

IOWA DEPARTMENT OF NATURAL RESOURCES
CONTRACT NUMBER 20CRDFBKHAWK-100
Between

IOWA DEPARTMENT OF NATURAL RESOURCES
And
HDR ENGINEERING, INC.

This Contract was approved by the Natural Resource Commission on March, 12, 2020.

IN WITNESS THEREOF, the parties hereto have entered into this Contract on the day and year last specified below.

DEPARTMENT OF NATURAL RESOURCES

By: Kayla Lyon Date: 6/1/2020
Kayla Lyon, Director

CONTRACTOR

By: Thomas M. Hein Date: 05/29/2020
Thomas M. Hein, Vice President
HDR Engineering, Inc.

This Contract shall not begin until it has been either (1) signed by both parties or (2) the Contract start date has occurred, whichever is later.

For DNR use only:

1. Retain a signed copy of the Contract in the project file and send a hardcopy with 1st invoice to Budget & Finance.
2. Email scanned copy to christina.iiams@dnr.iowa.gov (please name subject your Contract #)

DNR STANDARD CONTRACT CONDITIONS

This Contract is entered into between the Iowa Department of Natural Resources (DNR) and [HDR Engineering, Inc.](#) (Contractor). The parties agree as follows:

Section 1 IDENTITY OF THE PARTIES

1.1. Parties. DNR is authorized to enter into this Contract. DNR's address is: Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

[HDR Engineering, Inc.](#), an employee owned corporation is organized and registered under the laws of the State of Nebraska. The Contractor's address is: [1917 S. 67th Street, Omaha, Nebraska 68106-2973](#).

1.2. Project Managers. Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any Contract modifications, as follows:

DNR Project Manager: [George Scholten, Supervisor](#)
[Fisheries Bureau](#)
[502 E. 9th Street](#)
[Des Moines, IA 50319](#)
[Phone: 515-371-6915](#)
[Email: \[george.scholten@dnr.iowa.gov\]\(mailto:george.scholten@dnr.iowa.gov\)](#)

Contractor Project Manager: [Matt Cochran, Associate Vice President](#)
[5201 South 6th St. Road](#)
[Springfield, IL 62703-5143](#)
[Phone: 217-331-5868](#)
[Email: \[matt.cochran@hdrinc.com\]\(mailto:matt.cochran@hdrinc.com\)](#)

Section 2 STATEMENT OF PURPOSE

Purpose: [The purpose of this project is to provide a design, construction plans, construction oversight, and training for a Recirculating Aquaculture System \(RAS\). This system will include a Walleye incubator RAS system with temperature control, Northern Pike and Muskellunge RAS system with temperature control, an egg fertilization station, egg hardening and catch tank system, and renovation of surrounding storage space at the Spirit Lake Fish Hatchery.](#)

Background: Each year, the Spirit Lake Fish Hatchery (SLFH or hatchery) is tasked with producing over 90 million Walleye fry, 300,000 Walleye fingerlings, 4 million Northern Pike fry, 300,000 Northern Pike fingerlings, 1 million Muskellunge fry, and 30,000 Muskellunge fingerlings to stock in Iowa's waters. The water supply for the hatchery is Big Spirit Lake. Water for the hatchery travels from the lake through a 20-inch pipe that extends 700 feet into the lake. The intake for this pipe is 13 feet deep and capped off with a ½ inch metal screen. The outlet of the pipe is in a hatchery filter pond, where it is filtered through a 4-inch rock crib before being pumped to a head tank in the hatchery.

In 2017, zebra mussels (*Dreissena polymorpha*) were found in Big Spirit Lake. Zebra mussels are a prolific aquatic invasive species (AIS) that start to reproduce when water temperatures reach 54°F. Zebra mussels spread during the free-floating, microscopic larval stage of their life. The young, known as veligers, float through the water column until they have developed enough to attach to a hard surface. Big Spirit Lake reaches 54°F in April and continues to stay above this temperature through October. In these conditions, a female zebra mussel can release up to one million eggs per year, causing populations to expand rapidly once established.

