

City of Scottsbluff, Nebraska

Tuesday, September 4, 2018

Regular Meeting

Item Reports2

Council to discuss and approve an engineer, for Step 1, in connection with the siting of a municipal solid waste facility with the City of Gering.

Staff Contact: Nathan Johnson, City Manager



**TRIHYDRO CORPORATION – CITIES OF SCOTTSBLUFF AND GERING, NEBRASKA
ENGINEERING AND CONSULTING SERVICES – GENERAL BASIC AGREEMENT
WORK ORDER**

Work Order No.: 18-134WO-E

Date: August 29, 2018

Job No.: 54Q-001-001

Location of Project: Gering, Nebraska

Contract No.: Engineering and Consulting Services General Basic Agreement between Trihydro Corporation and
Cities of Scottsbluff and Gering, Nebraska, 18-017BA-E.

Services to be Performed: Trihydro will provide technical landfill services for the City of Scottsbluff and City of Gering. Work to be performed in accordance with Step 1 of the Statement of Qualifications and Technical Proposal dated February 06, 2018, revised May 07, 2018 for evaluation and ranking of five (5) potential landfill sites. Trihydro shall receive a written Notice to Proceed from the Cities of Gering and Scottsbluff, Nebraska prior to commencing work on each step of the project. Trihydro is only authorized to commence Step 1 at this time, according to the Schedule below. The parties agree to proceed, past Step 1, by individual steps, one at a time. Proceeding to additional steps must be agreed to by the parties in writing.

Schedule - Commencement Date: October 01, 2018

Completion Date: March 01, 2019 (Step 1 Exhibit "C" only)

Trihydro's Project Manager: Marjorie E. Bedessem

Client's Project Manager(s): Brendan C. Lilley and Mark Bohl

Attachments: A. Appendix A Resumes of the Statement of Qualifications and Technical Proposal dated February 06, 2018, revised May 07, 2018
 B. Cost Estimate and Schedule of Charges (Step 1 only)
 C. Summary of Broad Cost Areas

Other Information: Subject work will be billed according to the Engineering and Consulting Services – General Basic Agreement between Trihydro Corporation and the Cities of Scottsbluff and Gering, Nebraska, dated September , 2018. Costs shall be on a time and materials basis not to exceed \$264,512.00, for Step 1, upon prior written authorization from the Cities of Scottsbluff and Gering, Nebraska.

This WORK ORDER is made and entered into pursuant to that certain ENGINEERING AND CONSULTING SERVICES – GENERAL BASIC AGREEMENT, by and between TRIHYDRO CORPORATION and CITIES OF SCOTTSBLUFF AND GERING, NEBRASKA, 18-017BA-E, dated September , 2018, the terms, conditions, and provisions whereof are hereby incorporated herein and made a part hereof.

Facsimile/Email signatures will be accepted to execute this Work Order.

TRIHYDRO CORPORATION

BY: 
Deby L. Forry, Esq

TITLE: Sr. Vice President of Risk Management

CITY OF SCOTTSBLUFF, NEBRASKA

BY: _____

TITLE: _____

CITY OF GERING, NEBRASKA

BY: _____

TITLE: _____

COST SUMMARY, SITING, DEVELOPMENT, PERMITTING, & DESIGN
NEW LANDFILL FACILITY, CITIES OF SCOTTSBLUFF AND GERING, NEBRASKA



COST ESTIMATE SUMMARY		PROJECT TOTAL
STEP 1 - SITE ASSESSMENTS/INVESTIGATION		
1	TASK 1 - Preliminary Geotechnical Investigations	\$11,500
2	TASK 2 - Site Survey	\$16,910
3	TASK 3 - Geotechnical Work	\$85,954
4	TASK 4 - Surface Drainage Analysis	\$12,046
5	TASK 5 - Archaeological Survey and Threatened and Endangered Species	\$59,735
6	TASK 6 - Seismic Impact Zones	\$6,350
7	TASK 7 - Preliminary Conceptual Design	\$32,403
8	TASK 8 - Preliminary Cost Estimate	\$5,437
9	TASK 9 - Preliminary Schedule using MS Project with Gantt Chart	\$2,898
10	TASK 10 - Meetings	\$31,280
STEP 1 - SITE ASSESSMENTS/INVESTIGATION SUBTOTAL		\$264,512



