

## AGREEMENT

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of Reno and the City of Sparks, hereinafter referred to as the “CITY”, and HDR Engineering, Inc., hereinafter referred to as “CONSULTANT”:

### WITNESSETH:

WHEREAS, CITY desires to obtain construction management and engineering services for the TWAS Improvements, hereinafter referred to as “Project;”

WHEREAS, public convenience and necessity require the services of a consulting CONSULTANT to provide the services required;

WHEREAS, the CITY has found CONSULTANT qualified and experienced in the performance of said services;

WHEREAS, the CITY is desirous of engaging the services of CONSULTANT to perform said services; and

NOW, THEREFORE, said CITY and said CONSULTANT, for the considerations hereinafter set forth, mutually agree as follows:

### ARTICLE I - SERVICES

A. CITY agrees to retain and does hereby retain CONSULTANT to perform the professional services hereinafter more particularly described, with such services to commence on the date of the execution of this Agreement and to continue until the completion of the work provided for herein.

B. CONSULTANT hereby agrees to perform the professional services as set forth herein and to furnish or procure the use of incidental services, equipment, and facilities necessary for the completion of said services.

C. CONSULTANT has the status of an independent contractor as defined in NRS 333.700 and shall not be entitled to any of the rights, privileges, benefits, and emoluments of either an officer or employee of CITY. CONSULTANT shall undertake performance of services as independent contractor and shall be wholly responsible for the methods of performance and for their performance.

D. CONSULTANT is subject to NRS 338.010 – 338.090 (prevailing wage) for all covered work.

## ARTICLE II - SCOPE OF SERVICES

A. The Scope of Services is set forth in Exhibit A as attached hereto and incorporated herein by this reference.

## ARTICLE III - COMPENSATION

A. Payment for the services hereinabove set forth shall be made by the CITY to the CONSULTANT and shall be considered as full compensation for all personnel, materials, supplies, and equipment used in carrying out the work.

B. Compensation to the CONSULTANT shall be on the basis of time and materials as set Exhibit A per Table 1 which are both incorporated herein by this reference.

C. Payments shall be made by the CITY based on itemized invoices from the CONSULTANT which lists costs and expenses. Such payments shall be for the invoice amount. Any cost not included in Table 1 will not be paid.

D. CITY shall pay CONSULTANT within 30 days of receipt by CITY of CONSULTANT's invoice. If CITY disputes only portions of an invoice, CITY agrees to pay for undisputed items on that invoice within the time provided herein. Payment by CITY of invoices or request for payment shall not constitute acceptance by CITY of work performed under the Agreement by the CONSULTANT.

E. The not-to-exceed budget for the services authorized by this Agreement is the sum of \$332,960.00 and shall not be exceeded without written authorization of the CITY. The City of Reno's share is the sum of \$228,510.45 and the City of Sparks's share is the sum of \$104,449.55. The budget may be increased by amendment hereto if necessitated by a change in the scope of services which increases the cost of providing the services. CONSULTANT is not authorized to provide any additional services beyond the scope of work without having authorized funding pursuant to a written amendment hereto signed by the authorized representative of the governing body.

## ARTICLE IV - SCHEDULE OF WORK

A. CONSULTANT will commence the services as described immediately following the Notice to Proceed provided to the CONSULTANT by the CITY and will proceed with such services in a diligent manner. CONSULTANT will not be responsible for delays caused by factors beyond CONSULTANT's control and will not be responsible for delays caused by factors which could not reasonably have been foreseen at the time the Agreement was approved.

#### ARTICLE V - ASSIGNMENT OF AGREEMENT

A. The CONSULTANT SHALL not assign this Contract or any portion of the work without prior written approval of the CITY which may be withheld for any reason whatsoever.

#### ARTICLE VI- OWNER'S RESPONSIBILITY

A. CITY shall provide any information in its possession that is requested by CONSULTANT and is necessary to complete the Project. CITY shall assist CONSULTANT in obtaining access to public and private lands to allow the CONSULTANT to perform the work under this Agreement. CITY shall examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by the CONSULTANT and shall render decisions pertaining thereto within a reasonable time so as not to delay the work of the CONSULTANT. CONSULTANT may reasonably rely on the technical accuracy of documents and information furnished by the CITY.

#### ARTICLE VII - NONDISCLOSURE OF PROPRIETARY INFORMATION

A. CONSULTANT shall consider all information provided by CITY to be proprietary unless such information is available from public sources. CONSULTANT shall not publish or disclose proprietary information for any purpose other than the performance of the Services without the prior written authorization of CITY or in response to legal process or as required by the regulations of public entities.

#### ARTICLE VIII - NOTICE

A. Any notice, demand, or request required by or made pursuant to this Agreement shall be deemed properly made if personally delivered in writing or deposited in the United States mail, postage prepaid, to the address specified below:

To CONSULTANT:  
HDR Engineering, Inc.  
Craig Smart, P.E.  
Associate Vice President  
6750 Via Austi Parkway, Suite 350  
Las Vegas, NV 89119

HDR Engineering, Inc. Agreement TWAS Improvements TMWRF

To CITY:

Trina Magoon, P.E.  
Utility Services Director  
City of Reno  
1 East First Street  
Reno, NV 89501  
P.O. Box 1900  
Reno, NV 89505

John Martini, P.E.  
Assistant City Manager  
City of Sparks  
431 Prater Way  
Sparks, NV 889431  
PO Box 857  
Sparks, NV 89432

B. Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONSULTANT and CITY.

