

November 17, 2014

To: Mayor Bemrich and City Council

From: David Fierke, City Manager

**Subject: Waste Water System Improvements
North Central Ag Park Expansion – Wastewater Treatment Plant
– Operations & Maintenance Manual – Amendment #6 to the
Agreement for Engineering Services – McClure Engineering**



ACTION: For vote Monday, November 24, 2014

Brief History

Since March, 2011 City Staff has been working with Cargill representatives regarding water and wastewater infrastructure needs for the North Central Ag Park. City Staff has also been working with CJ American since April, 2011 regarding their water and wastewater infrastructure needs. On April 25, 2011, the Council approved contracts with McClure Engineering and US Water Utility Group to complete a Water and Wastewater System Evaluation Study and Conceptual Master Plan. The draft System Evaluation Study information was presented to Council on October 24, 2011 and the draft Conceptual Master Plan was presented to Council on November 7, 2011.

In order to accommodate the water needs and wastewater loadings from Cargill and CJ America, the City's water and wastewater infrastructure needs to be expanded. The proposed projects will require extensive design work, construction administration, and financial administration.

Council approved a contract with McClure Engineering on November 14, 2011. Total fee for the Engineering Services is \$2,160,357. Fees for the other services listed are to be determined at a later date. Engineering fees for each of the 4 phases are as follows:

Phase A – Raw Water Source - \$478,800.00

Phase B – Water Treatment Plant - \$57,000.00

Phase C – Ag Park Ground Storage and High Service Pumping - \$291,357.00

Phase D – Waste Water Treatment Plant - \$1,333,200.00

Under this agreement McClure Engineering proposes to provide services for preliminary design, final design, advertising, bidding, contract award, construction administration, staking, project representation, soil boring coordination, erosion control monitoring, record drawings, SRF loan application and administrative services, and meetings.

Amendments to the McClure Engineering Contract for Construction Administration, Staking, Project Representative, Records Drawings and SRF Loan Administration are as follows:

Amendment #	Phase	Amount	Approved
1	B	\$181,000	09/24/2012
2	C	\$256,910	09/24/2012
3	A	\$370,910	11/05/2012
4	D2	\$165,850	10/22/2012
5	D1	\$932,941	11/19/2012

Analysis of Issue

Due to the upgrades to the Wastewater Treatment Plant with the Ag Park Expansion Project, an updated Operation and Maintenance Manual is needed. The Iowa DNR requires a manual be written for operating the new facilities and operating the modified facilities. McClure will be working with US Water on the writing of the Manual. Amendment#6 to the Agreement for Engineering Services with McClure Engineering is necessary for the following items:

Meetings	\$ 4,000.00
Operation and Maintenance Manual	\$162,000.00
Manual Updates	TBD

The total fee for Amendment #6 is \$166,000.00.

Budget Impact

These services will be paid by Sewer SRF Loans and will be repaid by Sewer Utility funds. This project will be included into the large Ag Park Expansion SRF loan.

Strategic Plan Impact

Policy D.4.2: Advanced planning for all infrastructure facilities shall be supported and routinely updated. Facilities benefited by advanced planning shall include, at minimum, schools, health care, residential areas, roads, water, sewer, storm water management, parks, recreation, and greenways.

Policy D.4.1: Recognizing that infrastructure has a powerful influence on growth and development, the availability of infrastructure (along with other factors) should determine where development will occur in the city, rather than the other way around.

Impact on Existing Plans

None

Committee Review / Recommendation

This project has been discussed at several council meetings and workshops.

Staff Conclusions / Recommendations

It is our recommendation to approve Amendment #6 to the Agreement for Engineering Services with McClure Engineering for services for Meetings, the Operation and Maintenance Manual, and Manual Updates. The total Engineering Services fee for this work is \$166,000.00.

Alternatives

No practical alternatives are suggested.

Implementation and Accountability

The Engineering Department will be responsible for overseeing this project.

