



PROFESSIONAL SERVICES AGREEMENT

For

**Project E – West Indian Creek Phase 2
Design**

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THIS **AGREEMENT** is between The City of Nevada, Iowa (hereafter "CLIENT") and HR GREEN, INC. (hereafter "COMPANY").

1.0 Project Understanding

1.1 General Understanding

The CLIENT has secured SRF-sponsored project funding for design and construction of projects to reduce non-point source impacts and improve water quality in local surface waters. At the time of this agreement, approximately \$1 million in funding remains eligible from the Sponsored Project program to cover the cost of engineering and construction for an additional water quality project. The City would like to move forward with the restoration of the next ~2,200 linear feet of West Indian Creek immediately downstream of Project A.





1.2 Design Criteria/Assumptions

One project location is encompassed by this agreement, summarized as follows:

- Project E – West Indian Creek – Phase 2 (starting at downstream end of Project A and extending approximately 2,200 linear feet downstream, as indicated in the image above). Reshape banks and floodplain, stabilize banks and toe with vegetation, rock, and erosion control measures.

Design standards for this project are specified by the funding sources and are typically the Iowa Stormwater Management Manual (ISWMM), Natural Resources Conservation Service (NRCS), Statewide Urban Design and Specifications (SUDAS), and the Iowa River Restoration Toolbox (IRRT).

The stormwater practices proposed in this agreement include maintenance, which is required for the proper functioning of the practices and the long-term success of their performance. The funding agency (Iowa SRF) will require the CLIENT to enter into a maintenance agreement, which will be enforced by the agency. The typical maintenance duties can be found in the ISWMM.

One bid package will be issued for the project.

A no-rise certificate packet will accompany the submittals to Iowa DNR and Story County for floodplain permitting. A CLOMR/LOMR submittal to FEMA is not anticipated to be necessary, based on the expected removal of soil material from the regulatory floodway. Some tree removal will be necessary along the public trail and potentially on private property. This will be minimized wherever possible.

2.0 Scope of Services

The CLIENT agrees to employ COMPANY to perform the following services:

2.1 PROJECT MANAGEMENT

2.1.1 Develop Project Instructions, Schedule, Detailed Work Plan and Scope

Prepare written instruction for consultant staff, providing background, names of contacts, communications procedures, responsibilities, schedule and budget information and other important elements for the project. Establish a detailed project scope and project schedule indicating critical dates, milestones, and deliverables. Prepare a detailed work plan with specific staff assignments, by task, corresponding to the schedule.

2.1.2 Agency Coordination

Maintain communications with Iowa SRF Sponsored Project technical advisor and project manager. Coordinate required meetings, submittals, design review and approval milestones, and documentation for the Sponsored Project.

2.1.3 Project Management, Monitoring, and Progress Reports

Coordinate with the design team and the CLIENT regarding project activities, meetings, and deliverables. Maintain the system for monitoring progress and expenditures to allow



monthly tracking by task. This includes the preparation and submission of monthly invoices and progress reports.

2.1.4 Quality Control Plan

Establish review and checking procedures for project deliverables. Designate responsibility for implementation of the plan. Formal quality control reviews will be completed at the Preliminary and Check Plan Design phases of the project.

2.1.5 MEETINGS

COMPANY will maintain communications with the CLIENT and prepare agendas and minutes of meetings as appropriate. The following meetings are included with the scope of work:

- Design Review Meeting – one (1) in-person meeting

2.2 TOPOGRAPHIC SURVEY

The following scope shall be provided for Project E under this agreement.

- Horizontal and vertical control for the project
- Topographic survey
- Utility survey
- Right-of-Way survey and existing parcels
- Existing easement identification and delineation
- Project Base Map in AutoCAD

2.3 WATERS OF THE US STREAM AND WETLAND DELINEATION

Stream and Wetland Delineation tasks for the proposed project area will be completed by a sub-consultant to the COMPANY. COMPANY will coordinate work and communicate with the SUBCONSULTANT, including establishing the schedule and budget and reviewing deliverables. Deliverables to be provided by the sub-consultant include:

- Desktop Review - SUBCONSULTANT will compile and assess existing site information using web-based Geographical Information Systems (GIS) data. Data to review may include project location maps, National Wetlands Inventory maps, Soil Survey maps and tables, USGS Topographic Maps, current weather / drought databases, and aerial imagery. Based on the results of this investigation, areas requiring field investigation will be identified.
- Field Investigation – the area of interest (AOI) will be investigated by the SUBCONSULTANT for the presence or absence of wetlands, as defined in the USACE 1987 Wetland Delineation Manual and the 2010 Midwest Regional Supplement. The AOI will be field reviewed for hydrophytic vegetation, hydric soils, and wetland hydrology. Field-identified wetlands will be documented in a wetland delineation report consistent with USACE standards and delineation data points will be recorded on USACE Wetland Determination Data Forms. Wetland boundaries will be collected in the field using GPS technologies and geospatial data will be



developed representing the delineated features. Wetland boundaries can be flagged or staked if requested by the client.

