

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

THIS AGREEMENT is made as of this 14th day of February, 2017, between City of Grand Island, Nebraska ("OWNER") a municipal corporation, with principal offices at 100 East First Street, Grand Island, Nebraska, 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 Central Nebraska Regional Airport Sanitary Sewer Collection System Rehabilitation ("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 hourly basis with a not to exceed amount of \$35,550.

Reimbursable Expense shall mean the actual expenses incurred directly or indirectly in connection with the Project for transportation travel, subconsultants, subcontractors, technology charges, telephone, telex, shipping and express, and other incurred expense. ENGINEER will add five percent (5%) to invoices received by ENGINEER from subconsultants and subcontractors to cover administrative expenses and vicarious liability.

SECTION V. PERIOD OF SERVICE

Upon receipt of written authorization to proceed, ENGINEER shall perform the services as described in Exhibit A.

SECTION VI. SPECIAL PROVISIONS

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

CITY OF GRAND ISLAND, NEBRASKA

"OWNER"

*Stacy R. Donhof
Asst. City Attorney*

BY:

Jeremy L. Jensen

NAME:

Jeremy L. Jensen

TITLE:

Mayor

ADDRESS:

100 East First Street
Grand Island, NE 68802

HDR ENGINEERING, INC.

"ENGINEER"

BY:

Ron Sova

NAME:

Ron Sova, P.E.

TITLE:

Vice President

ADDRESS:

8404 Indian Hills Drive
Omaha, NE 68114

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A

SCOPE OF WORK – PRELIMINARY DESIGN

CENTRAL NEBRASKA REGIONAL AIRPORT SANITARY SEWER COLLECTION SYSTEM REHABILITATION

PART 1.0 PROJECT DESCRIPTION:

The Hall County Airport Authority (Authority) operates the Central Nebraska Regional Airport (CNRA) which was originally constructed in 1942 as a World War II Army Air Base. The Authority is currently responsible for the operation and maintenance of the sanitary sewer collection system that was constructed as part of the original air base. A substantial portion of the collection system is outside of the defined airport property. The collection system includes gravity sewers, lift stations, and force mains.

The City is beginning negotiations with the Authority to take over operations and maintenance of the collection system outside of the defined airport property.

The preliminary design provides for the evaluation of the existing collection system, development of recommendations for the rehabilitation and/or replacement system components, and negotiation of an inter-local agreement between the OWNER and the Authority.

A subsequent task order will be prepared to address the final design and bidding of the proposed improvements.

PART 2.0 SCOPE OF SERVICES TO BE PERFORMED BY ENGINEER ON THE PROJECT:

Items of Work

1. Data collection including record drawings, water use records, CCTV, topographic survey of existing manholes, and a regulated materials review.
2. Interviews with maintenance personnel.
3. Visual inspection of the various system components including the pump stations, selected manholes, and the helicopter site.
4. Receipt of planning data for area.
5. Evaluation of available data.
6. Development of a sewer master plan.
7. Development of a draft inter-local agreement.
8. Review meetings with OWNER.

Key Understandings

1. OWNER will provide access to system components for visual inspection.
2. OWNER will provide available data including CCTV, maintenance records, repair records, water use records, and available environmental records.
3. The inspection of the existing system components will be visual only and will not include detailed structural analysis, coring, or non destructive testing.
4. The topographic survey will be limited to the location, rim, and invert elevations of the manholes within the study area. Topographic survey for final design is not included in the scope of work. Survey will be based on the State Plane coordinate system.
5. OWNER will provide a copy of the water use agreement between the Utilities Department and the Authority.
6. Authority will provide escorts for topographic survey and facility inspection within airport secure area.
7. Geotechnical investigation is not included in the scope of work.
8. Permitting is not included in the scope of work.
9. Final design is not included in the scope of work.
10. Meetings will be held at City Hall or at the CNRA.
11. The initial project meetings with City maintenance personnel, Authority, and the Utilities Department will be held on one day. The meeting will include the inspection of the existing pump stations and facilities.
12. The final improvements will likely be phased, depending on funding availability.
13. The scope of work does not include completion of funding applications.

TASK SERIES 100 – PROJECT MANAGEMENT

Objective: Provide management activities over Project duration including planning, organizing and monitoring Project team activities; overall project management; and coordination with OWNER for access.