Signed



Chad W. Schaeffer, P.E.
City Engineer

Approved



David R. Fierke
City Manager

**AMENDMENT NO. 6
 TO THE
 AGREEMENT FOR ENGINEERING SERVICES
 FOR
 WASTEWATER TREATMENT FACILITY
 OPERATION AND MAINTENANCE MANUAL
 FORT DODGE, IOWA**

THIS AMENDMENT is made this _____ day of _____, 2014 and shall amend the **AGREEMENT** dated the 14th day of November, 2011, by and between **McClure Engineering Company, of Fort Dodge, Iowa** (herein referred to as "**ENGINEER**") and the **City of Fort Dodge, Iowa** (hereinafter referred to as "**OWNER**"), for the proposed Wastewater Treatment Facility Operation and Maintenance Manual project.

It is the intent of the **OWNER** to revise the original Agreement to include fees for preparing the Wastewater Treatment Facility Operation and Maintenance Manual, under Item 'L' of the original Agreement.

This Amendment authorizes the **ENGINEER** and establishes fees for the phase stated above. The Engineering Services to be provided for the project are described in the previous Agreement. The Project Scope and Estimated Cost are based on the contract awarded by the City Council on November 5, 2012.

1. The Owner shall provide information, which shall set forth the **OWNER's** objectives, schedule, constraints, budget with reasonable contingencies and other applicable criteria, (See Exhibit 'C' for Owner's Responsibilities).
2. The Engineer shall provide the services marked "included" as follows:

Item	Included	Not Included
1.0 Meetings		
1.1 Project Initiation Meeting	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2 Project Progress Meetings	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.1 30% Complete	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.2 60% Complete	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.3 90% Complete	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.2.4 Other Meetings requested by Owner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.3 Final Draft Presentation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.0 Operation and Maintenance		
2.1 Facility Personnel and Staffing	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.2 Records and Reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.3 Sampling	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.4 Laboratory	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.5 Safety	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.6 Utilities Summary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.7 Electrical System	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.8 Emergency Operation and Response	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.9 Description of Facilities	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.10 Process Description, Operation and Control	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.11 Sludge Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.12 Facility Maintenance	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.0 Manual Updates		
3.1 Update Operation and Maintenance Manual		
3.1.1 Plant Modification or Expansion	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.1.2 Significant New Industries	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.1.3 New Effluent Limits	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.1.4 As requested by Owner	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3. Fee Schedule: Fees for Operation and Maintenance Manual are shown below:

<input checked="" type="checkbox"/> 1.0 Meetings.....	T&M (Est.) 4 Meetings @ \$1,000.00	\$4,000.00
<input checked="" type="checkbox"/> 2.0 Operation and Maintenance Manual.....	T&M (Est.)	\$162,000.00
<input checked="" type="checkbox"/> 3.0 Manual Updates	T&M	TBD
TOTAL O&M MANUAL		<u>\$166,000.00</u>

T&M – Time and Materials
TBD – To Be Determined
Est. – Estimated
LS - Lump Sum

The Hourly Rate Schedule is included in Exhibit 'A' and attached to this **AMENDMENT** to be used for work performed on a *Time and Material* basis.

Past due amounts owed shall accrue interest at 1.5% per month from the 30th day. If the **OWNER** fails to make monthly payments due the **ENGINEER**, the **ENGINEER** may, after giving (7) days written notice to the **OWNER**, suspend services under this Agreement.

This **AMENDMENT** represents the entire and integrated agreement between the **OWNER** and the **ENGINEER** and supersedes all prior negotiations, representations or agreements, either written or oral. This **AMENDMENT** may be amended only by written instrument signed by both the **OWNER** and the **ENGINEER**.

SPECIAL INSTRUCTIONS:

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

OWNER: CITY OF FORT DODGE, IOWA

**ENGINEER: MCCLURE ENGINEERING COMPANY
FORT DODGE, IOWA**

By: _____
Matt Bemrich

By: 
Derick A. Anderson, P.E.

Title: _____
Mayor

Title: Client Services Representative/Regional Manager

McCLURE ENGINEERING COMPANY STANDARD TERMS AND CONDITIONS

ACCESS TO SITE: The Engineer shall at all times have access to the site to complete his Work.