- The SUBCONSULTANT will complete a Stream Assessment within the AOI. The Iowa Stream Mitigation Method assessment protocols will be followed if any potentially jurisdictional stream features are found onsite. One ISMM worksheet will be prepared to contrast the existing condition with the proposed condition. If modifying or developing of the stream feature is planned this activity may require mitigation.

2.4 CONCEPT (30%) DESIGN

The following deliverables shall be provided as a part of the Concept Design:

- Overall Site Plan Sheet (Required for SRF)
- Engineers' Estimate of Probable Construction Costs
- Revisions to Design per SRF Comments
- Response Document to SRF Comments

Additionally, the COMPANY will perform one (1) site visit to assess the entire corridor for the proposed design and any obstacles to construction.

2.5 EASEMENT PLATS AND LEGAL DESCRIPTIONS

Preparation for Easement Plats and Legal Descriptions shall be provided.

Preparation of up to five (5) easement/acquisition documents for improvements on private property. The plat and legal descriptions shall comply with the requirements of the Iowa Code. This task also includes public record research, field search, and traversing computations. Acquisition of the required permanent and temporary easements shall be by the CLIENT in accordance with the applicable requirements and shall occur prior to the bid period. CLIENT will negotiate for the easements with the property owners and obtain appraisals if necessary. All communication with property owners regarding easements shall be by the CLIENT.

COMPANY and SUBCONSULTANT will prepare the necessary documents required for the City's use in acquiring the permanent drainage easements from a total of five (5) parcels located on the above-stated project.

2.6 PERMITTING

COMPANY will prepare application packets for the following permits, believed to be necessary at this time:

- Iowa Joint Application for Project E covering:
 - State Floodplain Permit
 - State Sovereign Lands Permit
 - Federal USACE 404 Permit



- Nationwide Permit 27 for Ecological Restoration is anticipated. If the USACE determines this is an individual permit, additional scope and fee will be required.
- Story County, Floodplain Permit
- Iowa DNR General Permit #2

A no-rise certificate packet will accompany the submittals to Iowa DNR and Story County for floodplain permitting. It is assumed that HEC-RAS modelling will be used to validate the no-rise certification. A CLOMR/LOMR submittal to FEMA is not anticipated, based on the anticipation of removal of soil material from the regulatory floodway. Should a CLOMR/LOMR be deemed necessary by FEMA and/or DNR, in lieu of a no-rise certification package, a separate amendment to this agreement shall be prepared and executed, with a scope that's appropriate for the magnitude of the proposed change to the regulatory floodplain in this area.

2.7 FINAL DESIGN (100%)

Final design builds on information developed throughout design and includes preparation of the final set of drawings, including final details, detailed notes, and dimensioning, as well as completing the stormwater pollution prevention plan (SWPPP), project manual, and specifications. COMPANY will perform the following services as part of Final Design:

- Title Sheet
- Legend and General Information Sheet
- General Notes
- Construction Staging Plan
- Details
- Quantities
- Estimate Reference Notes
- Plan and Profile Sheets
- Erosion Control Plan
- Survey Control
- Permanent Seeding Plan
- Cross Sections
- Updated Engineers' Estimate of Probable Construction Costs
- Vegetation Establishment and Maintenance Plan
- Specifications
- Project Manual
- Maintenance Plan
- Revision to the Design per SRF Comments
- Response Document to SRF Comments

2.8 BIDDING SERVICES

Provide final bidding documents to the CLIENT to conduct bidding services. One formal project letting is included in this scope of services.



The following items will be completed by the COMPANY for bid letting:

- Assist in the preparation of the formal Notice of Hearing and Letting. Publication and costs shall be borne by the CLIENT.
- Print drawings, specifications, and contract documents for distribution to prospective bidders for the project, anticipated to be 10 sets of documents.
- Furnish copies of drawings, specifications, and contract documents to prospective bidders and other interested parties. Maintain a plan holders list during the bidding phase.
- Correspond with prospective bidders, suppliers, and other interested parties with questions and comments during the bid period.
- Issue addenda as appropriate to interpret, clarify, or expand bidding documents.
- Attend the bid opening.
- Prepare a bid tabulation and distribute it to the CLIENT and all plan holders.
- Assist the CLIENT in evaluating bids, coordinating with funding agencies, and recommending award of the construction contract.
- Prepare construction contract documents and submit them to the contractor for completion.
- Review and submit the executed contract documents to the CLIENT for approval.

2.9 CONSTRUCTION ADMINISTRATION

Provide on-going project management for the duration of the construction phase of the project, including coordination with CLIENT and project partners. Construction of this project is anticipated to take up to 4 months from award to final completion by the Contractor.

