



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: Staff Member/Dept:

Agenda Item:

Recommended Motion:

I move to approve Purchase Order #23133 to HDR Engineering for Task Order No. 2 – Regulatory Investigation for Biosolids to Closed Landfill with a not-to-exceed cost of \$7,900.00.

Reasons for Recommendation:

- HDR Engineering is preparing a biosolids management plan for the Ketchum/Sun Valley Water and Sewer District Wastewater Treatment Plant.
- This task order would authorize HDR Engineering to determine whether land application of biosolids at the Ohio Gulch Waster Transfer Station is one of the plant’s biosolids disposal options.
- HDR Engineering has a Master Services Agreement with the City of Ketchum for engineering projects for the City.

Policy Analysis and Background (non-consent items only):

Sustainability Impact:

- None OR state impact here: None

Financial Impact:

None OR Adequate funds exist in account:	Adequate funds exist in account 65-4350-4200, WW Professional Services. This expense will be shared with SVWSD.
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Attachments:

1. HDR Task Order No. 2 - Regulatory Investigation for Biosolids to Closed Landfill
2. Multiple Project Agreement with HDR Engineering, Inc.
3. Purchase Order #23133

TASK ORDER

This Task Order pertains to an Agreement by and between the City of Ketchum, ID and Sun Valley Water & Sewer District, Sun Valley, ID, (“OWNER” or “OWNERS”), and HDR Engineering, Inc. (“ENGINEER”), dated May 1, 2023, (“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: 02

PROJECT NAME: Regulatory Investigation for Biosolids to Closed Landfill

PART 1.0 PROJECT DESCRIPTION: See attached proposal dated July 25, 2023

PART 2.0 SCOPE OF SERVICES TO BE PERFORMED BY ENGINEER ON THE PROJECT: See attached proposal dated July 25, 2023

PART 3.0 OWNER’S RESPONSIBILITIES: See attached proposal dated July 25, 2023

PART 4.0 PERIODS OF SERVICE: See attached proposal dated July 25, 2023

PART 5.0 ENGINEER’S FEE: See attached proposal dated July 25, 2023

This Task Order is executed this _____ day of _____, 2023.

CITY OF KETCHUM, ID

SUN VALLEY WATER & SEWER DISTRICT (SVWSD)

“OWNER”

“OWNER”

BY: _____

BY: _____

NAME: Neil Bradshaw

NAME: Jim Loyd

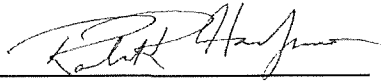
TITLE: Mayor

TITLE: Chairman

ADDRESS: City of Ketchum
P.O. Box 2315 (191 5th St. W.)
Ketchum, ID 83340

ADDRESS SVWSD
: P.O. Box 2410
Sun Valley, ID 83353

HDR ENGINEERING, INC.
“ENGINEER”

BY: 

NAME: Robert R. Hardgrove

TITLE: Vice President

ADDRESS: 412 E. Parkcenter Blvd,
Suite 100
Boise, ID 83706



July 25, 2023

Mick Mummert
City of Ketchum
P.O. Box 2315

Ketchum, ID 83340

Via email: mmummert@ketchumidaho.org

Subject: Scope of Work and Cost Proposal for Ohio Gulch Landfill Biosolids
Application Regulatory Investigation

Dear Mr. Mummert:

HDR is pleased to submit the following proposal for a regulatory investigation into the feasibility of biosolids land application on the Ohio Gulch Landfill cover. Land application provides a local disposal alternative for 275 tons/year of Ketchum/SVWSD biosolids from the Ohio Gulch drying beds instead of hauling them to the Milner Butte landfill.

BACKGROUND

The City of Ketchum requested HDR submit a proposal to develop a Biosolids Management Plan to be submitted to the Idaho Department of Environmental Quality (IDEQ) for approval. The Biosolids Management Plan would cover surface disposal of drying bed biosolids to an approximate 4.5-acre area on the closed Ohio Gulch Landfill. However, HDR identified the need to conduct a regulatory investigation prior to development of the biosolids management plan.

