



CITY OF HOQUIAM  
City Council Meeting Agenda

Apr 13, 2020

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1. **PUBLIC HEARING** – to comment during the public hearings please use the “raise your hand” icon at the bottom of the zoom meeting screen and then type your comment in the chat box.
  - a. Park Plan – Draft parks plan is available on the City website for viewing.
  - b. Community Development Block Grant
2. **PUBLIC COMMENT** – remove public comment.
3. **CONSENT AGENDA**
  - a. Council Minutes of March 9, 2020
  - b. Claims & Payroll
  - c. Notice of Completion – Library Renovation
4. **COUNCIL ACTION/DISCUSSION**
  - a. **COMMITTEE REPORTS**
    1. Public Utilities Committee – Transportation Benefit District
    2. Lodging Tax Committee – Awarding LTAC funding for 2020
  - b. **OFFICER REPORTS**
    1. Biosolids Project – Bid Award - Information will be provided during the meeting.
  - c. **MAYOR REPORTS**
  - d. **COUNCIL REPORTS**
5. **LEGAL BUSINESS**
  - a. **ORDINANCES**
  - b. **RESOLUTIONS**
    1. Comprehensive Parks Plan
  - c. **OTHER LEGAL**
6. **OLD BUSINESS**
  - a. Update on BHP Extension
7. **NEW BUSINESS**
  - a. Cancel May 25<sup>th</sup> Council Meeting – Memorial Day
  - b. Emerson Pump Station Project
8. **EXECUTIVE SESSION**
9. **ADJOURN**

Meeting will be live streaming at <https://zoom.us/j/420703560>  
Attendance Only Permitted Via Remote Live Stream – This meeting will be recorded



# CITY OF HOQUIAM

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## **CALL TO ORDER**

Mayor Winkelman called the meeting to order at 7:00 p.m. and asked Mr. Sam Nazarrio to lead the flag salute.

## **ROLL CALL**

Those in attendance were Mayor Winkelman and Councilmembers Anderson, Carlstrom, Dick, George, Grun, Hinchey, McMillan, Nelson, Patterson, Puvogel, Reid, and Wilson.

Staff in attendance were Police Chief Myers, Fire Representative Rich Malizia, City Librarian Mary Thornton, City Attorney Steve Johnson, City Administrator Brian Shay, Finance Director Corri Schmid and Council Secretary Tracy Wood.

## **COMMUNICATIONS**

Purchase of Harborena

Mr. Sam Nazarrio, owner of the Jitterhouse, stated that he and a business partner have purchased the Harborena. They plan to work with the community, HBA, the City and Mayor to keep it as an icon in our community.

## **CONSENT AGENDA**

Councilmember Grun moved for the approval of consent agenda item A as presented and his motion was seconded. Item A was as follows:

- The City Council Minutes of February 24, 2020;

His motion was passed by voice vote.

## **COMMITTEE REPORTS**

Historic Preservation Commission – Adding Lincoln School to Hoquiam Historic Register

The Historic Preservation Commission made a recommendation to the Council that Lincoln School be added to the Hoquiam Historic Register. Councilmember McMillan moved for adoption of their report and the motion was seconded. Following a brief discussion regarding the designation, the motion passed by voice vote.

Historic Preservation Commission – Adding Olympic Stadium to Hoquiam Historic Register

The Historic Preservation Commission made a recommendation to the Council that Olympic Stadium be added to the Hoquiam Historic Register. Councilmember McMillan moved for adoption of this committee report and his motion was



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Civil Service Commission –  
Assistant Fire Chief Job  
Description

seconded. Following a brief discussion, the motion passed by voice vote.

The Civil Service Commission made a recommendation to the Council that the Assistant Fire Chief Job Description, as provided, be approved. Councilmember McMillan moved for the adoption of the committee report. The motion was seconded and following a discussion on the actual changes to the description being updated to include changes in the civil service rules the motion passed by voice vote.

Public Safety Committee –  
Hobby Beekeeping

The Public Safety Committee made a recommendation to the Council that a public hearing be set to discuss the proposed Hobby Beekeeping Ordinance for April 13, 2020. Councilmember Patterson moved to set the hearing and her motion was seconded. Following a brief discussion on what other cities are doing, the motion passed by voice vote.

## OFFICER REPORTS

Community Foundation  
Grants

Staff provided information to the Council regarding the award of two grants to the City from the m the Grays Harbor Community Foundation. The City has been award \$30,000 for the Adams St. Park and \$3,500 for the Hoquiam beautification project. Councilmember McMillan moved to accept the grants and his motion was seconded. A brief discussion followed, and Councilmember George stated he would abstain from voting as he works for the foundation. Following the discussion, the motion passed by voice vote.

Amendment to Personnel  
Policies and Procedures  
Manual

Staff requested that Council approve an amendment to the Personnel Policies and Procedures Manual regarding vacation accrual for the administrative secretary position. Councilmember McMillan moved to approve the amendment and his motion was seconded. Staff explained that this would change the accruals to match what is established for the AFSCME positions. The motion to approve passed by voice vote.