2.9.1 Preconstruction Meeting

Coordinate a preconstruction meeting after award of the construction contract for the project. COMPANY shall take and distribute minutes to attendees. It is anticipated that one (1) staff member of the COMPANY will attend the meeting.

2.9.2 Submittals

COMPANY shall review the acceptability of the Contractor's submittals, such as shop drawings, product data, samples, and other data, which the Contractor is required to submit, but only for the limited purpose of checking for conformance with the design concept and the information shown in the Construction Documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. COMPANY's review shall be conducted with reasonable promptness while allowing sufficient time in COMPANY's judgment to permit adequate review. COMPANY shall not be responsible for any deviations from the Construction Documents not brought to the attention of the COMPANY in writing by the Contractor. COMPANY shall not be required to review partial submissions or those for which submissions of correlated items have not been received. COMPANY shall have authority to require special inspection or testing of the work, and shall receive and review all certificates of inspections, testing, and approvals required by law, rules, regulations, ordinances, codes, orders, or the Plans.



2.9.3 Plan Interpretation/Extra Work Orders

COMPANY shall issue necessary interpretations and clarifications of the Plans and in connection therewith, prepare extra work orders as required.

2.9.4 Construction Progress Meetings

Up to eight (8) bi-weekly construction progress meetings shall be attended by Senior Staff of the COMPANY. Construction Progress Meetings will be held in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of the Contractor's work. Based on information obtained during such meetings and on such observations, COMPANY shall endeavor to determine, in general, if such work is proceeding in accordance with the Plans, and COMPANY shall keep CLIENT informed of the progress of the work. The purpose of the Construction Progress Meetings will be to enable COMPANY to better carry out its duties and responsibilities during the construction phase, and to provide for CLIENT a greater degree of confidence that the completed work of the Contractor will conform generally to the Plans and that the integrity of the design concept as reflected in the Plans has been implemented and preserved by the Contractor. Such visits by the Senior Staff of COMPANY are not to be construed as Construction Observation.

If CLIENT desires more extensive project observation or full-time project representation, CLIENT shall request that such services be provided by COMPANY as additional services in accordance with the terms of this agreement. Nothing in this Agreement shall be construed to mean the COMPANY will guarantee any Contractor's faithful performance of his/her contract with CLIENT.

COMPANY will not supervise, direct, or have control over the Contractor's work nor have any responsibility for the means, methods, techniques, sequences or procedures selected by the Contractor nor for the safety precautions or programs in connection with the work. These rights and responsibilities are the solely of those of the Contractor in accordance with the Contract Documents. COMPANY is not responsible for acts or omissions of the Contractor, subcontractor, entity performing any portions of the work, or agents or employees of them. COMPANY does not guarantee the performance of the Contractor and is not responsible for the Contractor's failure to perform the work in accordance with the Contract Documents or applicable laws, codes, rules, or regulations.

2.9.5 Partial Pay Estimates

COMPANY shall determine the amounts owing to the Contractor and submit pay vouchers to CLIENT in such amounts. Such recommendations of payment will constitute a representation to CLIENT, based on such observations and review that the work has progressed to the point indicated, and that, to the best of COMPANY's knowledge, information, and belief, quality of such work is generally in accordance with the Plans. In the case of unit price work, COMPANY's recommendation of payment will include determination of quantities and classification of such work.

2.9.6 Final Field Review and Project Close-Out

COMPANY shall conduct a field review with CLIENT to determine if the work is substantially completed. It is anticipated that one (1) staff member will attend the field review. COMPANY and CLIENT staff will prepare a punch list for the Contractor. COMPANY may recommend,



in writing, final payment to the Contractor and may give written notice to CLIENT and the Contractor that the work is acceptable. This task will also include assembling final project documentation and certifications.

2.9.7 Record Drawings

COMPANY will prepare construction record drawings defining the actual location of improvements, showing those changes made during construction, based on the marked-up drawings and other data furnished by the Contractor and the Resident Construction Observer. COMPANY shall provide CLIENT with one (1) hard copy in 11" x 17" format and one (1) electronic copy of the record drawings in PDF or similar format.

2.10 SRF GRANT CLOSE-OUT ASSISTANCE

Four hours have been budgeted to assist CLIENT in closing out the grant.

