

Memorandum

To: Programs, Projects, and Operations Subcommittee

From: Eric Williams, Natural Resources Planner

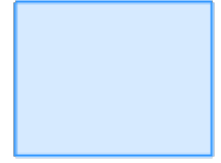
Date: March 6, 2024

RE: Elkhorn River Trail Bridge Agreements

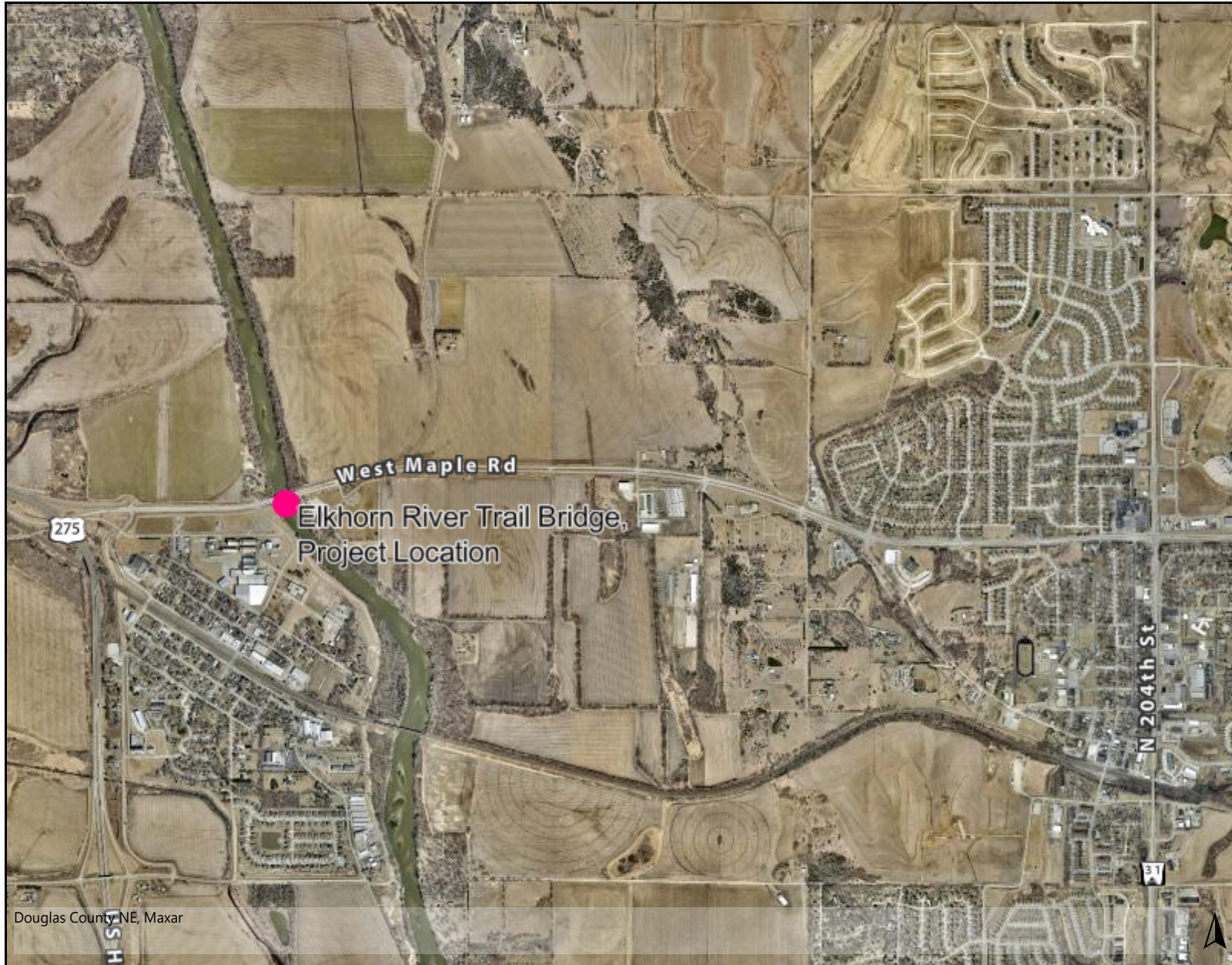
A trail connection across the Elkhorn River near West Maple Road has been included in long range plans by the District and regional public agency partners, with support from numerous community organizations. District staff undertook preliminary steps to have the project ready if a funding opportunity became available. In early 2023, the Elkhorn River Trail Bridge project was submitted to the Nebraska Department of Transportation (NDOT) in response to a call for projects for funding under the statewide Transportation Alternatives Program. Funding awards were announced in July 2023 and the District entered into an agreement with NDOT in October 2023 following Board approval. The agreement includes federal funding for 80% of the project, with total project cost anticipated to be approximately \$6,672,792. This cost is merely for preliminary planning purposes. A map showing the general project location is attached.

The District must comply with NDOT's procurement process to select consultants for professional services which allows for selection from a list of qualified consultants. District staff have worked with NDOT staff on the scope and fee for professional services agreements on preliminary engineering and environmental services work which will identify a specific location for the bridge. This scope includes tasks to verify constructability at the preferred location including preliminary work on permitting. Following the conclusion of these tasks, amendments to the professional services agreements will be made to include scope and fee for the remainder of the design work to prepare the project for bidding and construction. Copies of the both professional services agreements are attached.

- **Management recommends that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to waive District Policy 15.2 Purchasing - Professional Services and execute the proposed Preliminary Engineering Services Agreement with Schemmer & Associates for the Elkhorn River Trail Bridge project, with cost not to exceed \$99,208.70, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.**
- **Management recommends that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed Environmental Services Agreement with Jacobs Engineering Group, Inc. for the Elkhorn River Trail Bridge project, with cost not to exceed \$9,548.72, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.**



Legend



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Please contact Douglas County GIS for map questions (gis@douglascounty-ne.gov)

Printed from dogs.org:
04/30/2023 15:00:40

This map is a user generated static output from an Internet mapping site and is for reference only. Data on this map may or may not be accurate, current, or otherwise reliable. It is for informational purposes only, and may not be suitable for legal, engineering, or surveying purposes. Do NOT use property lines from this website for plan submissions.

PRELIMINARY ENGINEERING SERVICES AGREEMENT
BETWEEN
PAPIO-MISSOURI NATURAL RESOURCES DISTRICT, NEBRASKA
AND
THE SCHEMMER ASSOCIATES, INC.

Project No. TAP-28(161)
Control No. 22931
Elkhorn River Bridge Trail
BK2429

| | |
|--------------------------|------------------|
| Task Order Agreement No. | BK2429 |
| Master Agreement No. | BK2280 |
| Effective (NTP) Date | See Sec. 2 |
| Task Order Amount | CPFF \$99,208.70 |

**ON-CALL PROFESSIONAL SERVICES
TASK ORDER AGREEMENT
LPA PROJECTS**

PAPIO-MISSOURI NATURAL RESOURCES DISTRICT
THE SCHEMMER ASSOCIATES, INC.
PROJECT NO. TAP-28(161)
CONTROL NO. 22931
ELKHORN RIVER BRIDGE TRAIL
PRELIMINARY ENGINEERING SERVICES

THIS AGREEMENT, is between the Papio-Missouri Natural Resources District ("LPA") and The Schemmer Associates, Inc. ("Consultant"), and collectively referred to as the "Parties".

WHEREAS, Consultant entered into an On-Call Professional Services Master Agreement, No. BK2280 ("Master Agreement"), with the Nebraska Department of Transportation ("State") wherein Consultant agreed to provide Preliminary Engineering Services for future Federal-aid transportation projects, when selected by LPA or State, and

WHEREAS, LPA desires that this project be developed and constructed under the designation of Project No. TAP-28(161) and

WHEREAS, LPA, or State on LPA's behalf, selected Consultant to provide Preliminary Engineering Services ("Services") for the project Consultant has been selected, and

WHEREAS, the Parties wish to enter into a task order agreement ("Task Order"), to provide for the completion of the Services for the project for which Consultant has been selected, and to specify the duties and obligations for the Parties for the Services described herein, and

WHEREAS, solely for convenience, consistency and in an attempt to obtain federal funding for Consultant services, the Parties intend that this task order agreement ("Task Order") include some of the provisions of the Master Agreement between Consultant and State, and

WHEREAS, Consultant and LPA intend that the Services provided by Consultant comply with all applicable federal-aid transportation project related program requirements so that Consultant's costs under this Task Order will be eligible for federal reimbursement, and

WHEREAS, the LPA and Consultant intend that this Task Order be completed in accordance with the terms and conditions of the Nebraska LPA Guidelines Manual for Federal Aid Projects; hereinafter referred to as LPA Manual. The LPA Manual is a document approved by the Federal Highway Administration (FHWA) that sets out the requirements for local federal-aid projects to be eligible for federal reimbursement; the LPA Manual can be found in its entirety at the following web address: <http://dot.nebraska.gov/media/6319/lpa-guidelines.pdf>, and

WHEREAS, Consultants primary contact for LPA's project is LPA's Responsible Charge when LPA is managing the project, and

WHEREAS, Consultant's primary contact for LPA's project is State's Project Coordinator when State is managing the project on behalf of LPA, and

WHEREAS, Consultant's primary contact for State's project is State's Project Coordinator.

WHEREAS, the Parties understand that State is involved in this federal-aid project on behalf of the FHWA only for issues related to the eligibility of the project for reimbursement of project costs with federal-aid funds.

NOW THEREFORE, in consideration of these facts, Consultant and LPA agree as follows:

SECTION 1. CONTACT INFORMATION

Contact information, for the convenience of the Parties, is as follows:

1.1 Consultant Project Manager

| | |
|--------------------------|--|
| Firm Name | The Schemmer Associates, Inc. |
| Consultant/Vendor Number | 6034 |
| Address | 1044 North 115 th Street, Suite 300, Omaha, NE 68154 |
| Project Manager's Name | Darin Brown |
| Project Manager's Phone | 402-431-6348 |

1.2 State Project Coordinator

| | |
|--------------|--------------|
| Name | Asreen Karim |
| Phone Number | 402-479-3108 |

1.3 LPA PL

| | |
|--------------|---------------|
| Name | Eric Williams |
| Phone Number | 402-315-1704 |

1.4 State Agreements Specialist

| | |
|--------------|---------------|
| Name | Nicole Taylor |
| Phone Number | 402-479-3859 |

SECTION 2. NOTICE TO PROCEED AND COMPLETION SCHEDULE OF THE SERVICES

- 2.1 LPA, or State on LPA's behalf, will issue Consultant a written Notice to Proceed upon 1) complete execution of this Agreement, 2) State's determination on LPA's behalf, that federal funding approval has been obtained for the project and 3) State's concurrence that the form of this Agreement is acceptable for federal funding eligibility.
- Invoiced charges for services performed by Consultant on the project prior to the date specified in the written Notice to Proceed will not be paid by State on LPA's behalf.
- 2.2 In the event that prior to the Effective Date of this Task Order, LPA, State on LPA's behalf, issue Consultant a Notice to Proceed and Consultant began work, State, on LPA's behalf, will pay for such work in accordance with this Task Order and the Parties are bound by this Task Order as if the work had been completed after the Effective Date of this Task Order.
- 2.3 Consultant shall complete all the Services required under this Task Order in a satisfactory manner by August 27, 2026. Costs incurred by Consultant after the completion date will not be eligible for reimbursement unless LPA, or State on LPA's behalf, has provided a written extension of time. Extensions of the time to complete the services must not be construed as an extension to the duration of this Task Order.
- 2.4 The completion date will not be extended because of any avoidable delay attributed to Consultant, but delays not attributable to Consultant, such as delays attributed to LPA or State, may, upon request, constitute a basis for an extension of time.

SECTION 3. DURATION OF THIS TASK ORDER (Matches Project Lifespan)

- 3.1 Effective Date -- This Task Order is effective when executed by the Parties.
- 3.2 Expiration Date -- This Task Order expires when State has (a) completed the project final audit and cost settlement or (b) waived the requirement of a financial audit.
- 3.3 Duration of this Task Order -- This Task Order duration is from the Effective Date to the Expiration Date. This Task Order duration is "specified" under Neb. Rev. Stat. § 73-506 to the period of time necessary for a Consultant to complete the applicable phase or phases of the development of this particular federal, state or locally funded construction project, including when applicable, the time during construction of the project.
- 3.4 Identifying Date -- This Task Order may be identified by the date LPA signed this Task Order.
- 3.5 Termination or Suspension -- LPA, or State on LPA's behalf, reserves the right to terminate or suspend this Task Order at any time for any of the reasons provided herein.

SECTION 4. TASK ORDER SCOPE OF SERVICES

- 4.1 LPA and Consultant understand that the Services provided by Consultant must be completed in accordance with all federal-aid reimbursement requirements and conditions. Consultant shall provide Preliminary Engineering Services for Project TAP- 89(36), Elkhorn River Bridge Trail, in Washington County, Nebraska. The Scope of Services ("Services") is outlined in Exhibit "A", attached and incorporated herein by this reference.
- 4.2 Exhibits "A" and "B" are the result of the following process:
 - 4.2.1 Consultant was provided with a document describing the detailed proposed Scope of Services for this project
 - 4.2.2 Consultant made necessary and appropriate proposed additions, deletions, and revisions to the detailed Scope of Services document
 - 4.2.3 Consultant participated in a review of the proposed Scope of Services, and the proposed revisions, and negotiated the final detailed Scope of Services and Fee Proposal document, as shown in Exhibit "A" and Exhibit "B", attached and incorporated herein by this reference.
- 4.3 LPA, or State on LPA's behalf, reserves the unconditional right to add to, subtract from, or alter the Scope of Services at any time and such action on its part will in no event be deemed a breach of this Agreement. The addition, subtraction, or alteration will become effective seven (7) days after mailing written notice of such addition, subtraction, or alteration.
- 4.4 Any change in the Services will follow the process specified in the *Out-of-Scope Services* section in Exhibit "C", attached and incorporated herein by this reference.
- 4.5 Upon receiving a written notice to proceed from LPA, or State on LPA's behalf, Consultant shall complete the Services required under this Task Order and in accordance with the terms of the Master Agreement.

SECTION 5. STAFFING PLAN (For PE Services, TO)

- 5.1 Consultant has provided LPA and State with a Staffing Plan or Staffing Plans, described in Exhibit "B", attached and incorporated herein by this reference. The Staffing Plan identifies the employees of Consultant, and when applicable subconsultants, who are

anticipated to provide services under this Task Order. Consultant understands that LPA and State are relying on key personnel from the Staffing Plan to be primarily responsible for completing the Services under this Task Order. LPA and State consider the Principals, senior level staff, Project Managers, Team Leaders or other similar classifications, to be the key personnel for the services provided. Consultant and, when applicable subconsultants, may make occasional temporary changes to the key personnel. However, any permanent change to Consultant's or subconsultant's key personnel will require prior written approval from LPA, or State on LPA's behalf.

- 5.2 Personnel who are added to the Staffing Plan as replacements must be persons of comparable training and experience. Personnel added to the Staffing Plan as new personnel and not replacements must be qualified to perform the intended services. Failure on the part of Consultant or subconsultant to provide acceptable replacement personnel or qualified new personnel to keep the services on schedule will be cause for termination of this Task Order, with settlement to be made as set out on Exhibit "C" attached and incorporated herein by this reference.

SECTION 6. NEW EMPLOYEE WORK ELIGIBILITY STATUS (Task Order)

- 6.1 Consultant agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. Consultant agrees to contractually require any subconsultants to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
- 6.2 The undersigned duly authorized representative of Consultant, by signing this Task Order, hereby attests to the truth of the following certifications, and agrees as follows:
- Neb. Rev. Stat. § 4-114. I certify compliance with the provisions of Section 4-114 and, hereby certify that this Consultant shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. I agree to require all Subconsultants, by contractual agreement, to require the same registration and verification process.
- 6.3 If Consultant is an individual or sole proprietorship, the following applies:
- a. Consultant must complete the United States Citizenship Attestation form and attach it to this Task Order. This form is available on the Nebraska Department of Transportation's website at <http://dot.nebraska.gov/media/2802/dr289.pdf>.
 - b. If Consultant indicates on such Attestation form that he or she is a qualified alien, Consultant agrees to provide the US Citizenship and Immigration Services documentation required to verify Consultant lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
 - c. Consultant understands and agrees that lawful presence in the United States is required and Consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

SECTION 7. FEES AND PAYMENTS

- 7.1 Consultant's fee proposal is attached as Exhibit "B" and incorporated herein by this reference.
- 7.2 The maximum payment amounts and general provisions concerning payment under this Task Order are set out on Exhibit "C".

SECTION 8. SUSPENSION OR TERMINATION (Unique)

8.1 Suspension or Termination

LPA, or State on LPA's behalf, has the absolute and exclusive right to suspend the work, or terminate this Task Order at any time and for any reason and such action on its part will in no event be deemed a breach of this Task Order by LPA, or State on LPA's behalf. Without limiting the rights set out in this section, the following is a non-exclusive list of the examples of the circumstances under which this Task Order may be suspended or terminated:

- a. A loss, elimination, decrease, or re-allocation of funds that, in the sole discretion of LPA, or State on LPA's behalf, make it difficult, unlikely or impossible to have sufficient funding for the Services or the project
- b. LPA, or State on LPA's behalf, abandons the Services or the project for any reason
- c. Funding priorities of LPA, or State on LPA's behalf, have changed
- d. LPA, or State on LPA's behalf, determines, in its sole discretion, that the interests of LPA, or State on LPA's behalf, are best protected by suspension or termination of this Task Order
- e. Consultant fails to meet the schedule, milestones, or deadlines established in this Task Order or agreed to in writing by the Parties
- f. Consultant fails to provide acceptable replacement personnel or qualified new personnel as determined by LPA, or State on LPA's behalf
- g. Consultant has not made sufficient progress to assure that the Services are completed in accordance with the schedule in attached Exhibit "A" or in a timely manner
- h. Consultant fails to meet the standard of care applicable to the Services
- i. Consultant fails to meet the performance requirements of this Task Order
- j. Consultant's breach of a provision of this Task Order or failure to meet a condition of this Task Order
- k. Consultant's unlawful, dishonest, or fraudulent conduct in Consultant's professional capacity
- l. Consultant fails to complete the project design in a form that is ready for letting a contract for construction according to the approved contract documents, including, but not limited to, project plans and specifications

8.2 Suspension

- a. Suspension for Convenience. LPA, or State on LPA's behalf, may suspend for convenience by giving Consultant notice of the date of suspension, which date will be no fewer than three (3) business days after notice is given. Such notice will provide the reason(s) for such suspension. Consultant will not be compensated for any Services completed or costs incurred after the date of suspension. Consultant shall provide LPA, or State on LPA's behalf, a detailed summary of the current

status of the Services completed and an invoice of all costs incurred up to and including the date of suspension.