ARTICLE IX - UNCONTROLLED FORCES

A. Neither CITY nor CONSULTANT shall be considered to be in default of this Agreement, if delays in or failure of performance shall be due to uncontrollable forces the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid and is not reasonably foreseeable at the time of entering into this Agreement. The term “uncontrollable forces” shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the control of the non-performing party. It includes, but is not limited to, fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance, sabotage, inability to procure permits, licenses, or authorizations from any state, local, or federal agency or personal for any of the supplies, material, accesses, or services required to be provided by either CITY or CONSULTANT under this Agreement, strikes, work slowdowns or other labor disturbances, and judicial restraint. CONSULTANT shall be paid for services performed prior to the delay.

B. Neither party shall, however, be excused from performance if nonperformance is due to uncontrollable forces, which are removable. The provisions of this Article shall not be interpreted or construed to require CONSULTANT or CITY to prevent, settle, or otherwise avoid a strike, work slowdown, or other labor action. The non-performing party shall upon being prevented or delayed from performance by an uncontrollable force immediately give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligation of this Agreement.

ARTICLE X- GOVERNING LAW

A. This Agreement shall be governed by and construed pursuant to the laws of the State of Nevada. In the event suit is commenced hereunder and in accordance with the Dispute Resolution Procedures of Article XXII, the suit shall be brought in the appropriate court in Washoe County, State of Nevada. In the event of an arbitration or mediation pursuant to Article XXII, such arbitration or mediation shall be held in Reno, Nevada.

#### ARTICLE XI - SUCCESSORS AND ASSIGNS

A. CITY and CONSULTANT each binds itself and their successors, and assigns to the other party to this Agreement and to the successors, and assigns of such other party, in respect to all covenants, agreements and obligations or this Agreement.

#### ARTICLE XII - INDEMNIFICATION

A. To the fullest extent permitted by law, CONSULTANT shall defend, indemnify and hold harmless CITY and its officers, employees and agents (collectively "Indemnitee") from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, to the extent caused by the negligent acts, errors, omissions, recklessness or intentional misconduct of the CONSULTANT or employees or agents of the CONSULTANT in the performance of this Agreement.

B. CONSULTANT assumes no liability for the negligence or willful misconduct of any indemnitee or other consultants of indemnitee.

C. CONSULTANT'S indemnification obligations for claims involving Professional Liability (claims involving acts, error, or omissions in the rendering of professional services and Economic Loss Only (claims involving economic loss which are not connected with bodily injury or physical damage to property) shall be limited to the proportionate extent of CONSULTANT'S negligence or other breach of duty.

D. If CITY's personnel (consultants or other professionals) are involved in defending such legal action, CONSULTANT shall also reimburse CITY for the time spent by such personnel at the rate charged for such services by private professionals. These provisions shall survive termination of this agreement and shall be binding upon CONSULTANT, her legal representatives, heirs, successors and permitted assigns.

E. If CONSULTANT does not so defend the CITY and the CONSULTANT is adjudicated to be liable, reasonable attorney's fees and costs shall be paid to CITY in an amount proportionate to the liability of CONSULTANT.

#### ARTICLE XIII - INTELLECTUAL PROPERTY INDEMNITY

A. To the fullest extent permitted by law, CONSULTANT shall defend, protect, hold harmless, and indemnify CITY and the CITY'S related Parties from and against any and all liability, loss, claims, demands, suits, costs, fees and expenses (including actual fees and expenses of attorneys, expert witnesses, and other consultants), by whomsoever brought or alleged, for infringement of patent rights, copyrights, or other intellectual property rights, except with respect to designs, processes or products of a particular manufacturer expressly required by CITY in writing. If CONSULTANT has reason to believe the use of a required design, process or product

is an infringement of a patent, CONSULTANT shall be responsible for such loss unless such information is promptly given to CITY. This Indemnity Covenant shall survive the termination of this Agreement.

#### ARTICLE XIV – PAYMENT OF TAXES

A. Any and all Federal, State and local taxes, charges, fees, or contributions required by law to be paid with respect to CONSULTANT’S performance of this Agreement (including, without limitation, unemployment insurance, social security, and income taxes).

#### ARTICLE XIV - INSURANCE

##### A. GENERAL REQUIREMENTS.

1. The CITY requires that CONSULTANT purchase Industrial Insurance, General Liability, and CONSULTANT’S Errors and Omissions Liability Insurance as described below against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, employees or subconsultants. The cost of such insurance shall be borne by CONSULTANT unless otherwise agreed.

##### B. INDUSTRIAL INSURANCE (WORKERS’ COMPENSATION & EMPLOYER’S LIABILITY).

1. It is understood and agreed that there shall be no Industrial Insurance coverage provided for CONSULTANT or any Subconsultant by the CITY and in view of NRS 616B.627 and 617.210 requiring that CONSULTANT complies with the provisions of Chapters 616A to 616D, inclusive and 617 of NRS, CONSULTANT shall, before commencing work under the provision of this Agreement, furnish to the CITY a certificate of insurance from the Worker’ Compensation Insurer certifying that the CONSULTANT and each Subconsultant have complied with the provisions of the Nevada Industrial Insurance Act, by providing coverage for each and every employee, subconsultants, and independent contractors. Should the CONSULTANT be self-insured for Industrial Insurance, the CONSULTANT shall so notify the CITY and approve written approval of such self-insurance prior to the signing of a Contract. The CITY reserves the right to accept or reject a self-insured CONSULTANT and to approve the amount(s) of any self-insured retentions. The CONSULTANT agrees that the CITY is entitled to obtain additional documentation, financial or otherwise, for review prior to entering into a Contract with the CONSULTANT.

2. It is further understood and agreed by and between the CITY and CONSULTANT that CONSULTANT shall procure, pay for, and maintain the above mentioned industrial insurance coverage at the CONSULTANT’S sole cost and expense.