3.0 Deliverables and Schedules Included in this Agreement

Activity	Timeline	Assumed Date
Notice to Proceed		August 2025
Topographic/Utility Survey Investigations	6 weeks after Notice to Proceed	September 2025
Conceptual (30%) Design Deliverables	8 weeks after Notice to Proceed	November 2025
SRF Review of 30% Plans	30 Days	December 2025
Permit Application Submittals	4 weeks after comments received on 30% deliverables	January 2026
Pre-Bid (90%) Design Deliverables	12 weeks after comments received on 30% DELIVERABLES	March 2026
SRF Review of 90% Plans	30 Days	April 2026
Final Bid Documents	4 weeks from receipt of pre-bid (90%) review comments from CLIENT and SRF and all necessary permits	May 2026
Bidding Process		June 2026
Award of Contracts		July 2026
Construction Begins		August 2026
Construction Ends		March 2027
SRF Contract Closeout		March 2027

This schedule was prepared to include reasonable allowances for review and approval times required by the CLIENT and public authorities having jurisdiction over the project. This schedule shall be equitably adjusted as the project progresses, allowing for changes in the scope of the project requested by the CLIENT or for delays or other causes beyond the control of COMPANY.



4.0 Items not included in Agreement/Supplemental Services

The following items are not included as part of this AGREEMENT:

1. Design or other related work pertaining to additional project locations, over and above those listed.
2. Archeological Investigations
3. Environmental site assessment.
4. Endangered species habitat or individual species surveys.
5. Pursuit of Additional Funding Sources
6. Pursuit of Additional Permits not listed in the Scope of Work above.
7. Supplemental engineering work required to meet the requirements of regulatory or funding agencies that become effective after the date of this agreement.
8. Additional Hydrologic/Hydraulic Modeling
9. Additional wetland delineation work for areas other than those identified in this agreement.
10. Species-specific surveys (mussels, bats, etc.).
11. CLOMR/LOMR application(s). It is assumed that a no-rise certificate will suffice for the floodplain permit(s).
12. Additional environmental investigations, reports and other technical studies that may be required.
13. Property Owner Coordination or public outreach/education efforts over and above what is described in the Scope of Services, above.
14. Additional preparation of additional right-of-way, permanent easement, or temporary easement acquisition plat documents not listed in the Scope of Work above.
15. Easement negotiations or legal services necessary to obtain title, easement, or right-of-way for any elements of the Project.
16. Packaging of the Project into contracts and bid lettings/negotiations in number greater than one single contract, as outlined above.
17. Construction staking.
18. Construction Observation.
19. Material testing and certification services.
20. Assistance in legal and regulatory actions.

Supplemental services not included in the AGREEMENT can be provided by COMPANY under separate agreement, if desired.

5.0 Services by Others

Wetland and Stream Delineation will be provided by a sub-consultant to COMPANY.

Documents necessary for acquisition of permanent drainage easements will be prepared by a sub-consultant to COMPANY.

6.0 Client Responsibilities

1. Designate a person to act as the CLIENT'S representative with respect to the services to be rendered under this agreement. Such person shall have authority to



transmit instructions, receive information, interpret and define CLIENT'S policies and decisions with respect to COMPANY'S services for the Project.

2. Assist COMPANY by placing at COMPANY'S disposal all available information pertinent to the Project including previous reports, plans, specifications, shop drawings, test results and other data relative to design or construction of the Project.
3. Arrange for access to and make all provisions for the COMPANY to enter upon public and private property as required for the COMPANY to perform services under this agreement.
4. Examine all sketches, drawings, memoranda, and other documents presented by the COMPANY; obtain advice of an attorney, insurance counselor and other consultants as CLIENT deems appropriate for such examination and render in writing decisions pertaining thereto.
5. Provide copies of all reports, plans, plats, exhibits, and other information of record.
6. Participate in project design reviews and provide written comments.
7. Obtain real estate services for the acquisition of easements needed for the project.
8. Provide legal and accounting services as needed by the project.
9. Coordinate the appropriate resolutions, public hearings, and notices for the project.
10. Comply with all rules and guidelines of the SRF program.
11. Participate in all meetings.

7.0 Professional Services Fee

7.1 Fees

The fee for services will be based on COMPANY standard hourly rates current at the time the AGREEMENT is signed. These standard hourly rates are subject to change upon 30 days' written notice. Non-salary expenses directly attributable to the project such as: (1) living and traveling expenses of employees when away from the home office on business connected with the project; (2) identifiable communication expenses; (3) identifiable reproduction costs applicable to the work; and (4) outside services will be charged in accordance with the rates current at the time the service is done.

7.2 Invoices

Invoices for COMPANY's services shall be submitted, on a monthly basis. Invoices shall be due and payable upon receipt. If any invoice is not paid within 30 days, COMPANY may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT, suspend or terminate the performance of services. The retainer shall be credited on the final invoice. Accounts unpaid 30 days after the invoice date may be subject to a monthly service charge of 1.5% (or the maximum legal rate) on the unpaid balance. In the event that any portion of an account remains unpaid 60 days after the billing, COMPANY may institute collection action and the CLIENT shall pay all costs of collection, including reasonable attorneys' fees.

7.3 Extra Services

Any service required but not included as part of this AGREEMENT shall be considered extra services. Extra services will be billed on a Time and Material basis with prior approval of the CLIENT.