- b. Suspension for Cause. If LPA, or State on LPA's behalf, suspends Consultant's work for cause or for issues related to performance, responsiveness or quality that must be corrected by Consultant, LPA, or State on LPA's behalf, will give Consultant notice of the date of suspension, which date will be no fewer than three (3) business days after notice is given. LPA's notice of suspension, or State's notice of suspension on LPA's behalf, will provide Consultant with the reason(s) for the suspension, a timeframe for Consultant to correct the deficiencies, and when applicable, and a description of the actions that must be taken for LPA, or State on LPA's behalf, to rescind the suspension. Consultant's right to incur any additional costs will be suspended at the end of the day of suspension and will continue until all remedial action is completed to the satisfaction of LPA, or State on LPA's behalf. Failure to correct the deficiencies identified in a suspension will be grounds for termination of this Task Order.

8.3 Termination

If LPA, or State on LPA's behalf, terminates this Task Order, LPA, or State on LPA's behalf, shall give Consultant notice of the date of termination, which shall be no fewer than three (3) business days after notice is given. Notice of termination from LPA, or State on LPA's behalf, shall provide Consultant with a description of the reason(s) for the termination. Notice from LPA, or State on LPA's behalf, must specify when this Task Order will be terminated along with the requirements for completion of the work under this Task Order. Consultant's right to incur any additional costs shall cease at the end of the day of termination or as otherwise provided by LPA, or State on LPA's behalf.

8.4 Compensation upon suspension or termination

If LPA, or State on LPA's behalf, suspends the work or terminates this Task Order, Consultant must be compensated in accordance with the provisions set out in Exhibit "C", provided however, that in the case of suspension or termination for cause or for Consultant's breach of this Task Order, LPA, or State on LPA's behalf, will have the power to suspend payments, pending Consultant's compliance with the provisions of this Task Order. In the event of termination of this Task Order for cause, LPA, or State on LPA's behalf, may make the compensation adjustments set out in Exhibit "C".

SECTION 9. SECTIONS INCORPORATED BY REFERENCE

For the convenience of the parties, for consistency for funding review, and in an effort to reduce the length of this Task Order, the LPA and Consultant agree to be bound by and hereby incorporate by this reference as if fully set forth herein, Sections 11 through 13, and 15 through 28 of Master Agreement BK2282 between State and Consultant, dated December 6, 2022, for On-Call Preliminary Engineering Services for LPA projects, with one recurring change:

The LPA and Consultant agree to meet the requirements of all incorporated provisions and represent that by signing this Task Order, they expressly certify to any required certifications contained in those provisions. Although some of the provisions of the Master Agreement are incorporated herein by reference, it is understood that the State is not a party to this Task Order and shall have no obligations or duties under this Task Order.

SECTION 10. CONSULTANT CERTIFICATIONS

10.1 The undersigned duly authorized representative of Consultant, by signing this Task Order, hereby reaffirms, under penalty of law, to the best of my knowledge and belief, the truth of the certifications set out in SECTION 29. CONSULTANT CERTIFICATIONS of the Master Agreement, with one change:

“LPA, or State on LPA’s behalf” should be substituted in for any reference in that section of the Master Agreement to “State” unless the context would otherwise require.

10.2 Neb. Rev. Stat. § 81-1715(1). I certify compliance with the provisions of Section 81-1715 and, to the extent that this Task Order is a lump sum, specific rates of compensation, or actual cost-plus-a-fixed fee professional services agreement, I hereby certify that wage rates and other factual unit costs supporting the fees in this Task Order are accurate, complete, and current as of the date of this Task Order. I agree that this Task Order price and any additions thereto shall be adjusted to exclude any significant sums by which the LPA determines the agreement price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

SECTION 11. LPA CERTIFICATION

11.1 By signing this Task Order, I do hereby certify that, to the best of my knowledge, Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Task Order to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

11.2 I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this Task Order involving participation of Federal-Aid highway funds and is subject to applicable state and federal laws, both criminal and civil.

SECTION 12. SEVERABILITY

The invalidity or unenforceability of any such clause, provision, section, or part shall not affect the validity or enforceability of the balance of the Agreement, which shall be construed and enforced as if the Agreement did not contain such invalid or unenforceable clause, provision, section or part.

SECTION 13. COMPLETENESS

This Agreement is the complete and exclusive statement of the arrangement between the parties, and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter thereof. It may be amended from time to time in writing by the mutual consent of the Parties hereto.

IN WITNESS WHEREOF, the Parties hereby execute this Task Order pursuant to lawful authority as of the date signed by each party. Further, the Parties, by signing this Task Order, attest and affirm the truth of each and every certification and representation set out herein.

THE SCHEMMER ASSOCIATES, INC.
Stephen D. Kathol, P.E.

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

PAPIO-MISSOURI NATURAL RESOURCES
DISTRICT
John Winkler

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION
Form of Agreement Approved for
Federal Funding Eligibility:
Jodi Gibson

Page 8 of 8
Agreement No. BK2429

EXHIBIT “A”

Scope of Services
For
Scoping Preliminary Engineering Services
Project Name Elkhorn River Bridge
Project No. TAP-28(161)
CN: 22931

Description of Services

This scope of services is for preparing the Local Public Agency (LPA) Project Programming Request, NDOT Form 530, ~~completing form NDOT-76~~, Project Coordination Meeting (PCM) 0, Completing H&H as well as TS&Ls, and developing a scope of services Preliminary Engineering (PE) services.

NDOT Shall Provide:

The LPA and the Nebraska Department of Transportation (NDOT) will provide all available documentation or information needed to develop the SOS as requested by the Consultant.

- Instructions and guidance on the level of detail expected in preparing the “Local Public Agency (LPA) Project Programming Request, NDOT Form 530”.
- A copy of the “The Local Public Agency (LPA) Project Programming Request, NDOT Form 530”.
- ~~A copy of the “Principal Controlling Design Criteria, NDOT Form 76”~~
- A draft copy of the Scope of Services for PE (Word doc).
- A draft copy of the Scope of Services, Workbook for PE (Excel file).
- A copy of the Project Coordination Meeting 0 Document.

The NDOT form 530 prepared by the Consultant and approved by NDOT ~~in addition to the completed NDOT form 76~~ and PCM 0 will be used by the Consultant to develop the current version of the Scope of Services and Workbook for PE design. The SOS will address the needs of the proposed improvements as detailed in the NDOT Form 530 ~~and NDOT Form 76~~. The goal of developing a project specific SOS is to identify the design tasks needed to produce a complete and accurate set of construction documents.

Development of the SOS for PE services is a phased process starting with the site visit. After the site visit the PE Consultant ~~will complete the NDOT Form 76 and~~ will work with the NEPA Consultant in preparing the NDOT Form 530 for review and approval by NDOT. After approval of the NDOT Form 530, NDOT Staff will prepare the Probable Class of NEPA Action NDOT Form 53. The NEPA Consultant will develop the SOS and fee proposal based on the Probable Class of NEPA Action, NDOT Form 53 prepared and approved by NDOT.

APPLICABLE PUBLICATIONS

The Consultant shall follow the criteria of the current applicable publications of the American Association of State Highway and Transportation Officials and design criteria furnished by the State. These publications and others which the Consultant shall use in this work are:

1. AASHTO LRFD Bridge Design Specifications (Ninth Edition)
2. Nebraska Minimum Design Standards, Board of Public Roads Classifications and Standards 2016 (or latest edition).
3. Nebraska Department of Transportation Standard Specifications for Highway Construction, 2017 (or latest edition)
4. Nebraska Department of Transportation Bridge Office Policies and Procedures Manual. (BOPP Manual)
5. NDOT Hydraulic Analysis Guidelines and Hydraulic Forms
(<https://dot.nebraska.gov/media/3452/hydraulic-guidelines.pdf>).
6. NDOT Bridge Office Policies and Procedures Manual (BOPP)
(<https://dot.nebraska.gov/media/2912/bopp-manual.pdf>).
7. Nebraska Minimum Design Standards, Board of Public Roads Classifications and Standards 2008 (or latest edition) (<http://www.transportation.nebraska.gov/gov-aff/pdfs-docs/manuals/proc-class-stan-min-des.pdf>).
8. Nebraska Department of Transportation Standard Specifications for Highway Construction, 2007 (or latest edition) (<http://www.transportation.nebraska.gov/ref-man/specbook-2007.pdf>).
9. Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), Flood Hazard Boundary Maps (FHBM) and Flood Insurance Studies (FIS).
10. Federal-Aid Policy Guide, 23 CFR 650A, Location and Hydraulic Design of Encroachments on Flood Plains.
11. Federal Highway Administration Publication No. FHWA-HIF-12-026, Hydraulic Design Series No. 5, Hydraulic Design of Highway Culverts, Third Edition.
12. Federal Highway Administration Publication No. FHWA-HIF-12-003, Hydraulic Engineering Circular No. 18, Evaluating Scour at Bridges, Fifth Edition.
13. Federal Highway Administration Publication No. FHWA-NHI-10-009, Hydraulic Engineering Circular No. 22, Urban Drainage Design Manual, Third Edition.
14. Federal Highway Administration, Hydraulics Regulations and Non-regulatory supplements (<http://www.fhwa.dot.gov/engineering/hydraulics/policymemos.cfm>).

SOFTWARE AND EQUIPMENT REQUIREMENTS

1. The Consultant's design and drafting software and design files must be compatible with NDOT's design and drafting software. Information on NDOT's design protocol can be found on NDOT's website on the Roadway Design page; <https://dot.nebraska.gov/business-center/design-consultant/>
2. The Consultant's design must be accomplished using the design software OPENROADS but no version later than that in use by NDOT. The consultant's design must follow NDOT's drafting procedures, guidelines, and file naming convention using the appropriate version of OpenRoads. Format CAD software.
3. In many cases, projects will require that a 3D model be generated using Bentley OpenRoads technology.

4. Reports and documents must be submitted in a form compatible with Microsoft Office products unless otherwise directed.
5. The Consultant will provide all software and computer equipment required to complete the work including any analysis software required to perform the bridge design work.
6. The Consultant is required to complete work (CAD/OpenRoads files) within the ProjectWise environment. All project document submittals (non-CAD/OpenRoads) are to be uploaded into OnBase. Modeling files to be located within ProjectWise.

EXPECTATIONS FOR THE DELIVERABLES

1. The consultant shall provide to NDOT acceptable final plans, specifications, and estimates (PS&E) for use in a bid letting and construction of the project. The Consultant shall seal and sign the final plans and applicable deliverables in accordance with the Nebraska Engineers and Architects Regulation Act. Consultant shall also provide to NDOT all applicable supporting documentation and reports as described in the Task Order.
2. Plans and special provisions shall be developed in compliance with the manuals, guidelines and specifications as listed in the Qualifications, Knowledge and Experience.
3. Consultant shall submit to the NDOT roadway design plans at the following stages, when applicable: before the plan-in-hand field inspection, before public meetings, at draft PS&E completion stage, and final PS&E package. Deliverables must be completed and submitted in accordance with the schedule set out in the existing and/or subsequent Task Order, whichever is applicable.
4. Deliverables must be submitted in electronic form as outlined in the Task Order.
5. Submittals will be reviewed and approved by NDOT. Consultant shall address all issues raised by NDOT's review and make all necessary changes to the work.

Consultant Shall Provide:

I. PROJECT MANAGEMENT

This task includes activities to initiate and monitor project schedules, workload assignments and internal cost controls throughout the project. Also included are efforts to prepare and process invoices, prepare monthly progress reports, and prepare project correspondence with NDOT and maintain project records.

It is preliminarily assumed there are two alternatives to assess prior to developing a final PE scope of services.

1. Bridge located close to existing NDOT bridge (Highway 64) but outside NDOT ROW.
2. Bridge located along old Maple St. alignment approximately 500 feet south of Highway 64.

Two bridge types will be evaluated at each location:

- Three span prefabricated steel truss
- Single span suspension

Alternatives locations will be drafted in CAD to help identify potential environmental impacts, USACE permitting impacts, and aid in the H&H modeling studies for all locations.

A memo will be drafted for the three alternatives summarizing the location impacts to existing facilities, ROW impacts, H&H constraints, and construction costs.

II. FIELD INSPECTIONS AND MEETINGS

1. RED FLAG SITE VISIT. Attend site meeting to look at proposed site and discuss potential conditional issues.
2. LPA/NDOT COORDINATION MEETINGS, PCM 0. Fill out and submit all NDOT forms required for the PCM 0 meeting. Virtually attend the PCM 0 meeting.
3. COORDINATION MEETINGS.
 1. Coordination between Schemmer internal bridge staff and hydraulics staff.
 2. Coordinate with environmental consultant
4. HYDRAULICS FIELD INSPECTION. Hydraulic engineer and staff engineer to visit site prior to Red Flag Visit and prior to survey. Engineer to assess situations that may require additional survey or data collection.

III. SURVEY

1. **PRELIMINARY FIELD SURVEY.** The topographic survey will be completed by the design consultant for the project corridor in accordance with current NDOT survey specifications. The design consultant will perform the necessary topographical ground survey including the existing centerline, intersecting streets, and drives, tying the location of land monuments to the existing centerline, cross-sections, and profiles. A topographical survey will be performed using GPS and electronic “Total Station” technology in MicroStation *dgn. format. Copies of field book records and electronic records will be submitted to the RC at the completion of final design. Natural topographic features and man-made features, will be recorded by coordinates to the nearest one-tenth (0.1) of a foot. All such topographic features, which are pertinent to the design or are necessary to properly show the effect of the proposed work upon the adjoining property and/or improvements, will be recorded. The topographical survey will not include an exact and detailed tree count. The consultant will complete a site visit after LOC’s are created noting the size, type, and location of trees to be removed. Station and offset will be noted on the plans. Unless otherwise noted the limits of the survey are to be at least 100 feet on each side of the existing centerline or to corners of structures on tracts and must include enough information to build the proposed typical cross-section and show the limits of construction. The survey limits will extend 500 feet before the start of the project and 500 feet beyond the end of the project. The topographic survey will extend along intersecting streets a minimum distance of 500 feet from roadway centerline.
2. **DIGITAL TERRAIN MODEL.** A Digital Terrain Model will be provided for use in cross-section creation. Natural topographic features and man-made features above ground (including existing adjacent building limits) will be recorded. All above and below ground utilities will be located once Digger’s Hotline marks them. Sanitary and storm sewer manholes will have rim and flow line elevations surveyed.
3. **BASE MAP PREPARATION.** Consultant will create the base maps using the topographic survey data.
4. **HORIZONTAL AND VERTICAL CONTROL.** The design consultant will establish control points along the project corridor at regular intervals and provide control “reference” point ties to topographic features of permanent nature.
 - a) Horizontal control points will be established and referenced to existing section corners. The control points will be permanent in nature and tied to Nebraska State Plane Coordinate system.
 - b) Vertical control points will be established and referenced to USGS NAVD88 datum. There will be a minimum of three permanent benchmarks established with additional temporary benchmarks set along the project corridor at intervals not to exceed 500 feet.
5. **SECTION/PROPERTY CORNERS.** The consultant will locate necessary section corners, quarter section and property corners for use in drafting existing right-of-way and property lines. The Consultant will work with the County Surveyor on any corners not found to be set by the County Surveyor.

6. **EXISTING UTILITIES.** The consultant will call in a One-Call utility locate ticket. Utilities will be shown based on visible, above ground, evident in the field and utility locator's markings. The project liaison will assist in providing utility locations and contact information.

7. **NOTE REDUCTION/PRELIMINARY PLOTTING.** This task will include the effort for gathering data to create the existing topography file to use for preliminary design. Placing station offsets for all topographic items.

IV. PRELIMINARY BRIDGE DATA

1. HYDRAULIC SURVEY

The Consultant shall accomplish the hydraulic survey on the basis of the latest copy of the "NDOT Hydraulic Analysis Guidelines and Hydraulic Forms".

The Consultant shall perform the hydraulic survey at the following locations:

Six hydraulic cross sections at shown in the attached exhibit, which are spaced to be located upstream and downstream of the existing Hwy. 64 bridge and the two proposed bridge locations. Topographic survey will include Elkhorn River bank lines and levee elevations.

2. HYDRAULIC ANALYSIS

The Consultant shall accomplish the Hydraulic Analysis on the basis of the latest copy of the "NDOT Hydraulic Analysis Guidelines and Hydraulic Forms".

The Consultant shall perform the hydraulic analyses at the following locations:

- Alignment of Old Maple St. south of existing Hwy. 64.
- Immediately downstream of existing Hwy. 64.

When responding to comments, the Consultant shall email the itemized response to NDOT.

2.1 Preliminary Coordination and Data Acquisition

- The Consultant will review modeling and data requirements.
- The Consultant will obtain LiDAR, as-built drawings, stream gage data, and USGS Web Soil Survey data.
- This task includes editing and formatting of LiDAR and land use data into smaller datasets for hydraulic model development.
- The Consultant will work to obtain the current regulatory HEC-RAS one dimensional floodplain model.

2.2 Review FEMA Requirements

- Review and coordination for determining permitting requirements. It is anticipated that up to a one-foot rise will be allowed within the FEMA Zone 'AE' floodplain and no-rise will be required in the Floodway locations.

2.3 Hydrology

- Hydrology analysis will be prepared following "NDOT Hydraulic Analysis Guidelines and Hydraulic Forms", at each location.
- All existing and proposed HEC-RAS models will analyze and compare the 2-, 5-, 10-, 25-, 50-, and 100-year recurrence discharges or the recurrence interval discharges obtained in the detailed FEMA flood insurance studies.