The presence of zebra mussels in the source water for SLFH poses two primary risks to fish production. First, adult zebra mussels will adhere to the intake screen, potentially clogging the intake and restricting the water supply to the hatchery. Second, during most of the fish production season, there is the potential for zebra mussel veligers to be

present in the water that enters the hatchery. This requires all fish and water loaded onto hatchery trucks to be treated before leaving the hatchery to ensure that zebra mussels are not being spread during stocking operations. In addition to the threat zebra mussels pose to fish production at SLFH, a water quality issue has been reducing fish production during the past 5 years. The hatchery has observed an influx of gas supersaturation coming from the lake. This issue has caused an extensive loss of Walleye eggs in the spring. Eggs attach to the bubbles produced by supersaturation, causing them to float out of the incubator system. In the past two years, this issue has caused a loss of over 50% of the Walleye eggs needed for production each year, resulting in unmet annual quotas for Walleye fry.

Between the threat posed by the recent zebra mussel infestation, and the loss of Walleye eggs due to gas supersaturation, the hatchery needs make improvements to its systems to be able to continue to produce the Walleye, Northern Pike, and Muskellunge fry and fingerlings requested each year for the anglers of Iowa.

Section 3 DURATION OF CONTRACT

3.1 Term of Contract. The term of this Contract shall be [June 5, 2020](#), through [February 21, 2021](#), unless terminated earlier in accordance with the Termination section of this Contract. However, this Contract shall not begin until it has been signed by both parties.

3.2 Approval of Contract. If the amount of compensation to be paid by DNR according to the terms of this Contract is greater than \$25,000.00, or if commission approval is required by statute or rule, then performance shall not commence unless by [June 5, 2020](#), this Contract has been approved by the [Natural Resource Commission](#).

3.3 Amendments. This Contract may be amended only by written mutual consent of the parties. For competitively bid contracts, DNR shall have the sole option to amend this Contract for subsequent periods, adding up to no more than six years total from the beginning date of the Original Contract, by executing a signed amendment prior to the expiration of this Contract.

Section 4 DEFINITIONS

4.1 Definitions. This Contract shall include the following definitions:

“Agency” shall mean Department of Natural Resources (DNR).

“Contract” and “Contract Declarations & Execution Page” shall mean these DNR Standard Contract Conditions, any Attachments or Exhibits attached to and included as part of these DNR Standard Contract Conditions, and the DAS General Terms and Conditions. “Contract” shall include the first page of these DNR Standard Contract Conditions, which includes the Contractor and DNR signatures.

“DAS General Terms and Conditions” shall mean the DAS General Terms and Conditions effective May 1, 2016 and found at <https://das.iowa.gov/procurement/terms-and-conditions>.

“Deliverables” means all of the goods, products, services, work, work product, items, materials and property to be created, developed, produced, delivered, performed or provided by or on behalf of, or made available through, Contractor (or any agent, contractor or subcontractor of Contractor) in connection with this Contract.

“Project” shall mean the new SLFH RAS, including all work under this contract related to its creation and operation, including but not limited to design, planning, advising, and training activities.

“RFP” shall mean the Request for Proposals, Informal Request for Proposal, or Request for Quotes that was issued to solicit the Deliverables that are subject to the Contract including these DNR Standard Contract Conditions.

“Special Contract Attachments” shall mean any Attachments or Exhibits attached to and included as part of these DNR Standard Contract Conditions.

“Task Milestone Date” shall mean a deadline for accomplishing a Task required by this Contract.

Section 5 STATEMENT OF WORK

5.1 Statement of Work. Contractor shall perform the following Tasks by the Task Milestone Dates set out in the following table:

Deliverables	Task Milestone Date
<p>Task 1: Project Launch</p> <p>Description: Contractor shall meet with DNR to confirm goals and expectations, regulatory requirements, and project timelines and to establish the communication network critical for the Project’s success from inception through the design and possibly construction.</p>	No later than June 5, 2020
<p>Task 2: Designs at 60% Completion</p> <p>Description: Contractor shall submit the designs at 60% completion for DNR’s review and approval. Contractor shall meet with DNR to present and discuss this preliminary design. DNR shall provide any comments within five business days of receipt, which the Contractor shall incorporate or address in the final design drawing.</p>	No later than July 1, 2020
<p>Task 3: Designs at 90% Completion</p> <p>Description: Contractor shall submit the designs at 90% completion, and including any DNR comments from the 60% review, for DNR’s review and approval. DNR shall provide any comments within five business days of receipt, which the Contractor shall incorporate or address in the final design drawing.</p>	No later than August 1, 2020
<p>Task 4: Designs at 100% Completion</p> <p>Description: Contractor shall submit designs at 100% for DNR’s review and approval, which includes all DNR comments from the previous reviews, for DNR’s review and approval and for incorporation into the bid documents described in Task 5 below. Contractor shall incorporate DNR’s comments into the final version of the design contract documents.</p>	No later than August 15, 2020
<p>Task 5: Prepare Bid Documents</p> <p>Description: Contractor shall prepare bid documents consistent with the designs described in Task 4 and related reviews. This shall include incorporation of the design plans and specifications into bid templates and “front end” documents to be provided by DNR that comply with requisite state and federal law. Contractor shall deliver three (3) hard copies, one electronic pdf format copy, and one electronic DWG file format copy of the Contract Documents within two business days of receipt of DNR’s review comments. This final submission shall be signed and sealed, suitable for permitting and bidding.</p>	No later than August 21, 2020
<p>Task 6: Project Design Technical Advisor for DNR during Construction Bidding Phase</p> <p>Description: Contractor shall assist DNR during the bidding phase in answering technical questions about the plans and specifications developed by the Contractor upon request of the DNR, notifying potential contractors of the opportunity within the confines of state law to maximize the bidder pool, and assisting DNR in responding to inquiries received during the bid advertisement phase. The Contractor shall attend a pre-bid meeting for interested contractors serving as DNR’s design contractor for the Project.</p>	As requested by DNR
<p>Task 7: Project Design Technical Advisor for DNR during Construction Phase</p>	As requested by DNR

<p>Description: Contractor shall provide both onsite and telephone consultation during construction to provide design consultation related to the plans and specifications developed under a resulting contract.</p>	
<p>Task 8: Manual and Training</p> <p>Description: Contractor shall provide a maintenance and training manual to DNR that contains complete instruction of how to maintain and operate the Project within requirements of any applicable warranties and/or guarantees. Contractor shall provide a one day, on-site training for DNR staff that will address the Project's operation and maintenance.</p>	<p>No later than February 21, 2021</p>

5.2 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Contractor fully or partially suspended or stopped, if the Deliverables fail to conform to applicable specifications and requirements in this Contract. DNR shall give Contractor written notice of a stop work directive. DNR shall provide to Contractor the reasons for the stop work directive.

5.3 Industry Standards. Services rendered pursuant to this Contract shall be performed in a professional manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the relevant industry or profession for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry or professional standard.

Section 6 MONITORING AND REVIEW

6.1 Task Milestone Dates. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in Section 5.1.

Failure by Contractor to complete the above-designated portions of its obligations by the Task Milestone Dates set out herein shall constitute material breach of this Contract by Contractor and shall be grounds for DNR to immediately terminate this Contract for cause.

6.2 Review Meetings. Commencing with beginning performance of this Contract, the Project Managers shall meet *as necessary* to discuss progress made by the Contractor during the performance of this Contract. The meetings shall occur, either in person or by telephone or video conference call. Meetings may be postponed only on a case-by-case basis by mutual written agreement of the parties.

6.3 Status Reports. At least one week prior to each scheduled review meeting, the Contractor Project Manager shall provide the DNR with a status report listing:

- Accomplishments during the previous period,
- Activities planned for the upcoming period,
- Tasks completed or Deliverables produced during the previous period,
- An updated schedule of upcoming Deliverables,
- Any problems or concerns encountered since the last meeting, and
- An explanation of any deviations from the financial and hourly expenditures contained in the Contractor's Proposal, if applicable.

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that shall facilitate problem resolution.

6.4 DNR right to review and observe. DNR shall have the right to review and observe, at any time, completed work or work in progress. Contractor shall allow the State of Iowa or DNR, without cost, to inspect its facilities and books and records relating to invoicing and time records for the purpose of monitoring and evaluating performance of this Contract.

Section 7 COMPENSATION

7.1 Source of Funding. The authority to enter into this Contract is Iowa Code 455A 4(6). The source of funding for this Contract is [REAP Open Spaces \(25%\)](#) and [Federal Sport Fish Restoration Fund \(75%\)](#).

7.2 Not-to-exceed total amount of Contract. Payment for the work performed by Contractor according to the terms of this Contract shall not exceed \$148,117. Payment shall be for satisfactory completion of the Statement of Work contained in Section 5, including all applicable Attachments and Exhibits, provided that Contractor has complied with the terms of this Contract.

