

January 25, 2018

Ms. Linda Loomis  
Administrator  
Lower Minnesota River Watershed District  
112 E. 5<sup>th</sup> Street, #102  
Chaska, Minnesota 55318

**Re: Dredge Site No-Rise Certification Proposal**

Dear Ms. Loomis:

We are pleased to provide the following scope and budget for a floodplain evaluation for the LMRWD Dredge Material Site. We understand the anticipated changes to the Dredge Material Site include reconfiguring berms and adding water control structures to optimize the functionality of the site. Even though the site is considered a temporary storage facility, the plans are anticipated to follow MPCA requirements. As such, a no rise certification is required to verify that the planned modifications will not adversely impact 100-year flood levels. This scope of work will include the following tasks:

**Task 1 – Review and revise existing conditions model**

LMRWD has already provided the existing conditions HEC-RAS model for the Minnesota River used to map the Minnesota River floodplain. Barr has reviewed the model and already identified some features of the model that should be updated to more accurately reflect existing conditions. For example, ineffective flow areas in the model can be adjusted to more accurately model the flow through the upstream railroad bridge. Furthermore, it may be possible and necessary to add the current berms on the site to the existing conditions model; however this will be confirmed with the City of Savage and the DNR.

Barr will continue the review of the existing conditions model and may request additional information and/or seek assistance from LMRWD to gather or provide such information to revise the existing conditions model as accurately as is reasonably possible to provide the required corrected effective model. This is needed to provide an accurate basis of comparison.

*Assumptions:* Location and elevation data for the existing berms can be provided by LMRWD or acquired through existing LiDAR data, and a survey of the site will not be necessary.

**Task 2 – Proposed conditions modeling**

Barr will model the proposed conditions for the Dredge Material Site in HEC-RAS to determine if there is an impact to the flood levels. If the proposed layout results in impacts to the 100-year flood elevation, Barr will work with LMRWD to determine how the berm reconfiguration and/or height can be adjusted to avoid adverse impacts.

*Assumptions:* We assume LMRWD will provide CAD files with the proposed berm reconfiguration so the proposed berms can be accurately represented in the HEC-RAS model. We also assume no more than three iterations will be necessary to modify the berm configuration (including location and height) in a way that will not adversely impact 100-year flood levels.

### **Task 3 –Summary memorandum**

Barr will complete a memorandum to summarize the effort to complete a no-rise certification. If a no-rise certification is possible, then we will also complete the certification and provide appropriate documentation to regulators at the City of Savage. In the unlikely event that a no-rise certification cannot be completed, we will document the modeling effort and the reasons why the certification cannot be obtained.

*Assumptions:* LMRWD will provide one round of review comments on the summary memorandum prior to being finalized.

### **Assumptions**

The assumptions made for this scope of work are included with each task, and additional assumptions that do not correspond with a single work task are listed below:

- All deliverables will be provided in electronic format.
- The schedule assumes this proposal will be approved at the February LMRWD Board meeting, which is assumed to be on February 21, 2018
- Barr will not need to attend any LMRWD Board meetings for this project

### **Deliverables**

Several deliverables were described in individual tasks. Additional deliverables are listed below:

- Email updates about project progress.
- Communications with District staff if unforeseen issues arise with any aspect of the project.

### **Budget and Schedule**

The scope of work described above will be completed on the following budget and schedule:

<b>Task No.</b>	<b>Description</b>	<b>Budget</b>	<b>Estimated Completion Date</b>
1	Update existing conditions model	\$1,300	February 28, 2018
2	Proposed Conditions Modeling	\$5,800	April 4, 2018
3	No-rise certification and summary memorandum	\$2,700	April 11, 2018
<b>Total</b>		<b>\$9,800</b>	

This Agreement will be effective for the duration of the services unless earlier terminated by either you or us. We will commence work upon receipt of a copy of this letter signed by you. The estimated schedule for the services outlined above assumes project initiation will occur in February 2018. The schedule may be modified depending on actual initiation of project work or delays in receiving requested information. We will inform you of our progress by monthly progress reports associated with invoicing. We understand you have the authority to direct us. We will direct communications to you at the address on this letter. Direction should be provided to me or Jeff Weiss at the letterhead address.

Barr and Client waive all rights against each other, their subcontractors, agents, and employees, and the other's consultants, separate contractors, and their subcontractors, agents, and employees for losses or damages covered by property or casualty insurance, commercial general liability, or Builder's Risk insurance. This waiver of subrogation shall be effective notwithstanding any duty of indemnity.

If this Agreement is satisfactory, please sign the enclosed copy of this letter in the space provided, and return it to us.

Sincerely yours,

BARR ENGINEERING CO.



*Scott Sobiech*

Its Vice President

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Lower Minnesota River Watershed District

By \_\_\_\_\_

Its \_\_\_\_\_

Attachments

Standard Terms—Professional Services  
Fee Schedule



## STANDARD TERMS—PROFESSIONAL SERVICES

Our Agreement with you consists of the accompanying letter or other authorization, Work Orders, and these Standard Terms – Professional Services.