INFORMATION PROVIDED BY OTHERS: The Engineer shall be entitled to rely upon the accuracy and completeness of data provided by the Owner and shall not assume liability for such data. The Engineer does not practice law, insurance or financing, therefore, the Owner shall furnish all legal, accounting and insurance counseling services as may be necessary to protect themselves at any time during the Project. Owner shall hold Engineer harmless from damages that may arise as a result of inaccuracies of information or data supplied by Owner or others to Engineer.

ADDITIONAL SERVICES: As an Additional Service in connection with changes in the scope of the Engineer's work by the Owner, the Engineer shall prepare Drawings, Specifications and other documentation and data, evaluate Contractor's proposal and provide any other services made necessary by such Change Orders and Construction Change Directives. The Engineer will be entitled to additional compensation to coordinate such changes and schedules shall be adjusted accordingly.

OWNERSHIP AND REUSE OF DOCUMENTS: All reports, plans, specifications, field data and other documents written and/or electronic, prepared by Engineer in doing work on the project, shall remain the property of the Engineer. The documents prepared by the Engineer for this Project are for use solely with respect to this Project. The Engineer's Drawings, Specifications or other documents shall not be used by the Owner on other projects or for additions to this Project, except by agreement in writing and with appropriate compensation to the Engineer.

OPINIONS OF PROBABLE COSTS: It is recognized that neither the Engineer nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Engineer cannot and does not warrant or represent that bids or negotiated prices will not vary from any estimate of costs or evaluation prepared or agreed to by the Engineer.

DISPUTE RESOLUTION: Claims, disputes or other matters, involving a value less than \$200,000.00, in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to mediation unless each of the parties mutually agrees otherwise. No mediation arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the Owner, Engineer, and any other person or entity sought to be joined. In no event shall the demand for mediation be made after the date when the institution of legal or equitable proceedings based upon such claim would be barred by the applicable statute of limitations. The award rendered in the mediation shall be non-binding.

TERMINATION: This Agreement may be terminated by either party upon not less than seven days written notice should the other party fail substantially to perform in accordance with the terms of the Agreement through no fault of the party initiating the termination. This Agreement may be terminated by the Owner upon not less than seven days' written notice to the Engineer in the event the Project is permanently abandoned.

Failure of the Owner to make payments to the Engineer in accordance with the Agreement shall be considered substantial non-performance and cause for termination. If the Owner fails to make payment when due the Engineer for services, the Engineer may, upon seven days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Engineer within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Engineer shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.

In the event of termination not the fault of the Engineer, the Engineer shall be compensated for services performed prior to termination and all termination expenses. Termination expenses are in addition to compensation for *Basic and Additional Services*, and include expenses which are directly attributable to termination.

CONTRACTOR MATTERS: The Engineer has no control over the Contractor's means, methods, schedule, costs, quality control, workmanship, on-site storm water runoff/erosion control, or project safety measures. For this reason, the Engineer shall not be responsible for or assume liability for the same.

UNDERGROUND UTILITIES: Information for location of underground utilities may come from the Owner, third parties, and/or research performed by the

Engineer or its subcontractors. Unfortunately, the information the Engineer must rely on from various utilities and other records may be inaccurate or incomplete. Therefore, the Owner agrees to indemnify and hold harmless the Engineer for all claims, losses, costs and damages arising out of the location of underground utilities provided by the Engineer under this Agreement.

SHOP DRAWING REVIEW: If, as part of this Agreement Engineer reviews Contractor submittals, such as shop drawings, product data, samples and other data, as required by Engineer, these reviews and approvals shall be only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. Engineer shall not be responsible for any deviations from the contract documents not brought to the attention of Engineer in writing by the contractor. Engineer shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

CONSTRUCTION OBSERVATION: If, as part of this Agreement, Engineer is providing construction observation services, Engineer shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the Contractor's work and to determine if the work is proceeding in general accordance with the Contract Documents. Unless otherwise specified in this Agreement, the Owner has not retained the Engineer to make detailed inspections or to provide exhaustive or continuous project review and observation services. Engineer does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project.