7.3 Budget. The budget for this Contract shall be as follows:

Task	Amount of compensation allotted to Task*	Invoice Due No Later Than
Task 1: Project Launch	Not to exceed \$20,698	July 1, 2020
Task 2: Designs at 60% Completion	Not to exceed \$18,360	August 1, 2020
Task 3: Designs at 90% Completion	Not to exceed \$28,035	September 1, 2020
Task 4: Designs at 100% Completion	Not to exceed \$19,791	September 15, 2020
Task 5: Prepare Bid Documents	Not to exceed \$12,934	September 21, 2020
Task 6: Project Design Technical Advisor for DNR during Construction Bidding Phase	Not to exceed \$48,299	March 21, 2021
Task 7: Project Design Technical Advisor for DNR during Construction Phase		
Task 8: Manual and Training		
Total	Not to exceed \$148,117	

* If the dollar amount allocated to any Task contained in the Table above is exceeded by more than 10 percent, the Contractor shall notify DNR in writing within ten days.

7.4 Submission of Invoices. Invoices shall be submitted to DNR according to the due dates established in Section 7.3. Invoices shall contain the DNR Contract Number found on the first page of these DNR Standard Contract Conditions. Each invoice shall itemize the work performed pursuant to the Contract, and shall specify the amount of payment requested for each Task during the period covered by the invoice. Each invoice shall comply with all applicable rules concerning payment of such claims and shall contain appropriate documentation necessary to support the fees or charges included in the invoice. DNR shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if DNR reasonably believes the invoice is inaccurate or incorrect in any way. Original invoices, which shall include the DNR contract number in a prominent place, shall be submitted to:

Iowa Department of Natural Resources
 Attention: [George Scholten](#)
 502 E. 9th Street
 Des Moines, IA 50319

7.5 Payment of Invoices. DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any services provided by or on behalf of the Contractor under this Contract. Payment will be issued to:

[HDR Engineering, Inc,](#)
 Attention: [Matt Cochran](#)
 5201 South 6th St. Road
 Springfield, IL 62703-5143

7.6 No advance payment. No advance payments shall be made for any Deliverables provided by Contractor pursuant to this Contract.

7.7 Delay of Payment Due to Contractor's Failure. If DNR determines that the Contractor has failed to perform or deliver any Deliverable required by this Contract, then the Contractor shall not be entitled to any compensation or any further compensation if compensation has already occurred, under this Contract until such Deliverable is performed or delivered. DNR shall withhold that portion of the invoice amount which represents payment for the Deliverable that was not completed, delivered and successfully deployed.

7.8 Withholding Payments. In addition to pursuing any other remedy provided herein or by law, DNR may withhold compensation or payments to Contractor, in whole or in part, without penalty to DNR or work stoppage by Contractor, in the event DNR determines that (1) Contractor has failed to perform any of its duties or obligations as set forth in this Contract; or (2) any Deliverable has failed to meet or conform to any applicable contract specification.

No interest shall accrue or be paid to Contractor on any compensation or other amounts withheld or retained by the DNR under this Contract.

7.9 Erroneous Payments and Credits. Contractor shall promptly re-pay or refund to DNR the full amount of any overpayment or erroneous payment within ten business days after either discovery by Contractor or notification by DNR of the overpayment or erroneous payment.

7.10 Set-off Against Sums Owed by Contractor. In the event that Contractor owes DNR or the State any sum (including any State taxes in arrears) under the terms of this Contract, any other contract, pursuant to a judgment, or pursuant to any law, DNR may set off such sum against any sum invoiced to DNR by Contractor. This may be done in DNR's sole discretion unless otherwise required by law.

7.11 Reimbursable Expenses. There shall be no reimbursable expenses associated with this Contract separate from the compensation referred to in this section, unless agreed to by both parties in an amendment to this Contract executed by both parties. Unless otherwise specifically provided for in this Contract, Contractor shall be solely responsible for all its costs and expenses, including travel, mileage, meals, lodging, equipment, supplies, personnel, training, salaries, benefits, insurance, conferences, long distance telephone, and all other costs and expenses of the Contractor. This language supersedes the DAS General Terms and Conditions language regarding reimbursement of expenses.

7.12 Final Payment. By accepting final payment or a termination settlement under this Contract, the Contractor releases all claims against DNR arising under, or by virtue of, this Contract, except claims which are specifically exempted by the Contractor. Unless otherwise provided in this Contract, by State law or otherwise expressly agreed to by the parties to the Contract, final payment under a settlement upon termination of this Contract shall not constitute a waiver of DNR's claims against the Contractor, or the Contractor's sureties under this Contract or applicable performance and payment bonds.

