

FIFTH AMENDMENT
AGREEMENT WITH HDR ENGINEERING, INC.
FOR DESIGN SERVICES FOR THE
WASTEWATER TREATMENT PLANT UPGRADE PROJECT

THIS FIFTH AMENDMENT is made and entered into this ____ day of April 2018, by and between the FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT, hereinafter referred to as "DISTRICT," and HDR ENGINEERING, INC., hereinafter referred to as "CONSULTANT."

WHEREAS, DISTRICT and CONSULTANT entered into an Agreement ("Contract") on June 30, 2015 for professional services from CONSULTANT to provide design services for the Wastewater Treatment Plant Upgrade Project; and

WHEREAS, DISTRICT and CONSULTANT entered into a First Amendment to the Contract on April 25, 2016 to extend the completion date of the project; and

WHEREAS, DISTRICT and CONSULTANT entered into a Second Amendment to the Contract on January 30, 2017 to further extend the completion date of the project; and

WHEREAS, DISTRICT and CONSULTANT entered into a Third Amendment to the Contract on August 16, 2017 to further extend the completion date of the project; and

WHEREAS, DISTRICT and CONSULTANT entered into a Fourth Amendment to the Contract on January 31, 2018 to further extend the completion date of the project and to increase the Not to Exceed amount by \$12,000; and

WHEREAS, additional services from CONSULTANT are required to complete the project, which services are outlined in the attached Exhibit A – Scope of Services; and

WHEREAS, the United States Department of Agriculture ("USDA") requires that certain federal requirements be met on projects such as this, which requirements are outlined in the attached Exhibit B – Federal Requirements; and

WHEREAS, the DISTRICT requires additional engineering services from CONSULTANT for the Wastewater Treatment Plant Upgrade Project; and

WHEREAS, the CONSULTANT has been performing tasks for the DISTRICT which are still in various stages of completion and need to be finished; and

WHEREAS, CONSULTANT is best able to provide these additional services as they are familiar with the project; and

WHEREAS, there are still sufficient funds budgeted for these activities.

NOW, THEREFORE, for the aforementioned reasons and other valuable consideration, the receipt and sufficiency of which is acknowledged, DISTRICT and CONSULTANT hereby agree that the Professional Services Agreement for design services for the Wastewater Treatment Plant Upgrade Project between the DISTRICT and CONSULTANT dated June 30, 2015, is hereby amended as follows:

1. **SCOPE OF WORK**

Paragraph 1 (DESCRIPTION OF SERVICES OR SCOPE OF WORK) is hereby amended to include those services listed on Exhibit A attached hereto.

2. **PAYMENT TERMS:**

Paragraph 3 (PAYMENT TERMS AND NOT TO EXCEED AMOUNT) is hereby amended to increase the Not to Exceed amount from \$711,993.00 to **\$961,993** (an increase of \$250,000).

3. **GOVERNMENT REGULATIONS:**

Paragraph 8 (OTHER GOVERNMENT REGULATIONS) is hereby amended to include the Federal Regulations listed in Exhibit B attached hereto.

4. Except as expressly amended herein, the Professional Services Agreement, between the DISTRICT and CONSULTANT dated June 30, 2015, and all subsequent amendments, is hereby reaffirmed.

IN WITNESS WHEREOF, the parties have executed this Amendment the day and year first above written.

**FORT BRAGG MUNICIPAL
IMPROVEMENT DISTRICT:**

HDR ENGINEERING, INC.:

By: _____
**Tabatha Miller
District Manager**

By:  _____
**Holly L. L. Kennedy, PE
Vice President**

ATTEST:

APPROVED AS TO FORM:

**June Lemos, CMC
District Clerk**

**Russell Hildebrand
District Counsel**

2. **PAYMENT TERMS:**

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**FORT BRAGG MUNICIPAL
IMPROVEMENT DISTRICT:**

HDR ENGINEERING, INC.:

By: _____
Tabatha Miller
District Manager

By: _____
Holly L. L. Kennedy, PE
Vice President

ATTEST:

APPROVED AS TO FORM:

June Lemos, CMC
District Clerk



Russell Hildebrand
District Counsel

EXHIBIT A - SCOPE OF SERVICES

City of Fort Bragg Wastewater Treatment Plant Upgrade Engineering Services During Construction

Engineer will provide engineering services during construction for the Owner's Wastewater Treatment Plant Upgrade Project (Project). The following tasks outline the services that will be provided upon the Owner's request:

TASK 1 - ENGINEERING SERVICES DURING CONSTRUCTION

Subtask 1.1 - Preconstruction Meeting

Engineer will attend the preconstruction meeting, along with Owner's staff, construction manager, and the contractor's representatives.