## MAYOR REPORTS



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Municipal Court Judge

Mayor Winkelman stated that the Municipal Judge resigned her position. He and staff will be interviewing new applicants and bring their recommendation the council.

Shorebird Festival

Ms. Bowerman Basin Outstanding Teen (his oldest daughter) will be doing a clean-up of the board walk and surrounding area before the festival.

City Website

Mayor Winkelman stated that improvements are being made to the city website. The search directory has been updated and other items are planned for the future.

## **COUNCIL REPORTS**

Council Retreat

Councilmember Puvogel stated that during the retreat the Councilmembers worked on narrowing down priorities for the Commerce project and also discussed legislative priorities for the council. Several items were discussed as follows: roads, hobby beekeeping, cemetery, transportation district to go before the voters, etc. Mayor Winkelman thanked Councilmember Puvogel for hosting the meeting.

Public Utilities Meeting

The Public Utilities Committee met before the meeting today and will have reports to bring before the council at a future date.

## **LEGAL BUSINESS RESOLUTIONS**

Declaring Emergency –  
Beacon Hill Sewer Break

A Resolution declaring an emergency, and waiving the bid requirements of RCW 35.23.352, and ratifying the actions of the City in repairing a break in a sewer line and installation of a new manhold in the Beacon Hill area. Councilmember McMillan moved to adopt the resolution and his motion was seconded. Councilmember Reid asked if the work was already completed and staff answered that it had been. Councilmember McMillan thanked Quigg Brothers for getting there so quickly. The motion to approve the resolution passed by voice vote.

Adopting Amendment to  
Personnel Policies and  
Procedures Manual

A Resolution adopting amendments to the City of Hoquiam Personnel Policies and Procedures Manual; amending Section 10.10, pertaining to vacation. Councilmember McMillan moved for adoption of this resolution and his motion was seconded and passed by voice vote.



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### **OTHER LEGAL**

HDR – Broadway Road  
Project

Included in the packet was a contract with HDR Engineering to provide Scope of Design, Permitting and Right-of-Way Services for the Broadway Avenue Safety Improvement Project. The amount for the contract will be \$169,000.00. Councilmember McMillan moved to authorize the Mayor to sign the contract and his motion was seconded. Staff was asked what the timeline was for this project and Mr. Shay explained that they will start immediately. The funds are coming through COG. Councilmember Grun asked what the project will fix. Mr. Shay stated that this will be a permanent fix, across from the guard rail. Also, a larger culvert possibly will be installed. There has been an issue of a gradual slide happening in this area for some time. The motion to authorize the Mayor to sign the contract passed by voice vote.

Purchase Agreement – DTF

Included in the packet was a memorandum of understanding between Grays Harbor County and the Cities of Aberdeen and Hoquiam to purchase real property at 305 W. Arland, Montesano. The property will be used for possible offices and storage. Councilmember McMillan moved to authorize the Mayor to sign and his motion was seconded and passed by voice vote.

### **OLD BUSINESS**

Department of Commerce  
Project – City Priorities

Councilmember Puvogel stated that the City Council was tasked with selecting their top two priorities from the top five that came from the public meetings that were held. The top priorities selected were: Revitalize downtown/affordable housing; and maximizing funding to help with the renovation and preservation of Olympic Stadium. Councilmember Puvogel moved to formalize these as the city's top priorities. The motion was seconded and passed by voice vote.

Burned Out House on  
Ramer

Councilmember Anderson stated that the Ramer Street house that was burnt has finally been town down.



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Removal of Derelict Vessel	Mr. Shay stated that DNR will need to bring down a crane to remove the Lady Grace as the wood hull would not hold up to the inflatables. Staff has also asked DRN to look into removing the other boats in that area.
Nametags	
<b>NEW BUSINESS</b>	
Public Hearing – Parks Master Plan	Council was asked to set a public hearing for April 13, 2020 at 7:00 p.m. to take testimony and discuss the updated Parks Plan. Councilmember McMillan moved to set the hearing as stated and his motion was seconded. Mr. Shay stated that the Draft Plan will be available for review on website before hearing. A discussion was held as to whether Sunset Memorial Park and Delta Park would be included. Mr. Shay will speak with COG. The motion to set the hearing passed by voice vote .
Department of Commerce Project	Councilmember Puvogel moved to authorize staff to apply for Department of Commerce funding for low and middle income housing and get community input for the community development block grant. His motion was seconded. Following a brief discussion on other projects that have been funded through CDBG grants, his motion passed by voice vote
Councilmember Wilson	Councilmember Wilson stated that he is selling his home and thanked everyone for the opportunity to sit as a councilmember for the city. He will notify the city if he moves. He also stated that the city can't give up on the less fortunate in our community. .
Dean Parsons Meeting	Councilmember Grun stated that Dean Parsons passed away recently. He worked as the City Public Works Director for a period of time
Special Olympics	Councilmember Puvogel stated that Special Olympics Washington has cancelled all events.