2.4 Hydraulic Analysis

- The Consultant will create one (1) existing condition one-dimensional (1D) hydraulic model using HEC-RAS with the objective of establishing a baseline (existing) condition for which to evaluate against the proposed alternatives. The Consultant will update the current regulatory HEC-RAS model using LiDAR and topographic survey to create a corrected effective model.
- The Consultant will create the proposed (post-project) conditions models by modifying the existing conditions model to reflect the proposed or post-project conditions. Four (4) proposed condition model scenarios will be created to evaluate two bridge locations which will evaluate the feasibility of two different bridge configurations (three span prefabricated steel truss or single span suspension bridge).

2.5 Scour Analysis

- The Consultant will perform 100-year and 500-year scour analysis for the preferred proposed bridge alternative utilizing FHWA HEC-18 methodologies.

2.6 Risk Assessment

- The Consultant will complete an assessment of alternates and the risks associated with each alternate to arrive at the most practicable design consistent with the approach defined in the NDOT Bridge Division – Hydraulic Analysis Guidelines.

2.7 Floodplain/Floodway Analysis

- The Consultant will quantify impacts to the water surface elevations between the existing and proposed alternative(s) during the 100-year design discharge.

2.8 Draft Report

- A hydraulic report will be prepared that describes all work completed as part of this study. The focus of the report will describe preliminary design data, field inspection photographs, project information, hydrology, existing and proposed hydraulics, scour analysis and recommendations for the proposed construction. This task includes addressing two rounds of NDOT comments.

2.9 Final Report

- Review comments will be incorporated into Final H&H Report. When responding to comments, the Consultant shall email the itemized response to NDOT.

3. BRIDGE DESIGN DATA SHEETS AND BRIDGE TYPE, SIZE AND LOCATION PLANS (TS&L) FOR HYDRAULIC STRUCTURES

The Consultant shall prepare a Bridge Design Data Sheet and Type, Size, and Location plans (TS&L) ~~for concrete and steel superstructure alternates (if applicable)~~ for the structures listed below (Preferred Alternative based on Hydraulic Analysis and Permitting):

_____Elkhorn River Trail Bridge_____

The Consultant shall prepare a general description/layout of the proposed bridges on each TS&L plan. This information shall include, but is not necessarily limited to the following:

- 1) Sectional Elevation View of Bridge
 - a. Span arrangement
 - b. Locations of substructure elements
 - c. Existing and/or design profiles of ground, roadways, railroads, etc. below and adjacent to bridge (where applicable).
 - d. Low girder/slab elevations
 - e. Grade elevations of bridge and other critical elevations
 - f. Top of pier footing elevations
 - g. Bottom of sheet pile or abutment wall elevation
 - h. Bottom of pile bent encasement elevation
 - i. H.W. Elevation (Q100)
- 2) General Plan View of Bridge
 - a. Span arrangement
 - b. Locations of substructure elements
 - c. Location of existing bridge

- 3) Typical Cross Section of Bridge Roadway/Superstructure
 - a. Girder type designation
 - b. Girder spacing
 - c. Clear roadway width of bridge
 - d. Phasing (if any)

Show all hydraulic information as shown in the hydraulic data sheet. Also, show elevation and plan view of riprap layout, channel shaping and channel transition back to the natural channel, to scale. Show ordinary high water (OHW) elevation. Existing Profiles, New Grade Profile Sketch, Structure Location Note The title block along the right side of the sheet shall include the information specified in Section 2.1.3 of the Bridge Office Policies and Procedures Manual. The Bridge Design Data Sheet shall be done in accordance with the Bridge Office Policies and Procedures Manual. The Consultant retains electronic TS&L plot data for reproduction if necessary.

~~PRELIMINARY ROADWAY DESIGN DATA- PRELIMINARY TRAIL DESIGN DATA~~

- ~~1. **Complete Form NDOT-76.** Roadway Design – Principal Controlling Design Criteria. After Form NDOT-76 has been completed send a copy to the NDOT Local Projects Project Coordinator with a request of any design exceptions or relaxations that may be needed.~~
- 2. Trail Design – Principal Controlling Design Criteria.**
- 3. Data Collection and Review.** For gathering, reviewing, and organizing data for the project. Determining design criteria will also be included with this task.

DEVELOPMENT OF SCOPE OF SERVICES FOR PRELIMINARY ENGINEERING

1. Prepare NDOT Form 530.
2. Develop the Scope of services and corresponding workbook for PE
3. Develop a schedule of professional services from Notice to Proceed to PS&E turn in of the project

Special instructions:

Initially task in the scope of services (Word document) that do not apply to this project are to be stricken through and later deleted after review and approval by the PC. Task in the workbook (Excel file) that do not apply to this project will not show any hours and will later be hidden after the review and approval by the PC. Tasks are to be hidden rather than to be deleted as to not corrupt the Excel file.

The NDOT Project Coordinator (PC) will schedule a site visit with the Design and National Environmental Policy Act (NEPA) Consultant along with a representative from the following to identify site conditions which may need to be addressed during the design and the NEPA phase of the project:

NDOT, LPA, Unit Head.
NDOT, LPA, PC/RC.
NDOT, LPA, Right of Way Coordinator.
NDOT, Bridge Division Representative.
NDOT, Environmental Coordinator
NDOT, Section 106 Cultural Resource Coordinator
NDOT District, Environmental Super Team Member
NDOT District, Design Super Team Member
LPA, Project Liaison (PL)
PE, Consultant
NEPA, Consultant
Representatives from known utilities, Public and Private.

Schedule:

Notice to Proceed (NTP) with developing scope of PE services.

Attend Site Visit.

Submit LPA, Project Programming Request Form 530 and ~~Principal Controlling Design Criteria Form 76 to NDOT~~ for approval.

NDOT Approves Project Programming Request Form 530

PE Consultant prepares SOS and Workbook upon receipt of approved NDOT Form 530.

NTP with PE services.

NDOT Approves Probable Class of NEPA Action NDOT Form 53.

NEPA Consultant prepares SOS and Workbook upon receipt of approved NDOT Form 53.

NTP with NEPA services.

Upon completion of NDOT and LPA review as well as the PCM 0 the NDOT Project Coordinator will issue Notice to Proceed with development of the Bridge TS&L.

Staffing Plan (CPFF)

Preliminary & Final Design

Project Name:

Elkhorn River Trail Bridge

Consultant:

The Schemmer Associates, Inc.

Consultant PM:

Darin Brown, 402-431-6348, dbrown@schemmer.com

LPA RC:

Eric Williams, 402-315-1704, ewilliams@papionrd.org

NDOT PC:

Asreen Karim, Asreen.Karim@nebraska.gov

Date:

January 24, 2024

Project Number:

TAP-28(161)

Control Number:

22931

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION

| # | Code | Classification | # | Code | Classification |
|---|------|-------------------------|----|------|--------------------------|
| 1 | PR | Principal | 6 | ENV | Environmental Scientist |
| 2 | PM | Project Manager | 7 | RLS | Registered Land Surveyor |
| 3 | SENG | Sr. Engineer | 8 | SPC | Survey Party Chief |
| 4 | ENG | Engineer | 9 | SUR | Surveyor I |
| 5 | SDES | Sr. Designer/Technician | 10 | ADM | Administrative |

| Overhead Rate ^[1] |
|------------------------------------|
| 177.10% |
| Fee for Profit Rate ^[2] |
| 12.20% |
| FCCM (if applicable) |
| 0.30% |

BLENDING RATES TABLE

Template: T-WB-B-2 LPA PE (rev 10-23-2019) CPFF

| Employee Name | Job Title & Certifications ^[3] | Current Actual Salary Rate/Hr ^[4] | % Assigned |
|---------------------------------|---|--|------------|
| Principal | | | |
| Doug Holle, PE | EVP, Principal | \$88.00 | 100% |
| | | | |
| Blended Rate: | | \$88.00 | |
| Project Manager | | | |
| Darin Brown, PE | Project Manager | \$65.69 | 100% |
| | | | |
| Blended Rate: | | \$65.69 | |
| Sr. Engineer | | | |
| Matt Rasmussen, PE | Structural Engineer | \$59.21 | 30% |
| Tyler Lerdahl, PE | Trail Designer Engineer | \$57.81 | 30% |
| Alex Roth, PE | Hydraulic Engineer | \$57.81 | 40% |
| | | | |
| Blended Rate: | | \$58.23 | |
| Engineer | | | |
| Ian Plummer, PE | Bridge Engineer | \$43.26 | 50% |
| Brian Goodbarn | Transportation Engineer | \$33.54 | 10% |
| Justin Hagerman | Transportation Engineer | \$39.00 | 40% |
| | | | |
| Blended Rate: | | \$40.58 | |
| Sr. Designer/Technician | | | |
| Gavin Acker | CADD Tech | \$26.40 | 30% |
| Megan Starnier | Transportation Designer | \$30.17 | 40% |
| Nessida Belemkoabga | Transportation Designer | \$39.66 | 30% |
| | | | |
| Blended Rate: | | \$31.89 | |
| Environmental Scientist | | | |
| | | | |
| | | | |
| | | | |
| Blended Rate: | | | |
| Registered Land Surveyor | | | |
| Tony Bruckner, RLS | Survey Manager | \$48.33 | 100% |
| | | | |
| | | | |
| Blended Rate: | | \$48.33 | |
| Survey Party Chief | | | |
| Noah Chigas | | \$37.56 | 100% |
| | | | |
| Blended Rate: | | \$37.56 | |
| Surveyor I | | | |
| Andrew Potter | | \$31.66 | 50% |
| Cody Lathlam | | \$30.21 | 50% |
| | | | |
| Blended Rate: | | \$30.94 | |
| Administrative | | | |
| | | | |
| | | | |
| | | | |
| Blended Rate: | | | |

Consultant's Estimate of Hours

Preliminary & Final Design

Project Name: Elkhorn River Trail Bridge

Consultant: The Schemmer Associates, Inc.

Consultant PM: Darin Brown, 402-431-6348, dbrown@schemmer.com

NDOT PC: Asreen Karim, Asreen.Karim@nebraska.gov

Date: January 24, 2024

Project Number: TAP-28(161)

Control Number: 22931

| TASKS | PERSONNEL CLASSIFICATIONS | | | | | | | | | | |
|---|---------------------------|------|------|------|------|-----|-----|------|-----|-----|-------|
| | PR | PM | SENG | ENG | SDES | ENV | RLS | SPC | SUR | ADM | Total |
| I. Project Management | 1 | 20 | 8 | | | | | | | | 29 |
| 1. Project Management | 1 | 4 | | | | | | | | | 5 |
| 2. Project Description / Purpose and Need / Project Details | | 2 | | | | | | | | | 2 |
| 3. Quality Assurance / Quality Control | | 4 | 2 | | | | | | | | 6 |
| 4. Prepare NDOT 530 | | 2 | | | | | | | | | 2 |
| 4. Prepare Scope of Services and corresponding fee | | 8 | 6 | | | | | | | | 14 |
| | | | | | | | | | | | |
| II. Meetings | | 6 | 11 | 7 | | | | | | | 24 |
| 1. Red Flag Site Visit | | 2 | 4 | 2 | | | | | | | 8 |
| 2. LPA/NDOT Coordination Meetings, PCM 0 | | 2 | 2 | | | | | | | | 4 |
| 3. Internal Coordination Meetings | | 2 | 2 | 2 | | | | | | | 6 |
| 4. Hydraulics Field Inspection | | | 3 | 3 | | | | | | | 6 |
| III. Survey | | 3 | 20 | | 6 | | 59 | 43 | 43 | | 174 |
| 1. Preliminary Field Survey | | 2 | 2 | | | | 2 | 20 | 20 | | 46 |
| 2. Digital Terrain Model | | | 8 | | | | 30 | | | | 38 |
| 3. Base Map Preparation | | | 6 | | | | 15 | | | | 21 |
| 4. Horizontal and Vertical Control | | | 2 | | | | | 3 | 3 | | 8 |
| 5. Section / Property Corners | | | | | | | 12 | 16 | 16 | | 44 |
| 6. Existing Utilities | | 1 | | | | | | 4 | 4 | | 9 |
| 7. Note Reduction/Preliminary Plotting | | | 2 | | 6 | | | | | | 8 |
| IV. Preliminary Bridge Data | | 4 | 111 | 264 | 45 | | 1 | 20 | 20 | | 465 |
| 1. Hydraulic Survey | | | 4 | | | | 1 | 20 | 20 | | 45 |
| 2.1. Preliminary Coordination and Data Acquisition | | | 8 | 16 | | | | | | | 24 |
| 2.2. Review FEMA Requirements | | | 4 | 4 | | | | | | | 8 |
| 2.3. Hydrology | | | 2 | 12 | | | | | | | 14 |
| 2.4. Hydraulic Analysis | | | 60 | 168 | | | | | | | 228 |
| 2.5. Scour Analysis | | | 2 | 8 | | | | | | | 10 |
| 2.6. Risk Assessment | | | 2 | 4 | | | | | | | 6 |
| 2.7. Floodplain/Floodway Analysis | | | 1 | 8 | | | | | | | 9 |
| 2.8. Draft Report | | 2 | 8 | 25 | | | | | | | 35 |
| 2.9. Final Report | | | 2 | 4 | | | | | | | 6 |
| 3.0. Bridge Design Data Sheet and TS&L | | 2 | 18 | 15 | 45 | | | | | | 80 |
| V. Preliminary Trail Design Data | | | 9 | 10 | 2 | | | | | | 21 |
| 1. Principal Design Criteria | | | 4 | | | | | | | | 4 |
| 2. Data Collection and Review | | | 5 | 10 | 2 | | | | | | 17 |
| | | | | | | | | | | | |
| Total Days | 0.13 | 4.13 | 19.9 | 35.1 | 6.63 | | 7.5 | 7.88 | 7.9 | | 89 |
| Total Hours | 1 | 33 | 159 | 281 | 53 | | 60 | 63 | 63 | | 713.0 |

Direct Expenses

Preliminary & Final Design

Project Name:

Elkhorn River Trail Bridge

Project Number:

TAP-28(161)

Consultant:

The Schemmer Associates, Inc.

Control Number:

22931

Date:

January 24, 2024

| Subconsultants: | | | Amount |
|--|-----|-----------|----------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Subtotal | | | |
| Printing and Reproduction: | Qty | Unit Cost | Amount |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Subtotal | | | |
| Mileage/Travel: | Qty | Unit Cost | Amount |
| Mileage/Travel: Design Staff | 100 | \$0.670 | \$67.00 |
| Survey Staff | 160 | \$0.670 | \$107.20 |
| | | | |
| | | | |
| | | | |
| Subtotal | | | \$174.20 |
| Lodging/Meals: | Qty | Unit Cost | Amount |
| Motel - Standard Rate \$96+tax | | \$113.00 | |
| Motel - Omaha/Douglas Co. \$110+tax | | \$126.00 | |
| Meals & Incidentals (GSA Standard Rate, full days) | | \$55.00 | |
| Meals & Incidentals (GSA Standard Rate, first and last days) | | \$41.25 | |
| Meals & Incidentals (GSA Std Rate, full days, Omaha/Douglas Co.) | | \$61.00 | |
| | | | |
| Subtotal | | | |
| Other Miscellaneous Costs: | Qty | Unit Cost | Amount |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Subtotal | | | |
| TOTAL DIRECT EXPENSES | | | \$174.20 |

Notes & Assumptions

Preliminary & Final Design

| | |
|----------------------|-------------------------------|
| Project Name: | Elkhorn River Trail Bridge |
| Consultant: | The Schemmer Associates, Inc. |
| Date: | January 24, 2024 |

Project Number: TAP-28(161)
Control Number: 22931

Notes & Assumptions

Project Cost & Breakdown

Preliminary & Final Design

Project Name:

Elkhorn River Trail Bridge

Consultant:

The Schemmer Associates, Inc.

Consultant PM:

Darin Brown, 402-431-6348, dbrown@schemmer.com

NDOT PC:

Asreen Karim, Asreen.Karim@nebraska.gov

Date:

January 24, 2024

Project Number:

TAP-28(161)

Control Number:

22931

| DIRECT LABOR COSTS | | | |
|--------------------------|-------|----------|-------------|
| Classification | Hours | Rate | Amount |
| Principal | 1 | \$88.00 | \$88.00 |
| Project Manager | 33 | \$65.69 | \$2,167.77 |
| Sr. Engineer | 159 | \$58.23 | \$9,258.57 |
| Engineer | 281 | \$40.58 | \$11,402.98 |
| Sr. Designer/Technician | 53 | \$31.89 | \$1,690.17 |
| Environmental Scientist | | | |
| Registered Land Surveyor | 60 | \$48.33 | \$2,899.80 |
| Survey Party Chief | 63 | \$37.56 | \$2,366.28 |
| Surveyor I | 63 | \$30.94 | \$1,949.22 |
| Administrative | | | |
| 713 | | Subtotal | \$31,822.79 |

| DIRECT EXPENSES | Amount |
|----------------------------|----------|
| Subconsultants: | |
| Printing And Reproduction: | |
| Mileage/Travel: | \$174.20 |
| Lodging/Meals: | |
| Other Miscellaneous Costs: | |
| Subtotal | \$174.20 |

| TOTAL PROJECT COSTS | Amount |
|--|-------------|
| Direct Labor Costs | \$31,822.79 |
| Labor Cost Escalation Factor for Multi-year Projects (if allowed): Y 1.0 years @ 3.0% / year = | |
| Overhead @ 177.10% | \$56,358.16 |
| Facility Capital Cost of Money (FCCM) @ 0.300% (labor costs x FCCM%) | \$95.47 |
| Direct Expenses | \$174.20 |
| Fee for Profit Rate @ 12.20% | \$10,758.08 |
| TOTAL COST | \$99,208.70 |

1. PAYMENT METHOD

Payments under this Agreement will be made based on a Cost-Plus-Fixed-Fee for Profit (CPFF) payment method. Consultant will be paid for acceptable actual services performed in accordance with Section 4. ALLOWABLE COSTS, plus a fixed fee for profit in accordance with Section 6. FIXED FEE FOR PROFIT.