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
1. TASK 1 - Preliminary Geotechnical investigations - Perform investigations and studies to determine whether the sites selected meets all Federal, State, and Local permitting requirements - Assist the City in locating a suitable site if the sites selected does not meeting permitting requirements Assumptions: - The proposed sites are found suitable for the landfill - Local permitting requirements will include NDEQ and Scotts Bluff County for a new Municipal Solid Waste (MSW) and Construction and Demolition (C&D) site - Reference Soil Conservation Service Soil Survey Reports, where available - Collection of soil engineering samples will be used to determine soil characteristics - Field activities will utilize local personnel (Baker) for any necessary work - Coordinate with Baker to perform necessary investigations					
	Technical Specialist 1	\$190	4	\$760	
	Professional Level 11	\$173	0	\$0	
	Professional Level 10	\$163	0	\$0	
	Professional Level 9	\$153	0	\$0	
	Professional Level 8	\$141	0	\$0	
	Professional Level 7	\$130	20	\$2,600	
	Professional Level 6	\$118	10	\$1,180	
	Professional Level 5	\$110	20	\$2,200	
	Professional Level 4	\$95	0	\$0	
	Professional Level 3	\$84	16	\$1,344	
	Technician Level 3	\$68	0	\$0	
	Administrative 2	\$58	2	\$116	
	Labor				
	Equipment	Cost	0	\$0	
	Travel	Cost	0	\$0	
	Per Diem	\$0	0	\$0	
	Miscellaneous	Cost	0	\$0	
Expenses					
\$0					
<hr/>					
Baker	Cost	1	\$3,300		
<hr/>					
Subcontractors					
\$3,300					
<hr/>					
Task 1. Subtotal					
\$11,500					



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
2. TASK 2 - Site Survey - Conduct surveys of the sites to obtain a base map and detailed topographic maps Assumptions: - Survey will be completed by a Nebraska Licensed Land Surveyor - Surveying work will include using GPS - The maps will meet NDEQ mapping requirements - Mapping shall include survey control with all monumentation and reference points - Contours will have an accuracy of ±0.4 feet - The survey will be tied to the Nebraska State Plane Coordination System - The survey and design information will be prepared for the City in dwg format - Surveys will be conducted by Baker - Optional: unmanned Aerial Vehicle (UAV) to collect aerial data	Technical Specialist 1	\$190	1	\$190	
	Professional Level 11	\$173	0	\$0	
	Professional Level 10	\$163	0	\$0	
	Professional Level 9	\$153	0	\$0	
	Professional Level 8	\$141	0	\$0	
	Professional Level 7	\$130	0	\$0	
	Professional Level 6	\$118	0	\$0	
	Professional Level 5	\$110	2	\$220	
	Professional Level 4	\$95	0	\$0	
	Professional Level 3	\$84	0	\$0	
	Technician Level 3	\$68	0	\$0	
	Administrative 2	\$58	0	\$0	
	Labor			\$410	
	Equipment	Cost	0	\$0	
	Travel	Cost	0	\$0	
	Per Diem	\$0	0	\$0	
	Miscellaneous	Cost	0	\$0	
	Expenses			\$0	
	Baker	Cost	1	\$16,500	
	Subcontractors			\$16,500	
	Task 2. Subtotal			\$16,910	



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
3.	TASK 3 - Geotechnical Work - Perform investigations to determine the characteristics of the sites - Determine the hydrogeological setting - Review the characterization of the vadose zone (if applicable) - Prepare documentation meeting NDEQ locational and design permitting criteria to operate the sites - Provide a liner and cover alternative analysis - Install wells and borings - Conduct quarterly groundwater monitoring - Work with Baker, Peak, and Steamboat Technical Services to perform geotechnical investigations and liner and cover alternative analysis Assumptions: - Conduct all studies to meet the NDEQ permitting requirements - Establish a complete data base for the landfill design - Geologists is Nebraska certified - Install 8 monitoring wells and 12 borings to approximately 50 feet. - One year of quarterly groundwater monitoring for 8 wells, 2 QA/QC samples/event; analysis for baseline and detection parameters	Technical Specialist 1	\$190	1	\$190
		Professional Level 11	\$173	0	\$0
		Professional Level 10	\$163	0	\$0
		Professional Level 9	\$153	0	\$0
		Professional Level 8	\$141	4	\$564
		Professional Level 7	\$130	0	\$0
		Professional Level 6	\$118	16	\$1,888
		Professional Level 5	\$110	32	\$3,520
		Professional Level 4	\$95	0	\$0
		Professional Level 3	\$84	42	\$3,528
		Technician Level 3	\$68	2	\$136
		Administrative 2	\$58	2	\$116
		Labor			\$9,942
		Equipment	Cost	4	\$1,800
		Travel	Cost	2	\$2,800
		Per Diem	\$40	4	\$160
		Miscellaneous	Cost	0	\$0
		Expenses			\$4,760
		Steamboat	Cost	1	\$12,231
		Laboratory	\$307	40	\$12,280
		Driller	Cost	1	\$46,741
		Subcontractors			\$71,252
		Task 3. Subtotal			\$85,954



