



City of Grand Island

Tuesday, June 13, 2017

Council Session

Item G-13

**#2017-167 - Approving Award of Proposal for Consulting Services
for Architectural Services; Project No. 2017-WWTP-2**

Staff Contact: John Collins, P.E. - Public Works Director

Council Agenda Memo

From: Marvin Strong PE, Wastewater Treatment Plant Engineer

Meeting: June 13, 2017

Subject: Approving Award of Architectural Services for Project No. 2017-WWTP-2

Presenter(s): John Collins PE, Public Works Director

Background

The Wastewater Administration building, which was constructed in 1978, is located at 3013 East Swift Road. The 3,500 square foot building is the primary station for employees involved with management, accounting, laboratory and operations.

Over the 4 decades since the building was completed, the building, safety, and environmental regulations have increased, and become more stringent. Additionally, the plant operations have expanded with the growth of the City.

As part of assessing the Wastewater Division's ability to comply with existing and anticipated environmental regulations the lab was reviewed. Identified issues included:

- A Heating, Ventilation, and Air Conditioning (HVAC) system shared with the rest of the building, posing an immediate safety hazard.
- Lack of a fire suppression system.
- Outdated and/or marginally functional equipment.
- Limited physical space that will not be able to accommodate future needs.
- Electrical and mechanical limitations that must be expanded to handle future needs and can be made more efficient.

When the investigation was expanded to the rest of the building it was determined that the electrical and mechanical systems also limited the operators work stations and that the physical space was insufficient for their needs. SCADA and other monitoring equipment are in need of updating.

The Solids Handling Building (Building 6) was constructed to add a second floor. Engineering and Wastewater employees investigated moving some combination of the management, accounting, operations, and/or lab groups to this location, but the current costs of ADA compliance combined with the construction costs would make the price high relative to at grade construction. Additionally there are advantages to having these groups remain in proximity to each other, and located at the plant entrance.

The potential of building a new building to house the lab and operators was compared to building an addition (which would require temporary housing for some staff) to the existing building (which would still require some renovation). Costs for the concepts were similar and ranged from \$1 million to \$2.5 million. A new building would be less disruptive during construction, but the continuous benefits of maintaining proximity weighed in favor of adding to the existing building.

A Request for Qualifications (RFQ) for consulting services for Architectural Services; Project No. 2017-WWTP-2 (Wastewater Treatment Plant Laboratory, Operations Control Center, and Administrative Building Renovation) was advertised in the Grand Island Independent on April 11, 2017. The RFQ was also sent to seventeen (17) potential consultants by the Engineering Division of the Public Works Department.

Discussion

Six (6) proposals were opened on April 26, 2017 and reviewed and scored.

The proposal submitted by HDR of Omaha, Nebraska was scored as the best firm to complete the required work. The agreement will be for an amount not to exceed \$57,000.00 and will address the initial phases of project planning; including geotechnical investigation, workshops with City and treatment plant staff, preparation of technical memo, conceptual design and preparing a construction cost estimate.

Funds for the consulting services are in the approved 2016/2017 Wastewater Division budget.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the agreement with HDR of Omaha, Nebraska, for an amount not to exceed \$57,000.00 for Architectural Services for Project No. 2017-WWTP-2.

Sample Motion

Move to approve the agreement.



Stacy Nonhof, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

**REQUEST FOR QUALIFICATIONS
FOR
ARCHITECTURAL SERVICES; PROJECT NO. 2017-WWTP-2**

RFQ DUE DATE: April 26, 2017 at 4:00 p.m.

DEPARTMENT: Public Works

PUBLICATION DATE: April 11, 2017

NO. POTENTIAL BIDDERS: 17

SUMMARY OF PROPOSALS RECEIVED

W Design Associates
McCook, NE

HDR
Omaha, NE

Studio 120 Architecture
Scottsbluff, NE

Professional Associates Ltd.
Omaha, NE

CMBA Architects
Grand Island, NE

Erickson Sullivan Architects
Lincoln, NE

cc: John Collins, Public Works Director
Marlan Ferguson, City Administrator
Stacy Nonhof, Purchasing Agent

Catrina DeLosh, PW Admin. Assist.
Renae Griffiths, Finance Director
Tara Bevard, Wastewater Engineer

P1965

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

THIS AGREEMENT is made as of this _____ day of May, 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 Concept Development for Wastewater Treatment Plant Laboratory, Operations Control Center, and Administrative Building Renovation (“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 \$57,000.