Based on email communication between HDR and IDEQ in June 2023, IDEQ expressed concerns that a biosolids application to the closed Ohio Gulch Landfill could damage the integrity of the landfill cover depending on what type of activity occurs. IDEQ also stated that the rule requirement that would apply to this activity would depend on whether the landfill was considered closed pre-Subtitle D or post-Subtitle D of the Resource Conservation and Recovery Act (RCRA). Subtitle D came into effect October 9, 1991 and covers Municipal Solid Waste Landfills.

IDEQ stated that the South Central Public Health District issued a closure approval letter on September 29, 1998, meaning it would be 25 years into a 30-year post-closure care period. IDEQ indicated that regardless of closure approval date the landfill might have been considered pre-Subtitle D based on site specific factors and timelines. More specifically, 40 CFR 258.61 covers post-closure care requirements and will be important for this investigative effort.

IDEQ recommended HDR submit a formal records request with both IDEQ and the Idaho Department of Health and Welfare (IDHW) to acquire records related to the closure of the Ohio Gulch Landfill.

SCOPE OF WORK

HDR is submitting this proposal to do a regulatory investigation to determine what laws are applicable to application of biosolids to a closed landfill and the regulatory feasibility of proposed methods.

Task 1. Regulatory Investigation for Biosolids to Closed Landfill

HDR will investigate the regulatory requirements associated with applying biosolids to the closed Ohio Gulch Landfill. The steps for this investigation are as follows:

1. Submit a public records request to both IDEQ and IDHW regarding the closure of the Ohio Gulch Landfill. IDEQ has already provided the record repository number for this landfill (2011BAZ4869) to be included in the records request. Records needed include but are not limited to the following:
 - a. Closure Plan & Design Submittal
 - b. Monitoring Program, if applicable
 - c. Closure construction documentation
 - d. Closure approval
 - e. Environmental restrictive covenant (County Records).
2. With obtained records, identify documents and correspondences around the time of landfill closure to determine official closure approval, requirements, and timelines.
3. Based on the findings of the records review, investigate the applicable laws and requirements that apply to the proposed activity.
4. Develop an approximate 5-page memorandum summarizing the findings of the investigation to be submitted to the City of Ketchum

INFORMATION AND SERVICES PROVIDED BY CLIENT

- The City of Ketchum will provide records pertaining to closure of the Ohio Gulch Landfill. Records needed include but are not limited to the following:
 - a. Financial assurance
 - b. Closure inspections

ASSUMPTIONS

- After HDR has submitted the public records requests, delays may occur as IDEQ and IDHW work to collect records. HDR assumes 10 business days for records to be provided after the requests are submitted.
- Estimated agency fees from IDEQ and IDHW to collect records are included as part of this scope of services as direct expenses.
- The public records request will be limited to records associated with the closure of the Ohio Gulch Landfill and post-closure care.
- The findings will be limited to the results of the investigation, HDR is not responsible for omissions or data gaps from the State or City.

- Depending on the number of records acquired from public entities, HDR may need additional hours to conduct a records review. If because of these services, additional work is required outside the estimated budget to review records, HDR will submit a proposal and estimate for additional costs.
- The findings may result in a conclusion that biosolids application is not permissible/advisable on top of the closed landfill.
- HDR anticipates a 1-hour virtual meeting for two staff with the City of Ketchum to discuss the findings of the investigation.

SCHEDULE

HDR will initiate services following receipt of signed task order. HDR will submit a public records request to IDEQ and IDHW within five business days of the notice to proceed. HDR will provide the memorandum to the City of Ketchum within one month of receiving requested records from the agencies. A meeting will also be scheduled between HDR and the City of Ketchum to discuss the findings.

ESTIMATED COSTS

HDR proposes to perform the scope of work outlined above on a time and materials basis. Based on the tasks and deliverable schedule, we estimated our costs for our services of \$7,900. We will not exceed this amount without written authorization. This fee is based on the work occurring in Summer/Fall of 2023.