### Section 1: Our Responsibilities

- 1.1 We will provide the professional services (“Services”) described in this Agreement. We will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality.
- 1.2 We will select the means, methods, techniques, sequences, or procedures used in providing our Services. If you direct us to deviate from our selections, you agree to hold us harmless from claims, damages, and expenses arising out of your direction.
- 1.3 We will acquire all licenses applicable to our Services and we will comply with applicable law.
- 1.4 Our duties do not include supervising your contractors or commenting on, supervising, or providing the means and methods of their work unless we accept any such duty in writing. We will not be responsible for the failure of your contractors to perform in accordance with their undertakings.
- 1.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, job, or site health or safety unless we accept that duty in writing.
- 1.6 Estimates of our fees or other project costs will be based on information available to us and on our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should add a contingency.
- 1.7 The information you provide to us will be maintained in confidence except as required by law.

### Section 2: Your Responsibilities

- 2.1 You will provide access to property as required.
- 2.2 You will provide us with prior reports, specifications, plans, changes in plans, and information about the project which may affect the delivery of our Services. You will hold us harmless from claims, damages, and related expenses, including reasonable attorneys’ fees, involving information not timely called to our attention or not correctly shown on documents you furnished to us.
- 2.3 You agree to provide us with emergency procedure information and information on contamination and dangerous or hazardous substances or processes we may encounter in performing the Services.
- 2.4 You agree to hold us harmless as to any claim that we are an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of any law governing the handling, treatment, storage, or disposal of dangerous or hazardous materials.
- 2.5 Site remediation services may involve risk of contamination of previously uncontaminated air, soil, or

water. If you are requesting that we provide services that include this risk, you agree to hold us harmless from such contamination claims, damages, and expenses, including reasonable attorneys’ fees, unless the loss is caused by our negligence.

- 2.6 You agree to make disclosures required by law. If we are required by law or legal process to make such disclosures, you agree to hold us harmless and indemnify us from related claims and costs, including reasonable attorneys’ fees.

### Section 3: Reports and Records

- 3.1 We will retain analytical data relating to the Services for seven years and financial data for three years.
- 3.2 Monitoring wells are your property and you are responsible for their permitting, maintenance and abandonment unless we accept that duty in writing. Samples remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are your property. They will be discarded or returned to you, at our discretion, unless within 15 days of the report date you give written direction to store or transfer the materials at your expense.
- 3.3 Our reports, notes, calculations, and other documents, and our computer software and data are instruments of our Services, and they remain our property, subject to a license to you for your use in the related project for the purposes disclosed to us. You may not use or transfer our reports to others for a purpose for which they were not prepared without our written approval. You agree to indemnify and hold us harmless from claims, damages, and expenses, including reasonable attorneys’ fees, arising out of any unauthorized transfer or use.
- 3.4 Because electronic documents may be modified intentionally or inadvertently, you agree that we will not be liable for damages resulting from change in an electronic document occurring after we transmit it to you. In case of any difference or ambiguity between an electronic and a paper document, the paper document shall govern. When accepting document transfer in electronic media format, you accept exclusive risk relating to long-term capability, usability, or readability of documents, software application packages, operating systems, and computer hardware.
- 3.5 If you do not pay for the Services in full as agreed, we may retain reports and work not yet delivered to you and you agree to return to us our reports and other work in your possession or under your control. You agree not to use or rely upon our work for any purpose until it is paid for in full.

### Section 4: Compensation

- 4.1 You will pay for the Services as agreed upon or according to our then current fee schedules if there is no other written agreement as to price. An estimated cost is

not a firm figure unless stated as such and you should allow for a contingency in addition to estimated costs.

- 4.2 You agree to notify us of billing disputes within 15 days and to pay undisputed portions of invoices within 30 days of invoice date. For balances not paid under these terms, you agree to pay interest on unpaid balances beginning 10 days after invoice date at the rate of 1.5% per month, but not to exceed the maximum rate allowed by law.
- 4.3 If you direct us to invoice another, we will do so, but you agree to be responsible for our compensation unless you provide us with that person's written acceptance of the terms of our Agreement and we agree to extend credit to that person.
- 4.4 You agree to compensate us in accordance with our fee schedule if we are asked or required to respond to legal process arising out of a proceeding to which we are not a party.
- 4.5 If we are delayed by factors beyond our control, or if the project conditions or the scope of work change, or if the standards change, we will receive an equitable adjustment of our compensation.
- 4.6 In consideration of our providing insurance to cover claims made by you, you hereby waive any right of offset as to payment otherwise due us.