HDR Activities **110 – Team Management and Project Control**

- 111 Resource management and allocation based on Project schedules and activities.
- 112 Budget and invoice management.
- 113 Schedule monitoring and update for Project development.
- 114 Production coordination.
- 115 Internal coordination meetings.
- 116 Complete quality control (QC) review of draft and final documents.

120 – Meetings

- 121 Project kickoff meetings with City, Authority, and Utilities. The kickoff meeting will include inspection of the three pump stations (north, south, and police academy), helicopter facilities, and selected manholes.
- 122 Draft master plan review meeting.
- 123 Inter-local agreement meetings – two.

TASK SERIES 200 – DATA COLLECTION

Objective: Assemble available background data on the existing sanitary sewer collection system and the impacted area.

HDR Activities **210 – Topographic Survey of Manholes**

- 211 Topographic survey of manholes within study area and identify pipe sizes and directions, if possible.

220 – Background Data

- 221 Receive available record information.

230 – Environmental Records Review

Purpose is to identify potential environmental impairments for consideration during planning of future improvements

- 231 Regulatory database search
- 232 Interviews with Airport Authority and others, as appropriate, to collect information on the potential for environmental impairments
- 233 Review of historical land-use based on 2 - 3 readily available sources of information.
- 234 Nebraska Department of Environmental Quality (NDEQ) files review.
- 235 Site reconnaissance
- 236 Preparation of a report which documents the completed assessments and identifies potential environmental impairments

TASK SERIES 300 – SEWER MASTER PLAN

Objective: Sewer master plan for the area including implementation plan, ownership recommendations, and opinion of probable costs.

HDR Activities: **310 – Infrastructure Evaluation**

- 311 Assemble and summarize available field data.
- 312 Evaluate condition of the existing pipe and lift stations.
- 313 Evaluate options for rehabilitation.
- 314 Evaluate options for replacement.

- 315 Develop recommendation for replacement/rehabilitation.
- 316 Develop opinion of probable costs for selected options.
- 317 Develop recommendations for ownership.
- 318 Develop phasing plan.

320 – Sewer Master Plan

- 321 Prepare draft sewer master plan summarizing findings, evaluations, and recommendations.
- 322 Submit draft sewer master plan to OWNER for review.
- 323 Receive OWNER comments and finalize sewer master plan.

TASK SERIES 400 – INTER-LOCAL AGREEMENT

Objective: Assist in the development of the inter-local agreement between the OWNER and the Authority.

HDR Activities: **410 – Inter-local Agreement**

- 411 Receive previous agreements.
- 412 Prepare draft agreement incorporating sewer master plan ownership recommendations.
- 413 Submit draft inter-local agreement to OWNER for review.
- 414 Receive OWNER comments and submit agreement to the Authority to review.
- 415 Finalize inter-local agreement.

PART 3.0 AUTHORIZATION

Work will not proceed on a task without authorization.

PART 4.0 OWNER’S RESPONSIBILITIES:

OWNER will be responsible for the following as identified in the above Scope of Work:

- Access to structures and system components.
- Available record data including CCTV, maintenance records, repair records, and available environmental data.
- Document review within two weeks of submittal.

PART 5.0 PERIODS OF SERVICE:

Notice to Proceed	February 15, 2017
Complete Data Collection	March 7, 2017
Draft Sewer Master Plan	April 7, 2017
Draft Inter-local Agreement	April 21, 2017

NEXT PHASES OF WORK:

The reconstruction of the sanitary sewer collection and pumping system will likely be completed in phases, depending on funding availability. The scope of work for the Phase I final design and construction phase services will be defined upon completion of the sewer master plan. Contract amendments will be prepared to address the final design and construction phase services.

Phase I Final Design

Phase I Construction Phase Services

Phase II Final Design

Phase II Construction Phase Services

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 third party personal injury and property damage 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, ASSIGNS AND BENEFICIARIES**

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. No third party beneficiaries are intended under this Agreement.
- 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 payments to ENGINEER within thirty (30) days of OWNER's receipt of ENGINEER's invoice.

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 OWNER receives ENGINEER's 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 LESSER OF \$1,000,000 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. NO THIRD PARTY BENEFICIARIES

No third party beneficiaries are intended under this Agreement.

20. 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.