7.4 Exclusion

This fee does not include attendance at any meetings or public hearings other than those specifically listed in the Scope of Services. These service items are considered extra and are billed separately on an hourly basis.

7.5 Payment

The CLIENT AGREES to pay COMPANY on the following basis:

Time and material basis with a Not to Exceed fee of \$134,500.

8.0 Terms and Conditions

The following Terms and Conditions are incorporated into this AGREEMENT and made a part of it.

8.1 Standard of Care

Services provided by COMPANY under this AGREEMENT will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality.

8.2 Entire Agreement

This AGREEMENT and its attachments constitute the entire understanding between CLIENT and COMPANY relating to COMPANY's services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set forth herein are of no effect. Subsequent modifications or amendments to this AGREEMENT shall be in writing and signed by the parties to this AGREEMENT. If the CLIENT, its officers, agents, or employees request COMPANY to perform extra services pursuant to this AGREEMENT, CLIENT will pay for the additional services even though an additional written agreement is not issued or signed.

8.3 Time Limit and Commencement of Services

This AGREEMENT must be executed within ninety (90) days to be accepted under the terms set forth herein. The services will be commenced immediately upon receipt of this signed AGREEMENT.

8.4 Suspension of Services

If the Project or the COMPANY'S services are suspended by the CLIENT for more than thirty (30) calendar days, consecutive or in the aggregate, over the term of this AGREEMENT, the COMPANY shall be compensated for all services performed and reimbursable expenses incurred prior to the receipt of notice of suspension. In addition, upon resumption of services, the CLIENT shall compensate the COMPANY for expenses incurred as a result of the suspension and resumption of its services, and the COMPANY'S schedule and fees for the remainder of the Project shall be equitably adjusted.

If the COMPANY'S services are suspended for more than ninety (90) days, consecutive or in the aggregate, the COMPANY may terminate this AGREEMENT upon giving not less than five (5) calendar days' written notice to the CLIENT.

If the CLIENT is in breach of this AGREEMENT, the COMPANY may suspend performance of services upon five (5) calendar days' notice to the CLIENT. The COMPANY shall have no liability to the CLIENT, and the CLIENT agrees to make no claim for any delay or damage as a result of such suspension caused by any breach of this AGREEMENT by the CLIENT. Upon receipt of payment in full of all outstanding sums due from the CLIENT, or curing of such other breach which caused the COMPANY to suspend services, the COMPANY shall resume services and there shall be an equitable adjustment to the remaining project schedule and fees as a result of the suspension.

8.5 Books and Accounts

COMPANY will maintain books and accounts of payroll costs, travel, subsistence, field, and incidental expenses for a period of five (5) years. Said books and accounts will be available at all reasonable times for examination by CLIENT at the corporate office of COMPANY during that time.



8.6 Insurance

COMPANY will maintain insurance for claims under the Worker's Compensation Laws, and from General Liability and Automobile claims for bodily injury, death, or property damage, and Professional Liability insurance caused by the negligent performance by COMPANY's employees of the functions and services required under this AGREEMENT.

8.7 Termination or Abandonment

Either party has the option to terminate this AGREEMENT. In the event of failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, then the obligation to provide further services under this AGREEMENT may be terminated upon seven (7) days' written notice. If any portion of the services is terminated or abandoned by CLIENT, the provisions of this Schedule of Fees and Conditions in regard to compensation and payment shall apply insofar as possible to that portion of the services not terminated or abandoned. If said termination occurs prior to completion of any phase of the project, the fee for services performed during such phase shall be based on COMPANY's reasonable estimate of the portion of such phase completed prior to said termination, plus a reasonable amount to reimburse COMPANY for termination costs.

8.8 Waiver

COMPANY's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.

8.9 Severability

If any provision of this AGREEMENT is declared invalid, illegal, or incapable of being enforced by any Court of competent jurisdiction, all of the remaining provisions of this AGREEMENT shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.

8.10 Successors and Assigns

All of the terms, conditions, and provisions hereof shall inure to the benefit of and are binding upon the parties hereto, and their respective successors and assigns, provided, however, that no assignment of this AGREEMENT shall be made without written consent of the parties to this AGREEMENT.

8.11 Third-Party Beneficiaries

Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the COMPANY. The COMPANY's services under this AGREEMENT are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against the COMPANY because of this AGREEMENT or the performance or nonperformance of services hereunder. The CLIENT and COMPANY agree to require a similar provision in all contracts with contractors, subcontractors, sub-consultants, vendors and other entities involved in this project to carry out the intent of this provision.

8.12 Governing Law and Jurisdiction

The CLIENT and the COMPANY agree that this AGREEMENT and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of Iowa without regard to any conflict of law provisions, which may apply the laws of other jurisdictions.

It is further agreed that any legal action between the CLIENT and the COMPANY arising out of this AGREEMENT or the performance of the services shall be brought in a court of competent jurisdiction in the State of Iowa.