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COVID-19

Staff was asked to provide regular updates they receive from the County regarding COVID-19.

## COMMUNICATIONS

Shorebird Festival

Arnie Martin, 631 Chenault, stated that they are still waiting on status of the festival tours. If the schools are open they will probably still happen. Not sure at this point what will happen with the actual festival.

Historic Hoquiam Event

Connie Parsons, Emerson Manor, stated that at this time the Historic Hoquiam Event will be held on April 18<sup>th</sup>.

BHP Project

Joan Julius, 702 Emerson Avenue, asked what the status of BHP was. Mr. Shay stated that BHP and Quinault Nation asked for an extension from the hearing examiner. The current deadline is now March 31<sup>st</sup>. The hearing will formally close then. The hearing examiner will issue his recommendation after that. BHP will reach a decision on a location by February of 2021.

## ADJOURN

Councilmember McMillan moved to adjourn the meeting at 7:36 p.m. The motion was seconded, seconded and passed by voice vote.

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BEN WINKELMAN – Mayor

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TRACY WOOD – City Council Secretary

# REPORT OF COMMITTEE

## April 13, 2020

To the Honorable Mayor and City Council of the City of Hoquiam:

We hereby recommend approval of the following:

Claims Check Numbers	<u>93433</u>	through	<u>93692</u>	<u>\$498,520.84</u>
Claims Auto Pays & EFTs	<u>354</u>	through	<u>361</u>	<u>\$22,954.63</u>
Payroll Check Numbers	<u>29390</u>	through	<u>29420</u>	<u>\$191,094.52</u>
Payroll Payments via ACH				<u>\$394,232.94</u>
Payroll Payments via EFT - for Taxes, Deferred Comp & Pension				<u>\$207,482.95</u>
Payroll and benefits for the hours worked in	<u>April</u>	be approved and issued at the proper time.		





# **Notice of Completion of Public Works Project & the Request for Approval of Acceptance and Release of Retainage**

Date	April 13th, 2020
Contractor	J.A.M. Construction
Project Title	Library Renovation
Contract Total	\$647,733.85 including tax (total includes change orders for \$73,269.85 including tax)

The above named contractor has satisfactorily completed the project listed above. It is recommended that this project be accepted as complete and that the Finance Department release any retainage and/or performance/payment bonds after the appropriate releases are received from the Departments of Revenue and Labor & Industries (if such releases are required) and after any contractor/supply liens, if any, are satisfied.

**This report was signed and approved by the City Administrator, the signed copy is on file with City Clerk.**

# **Public Utilities Committee Report**

**Date:** March 9, 2020

**To:** Mayor Winkelman and City Council members

**Re:** Transportation Benefit District

**We your Public Utilities Committee, recommend:**

Adopting an ordinance to put a ballot measure before the voters to create a Transportation Benefit District.

**This report was signed and approved by the following committee members, the signed copy is on file with City Clerk:**

Denise Anderson, Chair

Dave Hinchey

Shannon Patterson

Brenda Carlstrom

COMMITTEE REPORT

TO: Mayor Winkelman and City Council  
FROM: City of Hoquiam LTAC Committee  
RE: Recommendations for 2020 LTAC Funding

The City advertised for applications for LTAC funding for calendar year 2020. Applications were due on March 9<sup>th</sup>. Nine applications were received and presented to the LTAC committee on Thursday, March 12<sup>th</sup>. The committee reviewed those applications and recommends that Council approve the following:

	<u>Approved</u>
City of Hoquiam – Olympic Stadium Renovation/Preservation	\$20,000
Hoquiam Beautification Committee – Downtown Baskets	\$2,000
Hoquiam Rotary Club – Advertising Events	\$1,500
City of Hoquiam Easter Egg Hunt	\$900
Hoquiam Loggers Playday Committee-Events/Advertising/Rental	\$3,000
Polson Museum – Signage	\$4,261
7 <sup>th</sup> St. Theatre – Rack Cards/Advertising	\$2,800
HBA – Events/Social Media Advertising	\$2,500
Shorebird Festival – Education Events, Advertising	\$2,500
Total of recommended funding requests	\$39,461

**This report was signed and approved by the following committee members; the signed copy is on file with City Clerk:**

- Hoki Moir
- Ray Kahler
- Tracy Wood
- Corri Schmid

**RESOLUTION NO. 2020-\_\_\_\_\_**

**A RESOLUTION** adopting the comprehensive parks plan for the City of Hoquiam.

**WHEREAS**, the Hoquiam City Council did hold a public hearing to discuss the proposed comprehensive parks plan.

**WHEREAS**, there were no written objections to the comprehensive parks plan prepared and proposed by the staff of the City of Hoquiam; now therefore,

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HOQUIAM, WASHINGTON, IN REGULAR MEETING DULY ASSEMBLED, AS FOLLOWS:**

**SECTION 1.** That the attached comprehensive parks plan is hereby adopted.

**ADOPTED** by the Mayor and City Council on \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ben Winkelman – Mayor

**ATTEST:**

\_\_\_\_\_  
Corrine Schmid – Finance Director

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

**THIS AGREEMENT** is made as of this \_\_\_\_ day of \_\_\_\_\_, 2020, between City of Hoquiam (“OWNER”) and HDR ENGINEERING, INC., (“ENGINEER” or “CONSULTANT”) a Nebraska corporation, with principal offices at 8404 Indian Hills Drive, Omaha, Nebraska, 68114 for services in connection with the project known as Design and Permitting for the Replacement of Emerson Avenue Wastewater Pump Station (“Project”);

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

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

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

**SECTION I. SCOPE OF SERVICES**

ENGINEER will provide Services for the Project, which consist of the Scope of Services as outlined on the attached Exhibit A-1.