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
4. TASK 4 - Surface Drainage Analysis - Evaluate drainage conditions for the landfill sites and access roads <u>Assumptions:</u> - Evaluate both existing and final conditions - Meet and/or exceed all NDEQ requirements with the analysis - Steamboat Technical Services to perform the surface drainage analysis		Technical Specialist 1	\$190	1	\$190
		Professional Level 11	\$173	0	\$0
		Professional Level 10	\$163	0	\$0
		Professional Level 9	\$153	0	\$0
		Professional Level 8	\$141	0	\$0
		Professional Level 7	\$130	0	\$0
		Professional Level 6	\$118	0	\$0
		Professional Level 5	\$110	2	\$220
		Professional Level 4	\$95	0	\$0
		Professional Level 3	\$84	0	\$0
		Technician Level 3	\$68	0	\$0
		Administrative 2	\$58	0	\$0
		Labor			\$410
		Equipment	Cost	0	\$0
		Travel	Cost	0	\$0
		Per Diem	\$0	0	\$0
		Miscellaneous	Cost	0	\$0
		Expenses			\$0
		Steamboat	Cost	1	\$11,636
		Subcontractors			\$11,636
		Task 4, Subtotal			\$12,046



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
5.	TASK 5 - Archaeological Survey and Threatened and Endangered Species - Perform an environmental review to meet permitting requirements - Conduct a Class III cultural resources inventory by Metcalf - Provide a threatened and endangered species survey of the proposed sites - Conduct an initial background search on state and federally listed species and critical habitats that may occur in Scotts Bluff County - Provide a pedestrian survey to map vegetative types - Determine the presence or absence of critical habitat suitable for listed species - Verify the presence or absence of any listed flora or fauna Assumptions: - Conduct a surface inventory of 250 acres - 6 days of fieldwork with a crew of three archaeologists from Metcalf - Ground surface visibility will be sufficient to preclude the use of subsurface probing as a discovery method - Does not include any costs to cover crop damage - 2 Trihydro biologists, 2 trips, 6 days field work - T&E species surveys to include swift fox, raptors/eagles, migratory birds, incidental species - 1 raptor nest survey event and 1 bird survey event - Swift fox surveys = remote camera trapping and habitat assessment - No T&E plants occur in the area. Vegetation survey limited to vegetation type/habitat mapping and incidental NE Tier 1 plant observations - T&E/vegetation surveys to occur in area approximately 640 acres - No impacts therefore no survey/habitat assessment for river otter	Technical Specialist 1	\$190	4	\$760
		Professional Level 11	\$173	0	\$0
		Professional Level 10	\$163	0	\$0
		Professional Level 9	\$153	0	\$0
		Professional Level 8	\$141	6	\$846
		Professional Level 7	\$130	0	\$0
		Professional Level 6	\$118	0	\$0
		Professional Level 5	\$110	150	\$16,500
		Professional Level 4	\$95	14	\$1,330
		Professional Level 3	\$84	52	\$4,368
		Technician Level 3	\$68	0	\$0
		Administrative 2	\$58	6	\$348
		Labor			\$24,152
		Equipment	Cost	1	\$1,940
		Travel	Cost	1	\$2,384
		Per Diem	\$45	10	\$450
		Miscellaneous	Cost	0	\$0
		Expenses			\$4,774
		Metcalf	Cost	1	\$30,809
		Subcontractors			\$30,809
		Task 5. Subtotal			\$59,735



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
6. TASK 6 - Seismic Impact Zones - Perform seismic documentation per Title 132, Chapter 3, 002.09 to meet NDEQ requirements Assumptions: - Analyses will be conducted in accordance with RCRA Subtitle D (258.14) - Contour Consulting Engineering, LLC will be used for the seismic survey		Technical Specialist 1	\$190	1	\$190
		Professional Level 11	\$173	0	\$0
		Professional Level 10	\$163	0	\$0
		Professional Level 9	\$153	0	\$0
		Professional Level 8	\$141	0	\$0
		Professional Level 7	\$130	0	\$0
		Professional Level 6	\$118	0	\$0
		Professional Level 5	\$110	2	\$220
		Professional Level 4	\$95	0	\$0
		Professional Level 3	\$84	0	\$0
		Technician Level 3	\$68	0	\$0
		Administrative 2	\$58	0	\$0
		Labor			\$410
		Equipment	Cost	0	\$0
		Travel	Cost	0	\$0
		Per Diem	\$0	0	\$0
		Miscellaneous	Cost	0	\$0
		Expenses			\$0
		Contour	Cost	1	\$5,940
		Subcontractors			\$5,940
		Task 6. Subtotal			\$6,350