AGREEMENT

If this proposal meets with your approval, please sign the attached task order document. This signature will be considered as a notice to proceed with a budget amount of \$7,900.

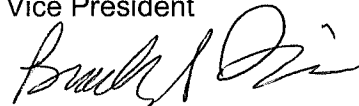
Please return a signed copy of the task order to our office. We look forward to working with you on this project.

Respectfully submitted,

HDR ENGINEERING, INC

By 

Robert Hardgrove, P.E.
Vice President



Bradley Bjerke, P.E.
Senior Project Engineer

5

MASTER SHORT FORM AGREEMENT FOR PROFESSIONAL SERVICES

#22851

THIS AGREEMENT is made as of this 1st day of ~~April~~^{May}, 2023, between City of Ketchum and Sun Valley Water & Sewer District (SVWSD), hereinafter referred to as "OWNER", and HDR Engineering, Inc., hereinafter referred to as "ENGINEER" or "CONSULTANT," 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.

SECTION IV. TERMS AND CONDITIONS OF ENGINEERING SERVICES

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

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

City of Ketchum
"OWNER"
BY: 
NAME: Neal Bradshaw
TITLE: Mayor
ADDRESS: 191 5th St W
PO Box 2315
Ketchum, ID

Sun Valley Water & Sewer District (SVWSD)
"OWNER"
BY: 
NAME: James Lord
TITLE: Commissioner
ADDRESS: _____


83540
HDR ENGINEERING, INC.
"ENGINEER"
BY: 
NAME: Kate Eldridge
TITLE: Sr Vice President
ADDRESS: 412 E Parkcenter Blvd.,
Suite 100
Boise, Idaho 83706

EXHIBIT A

TASK ORDER

This Task Order pertains to an Agreement by and between _____, (“OWNER”), and HDR Engineering, Inc. (“ENGINEER”), dated _____, 20____, (“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:
PROJECT NAME:

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: _____

TITLE: _____

TITLE: _____

ADDRESS: _____

ADDRESS: _____

Example

EXHIBIT B
TERMS AND CONDITIONS

HDR Engineering, Inc. Terms and Conditions for Professional Services

1. STANDARD OF PERFORMANCE

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

2. INSURANCE/INDEMNITY

ENGINEER agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which ENGINEER is legally liable. If flying an Unmanned Aerial System (UAS or drone), ENGINEER will procure and maintain aircraft unmanned aerial systems insurance of \$1,000,000 per occurrence. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. ENGINEER agrees to indemnify OWNER for third party personal injury and property damage claims to the extent caused by ENGINEER's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; and/or fines or penalties), loss of profits or revenue arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract. The employees of both parties are intended third party beneficiaries of this waiver of consequential damages.

3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

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

4. CONSTRUCTION PROCEDURES

ENGINEER's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. ENGINEER shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. ENGINEER shall not be responsible for the acts or omissions of the contractor or other parties on the project. ENGINEER shall be

entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of ENGINEER beyond those set forth in this Agreement. OWNER agrees to include ENGINEER as an indemnified party in OWNER's construction contracts for the work, which shall protect ENGINEER to the same degree as OWNER. Further, OWNER agrees that ENGINEER shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. CONTROLLING LAW

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

6. SERVICES AND INFORMATION

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

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

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

7. SUCCESSORS, ASSIGNS AND BENEFICIARIES

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

8. RE-USE OF DOCUMENTS

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

arising or resulting therefrom. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