Subtask 1.2 – Submittals/Resubmittals

Engineer will review the contractor's submittals, including shop drawings and operations and maintenance (O&M) manuals, for conformance with the contract documents (approximately 100 submittals/resubmittals are budgeted). Engineer will not be responsible for consultation or other services relating to construction means and methods, construction site safety, or labor compliance (including certified payroll).

Subtask 1.3 - Construction Meetings and Periodic Site Visits

Engineer will participate in weekly construction meetings by telephone. Engineer will attend monthly construction meetings, as requested by the Owner. Engineer will visit the construction sites, as requested by the Owner, to assist the Owner in reviewing the acceptability of the work and to assist in resolving field problems. The budget for this task is based on up to 24 visits.

Subtask 1.4 - Contract Clarifications

Engineer will answer questions and provide written interpretations of the requirements of the contract documents, and evaluate the acceptability of substitute materials and equipment. The budget for this task includes up to 60 clarifications and responses to requests for information (RFIs).

Subtask 1.5 - Contract Change Orders and Potential Changes

Engineer will review contract change orders and potential changes prepared by the Owner, and review and make recommendations on contractor's price proposals. Engineer will prepare independent estimates as required. The budget for this task includes up to 25 potential change items and five change orders.

Subtask 1.6 - Startup and Testing

Engineer will coordinate with Owner, contractor, and equipment supplier during facility startup and demonstration period of the treatment facility. Engineer will help address operational and performance problems identified during startup. Up to 96 hours have been budgeted for this task.

Subtask 1.7 - Final Site Visit

Engineer will conduct final site visit to review final work and prepare punch list.

TASK 2 - PROJECT MANAGEMENT

Engineer will provide project management for the duration of the project, which includes preparation of monthly invoices and status reports.

ASSUMPTIONS

- The Scope of Services for additional services does not include the following:
 - Labor compliance, including certified payroll.
 - Materials testing.
 - Construction management services, including daily inspection services.
 - Off-site inspection.
 - Mitigated Monitoring and Reporting Program (MMRP) monitoring.
 - New plant-wide O&M manual.
 - Record drawings (incorporate contractor redline markups).
- Construction phase services will be provided during a 24-month period, starting on the contractor notice to proceed date.

Table 1 - Estimated Work Effort and Cost

City of Fort Bragg

Wastewater Treatment Plant Upgrade Project - Construction Engineering Services

Task No.	Task Description	Sr. Project Manager	Project Engineer	Arch	Structural Engineer	Sr. Electrical Engineer	Ops	CADD Tech	Project Controller	Admin/ Clerical	Total HDR Labor Hours	Total HDR Labor (\$)	Total HDR Expenses (\$)	Total Cost (\$)
Task 1 - Engineering Services During Construction														
1.1	Preconstruction Meeting	8	8			8				2	26	\$6,282	\$750	\$7,032
1.2	Submittals/Resubmittals (up to 75)	14	146	5	64	64				32	325	\$58,274	\$1,500	\$59,774
1.3	Monthly Construction Meetings and Periodic Site Visits (up to 24)	50	150		48	48					296	\$59,124	\$4,114	\$63,238
1.4	Contract Clarifications (up to 45)	15	68		38	38		30		23	212	\$39,474	\$1,500	\$40,974
1.5	Contract Change Orders (up to 3) and Potential Changes (up to 15)	12	47		12	23				12	106	\$20,235	\$1,000	\$21,235
1.6	Startup and Testing, and Project Closeout	16	16			16	40			8	96	\$21,367	\$2,000	\$23,367
1.7	Final Site Visit	8	8			8					24	\$6,098	\$750	\$6,848
	Subtotal Task 1	123	443	5	162	205	40	30	0	77	1,085	\$210,855	\$11,614	\$222,469
Task 2 - Project Management														
2.1	Project Management	48	20						48	16	132	\$26,231	\$1,300	\$27,531
	Subtotal Task 2	48	20	0	0	0	0	0	48	16	132	\$26,231	\$1,300	\$27,531
COLUMN TOTALS		171	463	5	162	205	40	30	48	93	1,217	\$237,086	\$12,914	\$250,000