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
7. TASK 7 - Preliminary Conceptual Design - Prepare a preliminary design for the sites - Identify parameters of the sites and requirements for the facility design <u>Assumptions:</u> - Design will include identifying building locations, fence lines, cell geometry, storm water channels, borrow sources, utilities, access roads, liner requirements, and all other ancillary facilities - Develop the designs with a minimum landfill design of 75 years - Trihydro will utilize their public relations specialist and graphic designers to edit and review a pictorial design - Peak Geosolutions will be brought in to analyze liner requirements		Technical Specialist 1	\$190	16	\$3,040
		Professional Level 11	\$173	0	\$0
		Professional Level 10	\$163	0	\$0
		Professional Level 9	\$153	0	\$0
		Professional Level 8	\$141	4	\$564
		Professional Level 7	\$130	0	\$0
		Professional Level 6	\$118	0	\$0
		Professional Level 5	\$110	100	\$11,000
		Professional Level 4	\$95	0	\$0
		Professional Level 3	\$84	0	\$0
		Technician Level 3	\$68	25	\$1,700
		Administrative 2	\$58	2	\$116
		Labor			\$16,420
		Equipment	Cost	1	\$200
		Travel	Cost	0	\$0
		Per Diem	\$0	0	\$0
		Miscellaneous	Cost	0	\$0
		Expenses			\$200
		Steamboat	Cost	0	\$15,783
		Subcontractors			\$15,783
		Task 7. Subtotal			\$32,403



Activity					Subtotal
8.	TASK 8 - Preliminary Cost Estimate				\$190
	- Prepare a preliminary cost estimate				\$0
	-Develop a takeoff sheet to identify all items necessary to perform the surveying, siting, hydrogeological studies, permitting, and design/layout of cells.				\$0
	- Provide the design and permitting approval process of Cell 1 from Task 7				\$0
	Assumptions:				\$0
	- Will determine the most local subcontractors for reduced travel time for cost estimate				\$0
	- Steamboat Technical Services to provide preliminary cost estimate				\$0
	Administrative 2				\$0
	Technician Level 3				\$0
	Professional Level 3				\$0
	Professional Level 4				\$0
	Professional Level 5				\$0
	Professional Level 6				\$0
	Professional Level 7				\$0
	Professional Level 8				\$0
	Professional Level 9				\$0
	Professional Level 10				\$0
	Professional Level 11				\$0
	Technical Specialist 1				\$0
	Labor				
Equipment					\$0
Travel					\$0
Per Diem					\$0
Miscellaneous					\$0
Expenses					\$0
Baker					\$2,200
Steamboat					\$2,827
Subcontractors					\$5,027
Task 8. Subtotal					\$5,437



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
9.	TASK 9 - Preliminary Schedule using MS Project with Gantt Chart - Prepare a preliminary schedule using MS Project with Gantt Chart - Include all activities required to obtain approvals through initial landfill site selection, surveying, mapping, hydrogeological studies, installation of required monitoring wells, testing, reports, meetings, and other pertinent elements required for the new landfill. Assumptions: - SharePoint type system to be used to provide up-to-date schedule changes on a Gantt Chart - Schedule will include all testing activities and design timeline to obtain approval/construction acceptance for Cell 1	Technical Specialist 1	\$190	2	\$380
		Professional Level 11	\$173	0	\$0
		Professional Level 10	\$163	0	\$0
		Professional Level 9	\$153	0	\$0
		Professional Level 8	\$141	2	\$282
		Professional Level 7	\$130	0	\$0
		Professional Level 6	\$118	0	\$0
		Professional Level 5	\$110	12	\$1,320
		Professional Level 4	\$95	0	\$0
		Professional Level 3	\$84	0	\$0
		Technician Level 3	\$68	1	\$68
		Administrative 2	\$58	1	\$58
		Labor			\$2,108
		Equipment	Cost	0	\$0
		Travel	Cost	0	\$0
		Per Diem	\$0	0	\$0
		Miscellaneous	Cost	0	\$0
		Expenses			\$0
		Steamboat	Cost	1	\$790
		Subcontractors			\$790
		Task 9. Subtotal			\$2,898



Activity		Schedule of Charges	Hourly Rate or Charge	Hours or Unit Estimate	Subtotal
10.	TASK 10 - Meetings - Meet with the Owner, Community, and others as necessary throughout the project - Address any concerns and issues that may have arisen during Step 1 Assumptions: - 2 on-site project meetings, 6 monthly conference calls, 1 public hearing with Steamboat Technical Services	Technical Specialist 1 Professional Level 11 Professional Level 10 Professional Level 9 Professional Level 8 Professional Level 7 Professional Level 6 Professional Level 5 Professional Level 4 Professional Level 3 Technician Level 3 Administrative 2 Labor Equipment Travel Per Diem Miscellaneous Expenses Baker Steamboat Subcontractors Task 10. Subtotal	\$190 \$173 \$163 \$153 \$141 \$130 \$118 \$110 \$95 \$84 \$68 \$58 Cost Cost \$45 Cost Cost Cost Cost Cost	40 0 0 0 45 0 0 12 0 0 0 0 0 3 3 3 1 1	\$7,600 \$0 \$0 \$0 \$6,345 \$0 \$0 \$1,320 \$0 \$0 \$0 \$0 \$15,265 \$0 \$580 \$135 \$100 \$815 \$4,400 \$10,800 \$15,200 \$31,280