9. TERMINATION OF AGREEMENT

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

10. SEVERABILITY

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

11. INVOICES

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

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

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

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

12. CHANGES

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

of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

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

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

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

15. HAZARDOUS MATERIALS

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

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between ENGINEER and

OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. ALLOCATION OF RISK

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

18. LITIGATION SUPPORT

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

19. NO THIRD PARTY BENEFICIARIES

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

20. UTILITY LOCATION

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

21. UNMANNED AERIAL SYSTEMS

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

22. OPERATIONAL TECHNOLOGY SYSTEMS

OWNER agrees that the effectiveness of operational technology systems and features designed, recommended or assessed by ENGINEER (collectively "OT Systems") are dependent upon OWNER's continued operation and maintenance of the OT Systems

in accordance with all standards, best practices, laws, and regulations that govern the operation and maintenance of the OT Systems. OWNER shall be solely responsible for operating and maintaining the OT Systems in accordance with applicable laws, regulations, and industry standards (e.g. ISA, NIST, etc.) and best practices, which generally include but are not limited to, cyber security policies and procedures, documentation and training requirements, continuous monitoring of assets for tampering and intrusion, periodic evaluation for asset vulnerabilities, implementation and update of appropriate technical, physical, and operational standards, and offline testing of all software/firmware patches/updates prior to placing updates into production. Additionally, OWNER recognizes and agrees that OT Systems are subject to internal and external breach, compromise, and similar incidents. Security features designed, recommended or assessed by ENGINEER are intended to reduce the likelihood that OT Systems will be compromised by such incidents. However, ENGINEER does not guarantee that OWNER's OT Systems are impenetrable and OWNER agrees to waive any claims against ENGINEER resulting from any such incidents that relate to or affect OWNER's OT Systems.

23. FORCE MAJEURE

ENGINEER shall not be responsible for delays caused by factors beyond ENGINEER's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, government ordered industry shutdowns, power or server outages, acts of nature, widespread infectious disease outbreaks (including, but not limited to epidemics and pandemics), failure of any governmental or other regulatory authority to act in a timely manner, failure of the OWNER to furnish timely information or approve or disapprove of ENGINEER's services or work product, or delays caused by faulty performance by the OWNER's or by contractors of any level or any other events or circumstances not within the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing. When such delays beyond ENGINEER's reasonable control occur, the OWNER agrees that ENGINEER shall not be responsible for damages, nor shall ENGINEER be deemed in default of this Agreement, and the parties will negotiate an equitable adjustment to ENGINEER's schedule and/or compensation if impacted by the force majeure event or condition.

24. EMPLOYEE IMMUNITY (Only for Projects Located in Florida)

THE PARTIES ACKNOWLEDGE THAT PURSUANT TO APPLICABLE FLORIDA STATUTES AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE WITH REGARD TO SERVICES PROVIDED UNDER THIS AGREEMENT. To the maximum extent permitted by law, the Parties intend i) that this limitation on the liability of employees and agents shall include directors, officers, employees, agents and representatives of each Party and of any entity for whom a Party is legally responsible, and ii) that any such employee or agent identified by name in this Agreement shall not be deemed a Party. The Parties further acknowledge that the Florida statutes referred to above include but are not limited to: §558.0035(1)(a)-(e); §471.023(3)(an engineer is personally liable for negligence except as provided in § 558.0035); §472.021(3) (surveyor and mapper); §481.219(11)(architect and interior designer); §481.319(6) (landscape architect); and §492.111(4) (geologist).



CITY OF KETCHUM
PO BOX 2315 * 191 5TH ST. * KETCHUM, ID 83340
Administration 208-726-3841 (fax) 208-726-8234

PURCHASE ORDER
 BUDGETED ITEM? ___ Yes ___ No

PURCHASE ORDER - NUMBER: 23133

To: 2319 HDR ENGINEERING, INC. BOX 74008202 CHICAGO IL 60674-8202	Ship to: CITY OF KETCHUM PO BOX 2315 KETCHUM ID 83340
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P. O. Date	Created By	Requested By	Department	Req Number	Terms
08/16/2023	BANCONA	BANCONA	Utilities/Wastewater	0	

Quantity	Description	Unit Price	Total
1.00	TASK ORDER #2 REGULATORY INVESTIGATION FOR BIOSOLIDS TO CLOSE LANDFILL 65-4350-4200	7,900.00	7,900.00
	SHIPPING & HANDLING		0.00
	TOTAL PO AMOUNT		7,900.00

 Authorized Signature