

**December 15, 2014**

**To: Mayor Bemrich and City Council**

**From: David Fierke, City Manager**

**Subject: John W Pray Water Treatment Plant  
– Risk Management Plan  
Approving Professional Services Agreement  
HDR Engineering, Inc.**



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**ACTION: For vote Monday, December 22, 2014**

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**Brief History**

On August 27-28, 2013, a representative of the U.S. Environmental Protection Agency, Region 7 (EPA) inspected the City's John W Pray Water Treatment Plant (WTP). The inspection was conducted to determine if the City's WTP was in full compliance with the requirements of the Clean Air Act and other applicable statutes and regulations.

Following this inspection the City received a letter dated March 14<sup>th</sup>, 2014 detailing 24 deficiencies with the WTP's Risk Management Plan (RMP). The City followed up with the EPA and set a schedule to correct these deficiencies by July 2015 with a goal to avoid potential fines.

Due to the schedule allotted by EPA, the City reached out to five professional firms for Statements of Qualifications (SOQ) and Fee Proposals. Those firms were: McClure Engineering, HDR Engineering, HR Green, Snyder, and US Water. The City received only one proposal from HDR Engineering. Other firms that did not submit a proposal referenced either a lack of qualifications or staff availability.

On November 24, 2014 Council approved to enter into negotiations with HDR for a professional services contract.

**Analysis of Issue**

After negotiations with HDR and Water Treatment Plant Staff, a lump sum contract totaling \$69,400.00 was agreed upon. This contract when fulfilled will bring the City's Water Treatment Plant into full compliance with the Clean Air Act and other statutes and regulations.

**Budget Impact**

HDR Engineering, INC fees are \$69,400.00 and will be paid out of the Water Utility Fund.

**Strategic Plan Impact**

Policy D.8.8: The city shall work cooperatively with other governmental agencies to create and maintain a safe and secure environment for all residents and businesses.

**Impact on Existing Plans**

None.

**Staff Conclusions / Recommendations**

It is Staff's recommendation for Council to approve the attached contract with HDR Engineering.

**Alternatives**

NA

**Implementation and Accountability**

The Water Treatment Plant staff along with Engineering will be responsible for oversight of this project.

Signed

Approved



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Tony Trotter, P.E.  
Project Engineer

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David R. Fierke  
City Manager

**SHORT FORM AGREEMENT BETWEEN OWNER AND HDR ENGINEERING,  
INC. FOR PROFESSIONAL SERVICES**

**THIS AGREEMENT** is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2014, between THE CITY OF FORT DODGE, IOWA (“OWNER”), with principal offices at 819 1<sup>st</sup> Avenue South, Fort Dodge, Iowa, 50501, and HDR ENGINEERING, INC., (“ENGINEER”) a Nebraska corporation, with principal offices at 8404 Indian Hills Drive, Omaha, Nebraska, 68114 for services in connection with the project known as Water Treatment Plant Risk Management Plan (“Project”);

**WHEREAS**, OWNER desires to engage ENGINEER to provide professional engineering, consulting and related services (“Services”) in connection with the Project; and

**WHEREAS**, ENGINEER desires to render these Services as described in SECTION I, Scope of Services.

**NOW, THEREFORE**, OWNER and ENGINEER in consideration of the mutual covenants contained herein, agree as follows:

**SECTION I. SCOPE OF SERVICES**

ENGINEER will provide Services for the Project, which consist of the Scope of Services as outlined on the attached Exhibit A.

**SECTION II. TERMS AND CONDITIONS OF ENGINEERING SERVICES**

The “HDR Engineering, Inc. Terms and Conditions for Professional Services,” which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

**SECTION III. RESPONSIBILITIES OF OWNER**

The OWNER shall provide the information set forth in paragraph 6 of the attached “HDR Engineering, Inc. Terms and Conditions for Professional Services.”

**SECTION IV. COMPENSATION**

Compensation for ENGINEER’S services under this Agreement shall be on the basis of

- lump sum. The amount of the lump sum is Sixty-nine Thousand Four Hundred Dollars (\$69,400.00).

The amount of any sales tax, excise tax, value added tax (VAT), or gross receipts tax that may be imposed on this Agreement shall be added to the ENGINEER'S compensation as Reimbursable Expenses.