Section 8 INSURANCE

8.1. Insurance. Contractor shall obtain insurance as identified in the DAS General Terms and Conditions; and as follows:

Type of Insurance	LIMIT	Amount
General Liability Insurance (including contractual liability) written on an occurrence basis	General Aggregate Products – Comp/Op Aggregate Personal injury Each Occurrence	\$2 million \$1 Million \$1 Million \$1 Million
Automobile Liability (including contractual liability) written on an occurrence basis	Combined single limit	\$1 Million
Excess Liability, Umbrella Form	Each Occurrence Aggregate	\$1 Million \$1 Million
Errors and Omissions Insurance	Per claim	\$1 Million

Property Damage	Each Occurrence Aggregate	\$1 Million \$1 Million
Workers Compensation and Employer Liability	As Required by Iowa law	As required by Iowa law

The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the DNR. The certificates shall be subject to approval by the DNR. The insurer shall state in the certificate that no cancellation of the insurance may be made without at least thirty (30) days' prior written notice to the DNR. Approval of the insurance certificates by the DNR shall not relieve the Contractor of any obligation under this Contract.

Section 9 FEDERAL FUNDING CONDITIONS

9.1. The Contractor shall comply with all applicable federal requirements, including but not limited to 2 CFR Chapter I, Chapter II, Part 200, et al. (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule).

Section 10 USE OF THIRD PARTIES AND SUBCONTRACTORS

10.1 The Contractor may contract with third parties for the performance of the Contractor's obligations under this Contract only to the extent specified below:

- 10.1.1** All subcontracts shall be subject to prior approval by the DNR. The DNR's consent shall not be deemed in any way to provide for the incurrence of any obligation of DNR in addition to the remuneration agreed upon in this Contract. Any subcontract to which DNR has consented shall be in writing and shall in no way alter the terms and conditions of this Contract.
- 10.1.2** The Contractor may enter into subcontracts to complete the work required by this Contract provided that the Contractor remains responsible for all services performed under this Contract. No subcontract or delegation of work shall relieve or discharge the Contractor from any obligation, provision, or liability under this Contract. The Contractor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any subcontractor.
- 10.1.3** All restrictions, obligations and responsibilities of the Contractor under this Contract also shall apply to the subcontractors.
- 10.1.4** DNR shall have the right to request the removal of a subcontractor from the Contract for good cause. The Contractor shall indemnify, defend and hold harmless DNR and the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Contractor's breach of any subcontract in which it enters, including Contractor's failure to pay any and all amounts due by Contractor to any subcontractor.
- 10.1.5** Each subcontract shall contain provisions for DNR access to the subcontractor's books, documents, and records and for inspections of work, as required of Contractor herein.
- 10.1.6** Any action of a subcontractor, which, if done by Contractor, would constitute a breach of this Contract, shall be deemed a breach by Contractor and have the same legal effect.
- 10.1.7** If delay results from a subcontractor's conduct, from the Contractor's negligence or fault, or from circumstances which by the exercise of reasonable diligence the Contractor should have been able to anticipate or prevent, then the Contractor shall be in default.
- 10.1.8** If the Contract is subject to the provisions of Iowa Code chapter 8F, then the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontract Contractor enters into pursuant to this Contract. Any compliance documentation, including but not limited to certification, received from any subcontractor shall be forwarded to DNR immediately

Section 11 GENERAL TERMS AND CONDITIONS

11.1 DAS General Terms and Conditions. Except as otherwise stated in these DNR Standard Contract Conditions, the General Terms and Conditions for this Contract shall be the DAS General Terms and Conditions for Services, which may be found at <https://das.iowa.gov/procurement/terms-and-conditions>.

In addition to any other exceptions to or supersession of the DAS General Terms and Conditions contained in these DNR Standard Contract Conditions, the following portions of the DAS General Terms and Conditions are excluded from this Contract:

- 1.10.5 (Change Order), and
- 1.11 (Legislative Changes).

Section 12 CONFLICT BETWEEN DNR STANDARD CONTRACT CONDITIONS AND GENERAL CONDITIONS

12.1 If there is a conflict between these DNR Standard Contract Conditions and the DAS General Terms and Conditions, these DNR Standard Contract Conditions shall prevail.