**Siting, Development, Permitting & Design of a New Landfill Facility for the Cities of Scottsbluff
and Gering, Nebraska**

Attachment C

Summary of Broad Cost Areas (4)

<u>Cost Area</u>	<u>Budget</u>
STEP 1 - Site Assessments/Investigation	\$264,512
STEP 2 - Permit Application Development	\$186,296
STEP 3 - Final Design and Construction	\$424,996
STEP 4 - Project Schedule	\$ 2,469
Project Total	\$878,272



TRIHYDRO CORPORATION – CITIES OF SCOTTSBLUFF AND GERING, NEBRASKA GENERAL BASIC AGREEMENT- ENGINEERING AND CONSULTING SERVICES

THIS Agreement is made and entered into on _____ day of September 2018, by and between the CITY OF SCOTTSBLUFF, NEBRASKA with an address of 2525 Circle Drive, Scottsbluff, NE 69361 and the CITY OF GERING, NEBRASKA, with an address of 1025 P Street, Gering NE 69341 [jointly referred to herein as "CLIENT"] and TRIHYDRO CORPORATION, a Wyoming corporation, whose address is, 1252 Commerce Drive, Laramie, WY 82070 ["TRIHYDRO"].

WHEREAS, TRIHYDRO is engaged in the business of providing engineering, surveying, and consulting services and CLIENT may require such services from time to time;

NOW, THEREFORE, in consideration of the terms, provisions, and Agreements set forth herein, the parties agree as follows:

ARTICLE 1. SERVICES AND WORK CHANGE ORDERS.

1.01 Scope of Work. TRIHYDRO shall provide the services and perform the Work authorized by CLIENT and accepted by TRIHYDRO ["the Work"] as set forth in the Scope of Work in a Work Order [in the form attached hereto as ATTACHMENT A ("Work Order"), or equivalent form (i.e. purchase order, notice to proceed or authorization).

1.02 Work Change Orders. All services or Work, other than as specifically set forth in the Work Order, shall be mutually agreed upon and shall be set forth in a Work Change Order [in the form attached hereto as ATTACHMENT B ("Work Change Order"), signed by CLIENT and TRIHYDRO. The Work Order and each Work Change Order shall be accompanied by a Schedule of Charges and shall include the following:

- (a) Location at which the Work or Work Change Order Work is to be performed;
- (b) Specific scope and description of the Work or Work Change Order to be performed, including plans and specifications where appropriate;
- (c) Trihydro Project Manager and CLIENT's authorized representative responsible for project;
- (d) Schedule for commencement and completion of the Work or the Work Change Order; and
- (e) Identifiable health and safety considerations.

ARTICLE 2. CHARGES AND BILLING.

2.01 Schedule of Charges. CLIENT shall pay TRIHYDRO in accordance with the written Schedule of Charges accompanying the Work Order and/or each Work Change Order.

2.02 Invoices. TRIHYDRO shall invoice CLIENT monthly for Work performed under the Work Order and/or each Work Change Order. CLIENT shall timely review such invoices and shall notify TRIHYDRO within fifteen (15) days of any disputed amounts. All undisputed amounts shall be paid no later than sixty (60) days after receipt of the invoice unless otherwise authorized in a Work Order.



ARTICLE 3. TERMS OF AGREEMENT AND TERMINATION.

3.01 Severability of Terms. Every part, provision, or term of the Engineering and Consulting Services Agreement is severable from every other part, provision, or term. A finding that any part or provision is invalid, void, or unenforceable shall not affect the remaining parts and provisions.

3.02 Integrated Agreement. The terms and conditions set forth in the foregoing Engineering and Consulting Services Agreement, sometimes collectively referred to as the "Agreement", constitute the entire understanding of the parties relative to services provided by TRIHYDRO to CLIENT, and supersede and completely integrate any and all prior Agreements between the parties, whether oral or in writing.

3.03 Incorporated in Work Orders. The Agreement and these terms and conditions shall be incorporated in the Work Order and/or the Work Change Order and authorizations, and shall govern each such order unless expressly excluded in writing therefrom.

3.04 Survival of Terms. The terms and conditions of the Agreement as applied to the Work Order or a Work Change Order shall survive termination or expiration of the Agreement and shall continue to govern completion of the Work Order or any Work Change Orders signed by the parties.

3.05 Non-performance. Should TRIHYDRO fail, neglect, or refuse to perform any of the Work or any Work Change Order; or should TRIHYDRO become insolvent; or, if at any time the Work should be unreasonably delayed; or if the conditions of this Agreement or a Work Change Order should be willfully violated, or performed carelessly, or in bad faith; then CLIENT may notify TRIHYDRO in writing, and if the faults complained of are not corrected to the satisfaction of CLIENT within ten (10) days from the delivery of the notice, then TRIHYDRO shall discontinue all or part of the Work under this Agreement or discontinue the Work of its subcontractors and CLIENT shall have full right to immediately purchase and hire materials, tools, labor, and machinery or otherwise contract for completion of the Work and to recover from TRIHYDRO damages therefore.