2. MAXIMUM AGREEMENT AMOUNTS

The following are the maximum payment amounts established under this Agreement for each category of cost. Consultant shall not be paid for any cost that exceeds these amounts without prior written approval from LPA, or State on LPA's behalf. The "indirect costs and direct expenses" category may be adjusted to exceed the amount listed below; however, any adjustment will not increase the total agreement amount.

| AMOUNT | CATEGORY |
|---------------------|--|
| \$ 31,822.79 | for actual direct labor costs |
| \$ 56,627.83 | for indirect costs and direct expenses |
| <u>\$ 10,758.08</u> | for a fixed fee for profit |
| \$ 99,208.70 | total agreement amount |

3. SUBCONSULTANT OVER-RUNS AND UNDER-RUNS

Over-run: Consultant shall require all subconsultants to notify Consultant any time it has been determined that a subconsultant's costs will exceed its fee estimate (over-run). Consultant must provide an acceptable justification for the over-run and obtain LPA, or State on LPA's behalf, prior written approval before incurring any cost over-run expenses. If approved by LPA, or State on LPA's behalf, a supplemental agreement will be prepared to either shift funds from Consultant to its subconsultant(s) or increase the contract maximum. Contract increases will be considered when additional scope of services are required.

Under-run: If the amount of any subconsultant's cost is less than its fee estimate (under-run), Consultant understands that the amount of the under-run will be subtracted from the total compensation to be paid to Consultant under this Agreement, unless LPA, or State on LPA's behalf, gives prior written approval and, if necessary, approval from Federal Highway Administration (FHWA). If Consultant wishes to shift the balance of subconsultant's fee to Consultant, justification must be provided to LPA and State. Shifting of funds may be approved by LPA, or State on LPA's behalf, with no increase to the fixed fee for profit unless additional scope of services is required by Consultant, and additional fee is necessary to complete the work under this Agreement.

4. ALLOWABLE COSTS

Allowable costs are direct labor costs, indirect costs, and direct non-labor costs as defined below which Consultant has incurred within 180 days before State has received Consultant's invoice. Costs that Consultant incurred to correct mistakes or errors attributable to Consultant's or Subconsultant's own actions are not allowable costs, even if those costs would not exceed the amounts listed in Section 2. MAXIMUM AGREEMENT AMOUNTS.

A. Direct Labor Costs are the costs Consultant pays its employees for the time they are working directly on the project and are calculated by multiplying the hourly rate of pay by the hours worked (in increments not less than one quarter hour).

1) Hourly Rates: For hourly employees, the hourly earnings rate shall be the employee's regular hourly pay rate during regular (40) hours of work per pay week. If

overtime hours are worked on this project, State will only pay for employee's regular hourly pay rate. State will not pay the premium pay portion of the overtime hours. For salaried employees, the hourly earnings rate shall be the employee's actual hourly rate as recorded in the Consultant's accounting books of record, multiplied by the hours worked.

The Staffing Plan must identify by name all employees of the Consultant who are reasonably expected to provide Services under this Agreement. Reference Staffing Plan Section of this Agreement regarding changes in personnel.

- 2) **Time Reports:** All hours charged to the project must be documented on time distribution records. The records must clearly indicate the daily number of hours each employee worked on any project or activities for the entire pay period. **Time reports must provide the employee's name and position, dates of service, and a clear, identifying link to the projects, such as project description, project number, control number, and pertinent work phase.** Consultant must establish an adequate system of internal controls to ensure that time charged to projects are accurate and have appropriate supervisory approval.

- B. **Indirect Costs (Overhead and FCCM)** are the indirect labor costs, indirect non-labor costs, and direct labor additives that are allowable in accordance with Federal Acquisition Regulations [48 CFR 31 \(Contract Cost Principles and Procedures\)](#). Indirect costs are to be allocated to the project as a percentage of direct labor costs. The Consultant will be allowed to charge the project using its actual allowable Indirect Cost Rates (ICR); or if the ICR is unknown or unavailable, Consultant will be allowed to use the most recent provisional ICR approved by State. Changes in the ICR that occur during the project period will not be cause for a change in the total agreement amount established in Section 2. MAXIMUM AGREEMENT AMOUNTS.

- C. **Direct Non-Labor Costs (Direct Expenses)** are all necessary, properly documented, and allowable costs related to the Consultant completing the Services. All costs must be supported by detailed receipts or invoices, unless otherwise specified below. Direct non-labor costs include, but are not limited to, the following:

Transportation, mileage, lodging, and meals, subject to limitations specified below; Communication costs; Reproduction and printing costs; Special equipment and materials required for the project and approved by LPA, or State on LPA's behalf ; Special insurance premiums if required solely for this Agreement; Subconsultant costs; Such other allowable items as approved by LPA, or State on LPA's behalf.

- 1) A non-labor cost charged as a direct cost cannot be included in Consultant's overhead rate. If, for reasons of practicality, Consultant does treat a direct non-labor cost category in its entirety as an overhead cost, then such costs are not eligible to be additionally billed as a direct expense to this project.
- 2) Costs for subconsultants may not exceed the amounts shown on the attached Consultant's Fee Proposal for each subconsultant unless agreed upon in writing by the Consultant and LPA, or State on LPA's behalf. Consultant shall require subconsultant costs to have the same level of documentation as required of Consultant. Consultant must review subconsultants' invoices and progress reports to ensure they are accurate, include only allowable costs, and have proper documentation before sending to State.

- 3) The following direct non-labor costs (direct expenses) will be reimbursed at actual costs, not to exceed the rates as shown below.
- (a) TRANSPORTATION – Automobile rentals, air fares, and taxi/shuttle transportation will be reimbursed at the actual, reasonable cost and, if discounts are applicable, the Consultant shall give LPA and State the benefit of all discounts. Itemized receipts must be submitted with invoices. A bank card receipt that displays only the total cost of the transportation expense is not sufficient documentation. Tips must be included in the total fare amount claimed on the travel log form. Tips for complimentary transportation are considered an incidental expense and cannot be claimed as a transportation-related expense.
 - (b) MILEAGE – The reimbursement for mileage associated with the use of company owned vehicles will be the prevailing standard rate as established by the Internal Revenue Service (IRS) through its Revenue Procedures. Reimbursement for mileage associated with the use of a privately-owned vehicle (POV), is limited to the lesser of:
 - (i) The mileage rate that the Consultant reimbursed to the person who submitted the claim for POV use; or
 - (ii) The prevailing standard rate as established by the IRS.
- NOTE: When Consultant is seeking only reimbursement for mileage, Consultant must itemize travel on State's Travel Log, itemize on invoice, or include a separate mileage log which includes the following information: employee name, vehicle identification, date of travel and miles driven, reimbursement rate and total expenses. The total expenses are to be shown on the invoice as a direct expense. State's Travel log form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>.
- (c) LODGING – The reimbursement for lodging rates will be limited to the prevailing standard rate as indicated on the U.S. General Services Administration's (GSA) website at <http://www.gsa.gov/portal/category/100120>. Consultant shall give LPA and State the benefit of all lodging discounts. Lodging receipts must be submitted with invoices.
- 4) Meal and incidental (M&I) expenses will be reimbursed on a per diem basis, not to exceed the rates as shown below. The incidental expenses portion of the per diem rate includes, but is not limited to, courtesy transportation related tips, such as hotel, park and ride, or airport shuttles; and fees and tips to porters, hotel employees, baggage carriers, and flight attendants. No receipts are required for M&I expenses.
- (a) The State per diem rate for the destination of travel is 70% of the applicable Federal GSA per diem rate. The State per diem breakdown amounts for breakfast, lunch, dinner, and incidental expenses are 70% of the Federal GSA per diem breakdown amounts.
 - (b) The State per diem rate shall be reduced by the State meal breakdown amount(s) for any meal provided by others. Examples include:

- (i) Meals included in a conference or event fee
 - (ii) Meals provided by lodging facility
 - (iii) Meals purchased by 3rd Party
 - (iv) Meals charged directly to and paid for by the State
- (c) MULTI-DAY TRAVEL – Travel that includes at least one overnight stay.
- (i) M&I reimbursement on the first and last day of travel will be reduced to 75% of the State per diem rate.
 - (ii) Except for a meal provided by others (see paragraph 4)(b) above), all meals may be claimed on the first and last day of travel irrespective of the start and stop times for those days.
- (d) SAME DAY TRAVEL – Travel that does not include an overnight stay.
- (i) Employee shall not claim reimbursement for a meal that was purchased within 20 miles of the city or town of the employee's residence or primary work location.
 - (ii) M&I reimbursement for same day travel will be reduced to 75% of the State per diem breakdown amounts.
 - (iii) The following criteria must be met for Consultant and its employees to be eligible for the M&I reimbursement on same day travel.
 - (1) Breakfast - Employee leaves for same day travel at or before 6:30 a.m. or 1-1/2 hours before the employee's shift begins, whichever is earlier, the breakfast rate may be claimed.
 - (2) Lunch – No reimbursement is allowed.
 - (3) Dinner/Supper – Employee returns from same day travel or work location at or after 7:00 p.m., or 2 hours after the employee's shift ends, whichever is later, the evening meal rate may be claimed.
 - (4) Incidental Expenses – No reimbursement is allowed unless the employee is also approved for breakfast or dinner meal expenses.
 - (5) The time limitations set forth above do not include the time taken for the meal.
 - (iv) EXCEPTION to same-day travel meal reimbursement for Construction Engineering (CE) Services Agreements – For CE Services Agreements, Consultant will not be eligible for reimbursement for meals related to same-day travel.
- 5) EXTENDED STAY/LONG TERM TRAVEL
- No extended stay arrangements, such as apartments or weekly/monthly meal reimbursement rates, have been approved.

5. INELIGIBLE COSTS

State will not pay for costs incurred prior to the Notice to Proceed date or after the completion deadline date set out in the NOTICE TO PROCEED AND COMPLETION SCHEDULE Section of this Agreement, unless approved in writing by LPA, or State on LPA's behalf. **Per Section 4. ALLOWABLE COSTS, State will not pay for costs incurred, but not submitted to State within 180 days of the date incurred. Travel costs are deemed to have been incurred on the day the travel occurs. Subconsultant costs are deemed to have been incurred on the day the Subconsultant actually incurs the cost, not the day the subconsultant invoices the cost to the Consultant.**

6. FIXED FEE FOR PROFIT

- A. The fixed fee for profit amount payable to Consultant is identified in Section 2. MAXIMUM AGREEMENT AMOUNTS. For each invoicing period, the Consultant may invoice State a portion of the fixed fee for profit equal to the sum of the actual direct labor costs and overhead (Indirect Costs, excluding FCCM if applicable) for the period, multiplied by the profit rate of 12.20%. Upon completion of the services outlined in this Agreement, the Consultant may invoice State any remaining fixed fee for profit not previously invoiced. If all of the services under this Agreement are not completed for any reason, LPA, or State on LPA's behalf may decrease the amount of fixed fee for profit based on LPA's and State's determination of the actual percentage of services completed.
- B. Subconsultants fixed fee for profit (if applicable): Consultant must apply the above provisions regarding fixed fee for profit to all Subconsultant contracts that utilize the cost-plus-fixed-fee (CPFF) payment method. If all of the services allocated to Subconsultant(s) under this agreement are not completed for any reason, the fixed fee for profit paid to Subconsultant(s) must be reduced based on the LPA's and State's determination, or Consultant's determination with LPA's and State's concurrence, of the actual percentage of services completed by the Subconsultant.

7. INVOICES AND PROGRESS REPORTS

- A. Consultant shall promptly submit invoices to State based on Consultant's billing period but shall not submit more than one invoice per month. Invoices must include all allowable costs, and when applicable, the associated Fee for Profit, for services provided during the billing period. Invoices may also include a request for services provided or costs incurred during a prior billing period, including subconsultant costs, with an explanation for why those costs were not previously included in an invoice, so long as those costs were incurred no more than 180 days prior to State's receipt of the invoice. Accordingly, State retains the sole discretion to not pay for costs incurred that have not been invoiced as provided above.
- B. In the event Consultant has incurred otherwise allowable costs, and such costs would exceed the maximum direct labor costs or total agreement amount listed in Section 2. MAXIMUM AGREEMENT AMOUNTS, Consultant shall list such costs on the invoice, but they must be subtracted from the total invoice amount submitted to State for payment.
- C. Content of Invoice Package (Presented in this order)
 - 1) Consultant's Invoice:
 - (a) The first page of an invoice must identify the company's name and address, invoice number, invoice date, invoicing period (beginning and ending dates of services), and agreement or task order number.
 - (b) The invoice and, when applicable, accompanying supporting documentation must identify each employee by name and classification, the hours worked, and the actual labor cost for each employee.
 - (c) Direct non-labor expenses:

- (i) Direct non-labor expenses, other than travel-related expenses, must be itemized and provide a complete description of each item billed along with supporting receipts or invoices.
- (ii) Travel-related expenses must be summarized and submitted on NDOT Form 163 (see paragraph 7.C.4) below). Supporting receipts (excluding meal receipts) must be submitted with NDOT Form 163 when invoicing for these expenses.
- (iii) All supporting receipts must be kept as required in Section 18.

CONSULTANT COST RECORD RETENTION.

- (d) Time Records, as outlined in paragraph 4.A.2).
 - (e) Subconsultant Services: Consultant shall require subconsultants to provide the same supporting documentation, invoices, and receipts as Consultant is required to submit and retain.
- 2) **Progress Report:** A Progress Report must accompany the invoice package documenting Consultant's work during the service period. If an invoice is not submitted monthly, then a Progress Report must be submitted at least quarterly via email to LPA and State's Project Coordinator. All Progress Reports must include, but are not limited to, the following:
- (a) A description of the Services completed for the service period to substantiate the invoiced amount.
 - (b) A description of the Services anticipated for the next service period
 - (c) A list of information Consultant needs from LPA, or State on LPA's behalf
 - (d) Percent of Services completed to date
- NOTE: LPA or State's Project Coordinator may request more specific information or detail be included in Progress Reports.
- 3) **Cost Breakdown Form:** Each invoice package must include a current and completed "Cost Breakdown Form" (NDOT Form 162). This form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. Utilizing the Cost Breakdown Form helps reduce errors in calculating previously billed amounts and limitations on eligible costs billed.
- 4) **Travel Log:** If an invoice contains any travel-related expenses, then a current and completed "Invoice Travel Log" (NDOT Form 163) must be included with the invoice package. This form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. Upon pre-approval by State, Consultant may use a substitute Invoice Travel Log provided it documents substantially the same information as the current NDOT Form 163. The Travel Log must document the employee's name, vehicle identification (if applicable), date/time of departure to the project, date/time of return to the headquarters town, locations traveled, and expenses for transportation, meals, and lodging.
- 5) **Mileage Log** (when applicable): When Consultant is seeking reimbursement for mileage only, Consultant must itemize travel on State's Travel Log, itemize on invoice, or include a separate mileage log which includes the following: employee name, vehicle identification, date of travel and miles driven, reimbursement rate and total expenses. The total expenses are to be shown on the invoice as a direct expense.

- D. All invoice packages (invoice, progress report, required NDOT Forms, supporting material) must be submitted electronically through State's OnBase Invoice Workflow System for review, approval, and payment. The user guide for the OnBase Invoice Workflow system, along with training videos can be found at <http://dot.nebraska.gov/business-center/consultant/onbase-help/>.
- E. Notice of Public Record: Documents submitted to State and LPA, including invoices, supporting documentation, and other information are subject to disclosure by State and LPA pursuant to the Nebraska Public Records Act found at Neb. Rev. Stat. § 84-712 et.seq. ACCORDINGLY, CONSULTANT SHALL REDACT OR NOT SUBMIT TO STATE AND LPA INFORMATION THAT IS CONFIDENTIAL, INCLUDING, BUT NOT LIMITED TO, FINANCIAL INFORMATION SUCH AS SOCIAL SECURITY NUMBERS, TAX ID NUMBERS, OR BANK ACCOUNT NUMBERS. Consultant understands that State and LPA do not have sufficient resources to review and redact confidential information submitted by Consultant. If such confidential information is submitted, Consultant shall have no right of action of any kind against State or LPA for the disclosure of such information.

8. PAYMENTS

State, on LPA's behalf, will pay Consultant after receipt of Consultant's invoice and determination by LPA, or State on LPA's behalf, that the invoice and progress report adequately substantiate the Services provided, and the Services were completed in accordance with this Agreement. Payments will not be made if the progress report does not provide adequate substantiation for the Services, or LPA or State determines that the Services have not been properly completed. State, on LPA's behalf, will make a reasonable effort to pay Consultant within 30 days of receipt of Consultant's invoices.

9. PROMPT PAYMENT CLAUSE

Consultant shall include a "Prompt Payment Clause" as a part of every subcontract for work, including all lower tier subcontracts. The "Prompt Payment Clause" will require progress payments to all subconsultants for all work completed, within twenty (20) calendar days after receipt of progress payments from the State for said work. If Consultant fails to carry out the requirements of the "Prompt Payment Clause" without just cause, it will be considered a material breach of this Agreement. In such situation, State may withhold any payment due to Consultant until all delinquent payments have been made (no interest will be paid for the period that payment was withheld), terminate this Agreement, or any other such remedy as State deems appropriate. Consultant may withhold payment to a subcontractor only for just cause and must notify the State in writing of its intent to withhold payment before actually withholding payment. Consultant shall not withhold, delay, or postpone payment without first receiving written approval from the State.

10. SUSPENSION OF PAYMENTS

When work is suspended on this project, payments shall be suspended until the work resumes or this Agreement is terminated. Consultant shall not be compensated for any work completed or costs incurred on the project after the date of suspension. When work is suspended for convenience, Consultant shall be compensated for work completed, or costs incurred prior to the date of suspension. When work is suspended for cause, payments shall be withheld until

all remedial action is completed by Consultant to the satisfaction of State, at Consultant's sole cost.

11. ANNUAL OVERHEAD ADJUSTMENT (TRUE-UP) INVOICES

- A. After State receives Consultant's latest Indirect Cost Rate (ICR) submittal and State establishes an approved ICR for Consultant, it is State's preference that Consultant submit a separate Overhead Adjustment Invoice that reconciles the indirect costs billed during the past fiscal year covered by the latest ICR submittal. If reconciling the indirect costs requires the Consultant to reimburse State for overpayment of indirect costs, Consultant may request reimbursement of additional allowable costs that have not been already reimbursed, provided that the costs were documented and subtracted out on previous invoices. In no circumstance may Consultant request reimbursement of any costs incurred that are not in accordance with Section 4. ALLOWABLE COSTS.
- B. When uploading this invoice to OnBase, append "(OH ADJ)" to the invoice number when populating the invoice number keyword in OnBase. More information regarding Overhead Adjustment Invoices is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>.
- C. Consultant shall require Subconsultant(s) to submit Overhead Adjustment Invoices to Consultant consistent with this Section. Consultant must include such subconsultant overhead adjustment invoices when Consultant submits their own invoices to State.