8.13 Dispute Resolution

Mediation. In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the CLIENT and COMPANY agree that all disputes between them arising out of or relating to this AGREEMENT shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The CLIENT and COMPANY further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors,



sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

8.14 Attorney's Fees

If litigation arises for purposes of collecting fees or expenses due under this AGREEMENT, the Court in such litigation shall award reasonable costs and expenses, including attorney fees, to the party justly entitled thereto. In awarding attorney fees, the Court shall not be bound by any Court fee schedule, but shall, in the interest of justice, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.

8.15 Ownership of Instruments of Service

All reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other documents including all documents on electronic media prepared by COMPANY as instruments of service shall remain the property of COMPANY. COMPANY shall retain these records for a period of five (5) years following completion/submission of the records, during which period they will be made available to the CLIENT at all reasonable times.

8.16 Reuse of Documents

All project documents including, but not limited to, plans and specifications furnished by COMPANY under this project are intended for use on this project only. Any reuse, without specific written verification or adoption by COMPANY, shall be at the CLIENT's sole risk, and CLIENT shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorneys' fees arising out of or resulting therefrom.

Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by the COMPANY, and the COMPANY makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the COMPANY be liable for indirect or consequential damages as a result of the CLIENT's use or reuse of the electronic files.

8.17 Failure to Abide by Design Documents or To Obtain Guidance

The CLIENT agrees that it would be unfair to hold COMPANY liable for problems that might occur should COMPANY'S plans, specifications or design intents not be followed, or for problems resulting from others' failure to obtain and/or follow COMPANY'S guidance with respect to any errors, omissions, inconsistencies, ambiguities or conflicts which are detected or alleged to exist in or as a consequence of implementing COMPANY'S plans, specifications or other instruments of service. Accordingly, the CLIENT waives any claim against COMPANY, and agrees to defend, indemnify and hold COMPANY harmless from any claim for injury or losses that results from failure to follow COMPANY'S plans, specifications or design intent, or for failure to obtain and/or follow COMPANY'S guidance with respect to any alleged errors, omissions, inconsistencies, ambiguities or conflicts contained within or arising as a result of implementing COMPANY'S plans, specifications or other instruments of service. The CLIENT also agrees to compensate COMPANY for any time spent and expenses incurred remedying CLIENT's failures according to COMPANY'S prevailing fee schedule and expense reimbursement policy.

8.18 Opinion of Probable Construction Cost

As part of the Deliverables, COMPANY may submit to the CLIENT an opinion of probable cost required to construct work recommended, designed, or specified by COMPANY, if required by CLIENT. COMPANY is not a construction cost estimator or construction contractor, nor should COMPANY'S rendering an opinion of probable construction costs be considered equivalent to the nature and extent of service a construction cost estimator or construction contractor would provide. This requires COMPANY to make a number of assumptions as to actual conditions that will be encountered on site; the specific decisions of other design professionals engaged; the means and methods of construction the contractor will employ; the cost and extent of labor, equipment and materials the contractor will employ; contractor's techniques in determining prices and market conditions at the time, and other factors over which COMPANY has no control. Given the assumptions which must be made, COMPANY cannot guarantee the accuracy of its opinions of cost, and in recognition of that fact, the CLIENT waives any claim against COMPANY relative to the accuracy of COMPANY'S opinion of probable construction cost.

8.19 Design Information in Electronic Form

Because electronic file information can be easily altered, corrupted, or modified by other parties, either intentionally or inadvertently, without notice or indication, COMPANY reserves the right to remove itself from its

ownership and/or involvement in the material from each electronic medium not held in its possession. CLIENT shall retain copies of the work performed by COMPANY in electronic form only for information and use by CLIENT for the specific purpose for which COMPANY was engaged. Said material shall not be used by CLIENT or transferred to any other party, for use in other projects, additions to this project, or any other purpose for which the material was not strictly intended by COMPANY without COMPANY's express written permission. Any unauthorized use or reuse or modifications of this material shall be at CLIENT'S sole risk. Furthermore, the CLIENT agrees to defend, indemnify, and hold COMPANY harmless from all claims, injuries, damages, losses, expenses, and attorneys' fees arising out of the modification or reuse of these materials.

The CLIENT recognizes that designs, plans, and data stored on electronic media including, but not limited to computer disk, magnetic tape, or files transferred via email, may be subject to undetectable alteration and/or uncontrollable deterioration. The CLIENT, therefore, agrees that COMPANY shall not be liable for the completeness or accuracy of any materials provided on electronic media after a 30-day inspection period, during which time COMPANY shall correct any errors detected by the CLIENT to complete the design in accordance with the intent of the contract and specifications. After 40 days, at the request of the CLIENT, COMPANY shall submit a final set of sealed drawings, and any additional services to be performed by COMPANY relative to the submitted electronic materials shall be subject to separate agreement. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the COMPANY and electronic files, the signed or sealed hard-copy construction documents shall govern.