3.06 Termination. Either party may terminate this Agreement at any time and without cause upon thirty (30) days prior written notice to the other.

ARTICLE 4. RECORDS.

4.01 Retention. TRIHYDRO shall maintain true and correct records in connection with each material cost and each cost reimbursable service performed and all transactions related thereto, and shall retain all such records for three years after the end of the calendar year in which the last service was performed. CLIENT at its expense, from time to time up to three (3) years after the last services were performed, may inspect and audit all records of TRIHYDRO in connection with all costs and expenses invoiced for material cost and cost reimbursable services. Client may obtain any records needed from Trihydro within this three year period. Trihydro shall not unreasonably withhold its consent. No inspection or audit shall delay or defer the obligation of



CLIENT to make payment on undisputed invoices. At the end of three (3) years, CLIENT and TRIHYDRO shall make arrangements for the transfer of said records to CLIENT. TRIHYDRO shall have the right to copy such portions of said records as it shall deem necessary to retain and shall have the right thereafter to request copies of such transferred records. TRIHYDRO is an environmentally conscious firm that maintains and stores its documents electronically, rather than in hard copy.

4.02 Ownership of Work Product. Work Product shall not include customizations of, derivatives of, or enhancements to TRIHYDRO-owned or TRIHYDRO-provided software, such as but not limited to Project Direct, that may be provided as an application for CLIENT's use. Any pre-existing software, previously belonging to TRIHYDRO or lawfully acquired by TRIHYDRO in a manner independent of this Agreement, which is used by TRIHYDRO in the course of the Work hereunder, or which may be provided by TRIHYDRO to CLIENT and which is indicated to be the property of TRIHYDRO by copyright notice or otherwise shall remain the property of TRIHYDRO. Except as provided above with regard to TRIHYDRO-owned software, CLIENT shall own all work product and other deliverables provided to CLIENT pursuant to any Work Order, unless otherwise mutually agreed in a specific Work Order.

ARTICLE 5. TIME FOR PERFORMANCE, EXTENSIONS, AND DELAYS.

5.01 Timely Performance. TRIHYDRO shall commence and complete the Work and/or the Work Order and/or the Work Change Order in accordance with the schedule set forth in the Work Order or any Work Change Order and shall, at all times, proceed diligently with said Work to completion.

5.02 Suspension of Work. CLIENT reserves the right to suspend the whole or any part of the Work under any Work Order or any Work Change Order at any time. If all of the projected Work contemplated in a Work Order or a Work Change Order is terminated or abandoned by CLIENT, CLIENT shall pay TRIHYDRO for the Work performed in conformity with specifications, and in accordance with the Schedule of Charges.

5.03 Delays. If TRIHYDRO is obstructed or delayed in the prosecution or completion of the Work by reason of the unusual action of the elements, or by reason of the abandonment of the Work by the employees in a general strike, or by reason of war, civil disorder, fire or other casualty, strikes or embargoes, or shortage of transportation facilities, or by reason of any cause beyond the reasonable control of TRIHYDRO or CLIENT, TRIHYDRO and its agents, representatives, and subcontractors shall have no claim for damages for any such cause or delay and CLIENT, its agents, CLIENT's, representatives, and subcontractors shall have no claim for damages. In any such event, TRIHYDRO shall be entitled to such extension of time for the completion of the Work as CLIENT may approve as being just and proper; provided, however, that such claim for extension of time shall be made by TRIHYDRO to CLIENT within one (1) week from the time when cause for delay occurs, on a Work Order or a Work Change Order.

ARTICLE 6. PERFORMANCE OF SERVICES AND COMMUNICATION OF RESULTS.

6.01 Standard. TRIHYDRO shall perform the Work in a professional manner consistent with that level of care and skill ordinarily exercised by members of the profession currently



practicing in the same locality under similar conditions and information. No other representation, express or implied, and no warranty or guarantee is included or intended herein, or in any report, document or otherwise.

6.02 Plans and Specifications. The specifications and plans in the Work Order, or attached to a Work Change Order, are intended to be explanatory of each other, but should any discrepancies appear or any misunderstanding arise as to the meaning of anything contained in either, the plans and specifications shall be construed to require and include all labor and material and equipment necessary and proper for the Work contemplated, so that Work may be completed according to the true intent and purpose of the plans and specifications.

6.03 Results. Results of TRIHYDRO Work and analyses shall be communicated to CLIENT in writing as required in the Work Order, except that TRIHYDRO may give results orally or in electronic form in advance of any written results unless otherwise directed by CLIENT. Such oral or electronic communications of results in advance of the final written results are tentative only and are subject to change by TRIHYDRO before the final completion report is sent to and accepted by CLIENT.