C. **MINIMUM SCOPE OF LIABILITY INSURANCE.** Coverage shall be at least as broad as:

1. **Commercial General Liability** at least as broad as Insurance Services Office Commercial General Liability Coverage "occurrence" form CG OO 01 04 13 and ISO CG 20 37 04 13, or equivalent forms.. The Comprehensive General Liability Coverage shall include, but is not limited to, liability coverage arising from premises, operations, independent contractors, products and completed operations, personal and advertising, injury, blanket contractual liability and broad form property damage.

2. **Automobile Coverage** at least as broad as Insurance Services Office Business Auto Coverage form CA OO 01 10 13 or an equivalent form covering Automobile Liability Symbol 1 "Any Auto". In lieu of a separate Business Auto Liability Policy, the City may agree to accept Auto Liability covered in the General Liability Policy, if nonowned and hired auto liability are included. The CONSULTANT shall maintain limits of no less than \$1,000,000 or the amount customarily carried by the contractor, whichever is greater, combined single limit per accident for bodily injury and property damage. No aggregate limit may apply.

3. **Professional Errors and Omissions Liability** applying to all activities performed under this Agreement in a form acceptable to CITY. CONSULTANT will maintain professional liability insurance during the term of this Agreement and for a period of six (6) years from the date of substantial completion of the project unless waived by the CITY. In the event the CONSULTANT goes out of business during the term of this Agreement or the six (6) year period described above, CONSULTANT shall purchase Extended Reporting coverage for claims arising out of CONSULTANT's negligence acts, errors and omissions committed during the term of the Professional Liability Policy.

D. **MINIMUM LIMITS OF INSURANCE.** CONSULTANT shall maintain limits no less than:

1. General Liability: \$2 million minimum combined single limit per occurrence for bodily injury, personal injury and property damage and \$4 million annual aggregate.

2. CONSULTANT's Errors and Omissions Liability: \$2 million per claim and \$4 million as an annual aggregate during the term of this Agreement and for six years after the completion of the project, with each subsequent renewal having a retroactive date which predates the date of this Agreement. The CONSULTANT may purchase project insurance or obtain a rider on her normal policy in an amount sufficient to bring CONSULTANT's coverage up to minimum requirements, said additional coverage to be obtained at no cost to the CITY.

E. **DEDUCTIBLES OR SELF-INSURED RETENTIONS**

1. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. The CITY reserves the right to request additional documentation, financial or

otherwise prior to giving its approval of the deductibles or self-insured retention. Any changes to the deductible or self-insured retention made during the term of this Agreement or during the term of any policy, must be approved by the Risk Manager.

**F. OTHER INSURANCE PROVISIONS**

1. The CITY, its officers, officials and employees are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the CONSULTANT including the insured's general supervision of the CONSULTANT; products and completed operations of the CONSULTANT; or premises owned, occupied or used by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials or employees.

2. The CONSULTANT's insurance coverage shall be primary insurance as respects the CITY, its officers, officials, and employees. Any insurance or self-insurance maintained by the CITY, its officers, officials or employees shall be excess of the CONSULTANT's insurance and shall not contribute with it in any way.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officers, officials, or employees.

4. The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Endorsements for General Liability, Auto, and Excess/Umbrella Liability listing all additional insureds are required. The endorsement for Excess/Umbrella Liability can be accomplished by the CONSULTANT'S production of a letter from the insurance company stating that Excess/Umbrella Liability will "follow form."

6. The CONSULTANT'S insurance coverage shall be endorsed to state that coverage shall not be canceled or non-renewed by either party, except after at least thirty (30) days prior written notice for reasons other than non-payment of premium and at least ten (10) days for non-payment of premium mail has been given to the CITY. CONSULTANT shall notify CITY if its insurance is reduced in coverage or in limits.

**G. ACCEPTABILITY OF INSURERS**

1. Insurance is to be placed with an A.M. Best and Company rating level of A - Class VII or better, or otherwise approved by the CITY in its sole discretion. CITY reserves the right to require that CONSULTANT'S insurer be a licensed and admitted insurer in the State of Nevada, or on the Insurance Commissioner's approved but not admitted lists.



#### H. VERIFICATION OF COVERAGE

1. CONSULTANT shall furnish the CITY with certificates of insurance, including but not limited to the Certificate of Compliance in NRS 616B.627 and with original endorsements affecting coverage required by this article. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf and must be countersigned by a duly appointed and licensed agent in this state. All approved deductibles and self-insured retentions shall be shown on the certificate. The certificates are to be on forms approved by the CITY. All certificate and endorsements are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.

#### I. SUBCONSULTANTS

1. CONSULTANT shall require all subconsultants to be insured on their own or under its policies and shall furnish separate certificates and endorsement for each subconsultant. Coverages for subconsultants shall be subjected to all of the requirements stated herein. The City Attorney or Risk Manager may modify the requirements at their discretion upon request of the CONSULTANT.

#### J. MISCELLANEOUS CONDITIONS

1. If the CONSULTANT or any Subconsultant fails to maintain any of the insurance coverages required, the CITY may terminate this Agreement for cause.

2. Nothing herein contained shall be construed as limiting in any way to the extent to which the CONSULTANT may be held responsible for payment for damages to persons or property resulting from her operations or the operations of any subconsultant under her.

3. If CONSULTANT's failure to maintain the required insurance coverage results in a breach of this Agreement, CITY may purchase the required coverage, and without further notice to CONSULTANT, deduct from sums due to CONSULTANT any premium cost advanced by CITY for such insurance.

