

**LPA – CONSULTANT
PROFESSIONAL SERVICES AGREEMENT**

CITY OF LEXINGTON, NEBRASKA
OLSSON ASSOCIATES, INC.
PROJECT NO. URB-6552(1)
CONTROL NO. 61554
6TH ST, GRANT-TAFT, LEXINGTON

THIS AGREEMENT, made and entered into by and between the City of Lexington, Nebraska, hereinafter referred to as the Local Public Agency or LPA, and Olsson Associates, Inc., hereinafter referred to as the Consultant.

WITNESSETH

WHEREAS, the LPA used a qualification based selection process to select the Consultant to render professional services for the above named project at the location shown on EXHIBIT "A", which is attached and hereby made a part of this agreement, and

WHEREAS, the Consultant is qualified to do business in Nebraska and has met all requirements of the Nebraska Board of Engineers and Architects to provide consultant engineering services in the State of Nebraska, and

WHEREAS, Consultant is willing to perform the services in accordance with the terms hereinafter provided agrees to comply with all federal, state, and local laws and ordinances applicable to this agreement, and agrees to comply with all applicable federal-aid transportation related program requirements, so that Consultant's costs under this agreement will be fully eligible for federal reimbursement, and

WHEREAS, the LPA and Consultant intend that the services under this agreement 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 (See definition in Section 1), and

WHEREAS, the Consultants primary contact person for LPA will be the LPA's representative, who has been designated as being in responsible charge of the project, and who is referred to herein as RC or Responsible Charge.

WHEREAS, the parties understand that the State of Nebraska, Department of Roads 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, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

WHEREVER in this agreement the following terms are used, they will have the following meaning:

"LPA" stands for Local Public Agency, and in this agreement means the City of Lexington, Nebraska, unless the context otherwise requires. LPA may also be used to refer generally to other Local Public Agencies. Local Public Agencies include, but are not necessarily limited to; Nebraska Cities, Villages, Counties, Political Subdivisions, Native American Tribes, and other entities or organizations found to be eligible sub recipients of federal funds for transportation projects.

"CONSULTANT" means the firm of Olsson Associates, Inc. and any employees thereof, whose business and mailing address is 1111 Lincoln Mall, Suite 111, Lincoln, NE 68508.

"LPA MANUAL" shall mean the Nebraska Department of Roads' LPA Guidelines Manual for Federal-Aid Projects. 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://www.transportation.nebraska.gov/gov-aff/lpa/lpa-guidelines.pdf>.

"RESPONSIBLE CHARGE" or "RC" shall mean LPA's representative for the project whose duties and responsibilities are identified in federal law and in the LPA Manual.

"STATE" means the Nebraska Department of Roads in Lincoln, Nebraska, its Director, or authorized representative. The State represents the interests of the United States Department of Transportation on federally funded transportation projects sponsored by a sub recipient of federal funds and any reference to the "State" in this agreement shall mean the State on behalf of the United States Department of Transportation.

"FHWA" means the Federal Highway Administration, United States Department of Transportation, Washington, D.C. 20590, acting through its authorized representatives.

"DOT" means the United States Department of Transportation, Washington, D.C. 20590, acting through its authorized representatives.

To "ABANDON" the services means that the LPA has determined that conditions or intentions as originally existed have changed and that the services as contemplated herein is to be renounced and deserted for as long in the future as can be foreseen.

To "SUSPEND" the services means that the LPA has determined that progress is not sufficient, or that the conditions or intentions as originally existed have changed, or the services completed or submitted are unsatisfactory, and that the services as contemplated herein should

be stopped on a temporary basis. This cessation will prevail until the LPA determines to abandon or terminate the services or to reinstate it under the conditions as defined in this agreement.

To "TERMINATE" or the "TERMINATION" of this agreement is the cessation or quitting of this agreement based upon action or failure of action on the part of the Consultant as defined herein and as determined by the LPA.

SECTION 2. THIS SECTION HAS INTENTIONALLY BEEN LEFT BLANK

SECTION 3. THIS SECTION HAS INTENTIONALLY BEEN LEFT BLANK

SECTION 4. TERM OF THE AGREEMENT

This agreement becomes effective on the date it is signed by the State and will end upon: (1) the waiver of an audit review or (2) the final completion of an audit review by the State or its authorized representative, and the resolution of all issues identified in the audit report.

SECTION 5. SCOPE OF SERVICES

LPA and Consultant understand that the Services provided by Consultant must be completed in accordance with all federal-aid reimbursement requirements and conditions. LPA and Consultant agree that the Scope of Services for this Task Order will be in two parts. Part one of the Scope of Services is contained within the General Scope of Services set out below. Part two of the Scope of Services is set out on the document attached hereto as Exhibit "B", entitled Scope of Services and Fee Proposal, which is hereby fully incorporated herein and made a part hereof by this reference. Exhibit "B" is the result of the following process:

- (1) LPA provided Consultant with a document describing the detailed proposed Scope of Services for this project
- (2) Consultant made necessary and appropriate proposed additions, deletions, and revisions to LPA's detailed Scope of Services document
- (3) LPA and Consultant together reviewed the proposed Scope of Services, the proposed revisions and negotiated the final detailed Scope of Services and Fee Proposal document, which is attached as Exhibit "B".

The Consultant agrees to provide preliminary engineering and environmental documentation services for Project No. URB-6552(1), Control No. 61554, in Dawson County, Nebraska as set out in Exhibit "B", Scope of Services, which are attached and hereby made a part of this agreement.

The LPA has the absolute right to add or subtract from 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

or subtraction will become effective seven days after mailing written notice of such addition or subtraction.

SECTION 6. STAFFING PLAN (For PE Services)

The Consultant has provided LPA with a staffing plan that identifies the employees of the Consultant who will be part of the primary team for this project. The primary team members will be agreed upon and identified in this agreement. The primary team is expected to be directly responsible for providing the services under this agreement. This document shall specify the role that will be assigned to each member of the primary team. This document is attached hereto as EXHIBIT "C" and is incorporated herein by this reference. During design, the Consultant may make occasional temporary changes to the primary team. However, any permanent change to the primary team will require prior written approval from the LPA.

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 the Consultant to provide acceptable replacement personnel or qualified new personnel to keep the services on schedule will be cause for termination of this agreement, with settlement to be made as provided in the SUSPENSION, ABANDONMENT, OR TERMINATION section of this agreement.

SECTION 7. NEW EMPLOYEE WORK ELIGIBILITY STATUS

The 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. The Consultant hereby 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.

The undersigned duly authorized representative of the Consultant, by signing this agreement, 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.

If the Consultant is an individual or sole proprietorship, the following applies:

1. The Consultant must complete the United States Citizenship Attestation form, and attach it to this agreement. This form is available on the Department of Roads website at www.transportation.nebraska.gov/projdev/#save.
2. If the Consultant indicates on such Attestation form that he or she is a qualified alien, the Consultant agrees to provide the US Citizenship and Immigration Services documentation required to verify the Consultant lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Consultant understands and agrees that lawful presence in the United States is required and the Consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

SECTION 8. NOTICE TO PROCEED AND COMPLETION DATE (PE)

The LPA will issue the Consultant a written Notice-to-Proceed when LPA determines that federal funding approval has been obtained for the project, upon full execution of the agreement and upon State concurrence that the form of this agreement is acceptable for federal funding eligibility. Any services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed will not be eligible for reimbursement.

The Consultant shall complete all the services according to the schedule in attached EXHIBIT "B" and shall complete all services required under this agreement in a satisfactory manner.

Any costs incurred by Consultant after the completion date are not eligible for reimbursement unless the Consultant has received a written extension of time from LPA.

The completion date will not be extended because of any avoidable delay attributed to the Consultant, but delays not attributable to the Consultant, such as delays attributable to the LPA may constitute a basis for an extension of time.

SECTION 9. FEES AND PAYMENTS

The general provisions concerning payment under this agreement are set out on the Exhibit "E", attached hereto and hereby made a part of this agreement.

For performance of the services as described in this agreement, the Consultant will be paid a fixed-fee-for-profit of \$18,908.28 and up to a maximum amount of \$148,578.19 for actual costs in accordance with Exhibit "E". The total agreement amount is \$167,486.47.