ARTICLE 7. MATERIAL, EQUIPMENT, PREMISES AND WORK.

7.01 Material, Equipment, Utilities. TRIHYDRO shall, unless otherwise agreed, provide and pay for all materials, labor, tools, equipment, light, power, transportation, water and other facilities necessary for the execution and completion of the Work.

7.02 Payments to Suppliers. TRIHYDRO shall pay all materials suppliers and subcontractors for Work performed under the Work Order and any Work Change Order within seven (7) days from receipt of payment from CLIENT. TRIHYDRO agrees to furnish CLIENT with names of any and all suppliers or contractors used by TRIHYDRO in performing the Work, and shall furnish CLIENT satisfactory evidence of settlement including lien waivers for any and all materials supplied to TRIHYDRO under the Work Order or any Work Change Order when all outstanding invoices have been paid by CLIENT.

7.03 Permits, Licenses, and Certificates. Unless otherwise agreed, TRIHYDRO shall secure applicable permits, licenses, and certificates in connection with the performance of the Work, and pay all municipal inspection or other fees pertaining thereto.

ARTICLE 8. TRIHYDRO'S EMPLOYEES.

8.01 Compliance with Laws and Regulations. TRIHYDRO agrees to comply with applicable federal and state enactments with reference to employer's liability, unemployment security, Worker's compensation, Worker's insurance, environmental laws and regulations, and occupational safety and health laws in effect in the jurisdiction in which the Work is performed. All Work performed pursuant to this Agreement or any Work Order or Work Change Order shall be performed by TRIHYDRO as an independent contractor and under no circumstances will TRIHYDRO or its employees be considered employees or agents of CLIENT.

8.02 Unemployment Compensation. TRIHYDRO will register as an employer wherever required under applicable state Unemployment Compensation Laws, and, in the performance of the



Work, TRIHYDRO will comply with the requirements of such laws and will pay and save and hold CLIENT harmless from and on account of all taxes under such unemployment compensation laws applicable to performance of the Work, whether with reference to employees of TRIHYDRO or to others, and that it will furnish CLIENT evidence of its registration under such unemployment compensation laws and will promptly report to CLIENT from time to time the number of employees employed by TRIHYDRO or by its subcontractors in the performance of the Work.

ARTICLE 9. INSURANCE AND INDEMNIFICATION.

9.01 Insurance. TRIHYDRO agrees to carry adequate insurance protection against loss, damage, injury and liability, including claims for personal injury or death, property damage, and damage to the Work resulting from operations under this Agreement and any Work Order or any Work Change Order; coverage shall be not less than \$2,000,000.00. In addition, TRIHYDRO shall carry professional liability (errors and omissions) insurance coverage with minimum limits of \$5,000,000.00 per claim and \$5,000,000.00 aggregate; and an umbrella liability of \$10,000,000. CLIENT shall be an additional insured under the insurance policies carried by TRIHYDRO hereunder, and shall upon request by CLIENT, be given copies of said insurance policies naming CLIENT as additional insured.

9.02 Limitation of Liability. Notwithstanding any other provisions hereof, TRIHYDRO's liability for damages arising from or related to the Work shall be limited to the amount of applicable insurance provided in this Article.

9.03 Certificates. Documentary evidence of insurance, showing CLIENT as additional insured, required by this Agreement shall be furnished to CLIENT by TRIHYDRO before commencing Work hereunder. The insurance policies hereunder shall provide that notices by the insurer to the insured be given simultaneously to CLIENT.

9.04 Indemnification.

a. TRIHYDRO agrees, to the extent permitted by law, to indemnify, defend, and hold CLIENT harmless from damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by TRIHYDRO, its employees, agents or subcontractors' negligent acts, errors or omissions in the performance of professional services arising from a Work Order or Work Change Order subject to this Agreement.

b. CLIENT agrees, to the extent permitted by law, to indemnify, defend, and hold TRIHYDRO harmless from damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by CLIENT, its employees, CLIENT's, agents, or subcontractors' negligent acts, errors or omissions in the performance of professional services arising from a Work Order or Work Change Order subject to this Agreement.

c. Neither party to this Agreement is obligated to indemnify the other party in any manner whatsoever for the other parties' negligence.



ARTICLE 10. GENERAL PROVISIONS.

10.01 Successors and Assigns. This Agreement shall inure to and be binding upon the legal representatives and successors and assigns of the parties hereto. Neither party shall assign, transfer or convey this Agreement or the Work Order or any Work Change Order, or any right, title, or interest, therein or any power to execute the same, to any person, company or corporation without the prior written consent of the other.

10.02 Confidentiality. TRIHYDRO agrees not to use confidential information disclosed to it by CLIENT for its own use, or for any purpose except to carry out services outlined in this Agreement. TRIHYDRO will not disclose the confidential information to third parties or to its employees, agents or representatives, except those who need the information to carry out the services provided in the Agreement, or unless required by law or such information becomes publicly available by a party other than TRIHYDRO, its employees, agents or representatives. TRIHYDRO agrees to notify CLIENT in writing of any misuse or misappropriation of confidential information that may come to its attention.