#### ARTICLE XVI - LITIGATION

A. This Agreement does not require the CONSULTANT to prepare for or appear in litigation on behalf of The CITY, or as agent of the CITY, other than specified herein, except in consideration of additional reasonable compensation.

## ARTICLE XVII - TERMINATION OF WORK

A. Either party to this Agreement may terminate the Agreement for cause upon giving the other party thirty (30) days prior written notice. Cause may include, failure to perform through no fault of the party initiating the termination. In addition, CITY may terminate the Agreement for any one of the following causes: performance by CONSULTANT which CITY deems unsatisfactory in CITY's sole judgment; and CITY's lack of funds to complete the work. Cause for CONSULTANT may include, failure of CITY to make timely payment to CONSULTANT without good cause, following a demand for payment.

B. In addition, CITY may terminate any or all of the work covered by this Agreement by notifying CONSULTANT in writing. In the event such termination occurs at the conclusion of services pursuant to an executed task order, then CONSULTANT shall be entitled to receive compensation for all work satisfactorily completed and performed through the conclusion of that task order. No other changes or costs incurred for services or materials other than pursuant to an executed task order shall be reimbursed by CITY pursuant to this Agreement. In the event such termination occurs during the performance of services pursuant to an authorized task order, then CONSULTANT and CITY shall need to determine what, if any additional services should be performed by CONSULTANT in order to close out the work in progress and provide any such unfinished materials to CITY. CONSULTANT and CITY shall agree upon the additional amount of work to be performed following the termination notice and the amount payable by CITY for such work. In the event that the parties cannot otherwise agree on the amount to be paid pursuant to this provision, then the matter may be referred to the Dispute Resolution Procedure in ARTICLE XXII.

C. In the event the Agreement is terminated by CITY for cause, including performance deemed unsatisfactory by CITY, or CONSULTANT failure to perform, or other cause created by CONSULTANT, CITY may withhold and offset against any payments otherwise due and/or seek recovery from CONSULTANT for amounts already paid, including without limitation: amounts paid for unsatisfactory work or work not done in accordance with this Agreement; value of CITY's time spent in correcting the work or problem; any increase in cost resulting from the problem or work; and any other costs which result from such termination. Subject to the terms herein, CONSULTANT will be paid for services performed prior to termination.

D. CONSULTANT expressly agrees that this Agreement shall be terminated immediately if for any reason local, federal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

## ARTICLE XVIII - PROFESSIONAL SERVICES

A. CONSULTANT shall be responsible for the professional quality and technical accuracy of all services furnished by CONSULTANT and their subconsultants under this Agreement. Without limiting the effect of any other provision of this Agreement and in addition to any other

provision contained herein, CONSULTANT shall, without additional compensation, correct or revise any errors or omissions in their services.

B. CONSULTANT and their subconsultants retained pursuant to this Agreement are considered by CITY to be skilled in their profession to a degree necessary to perform the services and duties contained in this Agreement, and CITY hereby relies upon those skills and the knowledge of CONSULTANT and their subconsultants. CONSULTANT and their subconsultants shall perform such professional services and duties as contained in this Agreement in conformance to and consistent with the standards generally recognized as being employed by professionals of their caliber in the State of Nevada and under similar conditions. CONSULTANT makes no warranty, either expressed or implied, as to their findings, recommendations, specifications or professional advice other than as provided herein.

C. Neither CITY'S review, approval, or acceptance of nor payment for any of the professional services or work required under this Agreement shall be construed to operate as a waiver of any of CITY'S rights under of this Agreement. The rights and remedies of CITY provided for under this Agreement are in addition to any other rights and remedies provided by law.

D. Project information including but not limited to reports, written correspondence, and verbal reports will be prepared for the use of the CITY. The observations, findings, conclusions and recommendation made represent the opinions of the CONSULTANT. Reports, records, and information prepared by others will be used in the preparation of the report. The CONSULTANT has relied on the same to be accurate and does not make any assurances, representations, or warranties pertaining to the records or work of others, except for its subconsultants, nor does the CONSULTANT make any certifications or assurances except as explicitly provided in writing. No responsibility is assumed by the CONSULTANT for use of reports for purposes of facility design by others.

#### ARTICLE XIX – PROPERTY: COPYRIGHTS

A. The CONSULTANT shall furnish to the CITY all field notes, reports, data, and electronic or magnetic media, and original tracings of all drawings and plans, maps, photographs, and other materials (including, if requested by the Director, design computations, design sketches and review drawings) prepared pursuant to this Contract (hereinafter collectively referred to as “Documents”). The originals of such Documents shall be and remain the property of the CITY.

B. All of such Documents shall be deemed to be “works made for hire” prepared for the CITY. The ownership of all copyrights and all rights embodied in the copyrights in or to such Documents shall rest in the CITY when any such is subject to copyright. The CONSULTANT agrees that it, nor any of its employees, shall have any right to copyright any of such Documents. The CONSULTANT further agrees that neither it nor any of its employees shall exercise any of

the rights embodied in the copyrights in or to such Documents, unless authorized to do so by the Reno City Council. The CONSULTANT shall place a conspicuous notation upon each Document which indicates that the copyright thereto is owned by the CITY.

C. Should it be finally determined, by a court or to her tribunal of competent jurisdiction, that any of such Documents is not a “works made for hire,” it is agreed that the provisions of this section shall be termed an assignment, sale, and transfer of the copyright in or to such Documents to the CITY for the longest term allowed by law. Notwithstanding the foregoing, the CONSULTANT may retain copies of such Documents and such copies shall remain the property of the CONSULTANT. The CONSULTANT shall have the right to use such copies as it may desire, but the CONSULTANT may not sell, license, or otherwise market such Documents.

