

**FIRST AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT**

On-Call Construction Resident Engineer and Inspection Services

THIS FIRST AMENDMENT TO AGREEMENT is made and entered into this ____ day of _____, 20__, by and between the City of Roseville, a municipal corporation (“CITY”), and HDR Construction Control Corporation, a Nebraska corporation (“CONSULTANT”); and

W I T N E S S E T H:

WHEREAS, CITY and CONSULTANT previously entered into a Professional Services Agreement dated May 10, 2017 (“Agreement”) regarding on-call construction resident engineer and inspection services (“Project”); and

WHEREAS, CITY is exercising its option to extend the term of the Agreement for an additional one (1) year period and CONSULTANT is willing and able to provide such services.

NOW, THEREFORE, the parties agree as follows:

1. Paragraph 1 of the Agreement is amended by adding an additional paragraph to read as follows:

“The term of this First Amendment to Agreement shall be one (1) year commencing May 10, 2020 and ending on May 9, 2021.”

2. Paragraph 3 of the Agreement is amended by adding an additional paragraph to read as follows:

“CITY shall pay one million dollars (\$1,000,000), bringing the total not to exceed contract amount to two million, five hundred thousand dollars (\$2,500,000).”

3. Paragraph 4 of the Agreement is amended by adding an additional paragraph to read as follows:

“CONSULTANT agrees to defend and indemnify CITY if, despite the parties intent and practice, any venue, agency, or court with competent jurisdiction determines that CONSULTANT and/or any of its agents, officers, employees, volunteers, independent contractors, or subcontractors, are characterized as employee(s) of CITY.”

4. Paragraph 13 of the Agreement is amended by adding an additional paragraph to read as follows:

“CONSULTANT and CITY agree that: (a) CONSULTANT is free from the control and direction of CITY in connection with the performance of the work; (b) CONSULTANT is providing services directly to CITY; (c) CONSULTANT has and will maintain at all relevant times a business license; (d) CONSULTANT maintains a business location that is separate from CITY; (e) CONSULTANT is customarily engaged in an independently established business of the same nature as that involved in the work performed hereunder; (f) CONSULTANT actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from CITY; (g) CONSULTANT advertises and holds itself out to the public as available to provide the same or similar services; (h) CONSULTANT provides its own tools, vehicles, and equipment to perform the services; (i) CONSULTANT has negotiated its own rates; (j) CONSULTANT set its own hours and

location of work in accomplishing CITY's on-call needs; and (k) CONSULTANT has the right to control the manner and means of accomplishing the result desired and exercises its own expert independent judgement."

5. All other provisions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the City of Roseville, a municipal corporation, has authorized the execution of this First Amendment to Agreement in duplicate by its City Manager and attested to by its City Clerk under the authority of Resolution No. _____, adopted by the Council of the City of Roseville on the ____ day of _____, 20__, and CONSULTANT has caused this First Amendment to Agreement to be executed.

CITY OF ROSEVILLE, a
municipal corporation

HDR CONSTRUCTION CONTROL
CORPORATION, a Nebraska corporation

BY: _____
DOMINICK CASEY
City Manager

BY: _____
its: *vice president*

ATTEST:

and

BY: _____
SONIA OROZCO
City Clerk

BY: _____
its: _____

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

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CITY OF ROSEVILLE, a
municipal corporation

BY: _____
DOMINICK CASEY
City Manager

ATTEST:

BY: _____
SONIA OROZCO
City Clerk

HDR CONSTRUCTION CONTROL
CORPORATION, a Nebraska corporation

BY: _____
its: Vice President

and

BY: _____
its: Vice President

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

APPROVED AS TO FORM:

BY: _____

ROBERT R. SCHMITT
City Attorney

APPROVED AS TO SUBSTANCE:

BY: _____



JASON SHYKOWSKI
Public Works Director

CERTIFICATE

The undersigned hereby certifies that she is the Assistant Secretary of HDR Construction Control Corporation, a Nebraska corporation (the "Corporation"), and that, as such, has custody of the minute books of the Corporation, and that, by Consent and Agreement of the Board of Directors, the following resolution was unanimously adopted:


"RESOLVED, that effective immediately, and until termination of said individual from the Corporation, or until rescission by the Corporation's Board of Directors, whichever occurs first, the following individuals are hereby granted the nondelegable authority to execute or approve on behalf of the Corporation, contracts, amendments or change orders for engineering services and architectural services incidental to engineering services to be rendered by the Corporation, . . . , or releases of claim or lien in connection with such services, such contracts, amendments, change orders or releases so executed or approved shall be binding upon the Corporation:

. . . Jason A. Tom – Vice President . . ."

The undersigned further certifies that the foregoing resolution has been spread in full upon the minute books of the Corporation and is in full force and effect.

DATED February 26, 2020.




Elizabeth C. Buell, Assistant Secretary