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

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

**SECTION III. RESPONSIBILITIES OF OWNER**

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

**SECTION IV. COMPENSATION**

Compensation for ENGINEER’S services under this Agreement shall be on basis of a 3.2 multiplier with a not-to-exceed amount of \$229,600. Expenses and subconsultants will be billed at a 5% markup. HDR will bill the OWNER on a monthly time and material basis in accordance with the fee table shown in Exhibit A-2.

**SECTION V. PERIOD OF SERVICE**

Upon receipt of written authorization to proceed, ENGINEER shall perform the services within the time period(s) described in Exhibit A-3.

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

**SECTION VI. SPECIAL PROVISIONS**

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

City of Hoquiam  
\_\_\_\_\_  
"OWNER"

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

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

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

ADDRESS: 609 8<sup>th</sup> Street  
Hoquiam, WA 98550

HDR ENGINEERING, INC.  
"ENGINEER"

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

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

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

ADDRESS: 929 108<sup>th</sup> Ave NE Ste 1300  
Bellevue, WA 98004



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# EXHIBIT A

## City of Hoquiam Emerson Avenue Pump Station



Prepared by:

**HDR Engineering, Inc.**  
905 Plum Street SE, Suite 200  
Olympia, Washington 98501

March 2020

## **Exhibit A-1**

### **Scope of Services**

The City of Hoquiam (City) selected HDR Engineering, Inc. (HDR) to provide design and permitting for the replacement of Emerson Avenue Wastewater Pump Station.

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

##### **Objective**

The purpose of this task is to monitor, control, and adjust the scope, schedule, and budget as well as provide monthly status reporting, accounting, and invoicing, and management of the project team including subconsultants in coordination with City staff.

##### **HDR Services**

- 1) Prepare monthly invoices and status reports describing services completed during the period, issues to be addressed, and services planned for the next period.
- 2) Attend three (3) review meetings with the City to evaluate the progress of the scope schedule, deliverables, and budget.
- 3) Project setup, management, and coordination with subconsultants.
- 4) Provide written agendas and minutes of key issues discussed at meetings.
- 5) Prepare Job Hazard Analysis forms (as required).

##### **City Responsibilities**

- 1) Attendance at meetings to provide input, feedback, and direction.
- 2) Review and provide consolidated, conflict resolved comments to meeting notes in relation to accuracy.
- 3) Prompt processing and payment of compliant invoices. The City will make one progress payment each month provided they are complete and accurate from the consultant and in the format requested by the City.
- 4) Due to existing contracts and history working directly with Coast Controls, the City will directly contract to Coast Controls (separate from HDR contract) and provide coordination as necessary for HDR to produce deliverables for this project.

##### **Assumptions**

- 1) The project duration for Tasks 100 through 700 will be eight (8) consecutive months and is assumed to occur between April and November 2020. HDR will provide services during construction as requested by the City, however these services will be provided as part of an additional scope of services negotiated at a later date.
- 2) Project team meetings will include the following: one preliminary design meeting and two design review meetings to discuss City review comments and input on deliverables (75%, and 100%). The three project meetings will be held at The City of Hoquiam.
- 3) HDR will not be held responsible for delays occasioned by factors beyond its control,



which could not reasonably have been foreseen at the time of execution of the Agreement. HDR has a reasonable right to rely on the data and documents provided by the City for use in this project.

- 4) Project team meetings will be attended by a maximum of two (2) HDR staff members and will be approximately three (3) hours in duration including travel time. A maximum of four total hours of management time will be required (preparation, attendance, and follow-up email notes) per meeting.
- 5) During invoicing periods when no design/engineering work is performed, HDR will not submit an invoice/status report to the City for that billing period.

### **Deliverables**

- 1) Monthly reports and invoices (one copy with invoice).
- 2) Meeting agenda and notes (pdf).

## **Task 200 – Survey**

### **Objective**

Conduct field survey to prepare base mapping for the project Contract Plans.

### **HDR Responsibilities:**

- 1) HDR will retain Berglund Schmidt and Associates (BSA) as a subcontractor on this project to perform survey.
- 2) Coordinate survey work with BSA.

### **BSA (Subconsultant) Responsibilities:**

- 1) Survey Control and Right-of Way/Parcel line calculations.
- 2) Topographic Survey to include:
  - a) Survey adjacent to the facility at Emerson Ave along US 101.
  - b) Locating surface features and all utilities including coordination for one-call locate for the utility marking.