D. Documents, including drawings and specification prepared by CONSULTANT pursuant to this Contract, are not intended or represented to be suitable for reuse by CITY or others on extensions of the services provided for the Project or any other project. Any use of completed Documents for other projects and/or any use of uncompleted Documents without specific written authorization from CONSULTANT will be at the CITY’s sole risk without liability or legal exposure to CONSULTANT.

#### ARTICLE XX - RIGHTS OF CONSULTANTS AND EMPLOYEES

A. No personnel employed by CONSULTANT shall acquire any rights or status in the CITY services and CONSULTANT shall be responsible in full for payment of its employees, including insurance, deductions, and all the like.

#### ARTICLE XXI - SERVICES BY CITY

A. It is understood and agreed that the CITY shall, to the extent reasonable and practicable, assist and cooperate with the CONSULTANT in the performance of CONSULTANT’s services hereunder. Such assistance and cooperation shall include, but not necessarily be limited to, environmental approval, right of access to work sites; providing material available from the CITY’s files such as maps, As-Built drawings, records, and operation and maintenance information; serving all notices, holding all hearings, and fulfilling legal requirements in connection therewith; and rendering assistance in determining the location of existing facilities and improvements which may be affected by the project.

#### ARTICLE XXII - DISPUTE RESOLUTION PROCEDURE

A. If disputes arise under this Agreement, the parties agree to attempt to resolve such disputes through direct negotiations or if such negotiations are not successful, by non-binding mediation conducted in accordance with the rules and procedures to be agreed upon by the parties.

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B. Except as otherwise provided herein, each party shall bear its own attorney's fees and court costs regardless of the outcome of any proceeding brought to enforce or interpret this Agreement. In no event shall any prevailing party in be entitled to an award of attorney's fees.

### ARTICLE XXIII - NO UNFAIR EMPLOYMENT PRACTICES

A. In connection with the performance of work under this Agreement, CONSULTANT agrees not to discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, age, sex, sexual orientation, gender identity, gender expression, veteran status, or any other protected class status applicable under federal, state or local law, rule or regulation. Such Agreement shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

B. CONSULTANT further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

C. As used in this Article, sexual orientation means having or being perceived as having an orientation for heterosexuality, homosexuality or bi-sexuality.

D. Race includes traits associated with race, including, without limitation, hair texture and protective hairstyles.

E. Any violation of these provisions by CONSULTANT shall constitute a material breach of contract.

### ARTICLE XXIV - AMERICANS WITH DISABILITIES ACT

A. CONSULTANT and its subconsultants shall comply with the terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

### ARTICLE XXV - GENERAL PROVISIONS

A. Integration. This Agreement, including the Exhibits and the Recitals, all of which are true and correct and are incorporated by reference as a part of this Agreement, constitutes the complete and integrated Agreement between the parties with respect to the matters recited herein, and supersedes any prior or contemporaneous written or oral agreements or understandings with respect thereto.

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B. Severability. The legality of any provision or portion of this Agreement shall not affect the validity of the remainder.

C. Amendment. This Agreement shall not be modified, amended, rescinded, canceled, or waived, in whole or in part, except by written amendment signed by duly authorized representatives of the parties.

D. No Third Party Benefit. This Agreement is a contract between CITY and CONSULTANT and nothing herein is intended to create any third party benefit.

E. Governing Law and Jurisdiction. This Agreement shall be administered and interpreted under the laws of the State of Nevada. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement or any provision thereof shall be instituted only in the district courts of the State of Nevada, County of Washoe.

### ARTICLE XXVI - DUE AUTHORIZATION

A. Each party represents that all required authorizations have been obtained to execute this Agreement and for the compliance with each and every term hereof. Each person signing this Agreement warrants and represents to the other party that he or she has actual authority to execute this Agreement on behalf of the party for whom he or she is signing. An electronic or facsimile signature on this Agreement shall be treated for all purposes as an original signature.

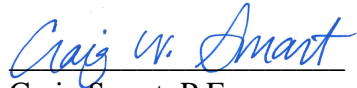
B. Duplicate originals. This Agreement is executed in one duplicate original for each party hereto, and is binding on a party only when all parties have signed and received a duplicate original.

-Signature Page Follows-

HDR Engineering, Inc. Agreement TWAS Improvements TMWRF

IN WITNESS WHEREOF, CITY has caused this Agreement to be executed by the City of Reno and CONSULTANT have caused this Agreement to be executed, all as of the day and year first above written.

HDR ENGINEERING, INC.



Craig Smart, P.E.  
Associate Vice President

CITY OF SPARKS

By: \_\_\_\_\_  
Ed Lawson, Mayor

ATTEST:

By: \_\_\_\_\_  
Lisa Hunderman, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Wes Duncan  
City Attorney

CITY OF RENO

By: \_\_\_\_\_  
Hillary L. Schieve, Mayor

ATTEST:

By: \_\_\_\_\_  
Mikki Huntsman, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Susan Ball Rothe  
Deputy City Attorney

# EXHIBIT A

## SCOPE OF SERVICES

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### ***Truckee Meadows Water Reclamation Facility Thickened Waste Activated Sludge Improvements Construction Management and Engineering Assistance***

HDR will provide construction management and engineering assistance services for the Truckee Meadows Water Reclamation Facility (TMWRF) Thickened Waste Activated Sludge (TWAS) Improvements Project. This scope of work assumes that construction will occur over a 64-week period.

#### **TASK 1 - PRECONSTRUCTION ACTIVITIES**

##### **Subtask 1.1 - Administrative Setup**

HDR will set up the file system for the project, which includes files, software, and administrative procedures. The filing system will be designed to provide an efficient archival of documents during and after construction.