Compensation terms are defined as follows:

Lump Sum shall mean a fixed amount which shall be the total compensation agreed upon in advance for Scope of Services.

#### **SECTION V. PERIOD OF SERVICE**

Upon receipt of written authorization to proceed, ENGINEER shall perform the services described in Exhibit A within the time period(s) described in Exhibit A.

Unless otherwise stated in this Agreement, the rates of compensation for ENGINEER'S services have been agreed to in anticipation of the orderly and continuous progress of the project through completion. If any specified dates for the completion of ENGINEER'S services are exceeded through no fault of the ENGINEER, the time for performance of those services shall be automatically extended for a period which may be reasonably required for their completion and all rates, measures and amounts of ENGINEER'S compensation shall be equitably adjusted.

#### **SECTION VI. SPECIAL PROVISIONS**

None.

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

THE CITY OF FORT DODGE, IOWA  
"OWNER"

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

ADDRESS: 819 1<sup>st</sup> Avenue South  
Fort Dodge, IA 50501

HDR ENGINEERING, INC.  
"ENGINEER"

BY: 

NAME: Ron Sova

TITLE: Vice President

ADDRESS: 8404 Indian Hills Drive  
Omaha, NE 68114

**EXHIBIT A**

**SCOPE OF SERVICES**

## EXHIBIT A

### SCOPE OF SERVICES

This document sets forth the Scope of Services that HDR Engineering, Inc. (HDR/Engineer) will perform under the **December 2014** Professional Services Agreement between the City of Fort Dodge, Iowa (City/Owner) and HDR Engineering, Inc.

#### I. PROJECT UNDERSTANDING

HDR understands that the City of Fort Dodge Water Treatment Plant uses, stores, and handles chlorine in amounts that exceed EPA's Risk Management Planning (RMP) 40 CFR 68 and OSHA's Process Safety Management (PSM) 29 CFR 1910.119 regulatory thresholds and is subject to those regulations. It is also understood that the chlorination system is being retrofitted with tank-mounted regulators which will provide a safer vacuum delivery system to the water treatment process. As part of these system improvements, the City has requested that HDR assist them with the preparation and development of Risk & Process Safety Management Program.

#### II. SCOPE OF SERVICES

HDR will assist the City with program implementation through the following tasks:

##### *Task Series 100 – Project Management*

1. **Objective:** Provide project management services for the Project duration including planning, organizing and monitoring Project team activities, preparing and monitoring document production, attending meetings, budget management, and liaison with City.
2. **HDR Activities:**
  - a. **110 – Team Management and Project Control**
    - i. Resource scheduling, management, and allocation based on Project schedules and activities.
    - ii. Budget and invoice management.
    - iii. Production coordination.
    - iv. Monthly progress report submitted to City with each payment request.
  - b. **120 – Project Management Plan Development**

Develop guidance document (Project Management Plan) for HDR personnel documenting Project activities, constraints, guidelines, budgets and procedures.
  - c. **130 – Quality Assurance & Quality Control**

Develop a Quality Assurance & Quality Control plan for the Project. Facilitate internal independent quality control reviews of draft and final deliverables.

d. **140 – Kickoff Meeting**

Prepare for and conduct a kickoff meeting with City staff to review the RMP/PSM process, scope of services, deliverables, schedule, and workshops/meetings. Discuss equipment, process flow, layouts, operating procedures, and collect information pertinent to the process safety information.

e. **150 – Final Review Meeting**

Prepare for and conduct a review meeting with City staff to review and discuss the draft deliverables provided in this Scope of Services. Draft deliverables will be made in a single package for review and comment by City staff.

3. **Travel**

- Three HDR personnel will travel to the site to attend the kickoff meeting.
- Two HDR personnel will travel to the site to attend the review meeting.

4. **Task Deliverables:**

- Monthly Project status reports and invoices.
- Meeting notes for the Kickoff Meeting and Final Review Meeting.

**Task Series 200 – Process Safety Information**

1. **Objective:** Prepare the Process Safety Information identifying and explaining the hazards associated with the regulated substance, the technology of the process, the equipment used in the process, and drawings showing the layout, flow, and control of the process.