SECTION 10. PROFESSIONAL PERFORMANCE (LPA PE)

The Consultant understands that the LPA will rely on the professional training, experience, performance and ability of the Consultant. Examination by the LPA, State or FHWA, or acceptance or use of, or acquiescence in the Consultant's work product, will not be considered to be a full and comprehensive examination and will not be considered an approval of the Consultant's work product which would relieve the Consultant from any liability or expense that would be connected with the Consultant's sole responsibility for the propriety and integrity of the professional services to be accomplished by the Consultant pursuant to this agreement. The Consultant further understands that acceptance or approval of any of the work of the Consultant by the LPA or concurrence by the State/FHWA or of payment, partial or final, will not constitute a waiver of any rights of the LPA to recover from the Consultant, damages that are caused by the Consultant due to error, omission, or negligence of the Consultant in its work. That further, if due to error, omission, or negligence of the Consultant, the work project of the Consultant is found to be in error or there are omissions therein revealed during or after the construction of the project and revision, reconsideration, or reworking of the Consultant work product is necessary, the Consultant shall make such revisions without expense to the LPA. The Consultant shall respond to the LPA's or State's notice of any errors or omissions within 24 hours and give immediate attention to necessary corrections to minimize any delays to the project. This may involve visits by the Consultant to the project site, if directed by the LPA. If the Consultant discovers errors in its services, it shall notify the LPA and State of the errors within seven days. Failure of the Consultant to notify the LPA will constitute a breach of this agreement. The Consultant's legal liability for all damages incurred by the LPA caused by error, omission, or negligent acts of the Consultant will be borne by the Consultant without liability or expense to the LPA.

SECTION 11. SUSPENSION, ABANDONMENT OR TERMINATION (2/8/12)

The LPA has the absolute right to suspend or abandon the work, or terminate the agreement at any time and such action on its part will in no event be deemed a breach of this agreement. The LPA will give the Consultant seven days written notice of such suspension,

abandonment, or termination. Any necessary change in Scope of Services shall follow the Consultant Work Order Process outlined in the FEES AND PAYMENTS section above.

If the LPA suspends or abandons the work or terminates the agreement as presently outlined, the Consultant shall be compensated in accordance with the provisions of 48 CFR 31 provided however, that in the case of suspension, abandonment or termination for breach of this agreement, the LPA will have the power to suspend payments, pending the Consultant's compliance with the provisions of this agreement. For the abandonment or termination of this agreement, payment to Consultant will be prorated based on the percentage of work completed by the Consultant prior to abandonment or termination compared to the total amount of work contemplated by this agreement.

SECTION 9. OWNERSHIP OF DOCUMENTS (11/17/11)

All surveys, maps, reports, computations, charts, plans, specifications, electronic data, shop drawings, diaries, field books, and other project documents prepared or obtained under the terms of this agreement are the property of the LPA and the Consultant shall deliver them to the LPA at the conclusion of the project without restriction or limitation as to further use.

LPA acknowledges that such data may not be appropriate for use on an extension of the services covered by this agreement or on other projects. Any use of the data for any purpose other than that for which it was intended without the opportunity for Consultant to review the data and modify it if necessary for the intended purpose will be at the LPA's sole risk and without legal exposure or liability to Consultant.

Further, Consultants' time sheets and payroll documents shall be kept in Consultants' files for at least three years from the completion of final cost settlement by FHWA and project closeout by the State.

SECTION 10. CONFLICT OF INTEREST LAWS

The Consultant shall review the Conflict of Interest provisions of 23 CFR 1.33 and 49 CFR 18.36(b)(3) and agrees to comply with all the Conflict of Interest provisions in order for the LPA's project to remain fully eligible for Federal funding. By signing this agreement, the Consultant certifies that Consultant is not aware of any financial or other interest the Consultant has that would violate the terms of these federal provisions.

SECTION 11. USE AND/OR RELEASE OF PRIVILEGED OR CONFIDENTIAL INFORMATION

Certain information provided by the LPA or State to the Consultant is confidential information contained within privileged documents protected by 23 U.S.C. §409. "Confidential information" means any information that is protected from disclosure pursuant to state and

federal law and includes, but is not limited to, accident summary information, certain accident reports, diagnostic evaluations, bridge inspection reports, and any other documentation or information that corresponds with said evaluations or reports, and any other information protected by 23 U.S.C. §409. "Privileged document" means any document pertaining to any file or project maintained by the LPA or State that is privileged and protected from disclosure, pursuant to appropriate state and federal law, including any document containing attorney-client communications between an LPA or State employee and Legal Counsel. This confidential and privileged information is vital and essential to the Consultant in order that the Consultant adequately design the project at hand on behalf of the LPA or State.

The Consultant agrees it will only use any information or documentation that is considered to be privileged or confidential for the purposes of executing the services by which it has agreed to render for the LPA or State for the project at hand only. The Consultant agrees not to reveal, disseminate, or provide copies of any document that is confidential and privileged to any individual or entity. The LPA agrees that any information or documentation that is considered to be privileged or confidential that is provided to Consultant will be marked with the following information (Approved 3/16/11):

"CONFIDENTIAL INFORMATION: Federal Law, 23 U.S.C §409, prohibits the production of this document or its contents in discovery or its use in evidence in a State or Federal Court. The LPA has not waived any privilege it may assert as provided by that law through the dissemination of this document and has not authorized further distribution of this document or its contents to anyone other than the original recipient."

The Consultant agrees to obtain the written approval of the Consultant Coordinator prior to the dissemination of any privileged or confidential information or documentation if it is unclear to the Consultant whether such information or documentation is in fact privileged or confidential.

The Consultant and the LPA agree that any unauthorized dissemination of any privileged or confidential information or documentation on the part of the Consultant will create liability on the part of the Consultant to the LPA for any damages that may occur as a result of the unauthorized dissemination. The Consultant agrees to hold harmless, indemnify, and release the LPA for any liability that may ensue on the part of the LPA for any unauthorized dissemination of any privileged or confidential information or documentation on the part of the Consultant.

SECTION 12. FORBIDDING USE OF OUTSIDE AGENTS

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the LPA has the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

SECTION 13. NON-RAIDING CLAUSE

The Consultant shall not engage the services of any person or persons presently in the employ of the State for services covered by this agreement without the prior written consent of the employer of the persons.

SECTION 14. GENERAL COMPLIANCE WITH LAWS

The Consultant hereby agrees to comply with all federal, state, and local laws and ordinances applicable to the work in effect at the time of the work.

SECTION 15. DISPUTES

Any dispute concerning a question of fact in connection with the work covered under this agreement will be addressed in accordance with LPA Manual Section 4.4.3.5 DISPUTE RESOLUTION.

SECTION 16. RESPONSIBILITY FOR CLAIMS AND LIABILITY (PE) (1-24-12)

The Consultant agrees to save harmless the LPA from all claims and liability due to the error, omission, or negligence of the Consultant or those of the Consultant's agents or employees in the performance of services under this agreement. Further, it is expected that in carrying out the work under this agreement, Consultant will make various decisions and judgments and Consultant will determine what actions are required by Consultant and by others to properly complete the work. Nothing in this Agreement shall be interpreted to relieve Consultant from any liability it would otherwise have to LPA in carrying out the work under this agreement.

Finally, the Consultant shall for the life of this agreement, carry insurance as outlined in Exhibit "D" and attached hereto, and hereby made a part of this agreement. In any contract Consultant has with a subconsultant, Consultant shall require that the insurance requirements outlined in Exhibit "D" must be met by the subconsultant.

SECTION 17. PROFESSIONAL REGISTRATION

The Consultant shall affix the seal of a registered professional engineer or architect licensed to practice in the State of Nebraska, on all plans, documents, and specifications prepared under this agreement as required by the Nebraska Engineers and Architects Regulations Act, Neb.Rev.Stat §81-3401 et. seq.

SECTION 18. SUCCESSORS AND ASSIGNS

This agreement is binding on successors and assigns of either party.

SECTION 19. DRUG-FREE WORKPLACE POLICY

The Consultant shall have an acceptable and current drug-free workplace policy on file with the State.