HDR will use Procore software to manage the construction documents. This includes organizing, tracking, filing, storing, retrieving, and managing paper and electronic correspondence, including letters, requests for information (RFIs), field memoranda and clarifications, submittals, contracts, reports, progress payments, extra work orders (EWO), and other relevant documentation. HDR will track contract RFIs, extra work orders, submittals, design clarifications, field orders, and other miscellaneous correspondence.

This task is important for the management of any project during construction, as well as for providing usable documentation for claims defense, record drawings, and future design efforts.

##### **Subtask 1.2 - Preconstruction Conference**

HDR will conduct a preconstruction conference with the City of Reno (City), TMWRF staff, and contractor. Specifically, the conference will cover the contract administration procedures, contract time, schedule requirements, lines of communication, project constraints, construction meetings, Record Drawings, O&M document requirements, and other project specific issues. A meeting agenda will be formulated prior to the conference.



Meeting minutes for the conferences will be compiled; all parties attending the conferences will receive a copy of the meeting minutes.

## **TASK 2 - CONSTRUCTION CONTRACT ADMINISTRATION & ENGINEERING ASSISTANCE**

### **Subtask 2.1 - Document Existing Site Conditions and Project Progress**

Photo documentation will be utilized throughout the construction sequence to provide a visual database of existing site conditions, project progress, and Request for Information related conditions. All photographs will be digital and compiled on compact discs indexed by date. A copy of the photographs will be provided to the City at the end of construction. HDR will also document the Contractor's photo/video documentation and provide it to the City.

Bi-weekly inspection and progress logs will be taken and archived in the file system during active construction. This task assumes up to 12 logs.

### **Subtasks 1.3 & 1.4 – Project Management and QA/QC Program**

This task includes the management activities to facilitate the project being completed on time and within budget, and to address the City of Reno's and TMWRF's (CITY) concerns. HDR Engineering, Inc. (ENGINEER) will prepare invoices and progress reports on a monthly basis. The monthly progress reports will summarize budget and schedule status in measurable terms. Other activities include scheduling of staff and coordinating the quality assurance effort. For objectivity, senior technical staff, not immediately involved in the project, will perform internal QA/QC of deliverables before they are submitted to the CITY.

### **Subtask 2.2 – RFI Review and Tracking**

Requests For Information (RFIs) received from the contractor will be reviewed by the respective responsible engineer. The engineer will provide a response to the Resident Engineer (RE), who will forward to the Contractor. RFIs will be logged and tracked. This task assumes up to 80 RFIs.

### **Subtask 2.3 – Submittals Review and Tracking**

Submittals will be reviewed for conformance with the contract documents by the respective responsible engineer. The engineer will grade the submittal and provide comments as necessary. Submittals will be tracked by number, CSI section, action taken, date received, and date returned to the contractor. HDR will track each submittal for timely processing of

submittals. This task assumes up to 65 submittals and includes electrical and controls submittals.

### **Subtask 2.4 - Schedule**

**2.4.1 - Initial Schedule Review.** The contractor's initial schedule will be reviewed for completeness and appropriateness in regard to the specified milestone dates, end date, and practicality.

**2.4.2 - Schedule Monitoring.** HDR will review the contractor's monthly schedule. The City will be notified of deviations from the schedule.

### **Subtask 2.5 – Bi-Weekly Progress Meetings**

During the onsite construction portion of the work, bi-weekly progress meetings are necessary to maintain continuing and effective dialogue between team members, and to keep the project on track. Progress meetings will be held on-site to discuss the general project schedule; three-week look ahead schedule; current, past, and potential issues; permit, mitigation and monitoring plan issues; and outstanding items such as RFIs and submittals. HDR will conduct the progress meetings and issue meeting minutes. This task assumes up to 30 meetings.

### **Subtask 2.6 - Monthly Status Reports**

HDR will prepare and submit to the City monthly reports highlighting project progress, extra work orders, budget, and schedule status. This task assumes up to 15 monthly status reports.

### **Subtask 2.7 - Issues Management**

Issues management relates to the solution of unanticipated problems that arise during construction. A coordinated issues management approach minimizes delays in the field and provides a vehicle for cost effective resolutions.

**2.7.1 - Unforeseen Conditions or Situations:** HDR field personnel will work with the contractor to quantify problems caused by unforeseen site conditions.

**2.7.2 - Conflict Resolution:** HDR, in conjunction with the contractor, will analyze the problem and seek to solve the problem in the field. HDR will seek appropriate advice from City staff if any redesign is required.

**2.7.3 - Field Memoranda and Clarifications:** "No cost" solutions to field issues will be documented issuing a field memorandum or clarification. Solutions with an

associated cost will be handled as a potential extra work order and negotiated with the contractor in coordination with City staff. The City will receive copies of field memoranda and clarifications.

### **Subtask 2.8 – Extra Work Orders**

HDR will implement an extra work order review process that will include the following:

**2.8.1 - Schedule Impact Review:** The impact on the schedule of the proposed change will be evaluated and reviewed. Any time extensions requested in the change will be evaluated for merit.

**2.8.2 - Discrepancy Negotiation:** HDR will negotiate with the contractor in the event that HDR's cost estimate or schedule impacts review does not agree with the contractor's request. These negotiations will be conducted to produce an acceptable change request that can be presented to the City for consideration.

**2.8.3 - Disposition Recommendations:** HDR will prepare a disposition recommendation for each EWO, which will provide a narrative justification for either recommendation of execution of an extra work order or denial of the change. HDR will provide assistance to the City staff in regard to preparation and justification of change.

**2.8.4 - Cumulative Impacts:** HDR will track the cumulative impact of extra work orders on the project cost, force account, and schedule. This information will be summarized in the monthly reports.