12. FINAL INVOICE, FINAL OVERHEAD (TRUE-UP) INVOICE, AND PAYMENT

- A. Upon completion of the Services under this Agreement, Consultant shall submit their final invoice to include all labor, expenses, and, if applicable, may include the balance of Fee for Profit.
- B. Consultant, and, if applicable, its subconsultant(s), shall review the indirect costs billed to-date to determine if the indirect cost rates (overhead and FCCM) used on prior invoices match the actual indirect cost rates applicable to the time period that the labor was incurred. If cost adjustments are necessary, they should be reflected on an Overhead Adjustment Invoice (**separate from final costs incurred invoice**). Refer to Section 11. OVERHEAD ADJUSTMENT INVOICE. If a particular year's actual overhead has not yet been computed or approved by State, the most recently approved yearly rate should be applied. Consultant shall submit any final Overhead Adjustment Invoice within 180 days of completion of the work under this Agreement, and if such invoice is not timely submitted, State may audit and close the Agreement without accepting any further invoices from Consultant. More information regarding Overhead Adjustment Invoices is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>.
- C. After receipt of final invoice and Overhead Adjustment Invoice and determination by LPA, or State on LPA's behalf, that the final invoice and Progress Report adequately substantiate the Services provided and that the Services were completed in accordance with this Agreement, State, on LPA's behalf, will pay Consultant. Acceptance of the final payment by Consultant will constitute and operate as a release to LPA and State for all claims and liability to Consultant, its representatives, and assigns, for any and all things done, furnished, or relating to the Services rendered by or in connection with this Agreement or any part thereof.

13. AGREEMENT CLOSE-OUT

Upon submitting its final invoice and, if required, a final Overhead Adjustment invoice, the Consultant must complete and submit to LPA, or State on LPA's behalf, a Notification of Completion Form (NDOT Form 39). The form is generated and submitted electronically through State's OnBase Invoice Workflow System. Instructions for generating and submitting the NDOT Form 39 are available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. Consultant shall submit NDOT 39 Form within 180 days of completion of the work under this Agreement, and if such Form is not timely submitted, State may audit and close the Agreement without accepting any further invoices from Consultant.

14. FEDERAL COST PRINCIPLES

LPA will not make payments directly to Consultant for services performed under this agreement. Instead, the State will serve as a paying agent for LPA and will pay Consultant directly for properly submitted and approved invoices using both LPA and Federal funds based on the applicable project federal cost participation percentage. The following process shall apply whenever the LPA, the State or the FHWA determines that certain costs, previously paid to Consultant, should not have been paid with federal funds by the State to Consultant. Consultant shall immediately repay the State the federal share of the previously paid amount and may invoice LPA for the costs repaid to the State. LPA shall promptly pay the full amount of the invoice from its own funds unless LPA, in good faith, disputes whether the Consultant is entitled to the payment under the agreement or the amount of the invoice. In the event of a dispute between LPA and Consultant, the dispute resolution process, outlined Section 4.4.3.5 DISPUTE RESOLUTION of the LPA Manual, shall be used by the parties. For performance of Services as specified in this Agreement, State will pay Consultant subject to the terms of this Agreement and all requirements and limitations of the federal cost principles contained in the Federal Acquisition Regulations [48 CFR 31 \(Contract Cost Principles and Procedures\)](#).

15. OUT-OF-SCOPE SERVICES AND CONSULTANT WORK ORDERS

- A. LPA, or State on LPA's behalf, may request that Consultant provide services that, in the opinion of Consultant, are in addition to or different from those set out in the Scope of Services. When LPA, or State on LPA's behalf, decides that these out-of-scope services may require an adjustment in costs, Consultant shall provide in writing:
- 1) A description of the out-of-scope services,
 - 2) An explanation of why Consultant believes that the out-of-scope services are not within the original Scope of Services and additional work effort is required,
 - 3) An estimate of the cost to complete the out-of-scope services. Consultant must receive written approval from LPA, or State on LPA's behalf, before proceeding with the out-of-scope services. Before written approval will be given by LPA, or State on LPA's behalf, LPA or State must determine that the situation meets the following criteria:
 - (a) The out-of-scope services are not within the original Scope of Services and additional work effort is required; and
 - (b) The out-of-scope services are within the basic scope of services under which Consultant was selected and Agreement entered; and
 - (c) It is in the best interest of LPA that the out-of-scope services be performed under this Agreement.

B. Once the need for a modification to the Agreement has been established, the State, on LPA's behalf, will prepare a supplemental agreement. If the additional work requires the Consultant to incur costs prior to execution of a supplemental agreement, the State, on LPA's behalf, may issue a written notice to proceed prior to completing the supplemental agreement (for non-Federal aid projects) or shall use the process set out below (for Federal aid PE projects):

- 1) The Consultant Work Order (CWO) – NDOT Form 250 shall be used to describe and provide necessary justification for the additional scope of services, effort, the deliverables, modification of schedule, and to document the cost of additional services. The CWO form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. The CWO must be executed to provide authorization for the additional work and to specify when that work may begin. The agreement will be supplemented after one or more CWOs have been authorized and approved for funding.

16. TERMINATION COST ADJUSTMENT

If the Agreement is terminated prior to project completion, State and LPA will compare the percentage of work actually completed by Consultant to the total amount of work contemplated by this Agreement. This comparison will result in a payment by the State, on LPA's behalf, for any underpayment, no adjustment, or a billing to Consultant for overpayment. The State's final audit may result in an additional cost adjustment.

17. AUDIT AND FINAL COST ADJUSTMENT

Upon LPA's and State's determination that Consultant has completed Services under this Agreement, State, or its authorized representative, may complete an audit review of the payments made under this Agreement. The Parties understand that the audit may require an adjustment of the payments made under this Agreement. Consultant agrees to reimburse State for any overpayments identified in the audit review, and State agrees to pay Consultant for any identified underpayments.

18. CONSULTANT COST RECORD RETENTION

Consultant, and all its subconsultants or subcontractors, shall maintain originals or copies of any document required to be completed in this Agreement, that substantiate any expense incurred, or changes any legal obligations for three (3) years from the date of final cost settlement by FHWA and project closeout by the State.

Documents include, but are not limited to: written approvals; time reports; detailed receipts; invoices; transportation costs; mileage; lodging costs; all NDOT forms including NDOT cost breakdown form and NDOT travel form; books; papers; electronic mail; letters; accounting records; supplemental agreements; work change orders; or other evidence pertaining to any cost incurred.

Such materials will be available for inspection by the LPA, State, FHWA, or any authorized representative of the federal government, and copies of any document(s) will be furnished when requested.

**DISCLAIMER APPLICABLE TO
THE SIGNING OF THE PRELIMINARY ENGINEERING SERVICES AGREEMENT**

The following is a resolution drafted by the Nebraska Department of Roads (NDOT) that may be used by a Local Public Agency (LPA) when executing an Engineering Services Agreement for a Federal-aid transportation project. It is offered ONLY as an example resolution that could be used by the LPA with appropriate modifications, for participation in the LPA Federal-aid program, and is subject to change. The LPA is responsible for the language in its actual resolution. Any changes to any substantive commitments of this sample resolution shall be approved in advance in writing by NDOT, or such changes will be considered null and void. The LPA is ultimately responsible for all language used in its actual resolution and in making sure that the resolution is accurate and complete and meets all requirements of Federal, State and local laws, rules, regulations, policies and guidelines, and the NDOT LPA Guidelines Manual for Federal-aid Projects.

RESOLUTION

SIGNING OF PRELIMINARY ENGINEERING AGREEMENT – BK2429

Papio-Missouri River Natural Resources District (NRD)

Resolution No. _____

Whereas: Papio-Missouri River NRD is developing a transportation project for which it intends to obtain Federal funds; and

Whereas: Papio-Missouri River NRD as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State, and local laws, rules, regulations, policies, and guidelines applicable to the funding of the Federal-aid project; and

Whereas: Papio-Missouri River NRD and The Schemmer Associates, Inc. wish to enter into a Professional Services Agreement to provide Preliminary Engineering Services for the Federal-aid project.

Be It Resolved: by the Board of the Papio-Missouri River NRD that:

Kevyn Sopinski, The Board Chair, is hereby authorized to sign the attached Preliminary Engineering Services agreement between Papio-Missouri River NRD, Nebraska and The Schemmer Associates, Inc.

NDOT Project Number: TAP-28(161)

NDOT Control Number: 22931

NDOT Project Description: Elkhorn River Bridge Trail

Adopted this _____ day of _____, 20____ at _____ Nebraska.
(Month)

The Board of Papio-Missouri River NRD, Nebraska

Board/Council Member _____
Moved the adoption of said resolution
Member _____ Seconded the Motion
Roll Call: _____ Yes _____ No _____ Abstained _____ Absent
Resolution adopted, signed and billed as adopted

Attest:

Signature

ENVIRONMENTAL SERVICES AGREEMENT
BETWEEN
PAPIO-MISSOURI NATURAL RESOURCES DISTRICT
AND
JACOBS ENGINEERING GROUP, INC.

Project No. TAP-28(161)
Control No. 22931
Elkhorn River Trail Bridge

| | | |
|--------------------------|--------|------------|
| Task Order Agreement No. | BK2339 | |
| Master Agreement No. | VK2210 | |
| Effective (NTP) Date | | |
| Task Order Amount | CPFF | \$9,548.72 |

ON-CALL PROFESSIONAL SERVICES

TASK ORDER AGREEMENT

LPA PROJECTS

PAPIO-MISSOURI NATURAL RESOURCES DISTRICT
 JACOBS ENGINEERING GROUP, INC.
 PROJECT NO. TAP-28(161)
 CONTROL NO. 22931
 ELKHORN RIVER TRAIL BRIDGE
 ENVIRONMENTAL SERVICES

THIS AGREEMENT is between the Papio-Missouri Natural Resources District ("LPA") and Jacobs Engineering Group, Inc. ("Consultant"), and collectively referred to as the "Parties".

WHEREAS, Consultant entered into an On-Call Professional Services Master Agreement, No. VK2210 ("Master Agreement"), with the Nebraska Department of Transportation ("State") wherein Consultant agreed to provide Environmental Services for future Federal-aid transportation projects, when selected by LPA or State, and

WHEREAS, LPA desires that this project be developed and constructed under the designation of Project No. TAP-28(161) and formally authorizes the signing of this Agreement by the General Manager, as evidenced by the Resolution of LPA dated _____ day of _____, 20____, attached as Exhibit "D" and incorporated herein by this reference, and

WHEREAS, LPA, or State on LPA's behalf, selected Consultant to provide Environmental Services ("Services") for the project Consultant has been selected, and

WHEREAS, the Parties wish to enter into a task order agreement ("Task Order"), to provide for the completion of the Services for the project for which Consultant has been selected, and to specify the duties and obligations for the Parties for the Services described herein, and

WHEREAS, solely for convenience, consistency and in an attempt to obtain federal funding for Consultant services, the Parties intend that this task order agreement ("Task Order") include some of the provisions of the Master Agreement between Consultant and State, and

WHEREAS, Consultant and LPA intend that the Services provided by Consultant comply with all applicable federal-aid transportation project related program requirements so that Consultant's costs under this Task Order will be eligible for federal reimbursement, and

WHEREAS, the LPA and Consultant intend that this Task Order be completed in accordance with the terms and conditions of the Nebraska LPA Guidelines Manual for Federal Aid Projects; hereinafter referred to as LPA Manual. The LPA Manual is a document approved by the Federal Highway Administration (FHWA) that sets out the requirements for local federal-aid projects to be eligible for federal reimbursement; the LPA Manual can be found in its entirety at the following web address: <http://dot.nebraska.gov/media/6319/lpa-guidelines.pdf>, and

WHEREAS, Consultants primary contact for LPA's project is LPA's Responsible Charge when LPA is managing the project, and

WHEREAS, Consultant's primary contact for LPA's project is State's Project Coordinator when State is managing the project on behalf of LPA, and

ON-CALL PROFESSIONAL SERVICES TASK ORDER AGREEMENT

WHEREAS, Consultant's primary contact for State's project is State's Project Coordinator.

WHEREAS, the Parties understand that State is involved in this federal-aid project on behalf of the FHWA only for issues related to the eligibility of the project for reimbursement of project costs with federal-aid funds.

NOW THEREFORE, in consideration of these facts, Consultant and LPA agree as follows:

SECTION 1. CONTACT INFORMATION

Contact information, for the convenience of the Parties, is as follows:

1.1 Consultant Project Manager

| | |
|--------------------------|---|
| Firm Name | Jacobs Engineering Group, Inc. |
| Consultant/Vendor Number | 6B65 |
| Address | 222 South 15 th Street #1408-S, Omaha NE 68102 |
| Project Manager's Name | Ryan Walkowiak |
| Project Manager's Phone | 308-380-6112 |

1.2 State Project Coordinator

| | |
|--------------|--------------|
| Name | Asreen Karim |
| Phone Number | 402-479-3108 |

1.3 LPA RC

| | |
|--------------|---------------|
| Name | Eric Williams |
| Phone Number | 402-444-6222 |

1.4 State Agreements Specialist

| | |
|--------------|---------------|
| Name | Nicole Taylor |
| Phone Number | 402-479-3859 |

SECTION 2. NOTICE TO PROCEED AND COMPLETION SCHEDULE OF THE SERVICES

- 2.1 LPA, or State on LPA's behalf, will issue Consultant a written Notice to Proceed upon 1) complete execution of this Agreement, 2) State's determination on LPA's behalf, that federal funding approval has been obtained for the project and 3) State's concurrence that the form of this Agreement is acceptable for federal funding eligibility.
Invoiced charges for services performed by Consultant on the project prior to the date specified in the written Notice to Proceed will not be paid by State on LPA's behalf.
- 2.2 In the event that prior to the Effective Date of this Task Order, LPA, State on LPA's behalf, issue Consultant a Notice to Proceed and Consultant began work, State, on LPA's behalf, will pay for such work in accordance with this Task Order and the Parties are bound by this Task Order as if the work had been completed after the Effective Date of this Task Order.
- 2.3 Consultant shall complete all the Services required under this Task Order in a satisfactory manner by December 31, 2024. Costs incurred by Consultant after the completion date will not be eligible for reimbursement unless LPA, or State on LPA's behalf, has provided a written extension of time. Extensions of the time to complete the services must not be construed as an extension to the duration of this Task Order.
- 2.4 The completion date will not be extended because of any avoidable delay attributed to Consultant, but delays not attributable to Consultant, such as delays attributed to LPA or State, may, upon request, constitute a basis for an extension of time.

SECTION 3. DURATION OF THIS TASK ORDER (Matches Project Lifespan)

- 3.1 Effective Date -- This Task Order is effective when executed by the Parties.
- 3.2 Expiration Date -- This Task Order expires when State has (a) completed the project final audit and cost settlement or (b) waived the requirement of a financial audit.
- 3.3 Duration of this Task Order -- This Task Order duration is from the Effective Date to the Expiration Date. This Task Order duration is "specified" under Neb. Rev. Stat. § 73-506 to the period of time necessary for a Consultant to complete the applicable phase or phases of the development of this particular federal, state or locally funded construction project, including when applicable, the time during construction of the project.
- 3.4 Identifying Date -- This Task Order may be identified by the date LPA signed this Task Order.
- 3.5 Termination or Suspension -- LPA, or State on LPA's behalf, reserves the right to terminate or suspend this Task Order at any time for any of the reasons provided herein.

SECTION 4. TASK ORDER SCOPE OF SERVICES

- 4.1 LPA and Consultant understand that the Services provided by Consultant must be completed in accordance with all federal-aid reimbursement requirements and conditions. Consultant shall provide Environmental Services for Project TAP-28(161), Elkhorn River Trail Bridge, in Douglas County, Nebraska. The Scope of Services ("Services") is outlined in Exhibit "A", attached and incorporated herein by this reference.
- 4.2 Exhibits "A" and "B" are the result of the following process:
 - 4.2.1 Consultant was provided with a document describing the detailed proposed Scope of Services for this project
 - 4.2.2 Consultant made necessary and appropriate proposed additions, deletions, and revisions to the detailed Scope of Services document
 - 4.2.3 Consultant participated in a review of the proposed Scope of Services, and the proposed revisions, and negotiated the final detailed Scope of Services and Fee Proposal document, as shown in Exhibit "A" and Exhibit "B", attached and incorporated herein by this reference.
- 4.3 LPA, or State on LPA's behalf, reserves the unconditional right to add to, subtract from, or alter the Scope of Services at any time and such action on its part will in no event be deemed a breach of this Agreement. The addition, subtraction, or alteration will become effective seven (7) days after mailing written notice of such addition, subtraction, or alteration.
- 4.4 Any change in the Services will follow the process specified in the *Out-of-Scope Services* section in Exhibit "C", attached and incorporated herein by this reference.
- 4.5 Upon receiving a written notice to proceed from LPA, or State on LPA's behalf, Consultant shall complete the Services required under this Task Order and in accordance with the terms of the Master Agreement.

SECTION 5. STAFFING PLAN (For PE Services, TO)

- 5.1 Consultant has provided LPA and State with a Staffing Plan or Staffing Plans, described in Exhibit "B", attached and incorporated herein by this reference. The Staffing Plan identifies the employees of Consultant, and when applicable subconsultants, who are anticipated to provide services under this Task Order. Consultant understands that LPA and State are relying on key personnel from the Staffing Plan to be primarily responsible

for completing the Services under this Task Order. LPA and State consider the Principals, senior level staff, Project Managers, Team Leaders or other similar classifications, to be the key personnel for the services provided. Consultant and, when applicable subconsultants, may make occasional temporary changes to the key personnel. However, any permanent change to Consultant's or subconsultant's key personnel will require prior written approval from LPA, or State on LPA's behalf.