SECTION 20. FAIR EMPLOYMENT PRACTICES ACT

The Consultant agrees to abide by the Nebraska Fair Employment Practices Act, as provided by Neb.Rev.Stat. 48-1101 through 48-1126, which is hereby made a part of and included in this agreement by reference.

SECTION 21. DISABILITIES ACT

The Consultant agrees to comply with the Americans with Disabilities Act of 1990 (P.L. 101-366), as implemented by 28 CFR 35, which is hereby made a part of and included in this agreement by reference.

SECTION 22. DISADVANTAGED BUSINESS ENTERPRISES

The Consultant shall ensure that disadvantaged business enterprises, as defined in 49 CFR 26, have the maximum opportunity to compete for and participate in the performance of subagreements financed in whole or in part with federal funds under this agreement. Consequently, the disadvantaged business requirements of 49 CFR 26 are hereby made a part of and included in this agreement by reference.

The Consultant shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of FHWA-assisted contracts. Failure of the Consultant to carry out the requirements set forth above will constitute a breach of this agreement and, after the notification of the FHWA, may result in termination of this agreement by the LPA or such remedy as the LPA deems appropriate.

SECTION 23. NONDISCRIMINATION

- A. Compliance with Regulations: During the performance of this agreement, the Consultant, for itself and its assignees and successors in interest, agrees to comply with the regulations of the DOT relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR 21 and 27, hereinafter referred to as the Regulations), which are hereby made a part of and included in this agreement by reference.
- B. Nondiscrimination: The Consultant, with regard to the work performed by it after award and prior to completion of this agreement, shall not discriminate on the basis of race, color, sex, or national origin in the selection and retention of Subconsultants, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices when the agreement covers a program set forth in Appendixes A, B, and C of 49 CFR 21.
- C. Solicitations for Subagreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subagreement, including procurements of materials or equipment, each potential Subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations under this agreement and the Regulations relative to nondiscrimination on the basis of race, color, sex, or national origin.
- D. Information and Reports: The Consultant shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA, State or FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall certify to the LPA, State or FHWA, as appropriate, and set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this agreement, the LPA will impose such agreement sanctions as it or the State and FHWA may determine to be appropriate, including but not limited to withholding of payments to the Consultant under this agreement until the Consultant complies, and/or cancellation, termination, or suspension of this agreement, in whole or in part.

F. Incorporation of Provisions: The Consultant shall include the provisions of paragraphs A through E of this section in every subagreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Consultant shall take such action with respect to any subagreement or procurement as the LPA, State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided however, that in the event a Consultant becomes involved in or is threatened with litigation with a Subconsultant/ Subcontractor as a result of such direction, the Consultant may request that the LPA enter into such litigation to protect the interests of the LPA and, in addition, the Consultant may request that the State and United States enter into such litigation to protect the interests of the State and United States.

SECTION 24. SUBLETTING, ASSIGNMENT, OR TRANSFER

Any other subletting, assignment, or transfer of any professional services to be performed by the Consultant is hereby prohibited unless prior written consent of the LPA is obtained.

As outlined in the DISADVANTAGED BUSINESS ENTERPRISES Section of this agreement, the Consultant shall take all necessary and reasonable steps to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform subagreements. Any written request to sublet any other work must include documentation of efforts to employ a disadvantaged business enterprise.

SECTION 25. CONSULTANT CERTIFICATIONS

The undersigned duly authorized representatives of the Consultant, by signing this agreement, hereby swears, under the penalty of law, the truth of the following certifications, and agrees as follows:

- A. Neb. Rev. Stat. § 81-1715(1).** I certify compliance with the provisions of Section 81-1715 and, to the extent that this contract is a lump sum or actual cost-plus-a-fixed fee professional service contract, I hereby certify that wage rates and other factual unit costs supporting the fees in this agreement are accurate, complete, and current as of the date of this agreement. I agree that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the LPA determines the contract price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.
- B. Neb. Rev. Stat. §§ 81-1717 and 1718.** I hereby certify compliance with the provisions of Sections 81-1717 and 1718 and, except as noted below neither I nor any person associated with the firm in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position involving the administration of federal funds:
1. Has employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Consultant) to solicit or secure this agreement, or

2. Has agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
3. Has paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement, except as here expressly stated (if any).

C. Certification Regarding Debarment, Suspension, and Other Responsibility Matters- Primary Covered Transactions. Section C1 below contains 10 instructions that consultant agrees to follow in making the certifications contained in C2.

1. Instructions for Certification

- a. By signing this agreement, the Consultant is providing the certification set out below.
- b. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this project. The Consultant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the State's determination whether to enter into this agreement. However, failure of the Consultant to furnish a certification or an explanation will disqualify the Consultant from participation in this agreement.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the State determined to enter into this agreement. If it is later determined that the Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the State may terminate this agreement for cause or default.
- d. The Consultant shall provide immediate written notice to the State if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- f. The Consultant agrees that should the proposed covered transaction be entered into, it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the State before entering into this agreement.
- g. The Consultant further agrees to include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the State without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. The Consultant in a covered transaction may rely upon a certification of a prospective Subconsultant in a lower tier covered transaction that it is not debarred,

suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Consultant may decide the method and frequency by which it determines the eligibility of its principals.

- i. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if the Consultant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the State may terminate this agreement for cause or default.

2. **Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions**

- a. By signing this agreement, the Consultant certifies to the best of its knowledge and belief, that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - ii. Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph a.ii above; and
 - iv. Have not within a three-year period preceding this agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. Where the Consultant is unable to certify to any of the statements in this certification, such Consultant shall attach an explanation to this agreement. I acknowledge that this certification is to be furnished to the State and the FHWA in connection with this agreement involving participation of federal-aid highway funds and is subject to applicable, state and federal laws, both criminal and civil.

SECTION 27. LPA CERTIFICATION

By signing this agreement, I do hereby certify that, to the best of my knowledge, the 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 agreement 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.

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

SECTION 28. ALL ENCOMPASSED

This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than contained herein, and this agreement supersedes all previous communications, representations, or other agreements or contracts, either oral or written hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

After being duly sworn on oath, I do hereby acknowledge the foregoing certification and state that I am authorized to sign this agreement.

EXECUTED by the Consultant this ____ day of _____, 2012.

OLSSON ASSOCIATES, INC.
Randall J. Kaster, P.E.

Principal

STATE OF NEBRASKA)
)ss.
LANCASTER COUNTY)

Subscribed and sworn to before me this _____ day of _____, 2012.

Notary Public

EXECUTED by the LPA this ____ day of _____, 2012.