### **City Responsibilities:**

- 1) Provide record drawings of existing utility services and right-of-way in the project area.
- 2) Provide traffic control for surveyor field work.
- 3) Perform field locates for City owned utilities. Contact and pay for field utility locates for existing utilities owned by others.
- 4) Pothole existing utilities as requested by HDR.

### **Assumptions**

- 1) Horizontal Datum will be NAD 83/91, Washington State Plan Coordinates, south zone.
- 2) Vertical Datum will be NAVD 88 based upon benchmarks in the proximity of the project.

- 3) The base map (1" = 20") of field surveyed information using APWA standard layers, line types, and symbols in AutoCAD software format. The digital base map shall have one-foot contours.
- 4) Survey base map shall include parcel boundaries, right of way, easements, utilities, roadway, sidewalk, power poles, buildings, Emerson Street PS, etc.
- 5) All work is within City right-of-way and the HDR Team has a reasonable right to rely on the data and information provided by the City for use in this project.

### **Deliverables**

- 1) AutoCAD file of base map in Civil 3D with 3D surfaces.

## **Task 300 – Geotechnical Investigation**

### **Objective**

HDR will retain Landau Associates, Inc. (Landau) to provide geotechnical services to evaluate the soil and groundwater conditions at the pump station site.

### **HDR Responsibilities**

- 1) Retain Landau as a subconsultant to perform geotechnical investigation for this project.
- 2) Coordinate geotechnical investigation and review/provide comments on draft and final geotechnical report.

### **Landau (Subconsultant) Responsibilities**

- 1) Review readily available geotechnical and geologic data for the project area to help characterize the site soil conditions and identify geologic conditions that could potentially impact the proposed project.
- 2) Plan and coordinate a geotechnical investigation consisting of one drilled boring. Boring depth will be 70-ft (at the proposed pump station site). This may also include subcontracting to drillers or others (i.e. laboratories) to complete work as necessary.
- 3) Complete a laboratory testing program consisting of six index tests (soil grain size or Atterberg limits).
- 4) Based on the results of the field and laboratory work, perform geotechnical engineering analysis to evaluate the following:
  - a) An evaluation of the feasibility of the planned improvements from a geotechnical perspective.
  - b) Conclusions regarding expected excavation conditions and considerations for construction dewatering, including anticipated dewatering types and associated costs.
  - c) Recommendations for selection and geotechnical design parameters of temporary excavation slopes and shoring systems, including lateral earth pressures for use in design.
  - d) Recommendations for appropriate foundation support of the planned facilities.
  - e) Lateral earth pressure on buried structures and wing walls, and design parameters to resist uplift (buoyant) forces.

- f) Recommendations for backfill and backfill compaction criteria.
- g) Recommendations for geotechnical monitoring and consultation during construction.

### **City Responsibilities**

- 1) Provide record drawings of existing utility services and right-of-way in the project area.
- 2) Provide traffic control for field work, if needed.
- 3) Pothole existing utilities as required. Permit/allow Landau to coordinate public and private underground utility locating services at the proposed drilling locations. City to confirm locations prior to drilling or potholed.

### **Assumptions**

- 1) Landau will pay for the drilling subcontractor and private locate.
- 2) Any permits required for geotechnical explorations will be issued by the City.
- 3) Borings will be backfilled/decommissioned in accordance with Ecology standards immediately upon completion.
- 4) Drill cuttings will be drummed and disposed of offsite by the drilling subcontractor. It is assumed that environmental contaminants are not present in the site soils. Landau will contact the City to seek direction if contaminants are encountered.
- 5) Detailed seismic design information is excluded. The proposed drilling depth is to provide a basis for friction/timber pile foundation support. Additional drilling depth would be required to estimate or design against liquefaction-induced settlement.
- 6) Design of ground improvement is excluded. Providing recommendations to design wing walls against seismic deformation along the river bank is excluded.
- 7) Design of erosion protection along the river is excluded.
- 8) Preparation of plans and specification is excluded.
- 9) Six hours of Landau project manager time is included for consultation during final design. This could include but is not limited to plan and specification review, calculation review, and consultation with contractors.

### **Deliverables**

- 1) Draft Geotechnical Report (pdf).
- 2) Final Geotechnical Report (pdf).

## **Task 400 – Environmental Permitting**

### **Objective**

Conduct fieldwork, prepare environmental documentation and permit applications for the City to obtain construction permits.

### **HDR Responsibilities**

- 1) Fieldwork - Delineate the Ordinary High Water Mark (OHWM)

- 2) Prepare the SEPA Checklist for use in City permitting applications
- 3) Prepare a City Shoreline Substantial Development Permit application package for submittal.

### **City Responsibilities:**

- 1) Sign SEPA checklist and SEPA determination.
- 2) Formally issue the SEPA determination and distribute public notice and supporting materials to the appropriate agencies and the public.
- 3) Coordinate public notification mailing, distribution, posting at public facilities. On-site posting as required will also be handled by the City.
- 4) Coordinate and arrange payment for the public notice in the local newspapers.
- 5) Provide mailing lists, postage fees, and permit fees.