- 5.2 Personnel who are added to the Staffing Plan as replacements must be persons of comparable training and experience. Personnel added to the Staffing Plan as new personnel and not replacements must be qualified to perform the intended services. Failure on the part of Consultant or subconsultant to provide acceptable replacement personnel or qualified new personnel to keep the services on schedule will be cause for termination of this Task Order, with settlement to be made as set out on Exhibit "C" attached and incorporated herein by this reference.

SECTION 6. NEW EMPLOYEE WORK ELIGIBILITY STATUS (Task Order)

- 6.1 Consultant agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. Consultant agrees to contractually require any subconsultants to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
- 6.2 The undersigned duly authorized representative of Consultant, by signing this Task Order, hereby attests to the truth of the following certifications, and agrees as follows:
- Neb. Rev. Stat. § 4-114. I certify compliance with the provisions of Section 4-114 and, hereby certify that this Consultant shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. I agree to require all Subconsultants, by contractual agreement, to require the same registration and verification process.
- 6.3 If Consultant is an individual or sole proprietorship, the following applies:
- a. Consultant must complete the United States Citizenship Attestation form and attach it to this Task Order. This form is available on the Nebraska Department of Transportation's website at <http://dot.nebraska.gov/media/2802/dr289.pdf>.
 - b. If Consultant indicates on such Attestation form that he or she is a qualified alien, Consultant agrees to provide the US Citizenship and Immigration Services documentation required to verify Consultant lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
 - c. Consultant understands and agrees that lawful presence in the United States is required and Consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

SECTION 7. FEES AND PAYMENTS

- 7.1 Consultant's fee proposal is attached as Exhibit "B" and incorporated herein by this reference.
- 7.2 The maximum payment amounts and general provisions concerning payment under this Task Order are set out on Exhibit "C".

SECTION 8. SUSPENSION OR TERMINATION (Unique)

8.1 Suspension or Termination

LPA, or State on LPA's behalf, has the absolute and exclusive right to suspend the work, or terminate this Task Order at any time and for any reason and such action on its part will in no event be deemed a breach of this Task Order by LPA, or State on LPA's behalf. Without limiting the rights set out in this section, the following is a non-exclusive list of the examples of the circumstances under which this Task Order may be suspended or terminated:

- a. A loss, elimination, decrease, or re-allocation of funds that, in the sole discretion of LPA, or State on LPA's behalf, make it difficult, unlikely, or impossible to have sufficient funding for the Services or the project
- b. LPA, or State on LPA's behalf, abandons the Services or the project for any reason
- c. Funding priorities of LPA, or State on LPA's behalf, have changed
- d. LPA, or State on LPA's behalf, determines, in its sole discretion, that the interests of LPA, or State on LPA's behalf, are best protected by suspension or termination of this Task Order
- e. Consultant fails to meet the schedule, milestones, or deadlines established in this Task Order or agreed to in writing by the Parties
- f. Consultant fails to provide acceptable replacement personnel or qualified new personnel as determined by LPA, or State on LPA's behalf
- g. Consultant has not made sufficient progress to assure that the Services are completed in accordance with the schedule in attached Exhibit "A" or in a timely manner
- h. Consultant fails to meet the standard of care applicable to the Services
- i. Consultant fails to meet the performance requirements of this Task Order
- j. Consultant's breach of a provision of this Task Order or failure to meet a condition of this Task Order
- k. Consultant's unlawful, dishonest, or fraudulent conduct in Consultant's professional capacity
- l. Consultant fails to complete the project design in a form that is ready for letting a contract for construction according to the approved contract documents, including, but not limited to, project plans and specifications.

8.2 Suspension

- a. **Suspension for Convenience.** LPA, or State on LPA's behalf, may suspend for convenience by giving Consultant notice of the date of suspension, which date will be no fewer than three (3) business days after notice is given. Such notice will provide the reason(s) for such suspension. Consultant will not be compensated for any Services completed or costs incurred after the date of suspension. Consultant shall provide LPA, or State on LPA's behalf, a detailed summary of the current

status of the Services completed and an invoice of all costs incurred up to and including the date of suspension.

- b. Suspension for Cause. If LPA, or State on LPA's behalf, suspends Consultant's work for cause or for issues related to performance, responsiveness or quality that must be corrected by Consultant, LPA, or State on LPA's behalf, will give Consultant notice of the date of suspension, which date will be no fewer than three (3) business days after notice is given. LPA's notice of suspension, or State's notice of suspension on LPA's behalf, will provide Consultant with the reason(s) for the suspension, a timeframe for Consultant to correct the deficiencies, and when applicable, and a description of the actions that must be taken for LPA, or State on LPA's behalf, to rescind the suspension. Consultant's right to incur any additional costs will be suspended at the end of the day of suspension and will continue until all remedial action is completed to the satisfaction of LPA, or State on LPA's behalf. Failure to correct the deficiencies identified in a suspension will be grounds for termination of this Task Order.

8.3 Termination

If LPA, or State on LPA's behalf, terminates this Task Order, LPA, or State on LPA's behalf, shall give Consultant notice of the date of termination, which shall be no fewer than three (3) business days after notice is given. Notice of termination from LPA, or State on LPA's behalf, shall provide Consultant with a description of the reason(s) for the termination. Notice from LPA, or State on LPA's behalf, must specify when this Task Order will be terminated along with the requirements for completion of the work under this Task Order. Consultant's right to incur any additional costs shall cease at the end of the day of termination or as otherwise provided by LPA, or State on LPA's behalf.

8.4 Compensation upon suspension or termination

If LPA, or State on LPA's behalf, suspends the work or terminates this Task Order, Consultant must be compensated in accordance with the provisions set out in Exhibit "C", provided however, that in the case of suspension or termination for cause or for Consultant's breach of this Task Order, LPA, or State on LPA's behalf, will have the power to suspend payments, pending Consultant's compliance with the provisions of this Task Order. In the event of termination of this Task Order for cause, LPA, or State on LPA's behalf, may make the compensation adjustments set out in Exhibit "C".

SECTION 9. SECTIONS INCORPORATED BY REFERENCE

For the convenience of the parties, for consistency for funding review, and in an effort to reduce the length of this Task Order, the LPA and Consultant agree to be bound by and hereby incorporate by this reference as if fully set forth herein, Sections 11 through 13, and 15 through 28 of Master Agreement (VK2210) between State and Consultant, dated March 29, 2022, for Environmental Services for LPA projects, with one recurring change:

The LPA and Consultant agree to meet the requirements of all incorporated provisions and represent that by signing this Task Order, they expressly certify to any required certifications contained in those provisions. Although some of the provisions of the Master Agreement are incorporated herein by reference, it is understood that the State is not a party to this Task Order and shall have no obligations or duties under this Task Order.

SECTION 10. CONSULTANT CERTIFICATIONS

- 10.1 The undersigned duly authorized representative of Consultant, by signing this Task Order, hereby reaffirms, under penalty of law, to the best of my knowledge and belief, the truth of the certifications set out in SECTION 29. CONSULTANT CERTIFICATIONS of the Master Agreement, with one change:
- “LPA, or State on LPA's behalf” should be substituted in for any reference in that section of the Master Agreement to “State” unless the context would otherwise require.
- 10.2 Neb. Rev. Stat. § 81-1715(1). I certify compliance with the provisions of Section 81-1715 and, to the extent that this Task Order is a lump sum, specific rates of compensation, or actual cost-plus-a-fixed fee professional services agreement, I hereby certify that wage rates and other factual unit costs supporting the fees in this Task Order are accurate, complete, and current as of the date of this Task Order. I agree that this Task Order price and any additions thereto shall be adjusted to exclude any significant sums by which the LPA determines the agreement price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

SECTION 11. LPA CERTIFICATION

- 11.1 By signing this Task Order, I do hereby certify that, to the best of my knowledge, Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Task Order to:
- (a) employ or retain, or agree to employ or retain, any firm or person, or
 - (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.
- 11.2 I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this Task Order involving participation of Federal-Aid highway funds and is subject to applicable state and federal laws, both criminal and civil.

SECTION 12. SEVERABILITY

The invalidity or unenforceability of any such clause, provision, section, or part shall not affect the validity or enforceability of the balance of the Agreement, which shall be construed and enforced as if the Agreement did not contain such invalid or unenforceable clause, provision, section or part.

SECTION 13. COMPLETENESS

This Agreement is the complete and exclusive statement of the arrangement between the parties, and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter thereof. It may be amended from time to time in writing by the mutual consent of the Parties hereto.

ON-CALL PROFESSIONAL SERVICES TASK ORDER AGREEMENT

IN WITNESS WHEREOF, the Parties hereby execute this Task Order pursuant to lawful authority as of the date signed by each party. Further, the Parties, by signing this Task Order, attest and affirm the truth of each and every certification and representation set out herein.

EXECUTED by Consultant this 5 day of January, 2024.

JACOBS ENGINEERING GROUP, INC.
Emily Holtzclaw

Emily Holtzclaw
Vice President

STATE OF NEBRASKA)
DOUGLAS COUNTY)ss.
)



SUBSCRIBED AND SWORN to before me this 5th day of January, 2024.

Jennifer Francis
Notary Public

EXECUTED by LPA this _____ day of _____, 20____.

PAPIO-MISSOURI NATURAL RESOURCES
DISTRICT
John Winkler

General Manager

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Witness

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION
Form of Agreement Approved for
Federal Funding Eligibility:

_____ Date

EXHIBIT "A"

**Scope of Services
For
Scoping NEPA Services
Project Name Elkhorn River Trail Bridge
Project No. TAP-28(161)
CN: 22931**

Description of Services

This scope of services (SOS) is for-developing a scope of services for reviewing the impact the construction project will have on the environment.

NDOT to provide:

The LPA and the Nebraska Department of Transportation (NDOT) will provide all available documentation or information needed to develop the SOS as requested by the Consultant.

- Instructions and guidance on the level of detail expected in preparing the "Local Public Agency (LPA) Project Programming Request, NDOT Form 530".
- A "Local Public Agency (LPA) Project Programming Request, NDOT Form 530".
- The approved Probable Class of NEPA Action, NDOT Form 53.
- A draft copy of the Scope of Services for NEPA (Word doc).
- A draft copy of the Scope of Services, Workbook for NEPA (Excel file).
- A copy of the PCM 0 document

The NEPA Consultant will work with the Preliminary Engineering (PE) Consultant to develop the "Purpose and Need", "Project Description", and "Project Details" for the Local Public Agency (LPA) project using the following guidance material.

- LPA Purposed and Need Statement Template
- LPA Project Details Template
- LPA Project Description Template
- LPA Project Details Definitions

The Purpose and Need for the project developed by the NEPA Consultant will be used to complete the Local Public Agency (LPA) Project Programming Request, NDOT Form 530. The NEPA Consultant will work with the PE Consultant in completing the NDOT Form 530.

Using the current version of the Scope of Services and Workbook for National Environmental Policy Act (NEPA) services the NEPA Consultant will develop a site-specific scope of services (SOS). The SOS will address the study and documentation needs detailed in the approved Probable Class of NEPA Action NDOT Form 53. The goal of developing a project specific SOS is to address the items identified in the Probable Class of NEPA Action document is to ensure compliance with the National Environmental Policy Act.

Development of the SOS for NEPA services is a phased process starting with a PCM 0. The NEPA Consultant will work with the PE Consultant in preparing the PCM 0 form as well as the NDOT Form 530 for review and approval by NDOT, and a site visit will be conducted. After approval of the NDOT Form 530 and NDOT has received the project description, purpose and need as well as the project details, NDOT Staff will prepare the Probable Class of NEPA Action NDOT Form 53. The NEPA Consultant will develop the SOS and fee proposal based on the Probable Class of NEPA Action, NDOT Form 53 prepared and approved by NDOT.

Schedule:

Notice to Proceed (NTP) with developing scope of NEPA services.

PCM 0

Attend Site Visit.

Submit LPA, Project Programming Request Form 530 to NDOT for approval.

NDOT Approves Project Programming Request Form 530

PE Consultant prepares SOS and Workbook upon receipt of approved NDOT Form 530.

NEPA Consultant submits Project Description, Purpose & Need, and Project Details

NDOT Approves Probable Class of NEPA Action NDOT Form 53

NEPA Consultant prepares SOS and Workbook upon receipt of approved NDOT Form 53.

NTP with PE services

NTP with NEPA services

The NDOT Project Coordinator (PC)/Responsible Charge (RC) will schedule a site visit with the Design and National Environmental Policy Act (NEPA) Consultant along with a representative from the following to identify site conditions which may need to be addressed during the design and the NEPA phase of the project:

NDOT, LPA, Unit Head.

NDOT, LPA, PC/RC.

NDOT, LPA, Right of Way Coordinator.

NDOT, Bridge Division Representative.

NDOT, Environmental Coordinator

NDOT, Section 106 Cultural Resource Coordinator

NDOT District, Environmental Superteam Member

NDOT District, Design Superteam Member

LPA, Project Liaison (PL)

PE, Consultant

NEPA, Consultant

Representatives from known utilities, Public and Private.

Task:

Development of Scope of Services for NEPA

Project Management

Develop the Scope of services and corresponding workbook for NEPA

Work with the PE Consultant in developing a schedule of professional services from Notice to

Proceed to PS&E turn in of the project

Site Visit

Attend a site visit

Travel

Special instructions:

Initially tasks in the scope of services (Word document) which do not apply to this project are to be stricken through and later deleted after review and concurrence by the PC/RC the tasks do not apply. Task in the workbook (Excel file) that do not apply to this project will not show any hours and will later be hidden after the review and concurrence by the PC/RC are not applicable. Tasks are to be hidden rather than to be deleted as to not corrupt the Excel file.

SOS for NEPA Scoping Phase

Consultant Estimate of Hours

Project Name: Elkhorn River Trail Bridge

Project Number: TAP-28(161)

Control Number: 22931

Location (City, County): Waterloo, Douglas County, NE

Firm Name: Jacobs

Consultant Project Manager: Ryan Walkowiak

Phone/Email: 308-380-6112 / ryan.walkowiak@jacobs.com

County Project Liaison: Eric Williams, Papio Missouri River Natural Resources District

Phone/Email: 402-315-1704 / ewilliams@papiomrd.org

NDOR RC: Nicole Taylor

Phone/Email: 402-479-3859 / nicole.taylor@nebraska.gov

Date: October 18, 2023

| TASKS | PERSONNEL CLASSIFICATIONS** | | | | | | | | | | | |
|---|---|-----|------------------------|----|------|-----|------|-----|-----|-----|------|-------|
| | PR | RLS | ENV | PM | SENG | ENG | SDES | ADM | SPC | SUR | STRE | Total |
| | | | | | | | | | | | | |
| Development of Scope of Services for NEPA | | | 58 | 30 | | | | | | | | 88 |
| 1 | Project Management | | | | 5 | | | | | | | 5 |
| 2 | Prepare Project Description | | | | 12 | 1 | | | | | | |
| 3 | Prepare Project Details | | | | 8 | 1 | | | | | | |
| 4 | Prepare Purpose & Need | | | | 20 | 1 | | | | | | |
| 5 | Scope of services and corresponding workbook for NEPA | | | | 18 | 20 | | | | | | |
| 6 | Develop a schedule | | | | | | | | | | | |
| 7 | PCM 0 | | | | 2 | | | | | | | |
| Site Visit | | | | | | 5 | | | | | | 5 |
| 1 | Site visit | | | | 3 | | | | | | | 3 |
| 2 | Travel | | From Travel Calcs. Tab | | 2 | | | | | | | 2 |
| | | | | | | | | | | | | |
| Total Hours | | | | | 58 | 35 | | | | | | 93 |
| Total Days (8 hrs) | | | | | 7.3 | 4.4 | | | | | | 11.6 |

- CLASSIFICATIONS*:
PR = Principal
RLS = Registered Land Surveyor
ENV = Environmental Scientist
ADM = Administrative
- PM = Project Manager
ENG = Engineer
SDES = Senior Designer/Technician
SENG = Senior Engineer
- SPC = Survey Party Chief
SUR = Surveyor I
STRE = Structural Engineer

* For Project Manager, use one of the technical classifications

** For User-Defined Classifications, you will need to edit the Classifications Legend located above. To enter a new classification, replace "UD1" with its abbreviation (ex. GRA) and replace "User Defined 1" with the

Travel Calculations & Notes

Project Name: _____
Project Number: _____
Control Number: _____
Date: _____

| | | | | | | |
|--|--------|--------------|--|--|---------------|-------------------------|
| Starting Location: | | Lincoln, NE | | | | |
| Ending Location: | | Waterloo, NE | | | | |
| <u>Roundtrip distance to/from (miles):</u> | | 114 | | | | Travel Summary |
| <u>Roundtrip travel time (minutes):</u> | | 120.00 | | | | Miles Hours |
| # of Roundtrips/Staff --> | PR | | | | | 0 0.0 |
| | → RLS | | | | | 0 0.0 |
| | → ENV | | | | | 0 0.0 |
| | → PM | 1 | | | | 114 2.0 |
| | → SENG | | | | | 0 0.0 |
| | → ENG | | | | | 0 0.0 |
| | → SDES | | | | | 0 0.0 |
| | → ADM | | | | | 0 0.0 |
| | → SPC | | | | | 0 0.0 |
| | → SUR | | | | | 0 0.0 |
| → | STRE | | | | | 0 0.0 |
| | | | | | Total: | 114 2.0 |

[illegible]

SOS for PE NEPA for BRO
Labor Rates

Project Name: Elkhorn River Trail Bridge
Project Number: TAP-28(161)
Control Number: 22931
Location (City, County): Waterloo, Douglas County, NE
Firm Name: Jacobs
Consultant Project Manager: Ryan Walkowiak
Phone/Email: 308-380-6112 / ryan.walkowiak@jacobs.com
County Project Liaison: Eric Williams, Papio Missouri River Natural Resources District
Phone/Email: 402-315-1704 / ewilliams@papionrd.org
NDOR RC: Nicole Taylor
Phone/Email: 402-479-3859 / nicole.taylor@nebraska.gov
Date: #####

| Labor Costs: | | Hours | Blended Rate | Amount |
|--------------|----------------------------|-------|--------------|------------|
| Code | Classification Title | | | |
| PR | Principal | | \$91.12 | |
| RLS | Registered Land Surveyor | | | |
| ENV | Environmental Scientist | 58 | \$42.45 | \$2,462.10 |
| PM | Project Manager | 35 | \$47.41 | \$1,659.35 |
| SENG | Senior Engineer | | | |
| ENG | Engineer | | | |
| SDES | Senior Designer/Technician | | \$46.17 | |
| ADM | Administrative | | | |
| SPC | Survey Party Chief | | | |
| SUR | Surveyor I | | | |
| STRE | Structural Engineer | | \$49.00 | |
| TOTALS | | 93 | | \$4,121.45 |