CITY OF LEXINGTON
John Fagot

Mayor

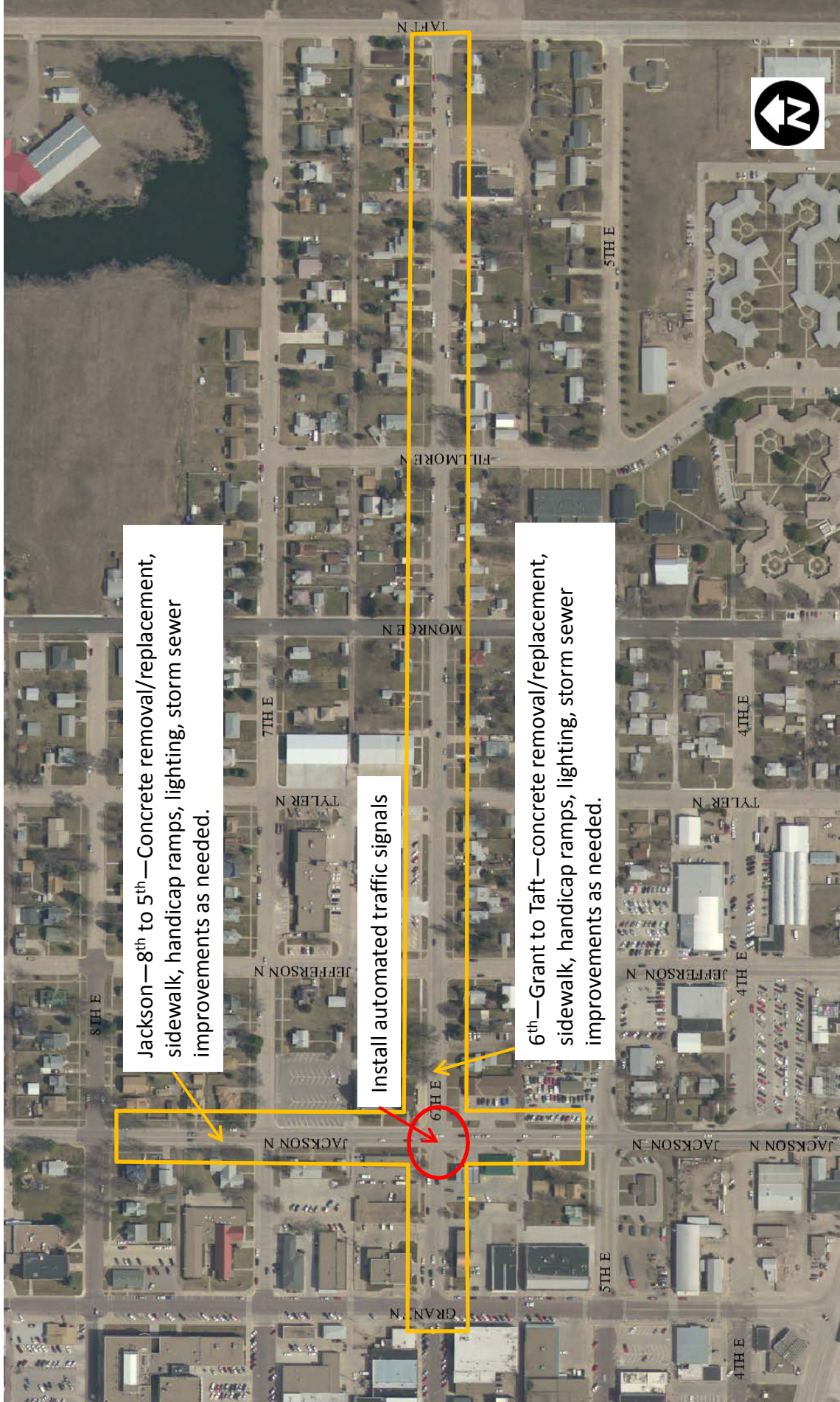
Subscribed and sworn to before me this _____ day of _____, 2012.

Clerk

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

Date

6th Street and Jackson Street Improvements—Lexington, NE



Jackson—8th to 5th — Concrete removal/replacement, sidewalk, handicap ramps, lighting, storm sewer improvements as needed.

Install automated traffic signals

6th—Grant to Taft—concrete removal/replacement, sidewalk, handicap ramps, lighting, storm sewer improvements as needed.



13th Street Improvements—Lexington, NE



13th Street—Adams to Park—concrete removal and Replacement (north 1/2 of street), sidewalks, lighting, handicap ramps, and storm sewer improvements as needed.

**Exhibit A
SCOPE OF SERVICES**

**NEPA Categorical Exclusion and Preliminary Engineering
for**

**Project Name: 6th Street, Jackson Street & 13th Street – Lexington, NE
Project Number: URB-6552 (1)
Control Number: 61554**

A. PROJECT DESCRIPTION:

This schedule provides for environmental and preliminary engineering design services related to compliance with the National Environmental Policy Act (NEPA) for City of Lexington in Dawson County, Nebraska. The project consists of:

1. Remove and reconstruct existing concrete pavement on 6th Street, Jackson Street and 13th Street – See Exhibit B for limits.
2. Resurfacing existing concrete pavement on 6th Street from Jefferson to Taft – See Exhibit B for limits.
3. Remove and reconstruct existing concrete sidewalk
4. Reconstructing existing concrete curb & gutter sections where needed on 6th Street (assume 250')
5. Constructing curb ramps at intersections to comply with ADA standards.
6. Install roadway lighting.
7. Construct Traffic Signal at 6th Street and Jackson Street.

Attached is **Exhibit B** showing the existing concrete streets to be removed and reconstructed including 6th Street, Jackson Street and a portion of 13th Street; and showing the existing concrete street (6th Street) to be resurfaced. The project work on the streets, sidewalk and curb ramps are anticipated to be constructed within existing right-of-way, but this assumption will be verified as part of the design process. The project *will* require detour routing.

Olsson Associates (Consultant) shall serve as the agent for City of Lexington (Client), representing the Client in all matters related to environmental and preliminary engineering services for this project.

It is anticipated that the project will require the following major tasks:

1. Categorical Exclusion Form and supporting documentation of concurrence and compliance with applicable environmental regulations
2. Topographic Survey supplemented by an aerial photo.
3. Preliminary Engineering Design
4. Geotechnical Investigation
5. Public Involvement
6. Project Management and QA/QC
7. Meetings

B. APPLICABLE PUBLICATIONS:

Work shall be done in accordance with the most current version of the following materials. The most current versions of the NDOR materials can be obtained from the NDOR website.

1. LPA Guidelines Manual for Federal-Aid Projects. NDOR, May 2009.
2. The Process for Obtaining Environmental Concurrences and Completing NEPA Documents for Local Public Agency (LPA) Federally Funded Transportation Projects. NDOR, December 2009.
3. Instructions for Completing the Probable Class of Action DR-53 Form for Local Federal-Aid Transportation Projects. NDOR, August 2010.
4. Guidelines for Completing the CE Documentation Form. NDOR, November 2008.
5. Guidelines for completing the Project Description Section of NEPA Determination and CE Forms. NDOR, May 2009.

Project Number: **URB-6552 (1)**

Control Number: **61554**

Project Name: **6th Street, Jackson Street & 13th Street Improvement – Lexington, NE**

Exhibit "B"

Page 1 of 13

6. Instructions to Complete Section 106 Concurrence Request Form. NDOR, December 2009.
7. Wetland and Water Resources Review Procedures for Federal Aid Projects. NDOR, October 2010.
8. Memorandum on Qualifications and Documentation Requirements for LPA Project Wetlands Reviews. NDOR, November 2009.
9. Instructions for Completing the Wetland Determination Checklist. November 2009.
10. NDOR Wetland Determination Checklist
11. US Army Corps of Engineers (USACE) Wetlands Delineation Manual, Technical Report Y-87-1. Environmental Laboratory, Department of the Army Waterways Experiment Station, USACE, Vicksburg, Mississippi. 1987.
12. Interim Regional Supplement to the US Army Corps of Engineers Wetland Delineation Manual: Midwest Region, ERDC/EL TR-08-27. Wetlands Regulatory Assistance Program, US Army Engineer Research and Development Center, Vicksburg, Mississippi. 2008.
13. Interim Regional Supplement to the US Army Corps of Engineers Wetland Delineation Manual: Great Plains Region, ERDC/EL TR-08-12. Wetlands Regulatory Assistance Program, US Army Engineer Research and Development Center, Vicksburg, Mississippi. 2008.
14. Regulatory Guidance Letter No. 05-05: Ordinary High Water Mark Identification. US Army Corps of Engineers. 2005.
15. Cowardin et al. Classification of Wetlands and Deepwater Habitats of the United States, FWS/OBS 79/31. Biological Services Program, Fish and Wildlife Service, US Department of the Interior. 1979.
16. Nebraska Wetland Subclasses (Attachment K, Wetland Mitigation Banking, Standard Operating Procedures in Nebraska)
17. Instructions for Completing Biological Evaluation Form for Local Federal Aid Projects. NDOR, October 2009.
18. Endangered Species Review Training Manual. NDOR, June 2010.
19. Guidelines for Completing Green Sheets for the NDOR Local Project Section. NDOR, September 2009.
20. Nebraska Minimum Design Standards – Counties, Municipalities, State, 2008
21. Policy on Geometric Design of Highways and Streets 2004 (AASHTO)
22. State of Nebraska 2006 Roadway Design Manual
23. Highway Capacity Manual – Transportation Research Board Special Report HCM2000
24. State of Nebraska, Department of Roads, Standard Specifications for Highway Construction 2007
25. Guide for Design of Structural Supports for Highway Signs, Luminaries and Traffic Signals (AASHTO)
26. IES Lights Handbook (Illuminating Engineering Society)
27. An Informational Guide for Roadway Lighting (AASHTO)
28. Roadway Lighting Handbook (USDOT, FHWA)ARTBA, AGC)
29. Manual on Uniform Traffic Control Devices (FHWA)
30. Traffic Control Devices Handbook (FHWA)
31. NDOR Crew Traffic Control Policy

C. LPA SHALL PROVIDE:

1. Provide as-built or design plans of the existing and adjacent roadways (if available).
2. Electronic files of current aerial photographs.
3. Existing cadastral maps, plat maps, electronic right-of-way files of the project area (if available).
4. Provide location for and advertise for public meetings.
5. Names of known utilities, addresses and permits listing use and occupancy permit data along the project.
6. Traffic count information for public crossings (if available).
7. A 5-year crash inventory for the 6th & Jackson Intersection.