HAZARDOUS MATERIALS – INDEMNIFICATION: The Engineer is not in the business of making environmental site assessments for purposes of determining the presence of any toxic, hazardous or other environmental damaging substances. The purpose of this provision is to be certain that the Owner is aware of the potential liability if toxic, hazardous or environmental damaging substances are found on or under the property. Engineer makes no representations regarding an environmental site assessment, relies upon Owner to have fully investigated the need and/or scope of such assessment and assumes no responsibility for the determination to make an environmental site assessment on the subject property.

PAYMENT: Amounts unpaid 30 days after invoice date shall bear interest from the date payment is due at a rate of 1.5% per month compounded and shall include costs for attorney fees and other collection fees related to collecting fees for service.

LIMITATION OF LIABILITY: The Engineer's liability shall be limited to \$50,000.00 or the fee for the work performed, whichever is greater, or as specifically agreed to by separate agreement.

WAIVERS: The Owner and the Engineer waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent covered by property insurance during construction. The Owner and Engineer each shall require similar waivers from their contractors, consultants and agents.

ASSIGNMENT: The Owner and Engineer, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither Owner nor Engineer shall assign this Agreement without the written consent of the other.

GOVERNING LAW: Unless otherwise provided, the Agreement shall be governed by the law of the principal place of business of the Engineer.

COMPLETE AGREEMENT: This Agreement represents the entire and integrated agreement between the Owner and Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Engineer. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Engineer.

Effective 11/01/08
(Supersedes 2/15/05)

EXHIBIT 'A'

McCLURE ENGINEERING COMPANY
HOURLY RATE SCHEDULE
(Effective through December 31, 2014)

<u>PERSONNEL</u>	<u>HOURLY RATE</u>
Administrative	\$60.00
Senior Administrative.....	\$75.00
Staff Engineer	\$98.00
Project Engineer	\$115.00
Senior Project Engineer	\$158.00
Project Manager	\$145.00
Principal.....	\$175.00
Senior Principal	\$195.00
Engineering Technician (ET).....	\$90.00
Registered Land Surveyor.....	\$145.00
On-Site Representative (OSR).....	\$80.00
Senior On-Site Representative (OSR)	\$90.00
Crew Chief (CC)	\$85.00
Crew Member (CM).....	\$70.00
Intern Crew Member.....	\$55.00

MISCELLANEOUS EXPENSES

Survey Vehicle Mileage.....	\$0.75/Mile
Automobile Mileage	\$0.55/Mile
Plans.....	\$0.12/Sq. Ft.
Vellums.....	\$0.50/Sq. Ft.
Out-of-Pocket Expenses (Meals, Hotels, etc.)	At Cost + 10%
Large Format Color Prints	\$5.00/Sq. Ft

EXHIBIT 'B'

PRELIMINARY PROJECT SCOPE

WASTEWATER TREATMENT FACILITY OPERATION AND MAINTENANCE MANUAL FORT DODGE, IOWA 2014

ANTICIPATED CONTENTS

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- 1.3 Job Description
 - 1.3.1 Operator
- 1.4 Certification Requirements
 - 1.4.1 Grades of Wastewater Treatment Facilities
 - 1.4.2 Qualifications of Wastewater Treatment Facility Operators
 - 1.4.3 Operator Certification
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EXHIBIT 'C'

OWNER'S RESPONSIBILITIES

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

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 ENGINEER'S services for the project.
2. Provide all criteria and full information as to OWNER'S requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards, which OWNER will require to be included in the drawings and specifications.
3. Assist ENGINEER by placing at ENGINEER'S disposal all available information pertinent to the Project, including previous reports and any other data relative to design or construction of the Project.
4. Arrange for access to make all provisions for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform services under this Agreement.
5. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the ENGINEER, 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 the ENGINEER.
6. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary completion of the Project.
7. Attend the Prebid Conference, Bid opening, Preconstruction Conferences, Construction Progress Meetings and other job related meetings and Substantial Completion Inspection and Final Payment Inspection.
8. Give prompt written notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any development that affects the scope or timing of the ENGINEER'S services, or any defect or non-conformance in the work of any Contractor.
9. Pay invoices for services rendered on time.