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"

BY: _____

NAME: _____

TITLE: _____

ADDRESS: 100 East First Street
Grand Island, NE 68802

HDR ENGINEERING, INC.
"ENGINEER"

BY: _____

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 – CONCEPT DEVELOPMENT
CITY OF GRAND ISLAND, NE
WASTEWATER TREATMENT PLANT
LABORATORY, OPERATIONS CONTROL CENTER, AND ADMINISTRATIVE
BUILDING RENOVATION

PART 1.0 PROJECT DESCRIPTION:

The City of Grand Island's (OWNER) Wastewater Treatment Plant's current Administrative Building is nearly four decades old. Improvements to the Administrative Building are needed for the following purposes:

- Upgrade the electrical, mechanical, and instrumentation and controls at the facility
- Support current and future lab needs
- Isolate lab HVAC
- Provide a more effective and efficient working environment
- Accommodate needs of Operations staff
- Improve the functionality of the existing space

The Concept Development provides for the development of conceptual Administrative Building renovation options, selection of a building layout, identification of materials of construction, development of options to implement energy efficiency in HVAC and lighting designs, development of options to incorporate controls and electrical improvements, and preparation of the Opinion of Probable Construction Cost (OPCC).

A subsequent task order will be prepared to address the preliminary design, final design, bidding, and construction of the Administrative Building renovations.

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

Key Understandings

1. OWNER will provide criteria and information as to the City's requirements for the Project, including City standards in building or furniture products and available funding.
2. OWNER will provide access to Administrative Building and other Wastewater Treatment Plant facilities, as required.
3. OWNER will provide available data including record drawings and past billings for power, heating, and cooling.
4. Meetings will be held at the Wastewater Treatment Plant or City Hall.

5. The initial site visit and Workshop 1 will be held on one day. The site visit will include a tour of the Administrative Building and interconnecting facilities.
6. The Preliminary Design, Final Design, and project construction will likely be phased, depending on funding availability.
7. Survey, Preliminary Design, Final Design, Bidding, and Construction Services are not included in this scope of work.
8. The scope of work does not include completing of funding applications, locating funding sources, or administering funding programs.
9. OWNER will provide timely review and comments on draft deliverable documents.
10. HDR will utilize the following subconsultants for this project:
 - a. Geotechnical Investigation – GSI
 - b. Opinion of Probable Construction Cost – Building Cost Consultants (BCC)
11. OPCC will be developed using Microsoft Excel software and will include appropriate factors for undefined scope of work (contingency) and range of accuracy based on the level of project definition.
12. All project communication will be routed through the OWNER'S project manager.
13. HDR will notify the OWNER of any proposed change in project team members from those presented in the original proposal and statement of qualifications. The proposed change will be made upon approval by the OWNER.

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 Project initiation and development of internal Project Management Plan.
- 112 Budget and invoice management.
- 113 Schedule monitoring and update.
- 114 Internal coordination meetings.
- 115 Quality Control (including HDR's internal Project Approach and Resource Review)

TASK SERIES 200 – CONCEPT DEVELOPMENT

Objective: Using OWNER input, create building renovation options that achieve the Project goals. Review and discuss key issues to define the criteria to be used to select the preferred renovation option. Develop preliminary construction phasing plan.

HDR Activities

210 – Background Data

- 211 Receive available record information.
- 212 Distribute questionnaire to Wastewater Treatment Plant (WWTP) staff to identify staff needs and goals.
- 213 Conduct site visit with the design disciplines.
- 214 OPTIONAL TASK – 3D scan to provide digital image scan to create models of the interior spaces of the Administrative Building to represent the existing condition of the interior spaces.
- 215 Prepare base drawings for existing facility from existing record drawings and 3D scan (if used).