This task assumes up to 4 extra work orders.

### **Subtask 2.9 - Progress Payment Applications**

HDR will determine the amount owed to the contractor based on HDR's observations at the site, schedule of values, and the data comprising the application for payment, and recommend in writing payments to the contractor in such amounts. Such recommendations of payment will constitute representation to the City that the work has progressed to the point indicated, and that, to the best of HDR's knowledge, information, and belief, the quality of work is in general conformance with the contract documents. The foregoing representations are subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to results of subsequent tests and inspections of others, to minor deviations from the contract documents correctable prior to completion, and to specific qualifications expressed by HDR.

**2.9.1 - Payment Request Review.** The contractor's progress payment applications will be reviewed against the schedule of values for verification of work completed. Retention amounts and numerical addition will be verified.

**2.9.2 - Quantity Verification.** Each pay item in the payment application will be verified with the contractor and through field measurement and inspection.

**2.9.3 - Payment Application Documentation.** HDR will prepare payment documentation for execution by the City to support the contractor's application.

This task assumes up to 15 pay applications.

### **TASK 3 - CONSTRUCTION MONITORING**

#### **Subtask 3.1 - Onsite Personnel & Field Visits**

A resident engineer will be on site when needed. The time onsite will increase during critical activities and decrease during non-critical times. This task assumes that the resident engineer will be on site on average 8 hours per week, for approximately 24 weeks during active construction. The resident engineer will observe construction activities, and will be responsible for coordinating construction documents and RFIs, and scheduling inspections and testing.

The project manager/responsible engineer will also make periodic site visits to attend meetings, observe relevant portions of the work, and observe field conditions.

#### **Subtask 3.2 - Testing**

HDR's geotechnical subconsultant will provide materials testing on the project. HDR's subconsultant will provide testing for pump vibration and natural frequency after installation by the contractor. Requests for testing and scheduling will be coordinated with the contractor. Test results will be documented in progress reports. City of Sparks will perform any inspections related to the project building permits.

**3.2.1 – Materials Testing.** Subconsultant will provide the following materials testing:

- Pipe bedding and backfill compaction (3 locations)
- Concrete compressive strength (4 tests)

Concrete compressive strength tests for miscellaneous concrete work including equipment pads and pipe supports. It is estimated that this work will be completed in 4 pours. This

task assumes that the geotechnical subconsultant will make 4 site visits at 3 hours each for concrete sampling. Four sets of concrete cylinders will be tested for compressive strength.

**3.2.2 – Special Inspection.** Subconsultant will perform special inspections of epoxy anchor installation. The scope assumes 6 site visits at 3 hours each for this activity. Inspector will also inspect the epoxy anchor bolts and wall penetration patches.

**3.2.3 – Startup and Testing Assistance.** TMWRF staff will perform DCS equipment programming in-house. Consultant will serve as a liaison between the Contractor and TMWRF staff with respect to controls and equipment related questions during startup. Consultant's Resident Engineer will observe and document the demonstration testing of the TWAS systems. TMWRF staff will operate the TWAS equipment for all testing.

## **TASK 4 - CONTRACT CLOSEOUT ACTIVITIES**

### **Subtask 4.1 - Walkthrough/Completion List**

When the Final Acceptance Testing is considered complete by the City and HDR, a project walkthrough with the City and contractor will be scheduled to compile a completion list. The completion list will be provided to the contractor, and items tracked to resolution.

### **Subtask 4.2 - Administrative Requirements Verification**

HDR will verify that the required certificates of compliance, warranty certificates, final record drawing information, training, and other administrative items required by the contract documents have been executed and delivered by the contractor.

### **Subtask 4.3 - Final Completion List Walk Through**

HDR will perform one final walk through to verify that all completion list items have been completed to the City's satisfaction. The completion of each completion list item will be verified and the completion date noted.

### **Subtask 4.4 - Contract Retention**

HDR will review the contractor's final payment application for retention, and will make a recommendation to City staff for payment of retention.

### **Subtask 4.5 - Final Payment & Notice of Completion**

The contractor's final progress payment application will be reviewed for conformance and completeness. Final payment quantities will be verified. HDR will review the status of all

stop notices, mechanics liens, and other claims against the project prior to the time of preparing the final payment request.

Upon verification of completion of all completion list items, HDR will assist the City in executing and filing the Notice of Completion for the project. The Notice of Completion will verify that the contractor has fulfilled the contract requirements and that all work is complete.

#### **Subtask 4.6 – Record Drawings & Closeout Documents**

HDR will prepare Record Drawings based on the contractor's completed redlines. The design drawings will be updated in Autocad, and provide electronic files in Autocad, Word, and pdf formats.

HDR will prepare a letter of project completion to NDEP, to satisfy their approval requirements.

#### **Subtask 4.7 – Electronic Operation & Maintenance Manual (eOMM)**

HDR will prepare the eOMM for the project, based on the outline in the TMWRF Design Guideline Manual. The eOMM will include the following sections:

1. Theory of Operation
2. Design Criteria
3. Equipment List
4. Instrument List
5. Control Descriptions
6. Troubleshooting
7. Contractor O&M Manuals
8. Equipment and Instrument Photos
9. Drawings, Specifications, and Submittals
10. Documents – Construction Photos

The files will be provided to TMWRF electronically in Word format for upload to the Sharepoint database.

### **TASK 5 – CONTINGENCY**

During the construction of this project, issues may arise that would require services beyond the scope delineated herein. This task will provide a set aside amount to be used as directed by the City to address specific items not in the original scope, and assist in meeting the intent of the project. At the request of the City, HDR will prepare a written Task

Authorization Request letter to obtain written permission from the City to proceed with additional requested work. The contingency amount budgeted in this scope is \$50,000.