D. CONSULTANT SHALL PROVIDE:

1. Categorical Exclusion Document and Resource Reviews. The Consultant will complete the NDOR Categorical Exclusion Form (CE). Consultant will obtain agency concurrences and produce supplemental information to attach to the Form. Figures and resource maps will also be required to be attached to the Form and produced or obtained by Consultant. The

Form and attachments shall be sent to the Client and NDOR for review and approval. Consultant will submit a revised Form, address NDOR and FHWA comments (one review), and prepare the final version of the Form.

- 1.1 Resource Review. Using the Form and NDOR guidance, Consultant will review relevant resources. Some resources will likely require more evaluation than others. At a minimum, the following resources are considered to require evaluation: Section 106 cultural and historic resources, Section 4(f) resources (e.g. parkland and wildlife refuges), Section 6(f) resources, wetlands, threatened and endangered species, environmental justice, and hazardous waste.

Some projects require evaluation of public interest, permits and special provisions, as well as impacts to utilities and railroads, socio-economic considerations, migratory birds, well head protection areas, construction impacts, aesthetics or other values.

- 1.2 Section 106 Cultural Resource. A letter will be prepared for NDOR submittal to the State Historic Preservation Office (SHPO) for Section 106 cultural resource compliance. Project impacts will be documented in this letter to SHPO for their review.
- 1.3 Section 4(f) / 6(f) Evaluation. Consultant will determine if adjacent 4(f) properties such as public parks, recreation areas, and wildlife/waterfowl refuges, or historic sites of local, state or national significance are impacted by the project alignment. If the situation can be handled as an exemption or *de minimis* determination, Consultant will prepare the NDOR Determination of Section 4(f) De Minimis Use Form and concurrence letter. Consultant will also determine if any adjacent property was developed under Section 6(f) of the Land and Water Conservation Fund Act. If the project requires preparation of a Section 4(f) Statement or additional Section 6(f) document, these services would require a contract amendment.
- 1.4 Air Quality Impact Analysis. Task is not required for this project.
- 1.5 Noise Study. Task is not required for this project.
- 1.6 Wetland Delineation. *It is anticipated that the project will take place entirely within the existing right-of-way and will not involve grading beyond the hinge point, therefore a full or preliminary delineation will not be required.* Consultant will review existing resources and prepare the *Wetland Determination Checklist*. Documentation of findings will be included in a Wetland Memo to be reviewed by NDOR. It is anticipated that permitting or mitigation services will not be required for this project.
- 1.7 Floodplains, Streams and Rivers. Consultant will determine if the project will cross a designated floodplain, and whether the project activities will result in more than a one foot rise or the locally regulated maximum in the 100-year water surface elevation.

Consultant will identify any stream crossings and their hydrologic regime (perennial, intermittent, ephemeral).

Consultant will determine if the project is located 1.5 miles upstream or downstream, or within 0.25 miles of a river segment listed on the Wild and Scenic River or National Recreation River list, or Nationwide Rivers Inventory.
- 1.8 Threatened and Endangered Species Review. Consultant will prepare the Biological Evaluation (BE) letter for submittal to NDOR. The BE letter will include the project description, habitat impacts, activity checklist, and preliminary wetland determination memo.
- 1.9 Environmental Justice. Consultant will determine if the project has disproportionate impacts on low-income, minority or other protected populations.
- 1.10 Farmland. Task is not required for this project.

- 1.11 Hazardous Materials Review and Memo. Consultant will complete a Hazardous Materials review for the project's environmental study area to identify the presence or likely presence of known or potential hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures, on the property or into the ground, groundwater, or surface water of the property.

The review will include a site visit and regulatory database search in accordance with the requirements listed in American Society for Testing Materials (ASTM) Standard Practice for Environmental Site Assessments E 1527-05, and NDOR Hazardous Materials guidance. The purpose of this review will be to identify regulated facilities within the project's environmental study area or within one quarter mile on either side of the project. Any facilities identified during the review will be assessed and their potential impact on the project discussed in a technical memo. The memo will be included as an appendix to the NEPA document, with the findings summarized in the main body of the NEPA document.

- 1.12 Documentation and Revisions. Consultant will complete the CE Form, including Project Description, Purpose and Need Statement, project maps, and other supplemental information such as resource agency correspondence. Consultant will submit the Form and attachments to the Client and NDOR for review and approval. Consultant will address Client, NDOR and FHWA comments (one set of comments) and prepare revisions to the Form. Consultant will prepare the Green Sheet for the project.
- 1.13 Property Access. Consultant will prepare construction phasing and traffic control plans to maintain access to adjacent properties.
2. Topographic Survey. A partial topographic survey will be completed for the project supplemented by aerial photo.

- 2.1 Survey Limits. *The consultant will collect topographic survey data within the following limits:*

- 6th Street from Grant Street to Jefferson Street survey full topography within the existing right of way and 25' beyond the right of way line.
- Jackson Street from 5th Street to 8th Street survey full topography within the existing right of way and 25' beyond the right of way line.
- 13th Street from Park Street to Adams Street survey full topography within the existing right of way. Survey an additional 50' north at the 4 Lexington High School driveways.
- 6th Street from Jefferson Street to Taft Street survey full topography from back of sidewalk to back of sidewalk. At all side streets, survey an additional 25' from the end of the intersection returns.
- Survey all existing storm sewer within the project limits.

- 2.2 Base Map Preparation. Consultant will create the base maps using the topographic survey data.
- 2.3 Horizontal and Vertical Control. The consultant will establish control points along the project corridor at regular intervals.
- Horizontal control points will be established and referenced to existing section corners and lot pins. The control points will be permanent in nature and tied to Nebraska State Plane Coordinate system.
 - 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.

- 2.4 Section Corners and Property Pins. The consultant will locate necessary section corners, quarter-section corners, and block property corners for use in drafting existing right-of-way and property lines in areas where construction of ADA compliant sidewalk access is anticipated to include significant modifications to sidewalk alignment or surrounding grade at the intersection quadrant.
- 2.5 Existing Utilities. The Consultant will call in a One-Call utility locate ticket. Utilities will be shown based on visible, above ground, evidence in the field and utility locator's markings.
3. Preliminary Engineering. This task includes completing the preliminary and final design for the project as defined in Chapter 6 in the LPA Guidelines.
 - 3.1 Data Collection and Review. For gathering, reviewing and organizing data for the project.
 - 3.2 Note Reduction/Preliminary Plotting. This task will include the effort for gathering data to create the existing topography file to use for preliminary design.
 - 3.3 Traffic Analysis. A traffic control analysis will be performed at the intersection of 6th & Jackson. The analysis will be performed in accordance with NDOR, MUTCD, and ITE guidelines to determine proper intersection control. Specifically, signalization criteria contained in the MUTC will be evaluated to determine if a traffic signal is warranted.
 - 3.3.1 Traffic Data Collection. Peak hour turning movement counts will be conducted from 7am-9am, 11am-2pm, and 3pm-6pm according to NDOR practices. The peak hour data collection will document heavy vehicle percentages and pedestrian characteristics. Lane widths and a photographic inventory will be documented. Additionally, mechanical traffic counters will be placed on all 4 legs of the intersection to obtain Average Daily Traffic (ADT) volumes.
 - 3.3.2 Existing Conditions Analysis. Based on the collected data, intersection capacity analysis will be performed using the existing traffic volumes, intersection control, and geometry. This will provide a base line for operations and comparison of improvements.
 - 3.3.3 Crash Analysis. Based on the crash history data provided by the Client, an analysis/summary will be performed in order to utilize the data for traffic signal evaluation purposes.
 - 3.3.4 Traffic Projections. Based on historical traffic volume data within the area or typical traffic growth practices, traffic volumes for a 20 year horizon will be developed for the intersection. These volumes will be produced for a 24-hour period and peak hour turning movement volumes.
 - 3.3.5 Signal Warrant Evaluation. Based on the applicable traffic signal warrants contained in the MUTCD, the intersection will be evaluated for signalized control.
 - 3.3.6 Future Traffic Analysis. Based on the outcome of the signal warrant evaluation, intersection analysis will be performed using future volumes and recommended intersection control. This analysis will seek to identify impacts to the intersection area and lead to further recommendations. This may include (but is not limited to), driveway modifications, approach widths, turn-lanes, storage lengths, on-street parking practices, etc.
 - 3.3.7 Study Documentation. A draft report of the study findings will be submitted to the Client for review and comment. Once all comments are received and addressed, and final report will be produced for final documentation.
 - 3.4 Intersection Traffic Signal Design. Based on the results of the intersection analysis or as directed by the Client, the Consultant shall prepare traffic signal plans at 6th & Jackson.