EXHIBIT B

FEDERAL REQUIREMENTS

- A. **Agency Concurrence.** Signature of a duly authorized representative of USDA Rural Development in the space provided on the Agency signature page does not constitute a commitment to provide financial assistance or payments hereunder but does signify that this Agreement conforms to USDA Rural Development's applicable requirements. This Agreement shall not be effective unless the USDA Rural Development's designated representative concurs. No amendment to this Agreement shall be effective unless the USDA Rural Development's designated representative concurs.
- B. **Audit and Access to Records.** Owner, USDA Rural Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Engineer which are pertinent to the Agreement, for the purpose of making audits, examinations, excerpts, and transcriptions. Engineer shall maintain all required records for three years after final payment is made and all other pending matters are closed.
- C. **Restrictions on Lobbying.** Engineer and each Consultant shall comply with "Byrd anti-lobbying amendment (31 U.S.C. 1352)" if they are recipients of engineering services contracts and subcontracts that exceed \$100,000 at any tier. If applicable, Engineer must complete a certification form on lobbying activities related to a specific Federal loan or grant that is a funding source for this Agreement. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other applicable award. Each tier shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Certifications and disclosures are forwarded from tier to tier up to the Owner. Necessary certification and disclosure forms shall be provided by Owner.
- D. **Suspension and Debarment.** Engineer certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Engineer will not contract with any Consultant for this project if it or its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Necessary certification forms shall be provided by the Owner. The Engineer will complete and submit a form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - lower tier transactions" to the Owner who will forward it the USDA, Rural Development processing office.

EXHIBIT B

AMERICAN IRON AND STEEL REQUIREMENTS

- A. Opinions of Probable Cost and any revisions thereof should reflect compliance with American Iron & Steel requirements mandated by Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A-Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017).
- B. Provide services required to determine and certify that to the best of the Engineer's knowledge and belief all iron and steel products referenced in engineering analysis, the Plans, Specifications, Bidding Documents, and associated Bid Addenda requiring design revisions are either produced in the United States or are the subject of an approved waiver; and services required to determine to the best of the Engineer's knowledge and belief that approved substitutes, equals, and all iron and steel products proposed in the shop drawings, Change Orders and Partial Payment Estimates are either produced in the United States or are the subject of an approved waiver under Section 746 of Title VII of the Consolidated Appropriations Act of 2017 (Division A- Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2017). The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural; steel, reinforced precast concrete, and construction materials. The de minimis and minor components waiver apply to this project.
- C. Provide copies of Manufacturers' Certification letters to the Bidders on any brand name iron and steel products being proposed in the Plans, Specifications and Bidding Documents. Manufacturers' Certification Letters for listed brand names are to be included in the Bidding Documents and must be kept in the engineer's project file and on site during construction.
- D. Receive and review all Manufactures' Certification Letters for materials required to comply with American Iron and Steel requirements to verify the products were produced in the United States. Maintain a listing of all iron and steel components used and their manufacturers name and location. Manufacturers' Certification letters must be kept in the engineer's project file and on site during construction to ensure compliance with American Iron and Steel requirements mandated by Section 746 Division A Title VII.
- E. Upon substantial completion, obtain the Contractor's Certification letter and provide copies of Engineer's, Contractor's, and Manufacturers' Certification letters along with the Engineer's listing of all iron and steel components used and their manufacturers to the Owner and to the Agency. If applicable, also provide documentation of compliance with the De Minim is Waiver.