any and all liabilities arising out of or in connection with the negligent acts, errors or omissions of CONSULTANT, its licensed professionals, subconsultants, contractors or subcontractors.

CONSULTANT shall furnish to the CLIENT within ten (10) days of the effective date of this Agreement, Certificates of Insurance representing insurance coverages as set forth above, together with declaration pages, in a form satisfactory to the CLIENT.

15. Waiver of Subrogation. To the extent damages experienced by CLIENT or CONSULTANT are covered by property or casualty insurance, CLIENT and CONSULTANT waive all rights against each other, their agents, consultants, and

employees for such covered losses and shall obtain waivers from their respective property and casualty insurance carriers against subrogation of such covered losses to the extent permitted by law. CLIENT shall require similar waivers of their contractor and its subs contractors and suppliers and consultants of any tier as to CONSULTANT to the extent permitted by law. The PARTIES shall advise their property and casualty carriers in writing as to such waivers.

16. Law and Venue. The law which shall be used to interpret this Agreement, including the 'Choice of Law' Rules shall be the law of the jurisdiction where CONSULTANT has its principal place of business. The PARTIES hereby agree that CONSULTANT may only be sued in the state in which CONSULTANT has its principal place of business and only in the county or local judicial district in which said office is located.

17. Mandatory Equal Employment Opportunity and Affirmative Action Language for Procurement and, Professional and Service Contracts. During the performance of this contract, the CONSULTANT agrees as follows:

CONSULTANT or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, or sex. Except with respect to affectional or sexual orientation and gender identity or expression, CONSULTANT will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality, or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

CONSULTANT or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

CONSULTANT or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of CONSULTANT commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

CONSULTANT or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

CONSULTANT or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

CONSULTANT or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

CONSULTANT or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey, and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, CONSULTANT or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or

expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

CONSULTANT shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

1. Letter of Federal Affirmative Action Plan Approval
2. Certificate of Employee Information Report
3. Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

CONSULTANT and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

18. Term & Termination.

A. The term of this Agreement shall commence as of January 1, 2024 and shall continue through December 31, 2024.

B. Either party may, at any time, in its sole discretion and for any reason or no reason at all, terminate this Agreement, in whole or in part, for its own convenience by delivering to the other party a thirty (30) day written notice of termination identifying the extent to which performance of the work is terminated and the effective date of the termination.

C. Notwithstanding the foregoing, either the CLIENT or CONSULTANT may terminate this Agreement upon the other Party's material breach of this Agreement, provided that: (a) the nonbreaching Party sends written notice to the breaching Party describing the breach in reasonable detail; and (b) the breaching Party does not cure the breach within twenty (20) working days following its receipt of such written notice. In the event the breach is not cured within the time period allotted, the

Agreement will be deemed automatically terminated on the twenty-first (21st) day.

D. CONSULTANT shall be entitled to compensation for all amounts (including any payment for extra work) due, but not yet paid, to the CONSULTANT under this Agreement for work completed prior to the effective date of termination. Termination of this Agreement for any reason whatsoever shall not affect any right or obligation of any party which is accrued or vested prior to the termination, and any provisions of this Agreement relating to any such right or obligation shall be deemed to survive the expiration or earlier termination of this Agreement.

19. Warranties. **NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AT COMMON LAW OR CREATED BY STATUTE, IS EXTENDED, MADE, OR INTENDED BY THE PROVISION OF PROFESSIONAL SERVICES AND ADVICE OR BY THE FURNISHING OF THE PROFESSIONAL WORK PRODUCTS PURSUANT TO THIS AGREEMENT.**

20. Miscellaneous Terms and Conditions.

A. Registration. CONSULTANT attaches hereto as **Exhibit "B"** a copy of the CONSULTANT'S filed Employee Information Report and Business Registration Certificate from the State of New Jersey.

B. Entire Agreement. This Agreement contains the entire understanding among the PARTIES hereto with respect to the subject matter hereof only. The express terms of this Agreement control and supersede any course of performance inconsistent with any of its terms. This Agreement may not be modified or amended other than in writing signed by the CONSULTANT and the CLIENT.

C. Notice. Any notices, requests, demands or other communications required or permitted to be given under this Agreement shall be sufficient, if in writing, and either (i) delivered personally to the authorized representative of either the CONSULTANT or the CLIENT, or (ii) sent by certified mail, postage pre-paid, return receipt requested, and regular mail, first class.

D. Waiver. The failure of the CONSULTANT or CLIENT to insist upon strict performance of the covenants and conditions contained herein shall not be deemed a waiver of the right of the CONSULTANT or CLIENT to insist on the strict performance of such covenants or conditions at any other time. Any waiver by the CONSULTANT or CLIENT of any breach or violation of this Agreement shall not operate or be interpreted, therefore, as a waiver of any subsequent breach or violation of this Agreement.

E. Severability. In the event that any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid any other provisions of this Agreement.

IN WITNESS WHEREOF, CONSULTANT and CLIENT have caused this Agreement to be executed the day and year first above written.

ATTEST:

**Remington & Vernick Engineers II, Inc. d/b/a
Remington & Vernick Engineers**

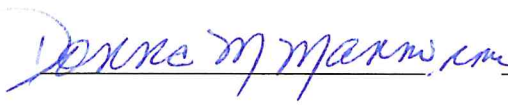




Leonard A. Faiola, President & CEO

ATTEST:

Township of Barnegat


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2024 SCHEDULE OF BILLABLE HOURLY RATES

It has always been the firm's policy to encourage clients to contact our staff with questions or problems that need to be discussed. No fees are incurred each time the telephone is answered or a meeting is held on-site. Clients are free to discuss various projects without fear of incurring a consulting expense. Fees are all project-related, established at the initiation of the project or as the scope of the project can be defined. Prior to client authorization, a detailed proposal, including a scope of services, will be prepared for all Capital Projects. All proposals are subject to negotiation and approval.

ENGINEERING

Certified Floodplain Manager	\$185
Project Manager, LSRP	\$200
Project Manager/Engineer	\$200
Project Engineer	\$190
Engineer	\$165
Senior Engineering Technician	\$160
Engineering Technician	\$125
Technical Aide	\$85

PLANNING

Planning Manager	\$200
Project Planner	\$195
Senior Landscape Architect/Planner	\$185
Landscape Architect/Planner	\$155

Principal	\$215
Regional Engineer/Manager	\$210
Engineering Department Head	\$205
Administrative Manager	\$130

CONSTRUCTION MANAGEMENT & OBSERVATION

CM & Observation Department Head	\$180
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Construction Management Personnel

Project Manager	\$175
Senior Construction Manager	\$160
Construction Manager	\$150
Asst Construction Manager	\$125

Observer Personnel

Observer Supervisor	\$170
Resident Observer NICET IV	\$165
Observer NICET II/III	\$160
Observer	\$150
Contract Administrator	\$145
NACE Certified Coating Inspector	\$175

SURVEY, CAD & GIS

Field Personnel

Surveyor	\$135
Party Chief	\$130
Transit/Rod Person	\$125
Robotic Crew	\$165

Office Personnel

Survey/CAD Department Head	\$190
Survey Manager	\$185
CAD/GIS Manager	\$180
Senior CAD/GIS Technician	\$155
CAD/GIS Technician	\$135

Mileage Commensurate in accordance with IRS Regulations