- 3.5 Roadway Horizontal Alignment. This task includes the design and drafting of the horizontal alignment(s) and/or adjustment of alignment(s). This task includes development of the Horizontal Control Sheet.
- 3.6 Roadway Vertical Alignment. This task includes the design and drafting of the vertical alignment(s) and/or adjustment of vertical alignment(s). Assume this task develop of 2 plan & profile sheets.
- 3.7 Template Roadway Cross Sections. Develop the templates necessary to process cross sections and develop the cross sections sheets. Assume 17 sheets.
- 3.8 Earthwork. Process the earthwork for each alignment, including any extra earthwork due to frontage roads, large driveways, and any other cause for earthwork.
- 3.9 Roadway Geometric Design. This task includes the geometric design of all roadway alignments, intersections, driveways, etc., which includes setting up all the geometric sheets for the project and labeling. Labeling the geometric points with Station and Offsets will not be completed in this phase. This task includes development of joints and grades at each intersection and all tie-in points to existing roadway sections. We are assuming 11 geometric, joint, and grade sheets.
- 3.10 Drainage Design. This task includes the preparation of a drainage map outlining all drainage areas and completion of the following for each area:
 - 3.10.1 Compute area size and drainage runoff.
 - 3.10.2 Determine gutter capacity.
 - 3.10.3 Develop a design memo identifying potential drainage outlet if required.
 - 3.10.4 This assumes no storm sewer design will be required for the project at this time.
- 3.11 Storm Sewer Design. Task is not required for this project.
- 3.12 Street Lighting Design. This task includes the design of street lighting, lighting construction plan sheets, locate power supply, lighting calculations, and electrical details.
- 3.13 Construction and Removal. Development of Construction and Removal plan sheets with appropriate notes detailing construction and removal items not specifically identified elsewhere in this scope.
- 3.14 Limits of Construction. The Consultant will define and draft the limits of construction on the plan sheets. These limits will be used to determine environmental impacts.
- 3.15 Utility Coordination / Verification. Utilities include City of Lexington's water and sanitary sewer; and all private lines including gas, telephone, cable and electrical. The Consultant will draft utilities on the plans that weren't included in the preliminary plotting and for coordination with the utilities to verify the location and type of utility. Plan-in-hand plans will be provided to the utilities for comment. Consultant will coordinate and schedule a Utilities meeting to identify and work through potential conflicts identified in the preliminary plans. It is assumed that no major relocations will be needed.
- 3.16 Construction Phasing. The Consultant will prepare plans showing construction phasing, temporary construction, and completed construction. The Consultant will prepare a phasing plan (6 sheets) for each roadway section.
- 3.17 Aerial Plan. The Consultant will prepare aerial photo sheets showing any delineated wetlands, impacted wetlands and/or channels, and mitigation sites, if applicable. Assume 5 Aerial Plan sheets.

- 3.18 Quantities/Estimates. Develop and tabulate all of the preliminary quantities. Quantities will be submitted to the Client for each submittal, including the Plan-in-Hand 90% Functional Plans and Final Plans, using NDOR standard bid items and NDOR quantities forms. Estimates of probable cost will be prepared by the Nebraska Department of Roads.
- 3.19 Typical Sections/Details. This includes design and drafting the typical sections and construction details.
- 3.20 Plan-In-Hand Meeting/Report. Schedule and attend a plan-in-hand meeting with the key stakeholders to review the thirty (30) percent roadway design plans. The Consultant will prepare and submit a Plan-in-Hand report within two (2) weeks of the meeting summarizing the findings and decisions made regarding the project design.
- 3.21 Right-of-Way Design. The following tasks will be completed to establish the existing Right-of-Way and to design the proposed Right-of-Way.
 - 3.21.1 Existing Right-of-Way Base. This task involves collecting the Plat drawings, reviewing survey data, and other necessary information to establish the existing Right-of-Way.
 - 3.21.2 Proposed Right-of-Way. The Consultant will verify that no easements (temporary and permanent) or right-of-way will be required to construct the project.
 - 3.21.3 Right-of-Way Strip Plans. The Consultant will prepare right-of-way plan sheets to include in the plan set. The sheets will include existing property lines. No property owners will be shown on the plans.
- 3.22 Sediment and Erosion Control Sheets. Sediment and erosion control plan sheets will be developed using best management practices.
- 3.23 Construction Traffic Control/Barricade Plan. The Consultant will prepare plans showing traffic control for each construction phase. This includes a detailed traffic control plan for maintaining traffic through the project during construction. (Assume 5 sheets.)
- 3.24 Marking Plan. The Consultant will prepare plans showing pavement markings for traffic and pedestrian markings.
- 3.25 Streetscape. The Consultant will prepare plans for aesthetic hardscaping features including brick pavers or color concrete treatment for the 6th Street block from Grant to Jackson.
- 3.26 Specifications & Special Provisions. The Consultant shall utilize Nebraska Department of Roads Standard Specifications supplemented by special provisions developed by the Consultant for special items.
- 3.27 Plan-In-Hand Submittals. Submit plans and estimate review sets at Plan-in-Hand stages to the City. Submittal of drawings shall generally follow the NDOR format.
- 3.28 90% Submittal. Submit required documents as specified in the LPA manual and address review comments.
- 3.29 NDOR PS&E Submittal. Submit required documents as specified in the LPA manual and address review comments.
4. Geotechnical Analysis. The Consultant shall conduct geotechnical exploration through the advancement of soil borings, testing of samples in the field and in the laboratory, and analyses of the soil conditions encountered to determine recommendations for roadway subgrade preparation and pavement design.
 - 4.1 Project Preparation

- 4.1.1 Prior to drilling the soil borings, locations will be staked.
- 4.1.2 Area underground utility service representatives will be contacted through the Diggers Hotline system to mark area public utilities in order to remove conflicts between drilling and utilities in accordance with State law
- 4.1.3 Site characteristics will also be noted and the boring location adjusted to fit the site characteristics.

4.2 Soil Borings

- 4.2.1 Soil sample boring will be obtained using a truck-mounted drilling and sampling rig. Consultant will obtain 12 soil samples borings and 12 pavement cores.
- 4.2.2 Undisturbed samples of cohesive soil will be obtained using a thin-walled sampler tube in accordance with ASTM D1587, Standard Method for Thin-Walled Tube Sampling of Soils.
- 4.2.3 If encountered, sand or other granular soils will be retrieved with a split-barrel sampler. Standard Penetration Test (SPT) measurements will be made during the retrieval of each split-barrel sample in accordance with ASTM D1586, Standard Method for Penetration Test and Split-Barrel Sampling of Soils to determine the relative density of the granular materials.
- 4.2.4 Field logs of the soil types and characteristics encountered at the boring location will be recorded in the field.
- 4.2.5 Groundwater levels, if encountered within the boring depths, will be recorded at the time of drilling.
- 4.2.6 The borings will be filled. Extra soil will be removed from the drill locations.