2. **HDR Activities:**

a. **210 – Process Safety Information (PSI)**

Prepare the PSI section and develop the stipulated supporting documentation per the regulations to include a block flow diagram, chlorination room layout figure, chemical properties and physiological effects of chlorine, process and instrumentation diagrams, and a process flow diagram.

b. **220 – Equipment Information**

Prepare a table of Equipment Information to reflect pertinent equipment data for inclusion in the PSI section.

c. **230 – Chlorine Facility Layouts**

Prepare a chlorination room layout figure, including all major chlorine feed equipment and safety features/equipment.

d. **240 – Process Flow Diagrams**

Prepare a block flow diagram, process and instrumentation diagrams, and a process flow diagram.

3. **Task Deliverables:**

- Process Safety Information document.

### ***Task Series 300 – Management of Change and Emergency Action Plan***

1. ***Objective:*** Implement the Management of Change (MOC) procedure to identify, coordinate and assess proposed changes to the chlorination process equipment maintenance, safety, and operating practices. Develop a revised Emergency Action Plan to reflect best practices for addressing emergencies at the facility.
2. ***HDR Activities:***
  - a. ***310 – MOC Documentation***

Prepare a template MOC form and develop supporting documentation per the regulations to accompany the form for implementing the retrofit of the tank-mounted vacuum regulators.
  - b. ***320 – Emergency Action Plan***

Review and update the City of Fort Dodge’s Emergency Action Plan and add language addressing an accidental chlorine release at the water treatment plant and the associated notification, response, and evacuation procedures to be taken by the City.
3. ***Task Deliverables:***
  - Completed MOC form and supporting documentation.
  - Emergency Action Plan language specific to a chlorine release from the water treatment plant.

### ***Task Series 400 – Standard Operating Procedures***

1. ***Objective:*** Develop new standard operating procedures (SOPs) that outline steps for each operating phase for the chlorination system, including initial startup, normal operations, temporary operations, emergency shutdown/operations, normal shutdown, and startup after turnaround or emergency shutdown.
2. ***HDR Activities:***
  - a. ***410 – SOP Template***

Review existing plant SOPs and develop a template for chlorination system SOPs.
  - b. ***420 – Field Investigations***

Work with City staff to review and document existing procedures. Review plans for new chlorination equipment to reflect new equipment in updated SOPs.
  - c. ***430 – SOP Development***

Draft new SOPs to reflect new equipment and best practices for each operating phase of the chlorination system.
  - d. ***440 – Process Verification***

Work with City staff to verify that SOPs will be suitable based on field conditions and, if necessary, incorporate adjustments.

3. **Travel**

- Two HDR personnel will travel to the site for a one day PHA workshop.

4. **Task Deliverables:**

- Updated Standard Operating Procedures for the chlorination system.

**Task Series 500 – Off Site Consequence Analysis and Risk Management Plan**

1. **Objective:** Perform an Off-Site Consequence Analysis (air modeling) of worst case and alternative case releases of the regulated substance, chlorine. Include this information with the materials used in the preparation of the Risk Management Plan for submittal to EPA.

2. **HDR Activities:**

a. **510 – Off-Site Consequence Analysis (OCA)**

Using EPA’s RMP Comp software, perform air emission modeling and analysis of the worst case and alternative case release scenarios that could occur at this location. Determine the impact distance for both the worst-case and alternative case scenarios and prepare an off-site consequence analysis report for documentation of the event.

b. **520 – Risk Management Plan (RMP)**

Prepare a Risk Management Plan using EPA’s RMP ESubmit program and assist the City with its transmittal to the EPA. The document will include information regarding facility location and operations, a report on the status of its RMP Program, and an executive summary of the City’s RMP Program.

3. **Task Deliverables:**

- OCA Report and diagrams .
- RMP ESubmit electronic and hardcopy.

**Task Series 600 – Process Hazard Analysis**

1. **Objective:** Facilitate a Process Hazard Analysis (PHA) that provides a structured examination of the process hazards, and results in a hazard ranking using a “What If” methodology for evaluation and analysis of risks. Include City staff in the group analysis of the potential risks associated with the regulated substances, process equipment, and procedures during operation of the regulated processes.