#### **Section 5: Disputes, Damage, and Risk Allocation**

- 5.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include a meeting attended by each party's representative empowered to resolve the dispute. Disputes (except collections) will be submitted to mediation as a condition precedent to litigation.
- 5.2 We will not be liable for special, incidental, consequential, or punitive damages, including but not limited to those arising from delay, loss of use, loss of profits or revenue, loss of financing commitments or fees, or the cost of capital. Each of us waives against the other and its subcontractors, agents, and employees all rights to recover for losses covered by our respective property/casualty or auto insurance policies.
- 5.3 We will not be liable for damages unless you have notified us of your claim within 30 days of the date of your discovery of it and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages, and unless suit is commenced within two years of the earlier of the date of injury or loss and the date of completion of the Services.
- 5.4 For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability will not exceed the fee paid for our services or \$50,000, whichever is greater, and you agree to indemnify us from all liability to others in excess of that amount. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to \$100,000 provided that, within 10 days of the date of our Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than \$500, to compensate us for the greater risk undertaken. This

increased fee is not the purchase of insurance.

- 5.5 If you fail to pay us within 60 days following invoice date, we may consider the default a total breach of our Agreement and, at our option, we may terminate all of our duties without liability to you or to others.
- 5.6 If we are involved in legal action to collect our compensation, you agree to pay our collection expenses, including reasonable attorneys' fees.
- 5.7 The law of the state in which the project site is located will govern all disputes. Each of us waives trial by jury. No employee acting within the scope of employment shall have any individual liability for his or her acts or omissions and you agree not to make any claim against individual employees.

#### **Section 6: Indemnification**

- 6.1 Each of us will indemnify and hold harmless the other from and against demands, damages, and expenses to the comparative extent they are caused by the negligent acts, omissions, or breach of contract of the indemnifying party or of those others for whom the indemnifying party is legally responsible.
- 6.2 To the extent that may be necessary to indemnify either of us under Section 6.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

#### **Section 7: Miscellaneous Provisions**

- 7.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our sole negligence.
- 7.2 This Agreement is our entire agreement, and it supersedes prior agreements. Only a writing signed by both of us making specific reference to the provision modified may modify it.
- 7.3 Neither of us will assign this Agreement without the written approval of the other. No other person has any rights under this Agreement.
- 7.4 A writing may terminate this Agreement. We will receive an equitable adjustment of our compensation if our work is terminated prior to completion as well as our fees and expenses on the basis agreed upon through the effective date of termination.
- 7.5 We will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, religion, age, genetic information, marital status, sexual orientation, gender identity, familial status, disability, status with regard to public assistance, membership or activity in a local human-rights commission, or status as a protected veteran. We will take affirmative action to ensure that applicants are considered, and employees are treated during their employment, without regard to those factors. Our actions will include, but are not limited to notifications, hiring, promotion or employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoffs or terminations, rates of pay and other forms of compensation, and selection for training or apprenticeship.

*End of Standard Terms*



# Fee Schedule—2018

Rev. 12/30/17

Description	Rate* (U.S. dollars)
Principal .....	\$145-295
Consultant/Advisor.....	\$155-250
Engineer/Scientist/Specialist III.....	\$125-150
Engineer/Scientist/Specialist II.....	\$95-120
Engineer/Scientist/Specialist I.....	\$65-90
Technician III.....	\$125-150
Technician II.....	\$95-120
Technician I .....	\$50-90
Support Personnel II .....	\$95-150
Support Personnel I .....	\$50-90

Rates for litigation support services will include a 30% surcharge.

A ten percent (10%) markup will be added to subcontracts for professional support and construction services to cover overhead and insurance surcharge expenses.

Invoices are payable within 30 days of the date of the invoice. Any amount not paid within 30 days shall bear interest from the date 10 days after the date of the invoice at a rate equal to the lesser of 18 percent per annum or the highest rate allowed by applicable law.

Reimbursable expenses including, but not limited to, the actual and reasonable costs of transportation, meals, lodging, parking costs, postage, and shipping charges will be billed at actual cost. Materials and supplies charges, printing charges, and equipment rental charges will be billed in accordance with Barr's standard rate schedules. Mileage will be billed at the IRS-allowable rate.

Principal category includes consultants, advisors, engineers, scientists, and specialists who are officers of the company.

Consultant/Advisor category includes experienced personnel in a variety of fields. These professionals typically have advanced background in their areas of practice and include engineers, engineering specialists, scientists, related technical professionals, and professionals in complementary service areas such as communications and public affairs.

Engineer/Scientist/Specialist categories include registered professionals and professionals in training (e.g. engineers, geologists, and landscape architects), and graduates of engineering and science degree programs.

Technician category includes CADD operators, construction observers, cost estimators, data management technicians, designers, drafters, engineering technicians, interns, safety technicians, surveyors, and water, air, and waste samplers.

Support Personnel category includes information management, project accounting, report production, word processing, and other project support personnel.

\*Rates do not include sales tax on services that may be required in some jurisdictions.