### **Assumptions**

- 1) No wetlands exist onsite.
- 2) Participation in a SEPA or Shoreline public hearing is not anticipated.
- 3) Scope and budget to support a SEPA appeal or Shoreline appeal is not included and is considered Extra Work.

### **Deliverables**

- 1) Draft and Final SEPA Checklist.
- 2) Draft and Final Shoreline Substantial Development Permit Application Package.
- 3) Clearing and Grading Permit.

## **Task 500- Preliminary Design**

### **Objective**

HDR will prepare a conceptual site layout illustrating the potential layout for the site. HDR will perform a hydraulic evaluation of the existing force main and pump selection.

### **HDR Services**

- 1) Prepare a conceptual site layout (one sheet) illustrating the following:
  - a. Wetwell, Valve Vault, and Flow Meter Vault.
  - b. Odor Control Fan and Carbon Scrubber (Optional Consideration)
  - c. Diesel Standby Generator Location
  - d. Site Lighting

- e. Associated fencing and landscaping improvements
- 2) Prepare Draft and Final Design Technical Memorandum documenting design criteria for wetwell, pump selection, standby diesel generator sizing, hazardous area classifications for new wetwell per NFPA 820, and forcemain sizing. The report will also include the conceptual site layout drawing.
- 3) Prepare Preliminary Engineer's Opinion of Probable Construction Cost.

### **City Responsibilities**

- 1) Attend in-person Preliminary Design review meeting as described in Task 100.
- 2) Provide written consolidated comments for the Draft Design Technical Memorandum.
- 3) Provide available record drawings for gravity sewer and forcemain.
- 4) Provide record drawings of the existing electrical system showing voltage, phases, and HP/kVA for each piece of equipment tied to the electrical system.

### **Assumptions**

- 1) The new wetwell, valve vault, flow meter vault, and standby diesel generator will be located on west side of US 101 on a City owned property.
- 2) The design of the proposed standby diesel generator will be required to power the proposed wastewater pumps and the existing vertical turbine stormwater pumps at the existing Emerson Avenue Pump Station.
- 3) The standby diesel generator will be sized and model selected by Cummins. Sizing will be based on existing station connected electrical loads (City provided record documents) plus the revised electrical loads for the proposed pumps.
- 4) The required utilities can either be jack and bored or open cut across US 101 for connection at the existing Emerson Avenue Pump Station.
- 5) The Draft and Final Design Technical Memorandum will be a maximum of five (5) pages and will include the conceptual site layout.
- 6) HDR will prepare a Class 4 Engineer's Opinion of Probable Construction Cost per AACE 18R-97 for the Preliminary Design Task Order.

### **Deliverables**

Draft and Final Design Technical Memorandum, submitted as electronic file (pdf)

## Task 600 – Final Design

### Objective

Prepare drawings, contract documents, and engineer's opinion of probable construction cost based on the City's input from the Preliminary Design Technical Memorandum in Task 500.

### HDR Responsibilities

- 1) Retain Sargent Engineers, Inc. (SEI)
- 2) Provide design weights of precast structures, generator and associated appurtenances to SEI.
- 3) Prepare drawings, contract documents, and engineer's opinion of probable construction cost at the 75% and Final design levels.
- 4) Attend 75% and Final review meeting as described in Task 100.
- 5) Prepare Draft and Final Stormwater Pollution Prevention Plan (SWPPP)
- 6) Perform QC on Coastal Control (Subconsultant to the City) electrical drawings and specifications.

### SEI Responsibilities

- 1) Prepare preliminary foundation plans to support HDR's preparation of the preliminary design report.
- 2) Prepare structural design of foundations for wetwell, vaults, and generator pad.
- 3) Prepare structural design for the modifications to the existing wetwell structure for Emerson Avenue.
- 4) Prepare foundation plan drawings and WSDOT specifications at the 75% and final design stages.
- 5) Prepare quantities and estimates for piling and concrete foundations.
- 6) Prepare and stamp structural calculations.

### Coast Controls Responsibilities (under contract directly with City)

- 1) Provide electrical design, control and telemetry system design, construction and programming, instrumentation, programmable logic controllers, human machine interfaces, and coordination with other disciplines.
- 2) Coordinate (via City) the electrical/controls design information with HDR for site layout and routing requirements for new electrical/controls infrastructure.

### City Responsibilities

- 1) Attend in-person 75 percent Design and Final review meeting. Provide input and written comments (consolidated, conflict resolved).
- 2) Review and provide comments on Draft SWPPP.
- 3) Provide HDR with electronic version of the City's most recent Division 0 and Division 1 specifications.
- 4) Identify during design items to be removed by the Contractor and salvaged to the City.
- 5) Contract directly with Coast Controls for services identified in this contract.