10.03 Independent Contractor. All Work performed pursuant to this Agreement or any Work Order or any Work Change Order shall be performed by TRIHYDRO as an independent contractor and under no circumstances will TRIHYDRO or its employees be considered employees or agents of CLIENT. CLIENT shall have no voice in the selection, discharge, supervision, or control of TRIHYDRO's employees, representatives, or subcontractors. Except to the extent that a particular method is specified in any plans or specifications hereunder or in the Work Order or any Work Change Order, CLIENT shall not have the right to direct or control TRIHYDRO in the method of performance or the means of accomplishing the desired result.

10.04 Modification. All amendments, changes, and modifications to this Agreement shall be made in writing by Work Change Order, and approved and executed with the same formality as this Agreement

10.05 Governing Law. This Agreement and all Work shall be governed by and interpreted in accordance with the laws of the State of Nebraska.

10.06 No Solicitation of Personnel. During the term of this Agreement and for a period of six (6) months after its termination, neither party will solicit any employee of the other without the prior written consent of the other party. However, neither party will be restricted from employing employees who make unsolicited applications in response to a general advertisement.

{THIS SPACE INTENTIONALLY LEFT BLANK}



ARTICLE 11. PROJECT MANAGER / AUTHORIZED REPRESENTATIVE

11.01 Project Manager. TRIHYDRO shall designate a Project Manager. The Project Manager shall be the primary contact between TRIHYDRO and CLIENT, although TRIHYDRO's Project Manager may designate an acting Project Manager in his/her absence, as well as field coordinators and inspectors. The Trihydro Project Manager will be designated in the respective Work Orders for each request.

11.02 Authorized Representatives. The parties hereby designate the following Authorized Representatives, who may be changed only by written notice to the other party:

TRIHYDRO CORPORATION

Jack Bedessem or Deby L. Forry, Esq.
Trihydro Corporation
1252 Commerce Drive
Laramie, WY 82070

CITY OF SCOTTSBLUFF, NEBRASKA

Randy Meininger
City of Scottsbluff
2525 Circle Drive
Scottsbluff, NE

CITY OF GERING, NEBRASKA

Tony Kaufman
City of Gering
1025 P Street
Gering, NE 69341

IN WITNESS WHEREOF, the parties hereto have signed this Basic Agreement as of the day and year first above written. Facsimile/email signatures will be accepted to execute this Agreement.

TRIHYDRO CORPORATION

By: 

Its: Sr. Vice President of Risk Management

CITY OF SCOTTSBLUFF, NEBRASKA

By: _____

Its: _____

CITY OF GERING, NEBRASKA

By: _____

Its: _____

ATTACHMENT A
TRIHYDRO CORPORATION – CITIES OF SCOTTSBLUFF AND GERING, NEBRASKA
GENERAL BASIC AGREEMENT- ENGINEERING AND CONSULTING SERVICES
EXAMPLE WORK ORDER

Work Order No.: _____ Date: _____

_Job No.: _____

Location of Project:

Owner and Contract No.: _____

Services to be Performed: _____

Schedule -- Commencement Date: _____

Completion Date: _____

Attachments: _____ Schedule of Charges: _____

Plans and Specifications: _____

Health and Safety Considerations: _____

Other Information:

__This WORK ORDER is made and entered into pursuant to that certain Basic Agreement by and between the undersigned dated _____, the terms, conditions and provisions whereof are hereby incorporated herein and made a part hereof.

Facsimile signatures will be accepted to execute this Work Order.

Facsimile signatures will be accepted to execute this Work Order.

TRIHYDRO CORPORATION

CITY OF SCOTTSBLUFF, NEBRASKA

By: _____

By: _____

Its: Sr. Vice President of Risk Management

Its: _____

CITY OF GERING, NEBRASKA

By: _____

Its: _____

ATTACHMENT B
TRIHYDRO CORPORATION – CITIES OF SCOTTSBLUFF AND GERING, NEBRASKA
GENERAL BASIC AGREEMENT- ENGINEERING AND CONSULTING SERVICES
EXAMPLE WORK CHANGE ORDER

Work Order No.: _____ Date: _____

Job No.: _____

Change Order No.: _____

Location of Project: _____

Insured Name: _____

Owner and Contract No.:

Original Specification:

Change Order:

Attachments (if any): _____

Estimated Additional Cost (if any): _____

Facsimile signatures will be accepted to execute this Work Change Order.

TRIHYDRO CORPORATION

By: _____

Its: Sr. Vice President of Risk Management

CITY OF SCOTTSBLUFF, NEBRASKA

By: _____

Its: _____

CITY OF GERING, NEBRASKA

By: _____

Its: _____