2. **HDR Activities:**

a. **610 – PHA Workshop Preparation**

Prepare PHA worksheets, system diagrams, and a list of operational issues to be considered during the hazard analysis workshop.

b. **620 – Conduct PHA Workshop**

Facilitate the PHA workshop with City staff members representing operations, maintenance, engineering, and safety. Review the process safety information,

management of change, and discuss the regulated process to identify potential hazards. Document the workshop in a summary table identifying the hazard and potential consequences, safeguards, numeric likelihood and severity of occurrence and resulting ranking, recommendation(s) for addressing hazard, and responsible party.

c. **630 – PHA Workshop Summary**

Prepare a report of the PHA workshop summarizing the conclusions and identifying priority action items to be addressed.

3. **Travel**

- Two HDR personnel will travel to the site for a one day PHA workshop.

4. **Task Deliverables:**

- Process Hazard Analysis Report.

**Task Series 700 – Additional Services**

1. **Objective:** HDR will perform the following tasks as selected by the City and defined below to support other services included in the contract and to add the issues identified in the EPA inspection report that are not addressed in other scope items.

2. **HDR Activities:**

- a. **710 – Not Used**

- b. **720 – Not Used**

- c. **730 – Deficiency Audit & Program Development**

Use Implementation Tracking to follow the status of deficiencies identified in the EPA inspection and action items resulting from the PHA. The base scope of services addresses 12 of the 24 original deficiencies identified in the EPA inspection. At the request of the City, HDR is prepared to assist with other elements of a Process Safety Management Program. This approach will result in addressing the 24 deficiencies and preparation of plan sections for the 15 elements of the Process Safety Management Program.

- 1) Management System
- 2) Off-site Consequence Analysis & RMP E-submit (Addressed in Task 500)
- 3) Process Safety Information (Addressed in Task 200)
- 4) Process Hazard Analysis (Addressed in Task 600)
- 5) Standard Operating Procedures (Addressed in Task 400)
- 6) Training
- 7) Mechanical Integrity
- 8) Management of Change (Addressed in Task 300)
- 9) Pre-Startup Safety Review

- 10) Compliance Audits
- 11) Incident Reports
- 12) Employee Participation
- 13) Hot Work
- 14) Contractors
- 15) Emergency Action Plan (Addressed in Task 300)

**730.1 – RMP Heads Up Program** – As part of plan section development HDR will prepare a heads up program for application through Microsoft Outlook or other venue establishing trigger dates for submittals, recordkeeping, and self-inspection/documentation to assist the City with program documentation.

**730.2 – MOC Procedures** – HDR will define best practices for when the Management of Change process is necessary and develop procedures to identify the documents that should be updated for a given change.

**d. 740 – Compliance Audit**

At the request of the City, HDR will conduct a compliance audit approximately six months following the completion of the Process Safety Management program. The purpose of the audit will be to verify completion of action items identified during the Process Hazard Analysis and in the Implementation Tracking Log and completion of program elements tasked to the City. This task is not included in the original scope of services but may be added by amendment at a later date at the request of the City.

**e. 750 – RMP/PSM Program Training**

At the request of the City, prepare for and conduct a training session to familiarize plant staff with the basics of the RMP/PSM Program, required documentation, and safety hazards. This task is not included in the original scope of services but may be added by amendment at a later date at the request of the City.

**f. 760 – Not Used**

### **III. KEY ASSUMPTIONS**

The following are understood or assumed.

1. The City will participate in all aspects of program development including information gathering, document review, and providing signatory authorizations.
2. The PSM documents will be based on applicable codes and standards in effect at the start of the project. Changes in codes that occur after the start of the project will be incorporated by Contract Amendment.
3. Following delivery of the SOP template and the SOPs for the chlorination system, the City will prepare Standard Operating Procedures for its own safe work practices and procedures for lock out/tag out, confined space entry, and opening process equipment or piping (pipe break procedure).

4. Investigation and remediation of possible hazardous waste, asbestos, lead paint or other types of contamination are not anticipated and will be conducted as a separate contract if subsequently determined to be required.
5. As part of the Off Site Consequence Analysis, HDR will use EPA's RMP-Comp model to determine the impact distance for the worst-case and alternative case release scenarios.
6. Preparation of Plan Sections for items 6, 9, and 11-14 of Task 730 will also include forms for the City's use to document program activities.
7. Task 740, if authorized by the City by amendment, would be conducted 6 to 12 months after filing the RMP with EPA.