8.20 Information Provided by Others

The CLIENT shall furnish, at the CLIENT's expense, all information, requirements, reports, data, surveys and instructions required by this AGREEMENT. The COMPANY may use such information, requirements, reports, data, surveys and instructions in performing its services and is entitled to rely upon the accuracy and completeness thereof. The COMPANY shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the CLIENT and/or the CLIENT's consultants and contractors.

COMPANY is not responsible for accuracy of any plans, surveys or information of any type including electronic media prepared by any other consultants, etc. provided to COMPANY for use in preparation of plans. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the COMPANY from any damages, liabilities, or costs, including reasonable attorneys' fees and defense costs, arising out of or connected in any way with the services performed by other consultants engaged by the CLIENT.

COMPANY is not responsible for accuracy of topographic surveys provided by others. A field check of a topographic survey provided by others will not be done under this AGREEMENT unless indicated in the Scope of Services.

8.21 Force Majeure

The CLIENT agrees that the COMPANY is not responsible for damages arising directly or indirectly from any delays for causes beyond the COMPANY's control. CLIENT agrees to defend, indemnify, and hold COMPANY, its consultants, agents, and employees harmless from any and all liability, other than that caused by the negligent acts, errors, or omissions of COMPANY, arising out of or resulting from the same. For purposes of this AGREEMENT, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; disease epidemic or pandemic; failure of any government agency to act in a timely manner; failure of performance by the CLIENT or the CLIENT'S contractors or consultants; or discovery of any hazardous substances or differing site conditions. Severe weather disruptions include but are not limited to extensive rain, high winds, snow greater than two (2) inches and ice. In addition, if the delays resulting from any such causes increase the cost or time required by the COMPANY to perform its services in an orderly and efficient manner, the COMPANY shall be entitled to a reasonable adjustment in schedule and compensation.

8.22 Job Site Visits and Safety

Neither the professional activities of COMPANY, nor the presence of COMPANY'S employees and sub-consultants at a construction site, shall relieve the general contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the work of construction in accordance with the contract documents and any health or safety precautions required by any regulatory agencies. COMPANY and its personnel have no authority to exercise any control over any construction



contractor or other entity or their employees in connection with their work or any health or safety precautions. The CLIENT agrees that the general contractor is solely responsible for job site safety, and warrants that this intent shall be made evident in the CLIENT's AGREEMENT with the general contractor. The CLIENT also agrees that the CLIENT, COMPANY and COMPANY'S consultants shall be indemnified and shall be made additional insureds on the general contractor's and all subcontractor's general liability policies on a primary and non-contributory basis.

8.23 Hazardous Materials

CLIENT hereby understands and agrees that COMPANY has not created nor contributed to the creation or existence of any or all types of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at CLIENT's premises, or in connection with or related to this project with respect to which COMPANY has been retained to provide professional services. The compensation to be paid COMPANY for said professional services is in no way commensurate with, and has not been calculated with reference to, the potential risk of injury or loss which may be caused by the exposure of persons or property to such substances or conditions. Therefore, to the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold COMPANY, its officers, directors, employees, and consultants, harmless from and against any and all claims, damages, and expenses, whether direct, indirect, or consequential, including, but not limited to, attorney fees and Court costs, arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acid, alkalis, toxic chemicals, liquids gases, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

It is acknowledged by both parties that COMPANY'S Scope of Services does not include any services related to asbestos or hazardous or toxic materials. In the event COMPANY or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of COMPANY'S services, COMPANY may, at its option and without liability for consequential or any other damages, suspend performance of services on the project until the CLIENT retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove the asbestos or hazardous or toxic materials, and warrants that the job site is in full compliance with applicable laws and regulations.

Nothing contained within this AGREEMENT shall be construed or interpreted as requiring COMPANY to assume the status of a generator, storer, transporter, treater, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 U.S.C.A., §6901 et seq., as amended, or within any State statute governing the generation, treatment, storage, and disposal of waste.

8.24 Certificate of Merit

The CLIENT shall make no claim for professional negligence, either directly or in a third party claim, against COMPANY unless the CLIENT has first provided COMPANY with a written certification executed by an independent design professional currently practicing in the same discipline as COMPANY and licensed in the State in which the claim arises. This certification shall: a) contain the name and license number of the certifier; b) specify each and every act or omission that the certifier contends is a violation of the standard of care expected of a design professional performing professional services under similar circumstances; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to COMPANY not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any judicial proceeding.

8.25 Limitation of Liability

In recognition of the relative risks and benefits of the Project to both the CLIENT and the COMPANY, the risks have been allocated such that the CLIENT agrees, to the fullest extent permitted by law, to limit the liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and sub-consultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of the COMPANY and COMPANY'S officers, directors, partners, employees, shareholders, owners and sub-consultants shall not exceed \$50,000.00, or the COMPANY'S total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.