### Assumptions

- 1) The existing pumps and appurtenances will be abandoned in place as part of this project.
- 2) The existing Emerson Avenue stormwater pump station pumps and appurtenances will remain in current condition. The existing wastewater pumps, valves, etc. (on the dry

well side) will be removed and salvaged to the City as requested. The wastewater and stormwater controls will be modified by Coast Controls as required and not part of this scope of services. SEI will provide a design to cut through the existing interior wetwell walls to provide additional capacity for the stormwater pump station.

- 3) Drawings will be prepared using Autocad software. A total of 28 drawing sheets is estimated, consisting of 2 General sheets, 10 Civil site plan, profile and Detail sheets, 2 demolition sheets, 2 landscape and restoration plans, 6 Mechanical and Detail sheets, 6 Structural and Detail Sheets. No sheets will be provided from Coast Controls as part of this package.
- 4) Project Manual will be prepared using Microsoft Word software, consisting of:
  - a) Part I Bidding Requirements will be City standard forms used on similar City public works projects, updated by HDR specifically for this project.
  - b) Part II Contract Forms Submitted Following Award of Contract will be City standard forms used on similar City public works projects, updated by HDR specifically for this project.
  - c) Part III Specifications will include:
    - i) WSDOT Standard Specifications for Road, Bridge, and Municipal Construction (M 41-10), current edition
    - ii) Special Provisions specific to this project prepared by HDR.
    - iii) Technical Specifications, which will supersede the WSDOT Standard Specifications and Special Provisions, will be per HDR six digit standard specification sections in CSI format.
  - d) Part IV Attachments will consist of permits obtained by the City, and state prevailing wage rates, along with geotechnical investigation performed as part of Task 400.
- 5) HDR will prepare a Class 2 Engineer's Opinion of Probable Construction Cost (OPCC) per AACE 18R-97 for the Final Design Task Order.
- 6) The wetwell will be 8-foot diameter and approximately 24-feet deep.
- 7) Hydraulics of pump station and force main will be validated, surge analysis of pumps and forcemain is not included in this scope of services.
- 8) Acoustic study of the pump station is not included in this scope of services.
- 9) The Traffic Control Plan will be the responsibility of the Contractor and reviewed by the City.
- 10) No stormwater report is required for this project.
- 11) The Dewatering Plan will be the responsibility of the Contractor and reviewed by the City.
- 12) No cultural resources is required for this project.
- 13) The pump station will be designed in accordance with Hydraulic Institute Standards
- 14) The Hoquiam River is considered flow control exempt.
- 15) The new wetwell will be supported by Timber Piles as recommended by Landau Inc.

- 16) HDR has estimated maximum 24 hours for review (by a senior, HDR Electrical Engineer) of the electrical and controls design elements designed by Coast Controls and the City.
- 17) Services during construction is not included in this scope of services.
- 18) Stamped structural calculations will be provided by SEI at the final design stage.
- 19) The electrical and controls systems design will be performed by Coast Controls and the City. Elements of this design include the following:
  - a) Design requirements to meet the National Electrical Code (NFPA 70) and Standard for Fire Protection in Wastewater Treatment and Collection Facilities (NFPA 820).
  - b) Electrical service size, load calculations, one-line diagram, and coordination with Utility for any electrical service changes.
  - c) Electrical raceway and conductor schedule which includes size and locations of new work.
  - d) Specifications as required for the general contractor including general conditions, motors, raceways and boxes, grounding, and supports.
  - e) Raceway and supports for new ultrasonic level transmitter at/near wet well.
  - f) Short-circuit, Coordination, and Arc-flash study.
  - g) Compliance with IEEE 519 for harmonics on installation of new VFDs.
  - h) Construction costs estimates for the electrical and control systems for the City's purposes only. Will not be included in the Engineer's (OPCC).

### **Deliverables**

- 1) 75 percent Drawings, Project Manual, and Engineer's Opinion of Probable Cost (one .pdf each)
- 2) Draft and Final SWPPP (one.pdf each)
- 3) Final Drawings, Specifications, and Engineer's Opinion of Probable Cost (one .pdf each)

## **Task 700 - Contingency for Professional Services**

### **Objective**

To allow the City a discretionary task budget, to cover additional professional services not currently included in this scope.

### **HDR Responsibilities**

Provide professional services at the request of the City as mutually agreed and defined.

### **City Responsibilities**

Identify professional services deemed necessary that are not expressly included in this scope of services.

### **Assumptions**

Agreement for the services to be performed under the contingency task and budget will be documented and agreed upon by the City and HDR prior to proceeding.



## Deliverables

To be determined and agreed upon by the City and HDR.

### Exhibit A-2

#### Compensation

The estimated fee to complete the professional services identified in this Scope of Services is offered on a **time-and-materials, not-to-exceed basis**. Following are estimated professional services costs for the tasks provided in this scope of services. The following table is provided only to show the City an approximate breakdown of estimated costs.

Task	Estimated Task Cost
Task 100 – Project Management	\$25,000
Task 200 – Survey	\$5,600
Task 300 – Geotechnical Investigation	\$26,600
Task 400 – Environmental Permitting	\$12,200
Task 500 – Preliminary Design	\$28,600
Task 600 – Final Design	\$121,600
Task 700 – Contingency for Professional Services	\$10,000
<b>Total</b>	<b>\$229,600</b>

Notes:

(1) *Direct Expenses are included in the estimated task costs, and may include mileage, reproduction, lodging, meals, phone, and postage.*

### Exhibit A-3

#### Period of Service

Task	Estimated Duration
Task 100 – Project Management (from Notice to Proceed)	8 months
Task 200 – Survey (after Notice to Proceed)	1 month
Task 300 – Geotechnical Investigation (after Notice to Proceed)	1 month
Task 400 – Environmental Permitting (after Notice to Proceed)	4 to 6 months
Task 500 - Preliminary Design (after Task 200 and 300)	2 months
Task 600 – Final Design (after Task 600)	5 months
Task 700 – Contingency for Professional Services	TBD

## Exhibit B

### HDR Engineering, Inc. Terms and Conditions for Professional Services

#### 1. STANDARD OF PERFORMANCE

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

#### 2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. If flying an Unmanned Aerial System (UAS or drone), ENGINEER will procure and maintain aircraft unmanned aerial systems insurance of \$1,000,000 per occurrence.

OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for third party personal injury and property damage claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; and/or fines or penalties), loss of profits or revenue arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

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

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

#### 4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those

set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

#### 5. CONTROLLING LAW

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

#### 6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

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

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

#### 7. SUCCESSORS, ASSIGNS AND BENEFICIARIES

OWNER and ENGINEER, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor ENGINEER will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other. No third party beneficiaries are intended under this Agreement.

#### 8. RE-USE OF DOCUMENTS

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

entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

#### **9. TERMINATION OF AGREEMENT**

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

#### **10. SEVERABILITY**

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

#### **11. INVOICES**

ENGINEER will submit monthly invoices for services rendered and OWNER will make payments to ENGINEER within thirty (30) days of OWNER's receipt of ENGINEER's invoice.

ENGINEER will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

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

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

#### **12. CHANGES**

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

#### **13. CONTROLLING AGREEMENT**

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

#### **14. EQUAL EMPLOYMENT AND NONDISCRIMINATION**

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

#### **15. HAZARDOUS MATERIALS**

OWNER represents to ENGINEER that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to ENGINEER the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that ENGINEER's scope of services do not include services related in any way to hazardous materials. In the event ENGINEER or any other party encounters undisclosed hazardous materials, ENGINEER shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and ENGINEER may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with ENGINEER's services under this Agreement. If ENGINEER's services hereunder cannot be performed because of the existence of hazardous materials, ENGINEER shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

#### **16. EXECUTION**

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and OWNER, supersedes and controls over all prior written or oral

understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

**17. ALLOCATION OF RISK**

**OWNER AND ENGINEER HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING ENGINEER'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS, SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF ENGINEER (AND ITS RELATED CORPORATIONS, SUBCONSULTANTS AND EMPLOYEES) TO OWNER AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE LESSER OF \$1,000,000 OR ITS FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF ENGINEER'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY.**

**18. LITIGATION SUPPORT**

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

**19. NO THIRD PARTY BENEFICIARIES**

No third party beneficiaries are intended under this Agreement. In the event a reliance letter or certification is required under the scope of services, the parties agree to use a form that is mutually acceptable to both parties.

**20. UTILITY LOCATION**

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

**21. UNMANNED AERIAL SYSTEMS**

If operating UAS, ENGINEER will obtain all permits or exemptions required by law to operate any UAS included in the services. ENGINEER's operators have completed the training, certifications and licensure as required by the applicable jurisdiction in which the UAS will be operated. OWNER will obtain any necessary permissions for ENGINEER to operate over private property, and assist, as necessary, with all other necessary permissions for operations.

**22. OPERATIONAL TECHNOLOGY SYSTEMS**

OWNER agrees that the effectiveness of operational technology systems ("OT Systems") and features designed, recommended or assessed by ENGINEER are dependent upon OWNER's continued operation and maintenance of the OT Systems in accordance with all standards, best practices, laws, and regulations that govern the operation and maintenance of the OT Systems. OWNER shall be solely responsible for operating and maintaining the OT System in accordance with applicable industry standards (i.e. ISA, NIST, etc.) and best practices, which generally include but are not limited to,

cyber security policies and procedures, documentation and training requirements, continuous monitoring of assets for tampering and intrusion, periodic evaluation for asset vulnerabilities, implementation and update of appropriate technical, physical, and operational standards, and offline testing of all software/firmware patches/updates prior to placing updates into production. Additionally, OWNER recognizes and agrees that OT Systems are subject to internal and external breach, compromise, and similar incidents. Security features designed, recommended or assessed by ENGINEER are intended to reduce the likelihood that OT Systems will be compromised by such incidents. However, ENGINEER does not guarantee that OWNER's OT Systems are impenetrable and OWNER agrees to waive any claims against ENGINEER resulting from any such incidents that relate to or affect OWNER's OT Systems.