4.3 Field Log Recording, containing the following:

- 4.3.1 Thicknesses of existing fill or other disturbed soil layers will be recorded on the boring logs in the field, where encountered.
- 4.3.2 Approximate locations of changes in soil type with depth.
- 4.3.3 Groundwater levels when encountered during drilling.
- 4.3.4 Identification of the subsurface materials described in accordance with ASTM D2488, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure).
- 4.3.5 And other site conditions that may affect the engineering recommendations.

4.4 Laboratory Testing of Recovered Samples

- 4.4.1 Measurements of in-place moisture content, density, unconfined compressive strength, and soil classification will be conducted on selected clayey samples. Moisture content of selected sand samples will be measured. Consolidation potential will be measured from select samples.
- 4.4.2 Laboratory tests will be completed in accordance with ASTM procedures.

4.5 Analysis of the Test Data

- 4.5.1 Potential effects of the area groundwater level.
- 4.5.2 Roadway subgrade preparation recommendations and support parameters

4.6 Report containing the following:

- 4.6.1 Description of site soil conditions.
- 4.6.2 Frost depth requirements for the pavement structures.
- 4.6.3 Analysis of soil to ascertain presence of potentially expansive soils.
- 4.6.4 Analyses of consolidation potential and recommendations for minimizing consolidation after construction.
- 4.6.5 Recommended types of fill and backfill soil materials and compaction requirements for support of structures and pavements.
- 4.6.6 Remedial site subsoil repair actions in the case that weak or otherwise unsuitable soils are found, if necessary.

- 4.6.7 Evaluation of soil or other materials requiring excavation or replacement and methods of removal.
- 4.6.8 Erosion control recommendations.
- 4.6.9 Pavement Determination Form.

5. Public Involvement

- 5.1 Public Information Meeting. Consultant will assist the Client in conducting a Public Information Meeting (PIM). Prior to the meeting Consultant will work with the Client to develop a Public Involvement Plan to address public notifications, develop a database of project stakeholders and plan for the PIM, one-on-one meetings, or agency meetings that might be necessary. The Consultant will create flyer for the public information meeting. The Client will handle advertising for the meeting, and securing a suitable location for the meeting.

Consultant will prepare materials for the PIM consisting of (1) aerials with proposed improvements and potential impacts; (2) Fact Sheet suitable for a mailer or handout at the PIM; and (3) Comment Form. The Fact Sheet will include the project purpose and need, summary of the project design criteria, features and relevant facts, as well as a project map, and detour map, if needed.

Consultant representatives will attend the meetings and be available to address questions on environmental issues. Consultant will also take notes summarizing the general comments, and review written comments. A summary document of the public comments will be prepared. For those comments requesting/warranting a response, written responses will be drafted for NDOR review and approval prior to mailing by the Client.

- 5.2 One-on-One, Small Group Meetings (6 Meetings). The Consultant will meet with individuals who are significantly affected by the project construction.

6. Project Management and QC.

- 6.1 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 and monthly progress reports; prepare project correspondence with the Client and NDOR; and maintain project records.

- 6.2 Quality Assurance/Quality Control. The Consultant will perform QA/QC checks at various stages of the study including prior to any official submittal.

- 6.3 Final Deliverables. Consultant will prepare final deliverables and submit to the Client and NDOR the electronic files and hard copies of all materials.

- 6.4 Stormwater Pollution Prevention Plan and Notice of Intent. A SWPPP and NOI will be completed in accordance with NDEQ regulations.

- 6.5 Bid Phase Services. Answer technical questions, as directed by NDOR staff, during bid advertisement from prospective bidders, and assist in preparation of bid addendums as required.

7. Project Meetings.

- 7.1 Progress Meetings. Project staff will meet with the Client and/or NDOR for 3 progress meetings, and prepare minutes of the meetings. Meetings will be held in Lexington. Project staff will also conduct 2 conference calls with the Client.

E. DELIVERABLES:

- 1. Monthly Invoices and Progress Reports
- 2. Meeting Minutes

Project Number: **URB-6552 (1)**

Control Number: **61554**

Project Name: **6th Street, Jackson Street & 13th Street Improvement – Lexington, NE**

Exhibit "B"

Page 9 of 13

3. *Categorical Exclusion Form*
4. *Hazardous Materials Review Memo*
5. Concurrence request letter to SHPO
7. *NDOR Wetland Delineation Checklist*, Preliminary Wetland Determination Memo of Findings
8. Biological Evaluation Letter
9. SWPPP and NOI
10. Agency concurrence letters
12. Geotechnical Report/Pavement Determination Form
13. Public Information Meeting Exhibits, Fact Sheet, Comment Sheet
14. Summary of Public Comments, and responses to written comments
15. Traffic Signal Warrant Study
16. Drainage Memo
17. Preliminary Engineering Design Plans
18. Hard copies of all materials and final electronic files

F. SCHEDULE:

1. Notice to Proceed: February 2012
2. Plan-in-Hand: May 2012
3. Consultant Evaluation by City of Lexington - RC
4. Public Information Meeting: June 2012
5. Approval Date for NEPA Materials: August 2012
6. PS&E: October 2012
7. Consultant Evaluation by City of Lexington - RC
8. Project Letting: Winter 2012/13

NEPA Categorical Exclusion and Preliminary Engineering Project Cost

Project Name: 6th Street, Jackson Street and 13th Street
 Project Number: URB-6552(1)
 Control Number: 61554
 Location (City, County): Lexington, Dawson County
 Consultant Project Manager: Jeff Palik
 Phone/Email: 308.384.8750 jpalik@oaconsulting.com
 LPA Responsible Charge: Dennis Burnside
 Phone/Email: dburnside@cityoflex.com
 NDOR Project Coordinator: Glen Steffensmeier
 Phone/Email: 402.479.3845 glen.steffensmeier@nebraska.gov
 Date: April 18, 2012

LPA:
Lexington

Labor Costs:			
Personnel Classification	Hours	Rate	Amount
Principal		\$59.94	
Senior Environmental Scientist	38	\$51.60	\$1,960.80
Environmental Scientist	82	\$32.41	\$2,657.62
Senior Engineer	150	\$42.52	\$6,378.00
Engineer	553	\$30.69	\$16,971.57
Assistant Engineer	652	\$22.98	\$14,982.96
Senior Designer/Technician	58	\$24.30	\$1,409.40
Assistant Environmental Scientist	62	\$18.51	\$1,147.62
Designer/Technician	240	\$19.65	\$4,716.00
Registered Land Surveyor	98	\$24.39	\$2,390.22
Administrative	8	\$20.75	\$166.00
TOTAL	1941		\$52,780.19

Direct Expenses:	Amount
Subconsultants	
Printing and Reproduction Costs	\$1,245.80
Mileage/Travel	\$1,930.40
Lodging/ Meals	\$584.00
Other Miscellaneous Costs	\$480.00
TOTAL	\$4,240.20

Total Project Costs:	Amount
Direct Labor Costs	\$52,780.19
Overhead @ 173.47%	\$91,557.80
Total Labor Costs	\$144,337.99
Fixed Fee @ 13.10%	\$18,908.28
Direct Expenses	\$4,240.20
PROJECT COST	\$167,486.47

Signature of Responsible Charge

Date

NEPA Categorical Exclusion and Preliminary Engineering Final Hours

Project Name: 6th Street, Jackson Street and 13th Street
 Project Number: URB-6552(1)
 Control Number: 61554
 Location (City, County): Lexington, Dawson County
 Consultant Project Manager: Jeff Palik
 Phone/Email: 308.384.8750 jpalik@oaconsulting.com
 LPA Responsible Charge: Dennis Burnside
 Phone/Email: dburnside@cityoflex.com
 NDOR Project Coordinator: Glen Steffensmeier
 Phone/Email: 402.479.3845 glen.steffensmeier@nebraska.gov
 Date: April 18, 2012