### **TASKS NOT INCLUDED IN THE SCOPE OF WORK**

This scope of services does not include the following tasks:

- Construction survey staking or Record Drawing surveys
- Review and inspection of the contractor's safety program, means, and methods.
- Site trailer and associated utility costs.
- Preparation or tracking of electronic schedules. Scope includes review of Contractor-provided schedules only.

### **FEE**

The total fee for these services is based on time and materials and is not to exceed \$332,960. Where activities are subject to prevailing wages requirements, HDR will pay prevailing wages in accordance with Nevada Revised Statutes (NRS) sections 338.010 through 338.090.

Table 1 - Estimated Work Effort and Cost

City of Reno and Sparks, NV

TMWRF TWAS Improvements Construction Assistance

5/17/2023

Task No.	Task Description	QA/QC	PM/Senior Civil Engr	Struct Engr	Elec Engr	Civil Engr	Resident Engr	CADD Tech.	Project Controller	Project Coord	Total HDR Labor Hours	Total HDR Labor (\$)	Subs (\$)	Expenses (\$)	Total Cost (\$)
Task 1 - PRECONSTRUCTION ACTIVITIES															
1.1	Administrative Setup		6				8		8	12	34	\$4,865		\$97	\$4,962
1.2	Preconstruction Conference		3				4			1	8	\$1,374		\$27	\$1,401
1.3	Project Management	6	30						30		66	\$12,958		\$259	\$13,217
1.4	QA/QC Program	6	6				4			12	28	\$5,181		\$104	\$5,285
	Subtotal Task 1	12	45	0	0	0	16	0	38	25	136	\$24,379	\$0	\$488	\$24,866
Task 2 - CONSTRUCTION CONTRACT ADMINISTRATION AND ENGINEERING ASSISTANCE															
2.1	Document Existing Site Conditions and Project Progress (bi-weekly inspection logs up to 12)		4				24				28	\$4,011		\$80	\$4,091
2.2	RFI Review and Tracking (up to 80)		80	12	30	40	80			8	250	\$45,648		\$913	\$46,561
2.3	Submittals Review and Tracking (up to 65)		65	10	24	40	65			10	214	\$38,523		\$770	\$39,293
2.4	Schedule Review & Monitoring		4				8			2	14	\$2,242		\$45	\$2,287
2.5	Bi-Weekly Progress Meetings (up to 30)		30				60			10	100	\$16,239		\$325	\$16,564
2.6	Monthly Status Reports (up to 15)	4	15				38			8	65	\$10,588		\$212	\$10,800
2.7	Issues Management	6	20	8	12	8	30			4	88	\$16,275		\$325	\$16,600
2.8	Contract Changes (Up to 4)	4	4			8	16	24		8	64	\$10,116		\$202	\$10,319
2.9	Progress Payment Applications (up to 15)		8				30			8	46	\$6,571		\$131	\$6,703
	Subtotal Task 2	14	230	30	66	96	351	24	0	58	868	\$150,214	\$0	\$3,004	\$153,218
Task 3 - CONSTRUCTION MONITORING															
3.1	Onsite Personnel & Field Visits (Up to 8 hrs./week for 24 weeks)		24		8		192				224	\$31,845		\$600	\$32,445
3.2	Materials Testing & Special Inspection		2			4	24				30	\$4,075	\$22,743	\$600	\$27,418
3.2.3	Startup & Testing Assistance		12		8	8	30				58	\$9,701		\$600	\$10,301
	Subtotal Task 3	0	38	0	16	12	246	0	0	0	312	\$45,622	\$22,743	\$1,800	\$70,165
Task 4 - CONTRACT CLOSEOUT ACTIVITIES															
4.1	Walkthrough/Punchlist	1	4				8			2	15	\$2,538		\$51	\$2,589
4.2	Administrative Requirements Verification		2				6			2	10	\$1,487		\$30	\$1,517
4.3	Final Punchlist Walk Through		4				8			2	14	\$2,242		\$45	\$2,287
4.4	Contract Retention	1	1				2				4	\$799		\$16	\$815
4.5	Final Payment & Notice of Completion		4				6			1	11	\$1,877		\$38	\$1,914
4.6	Record Drawings	2	8	2	2		16	48			78	\$13,127		\$263	\$13,389
4.7	eOMM		8		8	40	16			4	76	\$11,960		\$239	\$12,200
	Subtotal Task 4	4	31	2	10	40	62	48	0	11	208	\$34,030	\$0	\$681	\$34,711
Task 5 - CONTINGENCY															
5.1	Contingency														\$50,000
	Subtotal Task 5	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$50,000
COLUMN TOTALS		30	344	32	92	148	675	72	38	94	1,524	\$254,245	\$22,743	\$5,972	\$332,960





**HDR Engineering, Inc.**

**STANDARD RATE SCHEDULE**  
**January – December 2023**

**TWAS Improvements ESDC**

<b>Classification</b>	<b>Rate Range</b>
CAD Designer I	\$120-\$140
CAD Designer II	\$141-\$170
EIT / Designer / Technician	\$115-\$150
Engineer I	\$151-\$175
Engineer II	\$176-\$215
Engineer III	\$216-\$250
Engineer IV	\$251-\$310
Principal in Charge	\$311-\$335
Project Manager	\$245-\$265
Project Controller	\$110-\$165
Project Coordinator	\$100-\$140
Expenses	At cost
Mileage	At Federal Rate
Subconsultants	5% markup

*Rates subject to annual increases on January 1<sup>st</sup>.*