8.26 Drywells, Underdrains and Other Infiltration Devices

Services provided by COMPANY under this AGREEMENT do NOT include the geotechnical design of drywells, underdrains, injection wells or any other item that may be devised for the purpose of removing water from the CLIENT'S property by infiltration into the ground. Due to the high variability of soil types and conditions such devices will not be reliable in all cases. While for this reason COMPANY does not recommend the use of these devices, in some cases their use may be necessary to obtain an adequate amount of area for development on the CLIENT'S property. Since the use of these devices is intended to enhance the value of the CLIENT'S property and, in some cases, allow development that would otherwise not be possible, the CLIENT will assume all risks inherent in the design and construction of these devices, unless the contractor or a Geotechnical Engineer assumes these risks. Typical risks include but are not limited to:

- Failure to obtain the required release rate;
- Variability of the soils encountered during construction from those encountered in soil borings. (Soils can vary widely over a small change in location, horizontal or vertical, particularly with regards to permeability);
- Failure of the device due to siltation, poor construction or changes in the water table;
- Need to obtain additional soils information (i.e. borings etc.) to evaluate the function of installed devices;
- Reconstruction of failed or inadequate devices;
- Enlargement of detention/ retention facilities to make up for release rates that are lower than those used in the stormwater design, including engineering design and additional land required for such enlargement; and
- Regular maintenance to remove accumulated silt over the device's life span.

If the use of these devices is required COMPANY will advise the CLIENT that a Geotechnical Engineer must be retained to consult on the project. The CLIENT must enter into a separate agreement directly with this consultant. They will not be sub-contracted through COMPANY nor are their fees included as part of this AGREEMENT. COMPANY will work together with this consultant to obtain a final design. Our collaboration may include the use of a common standard detail or the creation of a new standard detail. COMPANY may make suggestions to the Geotechnical Engineer on ways to tailor these devices to meet the needs of the overall site design. The Geotechnical Engineer will evaluate these suggested details and modifications based on his experience and measured soils information to estimate the release rate for each detail considered. COMPANY may use a release rate of these devices as provided by the Geotechnical Engineer for the design of the stormwater system. This rate may be faxed to us, as a draft copy of the Geotechnical Engineers report or as a final copy of that report. In no case will COMPANY accept responsibility for the determination of the expected release rate of these devices.

If certification of the contractor's construction of these devices is required by the municipality or desired by the CLIENT a Geotechnical Engineer must also be obtained for these services. This is highly recommended in order to observe the actual soils where the devices are being constructed and to verify that the construction methods used do not violate any assumptions made by the Geotechnical Engineer during the design and evaluation of the standard detail. If a Geotechnical Engineer is not retained by the CLIENT to provide construction review, the CLIENT shall assume all risks that the devices may fail requiring additional geotechnical investigation or reconstruction and shall defend, indemnify and hold harmless COMPANY from all claims, damages and expenses including attorneys' fees arising out of or resulting therefrom. Any construction observation services provided by COMPANY shall not include these devices.

8.27 Construction Observation

COMPANY shall visit the project at appropriate intervals (as described in the scope of services) during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. The CLIENT has not retained COMPANY to make detailed inspections or to provide exhaustive or continuous project review and observation services. COMPANY does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project.

If the CLIENT desires more extensive project observation or full-time project representation, the CLIENT shall request in writing such services be provided by COMPANY as Additional Services in accordance with the terms of the AGREEMENT.



8.28 Soliciting Employment

Neither party to this AGREEMENT will solicit an employee of the other nor hire or make an offer of employment to an employee of the other that is working on this PROJECT, without prior written consent of the other party, during the time this AGREEMENT is in effect.

8.29 Municipal Advisor

The COMPANY is not a Municipal Advisor registered with the Security and Exchange Commission (SEC) as defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act. When the CLIENT is a municipal entity as defined by said Act, and the CLIENT requires project financing information for the services performed under this AGREEMENT, the CLIENT will provide the COMPANY with a letter detailing who their independent registered municipal advisor is and that the CLIENT will rely on the advice of such advisor. A sample letter can be provided to the CLIENT upon request.

This AGREEMENT is approved and accepted by the CLIENT and COMPANY upon both parties signing and dating the AGREEMENT. Services will not begin until COMPANY receives a signed agreement. COMPANY's services shall be limited to those expressly set forth in this AGREEMENT and COMPANY shall have no other obligations or responsibilities for the Project except as agreed to in writing. The effective date of the AGREEMENT shall be the last date entered below.

Sincerely,

HR GREEN, INC.

Kate Barnes

Approved by:

Printed/Typed Name: Mark Phipps

Water Resources Regional Manager -

Title: IA

Date:

8-20-2025

City of Nevada

Accepted by:

Printed/Typed Name:

Title:

Date: