MASTER SHORT FORM AGREEMENT FOR PROFESSIONAL SERVICES
SANITARY SEWER MASTER PLAN STUDY

THIS AGREEMENT is made as of this _____ day of January 2024, between City of Council Bluffs, Iowa, hereinafter referred to as "OWNER", and HDR Engineering, Inc., hereinafter referred to as "ENGINEER," for engineering services as described in this Agreement.

WHEREAS, OWNER desires to retain ENGINEER, a professional engineering firm, to provide professional engineering, consulting and related services ("Services") on one or more projects in which the OWNER is involved; and

WHEREAS, ENGINEER desires to provide such services on such projects as may be agreed, from time to time, by the parties;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION I. PROJECT TASK ORDER

1.1 This Agreement shall apply to as many projects as OWNER and ENGINEER agree will be performed under the terms and conditions of this Agreement. Each project ENGINEER performs for OWNER hereunder shall be designated by a "Task Order." A sample Task Order is attached to this Agreement and marked as Exhibit "A". No Task Order shall be binding or enforceable unless and until it has been properly executed by both OWNER and ENGINEER. Each properly executed Task Order shall become a separate supplemental agreement to this Agreement.

1.2 In resolving potential conflicts between this Agreement and the Task Order pertaining to a specific project, the terms of this Agreement shall control.

1.3 ENGINEER will provide the Scope of Services as set forth in Part 2 of each Task Order.

SECTION II. RESPONSIBILITIES OF OWNER

In addition to the responsibilities described in paragraph 6 of the attached "HDR Engineering, Inc. Terms and Conditions for Professional Services," OWNER shall have the responsibilities described in Part 3 of each Task Order.

SECTION III. COMPENSATION

Compensation for ENGINEER's Services shall be in accordance with Part 5 of each Task Order, and in accordance with paragraph 11 of the attached "HDR Engineering, Inc. Terms and Conditions for Professional Services."

SECTION IV. TERMS AND CONDITIONS OF ENGINEERING SERVICES

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

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

CITY OF COUNCIL BLUFFS, IOWA
"OWNER"

BY: _____

NAME: Matt Walsh

TITLE: Mayor

ADDRESS: 209 Pearl Street
Council Bluffs, IA 51503

HDR ENGINEERING, INC.
"ENGINEER"

BY: _____

NAME: Matthew B. Tondl

TITLE: Senior Vice President

ADDRESS: 1917 S. 67th Street
Omaha, NE 68106

EXHIBIT A

TASK ORDER #1

This Task Order pertains to an Agreement by and between City of Council Bluffs, Iowa, ("OWNER"), and HDR Engineering, Inc. ("ENGINEER"), dated _____, ("the Agreement"). Engineer shall perform services on the project described below as provided herein and in the Agreement. This Task Order shall not be binding until it has been properly signed by both parties. Upon execution, this Task Order shall supplement the Agreement as it pertains to the project described below.

TASK ORDER NUMBER: 1
PROJECT NAME: **COUNCIL BLUFFS – SANITARY SEWER MASTER PLAN STUDY**

PART 1.0 PROJECT DESCRIPTION:

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

PART 3.0 OWNER'S RESPONSIBILITIES:

PART 4.0 PERIODS OF SERVICE:

PART 5.0 ENGINEER'S FEE:

PART 6.0 OTHER:

This Task Order is executed this _____ day of _____, 20___.

"OWNER"		HDR ENGINEERING, INC. "ENGINEER"	
BY:		BY:	
NAME:		NAME:	Matthew B. Tondl
TITLE:		TITLE:	Senior Vice President
ADDRESS:		ADDRESS:	1917 S. 67th Street Omaha, NE 68106

EXHIBIT B

Terms and Conditions

HDR Engineering, Inc.
Terms and Conditions
for Council Bluffs, IA

1. **STANDARD OF PERFORMANCE**
Notwithstanding any other provision of any contract term between the ENGINEER and the OWNER, 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. The ENGINEER shall be responsible for the professional quality and technical accuracy of all services furnished by the ENGINEER under this Agreement, except for that work provided by OWNER. The ENGINEER shall, without additional compensation, correct or revise any error or deficiencies in his work. Approval of the OWNER of any such work shall not in any way relieve the ENGINEER of responsibility for the technical accuracy and adequacy of said services. The OWNER's review, approval or acceptance of, or payment for any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.
ENGINEER and OWNER agree that no other party is an intended or unintended third-party beneficiary of this contract, and that ENGINEER's duties run solely to OWNER.

2. **INDEMNITY/INSURANCE**
The ENGINEER agrees to indemnify and save harmless the City, its officers, agents, and employees from and against any and all claims including reasonable attorneys' fees and defense costs arising out of the negligent acts, errors, or omissions of the ENGINEER, its officers, agents, and employees in the execution of the services specified in this Agreement. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and/or cost of capital) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

The ENGINEER shall maintain insurance to protect the ENGINEER from claims under Worker's Compensation Acts; claims due to personal injury or death of any employees or any other person; claims due to injury or destruction of property; and claims arising out of errors, omissions, or negligent acts for the ENGINEER is legally liable. The amounts and extent of such insurance is as follows:

i. Professional Liability - $2,000,000 each claim; $2,000,000 aggregate
ii. Vehicle Coverage
Bodily Injury - $1,000,000 combined single limit (each accident)
iii. Worker's Compensation - $100,000 each accident
iv. General Liability - $1,000,000 each occurrence and $2,000,000 aggregate.

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/DISPUTE RESOLUTION**
This Agreement is to be governed by the law of the State of Iowa. Any controversy or claim arising out of this Agreement may, if both parties agree, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. The cost of the arbitration, if any, will be divided equally between the OWNER and the ENGINEER.

6. **OWNER-PROVIDED SERVICES AND INFORMATION**
OWNER will provide all criteria and information pertaining to the project in OWNER's possession, and any requirements or budgetary limitations. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents, information and services.

In performing 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.

7. **SUCCESSORS AND ASSIGNS**
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.

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, if the other party substantially fails to fulfill its obligations under the Agreement through no fault of the terminating 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 prompt payments in response to ENGINEER's invoices.

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 of the 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, purchase order, requisition, notice-to-proceed, or like document. In resolving inconsistent or contradictory provisions between this Agreement and any other document or understanding, the terms of these Terms and Conditions shall control.

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

In recognition of the relative risks and benefits of the project to both the City and ENGINEER, the risks have been allocated such that the City agrees, to the fullest extent permitted by law, to limit the liability of the ENGINEER and their sub-consultants to the OWNER and to all construction contractors and subcontractors on the project and third parities for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of the ENGINEER and their sub-consultants to all those named shall not exceed $2,000,000.00. Such claims and causes include negligence, professional errors or omissions, strict liability, breach of contract or warranty.

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 engineering services when gathering information and documents and shall pay ENGINEER its standard rates for providing expert witness services when attending depositions, hearings, and trial.

If ENGINEER is made a party to any litigation concerning OWNER's flood control structures, OWNER shall reimburse ENGINEER for all costs of defense pending a final determination of ENGINEER's professional liability. If ENGINEER is found by a court of competent jurisdiction to have been negligent, ENGINEER shall reimburse OWNER the costs of defense paid by OWNER, and shall satisfy any judgment up to ENGINEER's limitation of liability. Any amount in excess of ENGINEER's limitation of liability shall be paid by OWNER.

19. NO THIRD PARTY BENEFICIARIES

No third party beneficiaries are intended under this Agreement.

20. UTILITY LOCATION

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

21. MISCELLANEOUS

During the performance of this contract, the engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

i. Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

ii. Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "B" of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer 's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

iv. Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Council Bluffs, the Iowa Department of Transportation or Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an engineer is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the City of Council Bluffs, the Iowa Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

v. Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Council Bluffs shall impose such contract sanctions as it, the Iowa Department of Transportation or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

a. withholding of payments to the Engineer under the contract until the Engineer complies; and/or,
b. cancellation, termination or suspension of the contract, in whole or in part.

vi. Incorporation of Provisions: The Engineer shall include the provisions of Paragraphs (i) through (vi) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the City of Council Bluffs, the Iowa Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non compliance; provided, however, that, in the event an engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Council Bluffs or the Iowa Department of Transportation to enter into such litigation to protect the interests of the City of Council Bluffs or the Iowa Department of Transportation; and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.