Overhead Rate: 105.61% Fixed Fee: 11.80%
FCCM (if applicable)

CLASSIFICATIONS:

| | | |
|--------------------------------|-----------------------------------|----------------------------|
| PR = Principal | PM = Project Manager | SPC = Survey Party Chief |
| RLS = Registered Land Surveyor | ENG = Engineer | SUR = Surveyor I |
| ENV = Environmental Scientist | SDES = Senior Designer/Technician | STRE = Structural Engineer |
| ADM = Administrative | DES = Designer/Technician | |

Blended Rates Worksheet

| STAFFING PLAN | | | |
|-----------------------------------|-----------------------------|---------------|-------------------------|
| EMPLOYEE NAME | CLASSIFICATION ¹ | SALARY RATE | % ASSIGNED ² |
| Principal | | | |
| Emily Holtzclaw | Client Account Manager | \$91.12 | 100.00% |
| | | Blended Rate: | \$91.12 |
| Registered Land Surveyor | | | |
| | | | |
| | | Blended Rate: | |
| Environmental Scientist | | | |
| Ryan Walkowiak | Planner/Biologist | \$41.50 | 80.00% |
| Will Packard | Planner/Scientist | \$49.41 | 10.00% |
| Rachel Saunders | Planner/Biologist | \$43.07 | 10.00% |
| | | Blended Rate: | \$42.45 |
| Project Manager | | | |
| Ryan Walkowiak | Project Manager | \$41.50 | 90.00% |
| Jeff Berna | Senior Project Manager | \$100.59 | 10.00% |
| | | Blended Rate: | \$47.41 |
| Senior Engineer | | | |
| | | | |
| | | Blended Rate: | |
| Engineer | | | |
| | | | |
| | | Blended Rate: | |
| Senior Designer/Technician | | | |
| Rebecca Birtley | GIS Analyst | \$50.21 | 60.00% |
| Meagan Thompson | Technical Editor | \$40.12 | 40.00% |
| | | Blended Rate: | \$46.17 |
| Administrative | | | |
| | | | |
| | | Blended Rate: | |
| Survey Party Chief | | | |
| | | | |
| | | Blended Rate: | |
| Surveyor I | | | |
| | | | |
| | | Blended Rate: | |
| Structural Engineer | | | |
| | | \$49.00 | 100.00% |
| | | Blended Rate: | \$49.00 |

¹ Input actual employee classification as designated by firm.
² Total of "% Assigned" must equal 100% for each personnel classification category. If one person in classification, list them as 100% for "% Assigned".

SOS for PE NEPA for BRO

Direct Expenses

| | |
|-----------------------------|--|
| Project Name: | Elkhorn River Trail Bridge |
| Project Number: | TAP-28(161) |
| Control Number: | 22931 |
| Location (City, County): | Waterloo, Douglas County, NE |
| Firm Name: | Jacobs |
| Consultant Project Manager: | Ryan Walkowiak |
| Phone/Email: | 308-380-6112 / ryan.walkowiak@jacobs.com |
| County Project Liaison: | Eric Williams, Papio Missouri River Natural Resources District |
| Phone/Email: | 402-315-1704 / ewilliams@papionrd.org |
| NDOR RC: | Nicole Taylor |
| Phone/Email: | 402-479-3859 / nicole.taylor@nebraska.gov |
| Date: | 10/18/2023 |

| Subconsultants: | Quantity | Unit Cost | Amount |
|-----------------|----------|-----------|--------|
| | | | |
| | | | |
| Subtotal | | | |

| Printing and Reproduction: | Quantity | Unit Cost | Amount |
|-----------------------------------|-----------------|------------------|---------------|
| | | \$0.50 | |
| | | | |
| | | | |
| | | | |
| | | | |
| Subtotal | | | |

| Mileage/Travel: | Quantity | Unit Cost | Amount |
|------------------------|----------|-----------|----------------|
| From Travel Calcs. Tab | 114 | \$0.655 | \$74.67 |
| | | | |
| | | | |
| | | | |
| Subtotal | | | \$74.67 |

| Lodging/Meals: | Quantity | Unit Cost | Amount |
|----------------|----------|-----------|--------|
| | | | |
| | | | |
| | | | |
| Subtotal | | | |

| Other Miscellaneous Costs: | Quantity | Unit Cost | Amount |
|----------------------------|----------|-----------|---------|
| Misc. Survey costs | | | |
| Subtotal | | | |
| TOTAL DIRECT EXPENSES | | | \$74.67 |

Per Diem Rates:

<http://www.gsa.gov/portal/category/104711>

Mileage Rates:

<http://www.gsa.gov/portal/category/104715>

| 2011 Standard Rates* | |
|---|--|
| Type | Rate |
| Black and White Copies | Actual reasonable cost |
| Color Copies | Actual reasonable cost |
| Miscellaneous Postage, Mailing, Deliveries Etc. | Actual reasonable cost |
| Equipment | Actual reasonable cost |
| Privately Owned Vehicle | Actual reimbursement amount to employee, not to exceed rates for company vehicles outlined above |
| Automobile Rental | Actual reasonable cost |
| Air fare | Actual reasonable cost, giving the State all discounts |
| | Statewide Omaha/Douglas County |
| Breakfast | |
| Lunch | |
| Dinner | |
| Incidentals | |
| Totals | |

* A full list of rates can be found at the following website: www.gsa.gov/perdiem

SOS for PE NEPA for BRO

Project Cost

| | |
|-----------------------------|--|
| Project Name: | Elkhorn River Trail Bridge |
| Project Number: | TAP-28(161) |
| Control Number: | 22931 |
| Location (City, County): | Waterloo, Douglas County, NE |
| Firm Name: | Jacobs |
| Consultant Project Manager: | Ryan Walkowiak |
| Phone/Email: | 308-380-6112 / ryan.walkowiak@jacobs.com |
| LPA Responsible Charge: | Eric Williams, Papio Missouri River Natural Resources District |
| Phone/Email: | 402-315-1704 / ewilliams@papionrd.org |
| NDOR Project Coordinator: | Nicole Taylor |
| Phone/Email: | 402-479-3859 / nicole.taylor@nebraska.gov |
| Date: | October 18, 2023 |

| Direct Labor Costs: | Hours | Rate | Amount |
|----------------------------|-------|---------|------------|
| Personnel Classification | | | |
| Principal | | \$91.12 | |
| Registered Land Suveyor | | | |
| Environmental Scientist | 58 | \$42.45 | \$2,462.10 |
| Project Manager | 35 | \$47.41 | \$1,659.35 |
| Senior Engineer | | | |
| Engineer | | | |
| Senior Designer/Technician | | \$46.17 | |
| Administrative | | | |
| Survey Party Chief | | | |
| Surveyor I | | | |
| Structural Engineer | | \$49.00 | |
| TOTALS | 93 | | \$4,121.45 |

| Direct Expenses: | Amount |
|---------------------------------|---------|
| Subconsultants | |
| Printing and Reproduction Costs | |
| Mileage/Travel | \$74.67 |
| Lodging/ Meals | |
| Other Miscellaneous Costs | |
| TOTALS | \$74.67 |

| Total Project Costs: | Amount |
|---|------------|
| Direct Labor Costs | \$4,121.45 |
| Overhead @ 105.61% | \$4,352.66 |
| Total Labor Costs | \$8,474.11 |
| Fixed Fee @ 11.80% | \$999.94 |
| Facility Capital Cost of Money (FCCM) @ (direct labor cost x FCCM%) | |
| Direct Expenses | \$74.67 |
| PROJECT COST | \$9,548.72 |

SOS for PE NEPA for BRO
Assumptions - Notes

Project Name: Elkhorn River Trail Bridge
Project Number: TAP-28(161)
Control Number: 22931
Location (City, County): Waterloo, Douglas County, NE
Firm Name: Jacobs
Consultant Project Manager: Ryan Walkowiak
Phone/Email: 308-380-6112 / ryan.walkowiak@jacobs.com
County Project Liaison: Eric Williams, Papio Missouri River Natural Resources District
Phone/Email: 402-315-1704 / ewilliams@papionrd.org
NDOR RC: Nicole Taylor
Phone/Email: 402-479-3859 / nicole.taylor@nebraska.gov
Date: October 18, 2023

Table with 1 column and multiple rows. Header: Assumptions and Notes. Content includes: Project Management hours are 6% of estimated hours, Assumed project will be completed as a Categorical Exclusion, One site visit for PM, One online meeting for PCM 0, Resources of Concern (Hours included in Scope of services and corresponding workbook for NEPA): Waters of the US and Permitting, Navigable Waters, Floodplain/Floodway, Impaired Waters, Section 4(f) and LWCF, Public Involvement, Environmental Justice (Low Income, LEP), Hazardous Materials, Threatened and Endangered Species, Right-of-Way, Historic Properties.

1. PAYMENT METHOD

Payments under this Agreement will be made based on a Cost-Plus-Fixed-Fee for Profit (CPFF) payment method. Consultant will be paid for acceptable actual services performed in accordance with Section 4. ALLOWABLE COSTS, plus a fixed fee for profit in accordance with Section 6. FIXED FEE FOR PROFIT.

2. MAXIMUM AGREEMENT AMOUNTS

The following are the maximum payment amounts established under this Agreement for each category of cost. Consultant shall not be paid for any cost that exceeds these amounts without prior written approval from LPA, or State on LPA's behalf. The "indirect costs and direct expenses" category may be adjusted to exceed the amount listed below; however, any adjustment will not increase the total agreement amount.

| AMOUNT | CATEGORY |
|-------------|--|
| \$ 4,121.45 | for actual direct labor costs |
| \$ 4,427.33 | for indirect costs and direct expenses |
| \$ 999.94 | for a fixed fee for profit |
| \$ 9,548.72 | total agreement amount |

3. SUBCONSULTANT OVER-RUNS AND UNDER-RUNS

Over-run: Consultant shall require all subconsultants to notify Consultant any time it has been determined that a subconsultant's costs will exceed its fee estimate (over-run). Consultant must provide an acceptable justification for the over-run and obtain LPA, or State on LPA's behalf, prior written approval before incurring any cost over-run expenses. If approved by LPA, or State on LPA's behalf, a supplemental agreement will be prepared to either shift funds from Consultant to its subconsultant(s) or increase the contract maximum. Contract increases will be considered when additional scope of services are required.

Under-run: If the amount of any subconsultant's cost is less than its fee estimate (under-run), Consultant understands that the amount of the under-run will be subtracted from the total compensation to be paid to Consultant under this Agreement, unless LPA, or State on LPA's behalf, gives prior written approval and, if necessary, approval from Federal Highway Administration (FHWA). If Consultant wishes to shift the balance of subconsultant's fee to Consultant, justification must be provided to LPA and State. Shifting of funds may be approved by LPA, or State on LPA's behalf, with no increase to the fixed fee for profit unless additional scope of services is required by Consultant, and additional fee is necessary to complete the work under this Agreement.

4. ALLOWABLE COSTS

Allowable costs are direct labor costs, indirect costs, and direct non-labor costs as defined below which Consultant has incurred within 180 days before State has received Consultant's invoice. Costs that Consultant incurred to correct mistakes or errors attributable to Consultant's or Subconsultant's own actions are not allowable costs, even if those costs would not exceed the amounts listed in Section 2. MAXIMUM AGREEMENT AMOUNTS.

A. Direct Labor Costs are the costs Consultant pays its employees for the time they are working directly on the project and are calculated by multiplying the hourly rate of pay by the hours worked (in increments not less than one quarter hour).

1) Hourly Rates: For hourly employees, the hourly earnings rate shall be the employee's regular hourly pay rate during regular (40) hours of work per pay week. If

overtime hours are worked on this project, State will only pay for employee's regular hourly pay rate. State will not pay the premium pay portion of the overtime hours. For salaried employees, the hourly earnings rate shall be the employee's actual hourly rate as recorded in the Consultant's accounting books of record, multiplied by the hours worked.

The Staffing Plan must identify by name all employees of the Consultant who are reasonably expected to provide Services under this Agreement. Reference Staffing Plan Section of this Agreement regarding changes in personnel.

- 2) Time Reports: All hours charged to the project must be documented on time distribution records. The records must clearly indicate the daily number of hours each employee worked on any project or activities for the entire pay period. **Time reports must provide the employee's name and position, dates of service, and a clear, identifying link to the projects, such as project description, project number, control number, and pertinent work phase.** Consultant must establish an adequate system of internal controls to ensure that time charged to projects are accurate and have appropriate supervisory approval.

- B. Indirect Costs (Overhead and FCCM) are the indirect labor costs, indirect non-labor costs, and direct labor additives that are allowable in accordance with Federal Acquisition Regulations 48 CFR 31 (Contract Cost Principles and Procedures). Indirect costs are to be allocated to the project as a percentage of direct labor costs. The Consultant will be allowed to charge the project using its actual allowable Indirect Cost Rates (ICR); or if the ICR is unknown or unavailable, Consultant will be allowed to use the most recent provisional ICR approved by State. Changes in the ICR that occur during the project period will not be cause for a change in the total agreement amount established in Section 2. MAXIMUM AGREEMENT AMOUNTS.

- C. Direct Non-Labor Costs (Direct Expenses) are all necessary, properly documented, and allowable costs related to the Consultant completing the Services. All costs must be supported by detailed receipts or invoices, unless otherwise specified below. Direct non-labor costs include, but are not limited to, the following:

Transportation, mileage, lodging, and meals, subject to limitations specified below; Communication costs; Reproduction and printing costs; Special equipment and materials required for the project and approved by LPA, or State on LPA's behalf ; Special insurance premiums if required solely for this Agreement; Subconsultant costs; Such other allowable items as approved by LPA, or State on LPA's behalf.

- 1) A non-labor cost charged as a direct cost cannot be included in Consultant's overhead rate. If, for reasons of practicality, Consultant does treat a direct non-labor cost category in its entirety as an overhead cost, then such costs are not eligible to be additionally billed as a direct expense to this project.
- 2) Costs for subconsultants may not exceed the amounts shown on the attached Consultant's Fee Proposal for each subconsultant unless agreed upon in writing by the Consultant and LPA, or State on LPA's behalf. Consultant shall require subconsultant costs to have the same level of documentation as required of Consultant. Consultant must review subconsultants' invoices and progress reports to ensure they are accurate, include only allowable costs, and have proper documentation before sending to State.

- 3) The following direct non-labor costs (direct expenses) will be reimbursed at actual costs, not to exceed the rates as shown below.
- (a) TRANSPORTATION – Automobile rentals, air fares, and taxi/shuttle transportation will be reimbursed at the actual, reasonable cost and, if discounts are applicable, the Consultant shall give LPA and State the benefit of all discounts. Itemized receipts must be submitted with invoices. A bank card receipt that displays only the total cost of the transportation expense is not sufficient documentation. Tips must be included in the total fare amount claimed on the travel log form. Tips for complimentary transportation are considered an incidental expense and cannot be claimed as a transportation-related expense.
 - (b) MILEAGE – The reimbursement for mileage associated with the use of company owned vehicles will be the prevailing standard rate as established by the Internal Revenue Service (IRS) through its Revenue Procedures. Reimbursement for mileage associated with the use of a privately-owned vehicle (POV), is limited to the lesser of:
 - (i) The mileage rate that the Consultant reimbursed to the person who submitted the claim for POV use; or
 - (ii) The prevailing standard rate as established by the IRS.

NOTE: When Consultant is seeking only reimbursement for mileage, Consultant must itemize travel on State's Travel Log, itemize on invoice, or include a separate mileage log which includes the following information: employee name, vehicle identification, date of travel and miles driven, reimbursement rate and total expenses. The total expenses are to be shown on the invoice as a direct expense. State's Travel log form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>.
 - (c) LODGING – The reimbursement for lodging rates will be limited to the prevailing standard rate as indicated on the U.S. General Services Administration's (GSA) website at <http://www.gsa.gov/portal/category/100120>. Consultant shall give LPA and State the benefit of all lodging discounts. Lodging receipts must be submitted with invoices.
- 4) Meal and incidental (M&I) expenses will be reimbursed on a per diem basis, not to exceed the rates as shown below. The incidental expenses portion of the per diem rate includes, but is not limited to, courtesy transportation related tips, such as hotel, park and ride, or airport shuttles; and fees and tips to porters, hotel employees, baggage carriers, and flight attendants. No receipts are required for M&I expenses.
- (a) The State per diem rate for the destination of travel is 70% of the applicable Federal GSA per diem rate. The State per diem breakdown amounts for breakfast, lunch, dinner, and incidental expenses are 70% of the Federal GSA per diem breakdown amounts.
 - (b) The State per diem rate shall be reduced by the State meal breakdown amount(s) for any meal provided by others. Examples include:

- (i) Meals included in a conference or event fee
 - (ii) Meals provided by lodging facility
 - (iii) Meals purchased by 3rd Party
 - (iv) Meals charged directly to and paid for by the State
- (c) MULTI-DAY TRAVEL – Travel that includes at least one overnight stay.
- (i) M&I reimbursement on the first and last day of travel will be reduced to 75% of the State per diem rate.
 - (ii) Except for a meal provided by others (see paragraph 4)(b) above), all meals may be claimed on the first and last day of travel irrespective of the start and stop times for those days.
- (d) SAME DAY TRAVEL – Travel that does not include an overnight stay.
- (i) Employee shall not claim reimbursement for a meal that was purchased within 20 miles of the city or town of the employee's residence or primary work location.
 - (ii) M&I reimbursement for same day travel will be reduced to 75% of the State per diem breakdown amounts.
 - (iii) The following criteria must be met for Consultant and its employees to be eligible for the M&I reimbursement on same day travel.
 - (1) Breakfast - Employee leaves for same day travel at or before 6:30 a.m. or 1-1/2 hours before the employee's shift begins, whichever is earlier, the breakfast rate may be claimed.
 - (2) Lunch – No reimbursement is allowed.
 - (3) Dinner/Supper – Employee returns from same day travel or work location at or after 7:00 p.m., or 2 hours after the employee's shift ends, whichever is later, the evening meal rate may be claimed.
 - (4) Incidental Expenses – No reimbursement is allowed unless the employee is also approved for breakfast or dinner meal expenses.
 - (5) The time limitations set forth above do not include the time taken for the meal.
 - (iv) EXCEPTION to same-day travel meal reimbursement for Construction Engineering (CE) Services Agreements – For CE Services Agreements, Consultant will not be eligible for reimbursement for meals related to same-day travel.
- 5) EXTENDED STAY/LONG TERM TRAVEL
- No extended stay arrangements, such as apartments or weekly/monthly meal reimbursement rates, have been approved.