**EXHIBIT B**

**TERMS AND CONDITIONS**



# HDR Engineering, Inc.

## Terms and Conditions for Professional Services

### 1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by ENGINEER and its employees under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under the same or similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

### 2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and/or cost of capital) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

### 3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by ENGINEER are made on the basis of information available to ENGINEER and on the basis of ENGINEER's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, ENGINEER does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost ENGINEER prepares.

### 4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

### 5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where ENGINEER's services are performed.

### 6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any

OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by ENGINEER. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that ENGINEER is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by ENGINEER, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by ENGINEER.

### 7. SUCCESSORS AND ASSIGNS

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other.

### 8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the project. ENGINEER retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are 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 ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, and OWNER will defend, indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses, including attorney's fees, arising or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

### 9. TERMINATION OF AGREEMENT

OWNER or ENGINEER may terminate the Agreement, in whole or in part, by giving seven (7) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs ENGINEER incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

### 10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

### 11. INVOICES

ENGINEER will submit monthly invoices for services rendered and OWNER will make prompt payments in response to ENGINEER's invoices.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support

of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in ENGINEER's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify ENGINEER of the dispute and request clarification and/or correction. After any dispute has been settled, ENGINEER will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for ENGINEER. ENGINEER retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of the invoice. In the event undisputed portions of ENGINEER's invoices are not paid when due, ENGINEER also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

## 12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by ENGINEER are estimates to perform the services required to complete the project as ENGINEER understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. ENGINEER will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

## 13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

## 14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, ENGINEER agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

## 15. HAZARDOUS MATERIALS

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate,

remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations.

OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

## 16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

## 17. ALLOCATION OF RISK

**OWNER AND ENGINEER HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING ENGINEER'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS, SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF ENGINEER (AND ITS RELATED CORPORATIONS, SUBCONSULTANTS AND EMPLOYEES) TO OWNER AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$50,000 OR ITS FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF ENGINEER'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER ENGINEER'S COMMERCIAL GENERAL LIABILITY INSURANCE POLICY.**

## 18. LITIGATION SUPPORT

In the event ENGINEER is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which ENGINEER is not a party, OWNER shall reimburse ENGINEER for reasonable costs in responding and compensate ENGINEER at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

## 19. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify ENGINEER of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. ENGINEER shall take reasonable precautions to avoid damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against ENGINEER and will indemnify and hold ENGINEER harmless from any claim of liability, injury or loss caused by or allegedly caused by ENGINEER's damaging of underground utilities that are not properly marked or are not called to ENGINEER's attention prior to beginning the underground sampling/testing.

## HDR STANDARD FEE SCHEDULE

### Fort Dodge Water Treatment Plant Risk Management Plan

#### Schedule of Billing Rates by Classification – December 2014

| Classification               | Hourly Rate |
|------------------------------|-------------|
| Project Principal            | \$220-\$360 |
| Project Manager              | \$130-\$235 |
| Senior Technical Advisors/QC | \$180-\$360 |
| Civil Engineer               | \$75-\$195  |
| Geotechnical Engineer        | \$90-\$215  |
| Process Engineer             | \$75-\$250  |
| Structural Engineer          | \$100-\$195 |
| Mechanical Engineer          | \$90-\$195  |
| Electrical Engineer          | \$90-\$195  |
| Instrumentation Engineer     | \$90-\$195  |
| Environmental Engineer       | \$75-\$205  |
| Architect                    | \$90-\$195  |
| CADD Technician              | \$65-\$135  |
| Construction Observer        | \$75-\$145  |
| Operations Specialist        | \$135-\$215 |
| Administrative Assistant     | \$45-\$80   |
| Project Controller           | \$80-\$110  |

#### Reimbursable Expenses

- Auto mileage will be reimbursed on the basis of \$0.56 per mile, the current 2014 allowed IRS rate.
- Telephone, postage, and copy costs will be invoiced as actual costs incurred.
- Computer charges will be invoiced at a rate of \$3.70 for each labor hour, the current 2014 allocated rate.

#### Subconsultants

- Subconsultants will be reimbursed at invoice plus 5 percent markup.

#### Annual Adjustments

The Billing Rates and Reimbursable Expenses are effective as of January 1, 2014 and will be adjusted annually to reflect equitable changes in the compensation payable to Engineer.