220 – Survey – NOT USED

230 – Geotechnical Investigation

- 231 Complete geotechnical survey and test hole(s)
- 232 Provide geotechnical report

240 – Kickoff Meeting and Workshop 1

- 241 Kickoff Meeting with OWNER to review proposed scope of services, project objectives, and key issues. Document with meeting notes and distribute to attendees.
- 242 Discuss WWTP staff needs and goals.
- 243 Define Administrative Building electrical needs.
- 244 Define instrumentation, control, and SCADA functions contained within the Administrative Building.
- 245 Develop preliminary construction phasing plan.

250 – Develop Conceptual Options

- 251 Conduct space use study of existing building and future needs.
- 252 Using information obtained from the background data collection and Workshop 1, develop up to three (3) Administrative Building renovation layout options.
- 253 Develop options for building materials.
- 254 Develop options for energy efficient HVAC and lighting strategies. Identify impacts to building renovation layout options.

- 255 Develop options for Administrative Building controls system modifications.
- 256 Develop options for Administrative Building electrical system modifications.

TASK SERIES 300 – CONCEPT REFINEMENT

Objective: Identify preferred Administrative Building renovation layout. Summarize the criteria and decisions to direct the renovation design, incorporating sustainable and energy efficient strategies.

HDR Activities:

310 - Workshop 2

- 311 Workshop meeting with OWNER.
- 312 Review building renovation layout options.
- 313 Discuss options for preferred materials.
- 314 Discuss options for energy efficiency strategies in HVAC and lighting.
- 315 Identify preferred building renovation option, materials of construction, energy efficiency strategies, and approaches to electrical and controls modifications.
- 316 Document decisions through meeting notes and distribute to attendees.

320 – Concept Design Review Technical Memorandum

- 321 Document the evaluations performed.
- 322 Summarize background information collected.
- 323 Summarize building renovation layout options considered.
- 324 Identify selected building renovation layout.
- 325 Document selected energy efficiency strategies and materials of construction.
- 326 Provide vendor information, including cut sheets for lab equipment, casework, countertops, and fixtures.
- 327 Describe approach to construction sequencing, including order of demolition, relocation of building areas, and relocation of controls system.
- 328 Describe modifications to Administrative Building electrical system.

TASK SERIES 400 – CONCEPT PRESENTATION

Objective: Prepare Opinion of Probable Construction Cost (OPCC) for selected building renovation layout, construction materials, and energy strategies. Present selected layout and costs to City officials.

HDR Activities: 410 – Opinion of Probable Construction Cost (OPCC)

411 Develop opinion of probable construction cost.

420 – Present Selected Layout and OPCC to City Officials

421 OPTIONAL TASK - Prepare PowerPoint presentation displaying selected layout and estimated project costs.

422 Meet with City Officials at Wastewater Treatment Plant or City Hall to present selected layout and project costs.

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 items as identified in the above Key Understanding of the Scope of Work:

PART 5.0 PERIODS OF SERVICE:

Notice of Award	May 10, 2017
Notice to Proceed	May 23, 2017
Complete Preparation of OPCC	July 14, 2017
Present Selected Layout	July 14, 2017

NEXT PHASES OF WORK:

The topographic survey, Preliminary Design, Final Design, and construction of the building renovation will be completed in upcoming phases, depending on funding availability.

Survey

Preliminary Design

Final Design

Construction

Concept Development

- 5 -

May 2017

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
(4/2017)

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.

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.

RESOLUTION 2017-167

WHEREAS, the City Of Grand Island invited proposals for consulting services for Architectural Services; Project No. 2017-WWTP-2 (Wastewater Treatment Plant Laboratory, Operations Control Center, and Administrative Building Renovation), according to the Request For Qualifications (RFQ) on file with the Engineering Division of the Public Works Department; and

WHEREAS, on April 26, 2017 proposals were received, reviewed, and evaluated in accordance with established criteria in the RFQ; and

WHEREAS, HDR of Omaha, Nebraska submitted a proposal in accordance with the terms of the Request for Qualifications and all statutory requirements contained therein and the City Procurement Code with the work performed not to exceed the amount of \$57,000.00.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the proposal of HDR of Omaha, Nebraska for consulting services for Architectural Services; Project No. 2017-WWTP-2 (Wastewater Treatment Plant Laboratory, Operations Control Center, and Administrative Building Renovation) is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, June 13, 2017.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
June 9, 2017	☐ City Attorney