5. INELIGIBLE COSTS

State will not pay for costs incurred prior to the Notice to Proceed date or after the completion deadline date set out in the NOTICE TO PROCEED AND COMPLETION SCHEDULE Section of this Agreement, unless approved in writing by LPA, or State on LPA's behalf. **Per Section 4. ALLOWABLE COSTS, State will not pay for costs incurred, but not submitted to State within 180 days of the date incurred. Travel costs are deemed to have been incurred on the day the travel occurs. Subconsultant costs are deemed to have been incurred on the day the Subconsultant actually incurs the cost, not the day the subconsultant invoices the cost to the Consultant.**

6. FIXED FEE FOR PROFIT

- A. The fixed fee for profit amount payable to Consultant is identified in Section 2. **MAXIMUM AGREEMENT AMOUNTS**. For each invoicing period, the Consultant may invoice State a portion of the fixed fee for profit equal to the sum of the actual direct labor costs and overhead (Indirect Costs, excluding FCCM if applicable) for the period, multiplied by the profit rate of 11.80%. Upon completion of the services outlined in this Agreement, the Consultant may invoice State any remaining fixed fee for profit not previously invoiced. If all of the services under this Agreement are not completed for any reason, LPA, or State on LPA's behalf may decrease the amount of fixed fee for profit based on LPA's and State's determination of the actual percentage of services completed.
- B. Subconsultants fixed fee for profit (if applicable): Consultant must apply the above provisions regarding fixed fee for profit to all Subconsultant contracts that utilize the cost-plus-fixed-fee (CPFF) payment method. If all of the services allocated to Subconsultant(s) under this agreement are not completed for any reason, the fixed fee for profit paid to Subconsultant(s) must be reduced based on the LPA's and State's determination, or Consultant's determination with LPA's and State's concurrence, of the actual percentage of services completed by the Subconsultant.

7. INVOICES AND PROGRESS REPORTS

- A. Consultant shall promptly submit invoices to State based on Consultant's billing period but shall not submit more than one invoice per month. Invoices must include all allowable costs, and when applicable, the associated Fee for Profit, for services provided during the billing period. Invoices may also include a request for services provided or costs incurred during a prior billing period, including subconsultant costs, with an explanation for why those costs were not previously included in an invoice, so long as those costs were incurred no more than 180 days prior to State's receipt of the invoice. Accordingly, State retains the sole discretion to not pay for costs incurred that have not been invoiced as provided above.
- B. In the event Consultant has incurred otherwise allowable costs, and such costs would exceed the maximum direct labor costs or total agreement amount listed in Section 2. **MAXIMUM AGREEMENT AMOUNTS**, Consultant shall list such costs on the invoice, but they must be subtracted from the total invoice amount submitted to State for payment.
- C. Content of Invoice Package (Presented in this order)
 - 1) Consultant's Invoice:
 - (a) The first page of an invoice must identify the company's name and address, invoice number, invoice date, invoicing period (beginning and ending dates of services), and agreement or task order number.
 - (b) The invoice and, when applicable, accompanying supporting documentation must identify each employee by name and classification, the hours worked, and the actual labor cost for each employee.
 - (c) Direct non-labor expenses:

- (i) Direct non-labor expenses, other than travel-related expenses, must be itemized and provide a complete description of each item billed along with supporting receipts or invoices.
- (ii) Travel-related expenses must be summarized and submitted on NDOT Form 163 (see paragraph 7.C.4) below). Supporting receipts (excluding meal receipts) must be submitted with NDOT Form 163 when invoicing for these expenses.
- (iii) All supporting receipts must be kept as required in Section 18.

CONSULTANT COST RECORD RETENTION.

- (d) Time Records, as outlined in paragraph 4.A.2).
 - (e) Subconsultant Services: Consultant shall require subconsultants to provide the same supporting documentation, invoices, and receipts as Consultant is required to submit and retain.
- 2) Progress Report: A Progress Report must accompany the invoice package documenting Consultant's work during the service period. If an invoice is not submitted monthly, then a Progress Report must be submitted at least quarterly via email to LPA and State's Project Coordinator. All Progress Reports must include, but are not limited to, the following:
- (a) A description of the Services completed for the service period to substantiate the invoiced amount.
 - (b) A description of the Services anticipated for the next service period
 - (c) A list of information Consultant needs from LPA, or State on LPA's behalf
 - (d) Percent of Services completed to date
- NOTE: LPA or State's Project Coordinator may request more specific information or detail be included in Progress Reports.
- 3) Cost Breakdown Form: Each invoice package must include a current and completed "Cost Breakdown Form" (NDOT Form 162). This form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. Utilizing the Cost Breakdown Form helps reduce errors in calculating previously billed amounts and limitations on eligible costs billed.
- 4) Travel Log: If an invoice contains any travel-related expenses, then a current and completed "Invoice Travel Log" (NDOT Form 163) must be included with the invoice package. This form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. Upon pre-approval by State, Consultant may use a substitute Invoice Travel Log provided it documents substantially the same information as the current NDOT Form 163. The Travel Log must document the employee's name, vehicle identification (if applicable), date/time of departure to the project, date/time of return to the headquarters town, locations traveled, and expenses for transportation, meals, and lodging.
- 5) Mileage Log (when applicable): When Consultant is seeking reimbursement for mileage only, Consultant must itemize travel on State's Travel Log, itemize on invoice, or include a separate mileage log which includes the following: employee name, vehicle identification, date of travel and miles driven, reimbursement rate and total expenses. The total expenses are to be shown on the invoice as a direct expense.

- D. All invoice packages (invoice, progress report, required NDOT Forms, supporting material) must be submitted electronically through State's OnBase Invoice Workflow System for review, approval, and payment. The user guide for the OnBase Invoice Workflow system, along with training videos can be found at <http://dot.nebraska.gov/business-center/consultant/onbase-help/>.
- E. Notice of Public Record: Documents submitted to State and LPA, including invoices, supporting documentation, and other information are subject to disclosure by State and LPA pursuant to the Nebraska Public Records Act found at Neb. Rev. Stat. § 84-712 et.seq. ACCORDINGLY, CONSULTANT SHALL REDACT OR NOT SUBMIT TO STATE AND LPA INFORMATION THAT IS CONFIDENTIAL, INCLUDING, BUT NOT LIMITED TO, FINANCIAL INFORMATION SUCH AS SOCIAL SECURITY NUMBERS, TAX ID NUMBERS, OR BANK ACCOUNT NUMBERS. Consultant understands that State and LPA do not have sufficient resources to review and redact confidential information submitted by Consultant. If such confidential information is submitted, Consultant shall have no right of action of any kind against State or LPA for the disclosure of such information.

8. PAYMENTS

State, on LPA's behalf, will pay Consultant after receipt of Consultant's invoice and determination by LPA, or State on LPA's behalf, that the invoice and progress report adequately substantiate the Services provided, and the Services were completed in accordance with this Agreement. Payments will not be made if the progress report does not provide adequate substantiation for the Services, or LPA or State determines that the Services have not been properly completed. State, on LPA's behalf, will make a reasonable effort to pay Consultant within 30 days of receipt of Consultant's invoices.

9. PROMPT PAYMENT CLAUSE

Consultant shall include a "Prompt Payment Clause" as a part of every subcontract for work, including all lower tier subcontracts. The "Prompt Payment Clause" will require progress payments to all subconsultants for all work completed, within twenty (20) calendar days after receipt of progress payments from the State for said work. If Consultant fails to carry out the requirements of the "Prompt Payment Clause" without just cause, it will be considered a material breach of this Agreement. In such situation, State may withhold any payment due to Consultant until all delinquent payments have been made (no interest will be paid for the period that payment was withheld), terminate this Agreement, or any other such remedy as State deems appropriate. Consultant may withhold payment to a subcontractor only for just cause and must notify the State in writing of its intent to withhold payment before actually withholding payment. Consultant shall not withhold, delay, or postpone payment without first receiving written approval from the State.

10. SUSPENSION OF PAYMENTS

When work is suspended on this project, payments shall be suspended until the work resumes or this Agreement is terminated. Consultant shall not be compensated for any work completed or costs incurred on the project after the date of suspension. When work is suspended for convenience, Consultant shall be compensated for work completed, or costs incurred prior to the date of suspension. When work is suspended for cause, payments shall be withheld until

all remedial action is completed by Consultant to the satisfaction of State, at Consultant's sole cost.

11. ANNUAL OVERHEAD ADJUSTMENT (TRUE-UP) INVOICES

- A. After State receives Consultant's latest Indirect Cost Rate (ICR) submittal and State establishes an approved ICR for Consultant, it is State's preference that Consultant submit a separate Overhead Adjustment Invoice that reconciles the indirect costs billed during the past fiscal year covered by the latest ICR submittal. If reconciling the indirect costs requires the Consultant to reimburse State for overpayment of indirect costs, Consultant may request reimbursement of additional allowable costs that have not been already reimbursed, provided that the costs were documented and subtracted out on previous invoices. In no circumstance may Consultant request reimbursement of any costs incurred that are not in accordance with Section 4. ALLOWABLE COSTS.
- B. When uploading this invoice to OnBase, append "(OH ADJ)" to the invoice number when populating the invoice number keyword in OnBase. More information regarding Overhead Adjustment Invoices is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>.
- C. Consultant shall require Subconsultant(s) to submit Overhead Adjustment Invoices to Consultant consistent with this Section. Consultant must include such subconsultant overhead adjustment invoices when Consultant submits their own invoices to State.

12. FINAL INVOICE, FINAL OVERHEAD (TRUE-UP) INVOICE, AND PAYMENT

- A. Upon completion of the Services under this Agreement, Consultant shall submit their final invoice to include all labor, expenses, and, if applicable, may include the balance of Fee for Profit.
- B. Consultant, and, if applicable, its subconsultant(s), shall review the indirect costs billed to-date to determine if the indirect cost rates (overhead and FCCM) used on prior invoices match the actual indirect cost rates applicable to the time period that the labor was incurred. If cost adjustments are necessary, they should be reflected on an Overhead Adjustment Invoice (**separate from final costs incurred invoice**). Refer to Section 11. OVERHEAD ADJUSTMENT INVOICE. If a particular year's actual overhead has not yet been computed or approved by State, the most recently approved yearly rate should be applied. Consultant shall submit any final Overhead Adjustment Invoice within 180 days of completion of the work under this Agreement, and if such invoice is not timely submitted, State may audit and close the Agreement without accepting any further invoices from Consultant. More information regarding Overhead Adjustment Invoices is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>.
- C. After receipt of final invoice and Overhead Adjustment Invoice and determination by LPA, or State on LPA's behalf, that the final invoice and Progress Report adequately substantiate the Services provided and that the Services were completed in accordance with this Agreement, State, on LPA's behalf, will pay Consultant. Acceptance of the final payment by Consultant will constitute and operate as a release to LPA and State for all claims and liability to Consultant, its representatives, and assigns, for any and all things done, furnished, or relating to the Services rendered by or in connection with this Agreement or any part thereof.

13. AGREEMENT CLOSE-OUT

Upon submitting its final invoice and, if required, a final Overhead Adjustment invoice, the Consultant must complete and submit to LPA, or State on LPA's behalf, a Notification of Completion Form (NDOT Form 39). The form is generated and submitted electronically through State's OnBase Invoice Workflow System. Instructions for generating and submitting the NDOT Form 39 are available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. Consultant shall submit NDOT 39 Form within 180 days of completion of the work under this Agreement, and if such Form is not timely submitted, State may audit and close the Agreement without accepting any further invoices from Consultant.

14. FEDERAL COST PRINCIPLES

LPA will not make payments directly to Consultant for services performed under this agreement. Instead, the State will serve as a paying agent for LPA and will pay Consultant directly for properly submitted and approved invoices using both LPA and Federal funds based on the applicable project federal cost participation percentage. The following process shall apply whenever the LPA, the State or the FHWA determines that certain costs, previously paid to Consultant, should not have been paid with federal funds by the State to Consultant. Consultant shall immediately repay the State the federal share of the previously paid amount and may invoice LPA for the costs repaid to the State. LPA shall promptly pay the full amount of the invoice from its own funds unless LPA, in good faith, disputes whether the Consultant is entitled to the payment under the agreement or the amount of the invoice. In the event of a dispute between LPA and Consultant, the dispute resolution process, outlined Section 4.4.3.5 DISPUTE RESOLUTION of the LPA Manual, shall be used by the parties. For performance of Services as specified in this Agreement, State will pay Consultant subject to the terms of this Agreement and all requirements and limitations of the federal cost principles contained in the Federal Acquisition Regulations [48 CFR 31 \(Contract Cost Principles and Procedures\)](#).

15. OUT-OF-SCOPE SERVICES AND CONSULTANT WORK ORDERS

- A. LPA, or State on LPA's behalf, may request that Consultant provide services that, in the opinion of Consultant, are in addition to or different from those set out in the Scope of Services. When LPA, or State on LPA's behalf, decides that these out-of-scope services may require an adjustment in costs, Consultant shall provide in writing:
- 1) A description of the out-of-scope services,
 - 2) An explanation of why Consultant believes that the out-of-scope services are not within the original Scope of Services and additional work effort is required,
 - 3) An estimate of the cost to complete the out-of-scope services. Consultant must receive written approval from LPA, or State on LPA's behalf, before proceeding with the out-of-scope services. Before written approval will be given by LPA, or State on LPA's behalf, LPA or State must determine that the situation meets the following criteria:
 - (a) The out-of-scope services are not within the original Scope of Services and additional work effort is required; and
 - (b) The out-of-scope services are within the basic scope of services under which Consultant was selected and Agreement entered; and
 - (c) It is in the best interest of LPA that the out-of-scope services be performed under this Agreement.

B. Once the need for a modification to the Agreement has been established, the State, on LPA's behalf, will prepare a supplemental agreement. If the additional work requires the Consultant to incur costs prior to execution of a supplemental agreement, the State, on LPA's behalf, may issue a written notice to proceed prior to completing the supplemental agreement (for non-Federal aid projects) or shall use the process set out below (for Federal aid PE projects):

- 1) The Consultant Work Order (CWO) – NDOT Form 250 shall be used to describe and provide necessary justification for the additional scope of services, effort, the deliverables, modification of schedule, and to document the cost of additional services. The CWO form is available on the State's website at <http://dot.nebraska.gov/business-center/consultant/>. The CWO must be executed to provide authorization for the additional work and to specify when that work may begin. The agreement will be supplemented after one or more CWOs have been authorized and approved for funding.

16. TERMINATION COST ADJUSTMENT

If the Agreement is terminated prior to project completion, State and LPA will compare the percentage of work actually completed by Consultant to the total amount of work contemplated by this Agreement. This comparison will result in a payment by the State, on LPA's behalf, for any underpayment, no adjustment, or a billing to Consultant for overpayment. The State's final audit may result in an additional cost adjustment.

17. AUDIT AND FINAL COST ADJUSTMENT

Upon LPA's and State's determination that Consultant has completed Services under this Agreement, State, or its authorized representative, may complete an audit review of the payments made under this Agreement. The Parties understand that the audit may require an adjustment of the payments made under this Agreement. Consultant agrees to reimburse State for any overpayments identified in the audit review, and State agrees to pay Consultant for any identified underpayments.

18. CONSULTANT COST RECORD RETENTION

Consultant, and all its subconsultants or subcontractors, shall maintain originals or copies of any document required to be completed in this Agreement, that substantiate any expense incurred, or changes any legal obligations for three (3) years from the date of final cost settlement by FHWA and project closeout by the State.

Documents include, but are not limited to: written approvals; time reports; detailed receipts; invoices; transportation costs; mileage; lodging costs; all NDOT forms including NDOT cost breakdown form and NDOT travel form; books; papers; electronic mail; letters; accounting records; supplemental agreements; work change orders; or other evidence pertaining to any cost incurred.

Such materials will be available for inspection by the LPA, State, FHWA, or any authorized representative of the federal government, and copies of any document(s) will be furnished when requested.

RESOLUTION
SIGNING OF ENVIRONMENTAL AGREEMENT – BK2339

Papio-Missouri Natural Resources District

Resolution No. _____

Whereas: Papio-Missouri Natural Resources District is developing a transportation project for which it intends to obtain Federal funds; and

Whereas: Papio-Missouri Natural Resources District as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State, and local laws, rules, regulations, policies, and guidelines applicable to the funding of the Federal-aid project; and

Whereas: Papio-Missouri Natural Resources District and Jacobs Engineering Group, Inc. wish to enter into a Professional Services Agreement to provide Environmental Services for the Federal-aid project.

Be It Resolved: by the Board of the Papio-Missouri Natural Resources District that:

John Winkler, General Manager of the Papio-Missouri Natural Resources District, is hereby authorized to sign the attached Environmental Services agreement between Papio-Missouri Natural Resources District and Jacobs Engineering Group, Inc.

NDOT Project Number: TAP-28(161)

NDOT Control Number: 22931

NDOT Project Description: Elkhorn River Trail Bridge

Adopted this _____ day of _____, 20____ at _____ Nebraska.
(Month)

The Board of the Papio-Missouri Natural Resources District:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | |

Board/Council Member _____
Moved the adoption of said resolution
Member _____ Seconded the Motion
Roll Call: _____ Yes _____ No _____ Abstained _____ Absent
Resolution adopted, signed and billed as adopted

Attest:

Signature - Natural Resource Planner