LPA:
Lexington

TASKS	PERSONNEL CLASSIFICATIONS											Total
	PR	SENV	ENV	SENG	ENG	SDES	DES	ADM	TEC	RLS	ADM	
For Engineering Services:												
1. Categorical Exclusion Document and Resource Reviews												
1.1 Resource Review		2	6		2			6				16
1.2 SHPO Letter		2	4					4				10
1.3 Section 4(f) / 6(f) Evaluation		2	8					4				14
1.4 Air Quality Impact Analysis												
1.5 Noise Study												
1.6 Wetland Delineation												
1.6.1 Review Existing Resources / Databases		8	16					12				36
1.6.2 Field Survey												
1.6.3 Documentation of Findings												
1.6.4 Mitigation Site Suitability Memorandum												
1.6.5 404 Permit Application												
1.6.6 Agency Coordination												
1.7 Floodplains, Streams, and Rivers		8	8					8				24
1.8 Threatened and Endangered Species Review			4					4				8
1.9 Environmental Justice		2	4					4				10
1.10 Farmland												
1.11 Hazardous Materials Review and Memo			4					4				8
1.12 Documentation and Revisions		10	20		4			16				50
1.13 Property Access		4	8		8	16						36
2. Topographic Survey												
2.1 Survey Limits									56	56		112
2.2 Base Map Preparation						16		8	4			28
2.3 Horizontal and Vertical Control								4	2			6
2.4 Section Corners and Property Pins								20	20			40
2.5 Existing Utilities								16	16			32
3. Preliminary Engineering												
3.1 Data Collection and Review					4	12						16
3.2 Note Reduction/Preliminary Plotting						8						8
3.3 Traffic Analysis												
3.3.1 Traffic Data Collection					2				22			24
3.3.2 Existing Conditions Analysis						4						4
3.3.3 Crash Analysis					2	2						4
3.3.4 Traffic Projections					2	2						4
3.3.5 Signal Warrant Evaluation						4						4
3.3.6 Future Traffic Analysis					8	8						16
3.3.7 Study Documentation				2	8	12			12			34
3.4 Intersection Traffic Signal Design				4	24	16			36			80
3.5 Roadway Horizontal Alignment					4	12						16
3.6 Roadway Vertical Alignment				2	8	8						18
3.7 Template Roadway Cross-Sections				2	12	16						30
3.8 Earthwork					4	8						12
3.9 Roadway Geometric Design				4	16	36						56
3.10 Drainage Design												
3.10.1 Compute area size and Q					8	16						24
3.10.2 Determine gutter capacity					8	16						24
3.10.3 Drainage Design Memo				4	12	8						24

NEPA Categorical Exclusion and Preliminary Engineering Final Hours

Project Name: 6th Street, Jackson Street and 13th Street
 Project Number: URB-6552(1)
 Control Number: 61554
 Location (City, County): Lexington, Dawson County
 Consultant Project Manager: Jeff Palk
 Phone/Email: 308.384.8750 jpalik@oaconsulting.com
 LPA Responsible Charge: Dennis Burnside
 Phone/Email: dburnside@cityoflex.com
 NDOR Project Coordinator: Glen Steffensmeier
 Phone/Email: 402.479.3845 glen.steffensmeier@nebraska.gov
 Date: April 18, 2012

LPA:
Lexington

TASKS	PERSONNEL CLASSIFICATIONS											
	PR	SENV	ENV	SENG	ENG	SDES	DES	ADM	TEC	RLS	ADM	Total
For Engineering Services:												
3.11 Storm-Sewer Design												
3.12 Street Lighting Design					32				32			64
3.13 Construction and Removal				4	16	36						56
3.14 Limits of Construction					8	16						24
3.15 Utility Coordination / Verification				4	16	20						40
3.16 Construction Phasing				2	20	24						46
3.17 Aerial / Wetland Plan					2	8						10
3.18 Quantities/Estimates					8	20	8					36
3.19 Typical Sections					8	12						20
3.20 Plan-In-Hand Meeting/Report				6	16	8						30
3.21 Right-of-Way Design												
3.21.1 Existing Right-of-Way base				2	8	20						30
3.21.2 Proposed Right-of-Way				2	8	8						18
3.21.3 Right-of-Way Strip Map				4	12	20						36
3.22 Sediment and Erosion Control Sheets					4	8						12
3.23 Construction Traffic Control/Barricade Plan					8	16						24
3.24 Marking/Signage Plan					4	12						16
3.25 Streetscape				16	32		20					68
3.26 Specifications & Special Provisions				4	20	4						28
3.27 Plan-In-Hand Submittal				4	12	12					2	30
3.28 90% Plan Submittal				4	12	20					2	38
3.29 NDOR PS&E Submittal					20	28					2	50
4. Geotechnical Analysis												
4.1 Project Preparation							5					5
4.2 Soil Borings							20		20			40
4.3 Field Log Recording							5		5			10
4.4 Laboratory Testing of Recovered Samples						12			9			21
4.5 Analysis of the Test Data					15	24						39
4.6 Report					10	20						30
5. Public Involvement												
5.1 Public Information Meeting				12	36	36						84
5.2 One-on-One Small Group Meetings					12	12						24
5.3 Other												
6. Project Management and QC												
6.1 Project Management				28	28							56
6.2 Quality Assurance/Quality Control				12								12
6.3 Final Deliverables				4	8							12
6.4 Stormwater Pollution Prevention Plan & Notice of Intent					8	16						24
6.5 Bid Phase Services				4	4						2	10
7. Project Meetings												
7.1 Progress Meetings				20	30	20						70
7.2 Other												
Total Hours		38	82	150	553	652	58	62	240	98	8	1,941
Total Days (8 hrs)		4.8	10.3	18.8	69.1	81.5	7.3	7.8	30.0	12.3	1.0	242.6

CLASSIFICATIONS:

PR = Principal	ENG = Engineer	TEC = Designer/Technician
SENV = Senior Environmental Scientist	AENG = Assistant Engineer	RLS = Register Land Surveyor
ENV = Environmental Scientist	STEC = Senior Designer/Technician	ADM = Administrative
SENG = Senior Engineer	AENV = Assistant Environmental Scientist	

NEPA Categorical Exclusion and Preliminary Engineering Labor Rates

Project Name: 6th Street, Jackson Street & 13th Street
Project Number: URB-6552(1)
Control Number: 61554
Location (City, County): Lexington, Dawson County
Firm Name: Olsson Associates
Consultant Project Manager: Jeff Palik
Phone/Email: jpalik@oaconsulting.com
LPA Responsible Charge: Dennis Burnside
Phone/Email: dburnside@cityoflex.com
NDOR Project Coordinator: Glen Steffensmeier
Phone/Email: glen.steffensmeier@nebraska.gov
Date: December 9, 2011

Labor Costs:		Hours	Blended Rate	Amount
Code	Classification Title			
PR	Principal		\$59.94	
SENV	Senior Environmental Scientist		\$51.60	
ENV	Environmental Scientist		\$32.41	
AENV	Assistant Environmental Scientist		\$18.51	
SENG	Senior Engineer		\$42.52	
ENG	Engineer		\$30.69	
AENG	Assistant Engineer		\$22.98	
SDES	Senior Designer/Technician		\$24.30	
TECH	Technician		\$19.65	
SRVY	Registered Surveyor		\$24.39	
ADM	Administration		\$20.75	
TOTALS				

Overhead Rate: 173.47% Fixed Fee: 13.10%

CLASSIFICATIONS

PR = Principal SENG = Senior Engineer TECH = Technician
 SENV = Senior Environmental Scientist ENG = Engineer SRVY = Registered Surveyor
 ENV = Environmental Scientist AENG = Assistant Engineer ADM = Administration
 AENV = Assistant Environmental Scientist SDES = Senior Designer/Technician

Blended Rates Worksheet

STAFFING PLAN				
EMPLOYEE NAME	CLASSIFICATION ¹	SALARY RATE	% ASSIGNED ²	
Principal				
Randy Kaster	Senior Vice President	\$65.40	50.0%	
Tom Leikam	Team Leader	\$54.47	50.0%	
		Blended Rate	\$59.94	
Senior Environmental Scientist				
Joan Darling	Team Leader	\$51.60	100.0%	
		Blended Rate	\$51.60	
Environmental Scientist				
Deanna Pulse	Sr. Project Scientist	\$29.51	75.0%	
Keith Tilotson	Sr. Scientist	\$41.10	25.0%	
		Blended Rate	\$32.41	
Senior Engineer				
Jeff Palik	Senior Project Engineer	\$43.58	70.0%	
Andrew Philips	Senior Engineer - Geotechnical	\$38.87	10.0%	
Justin Petersen	Senior Engineer - Traffic	\$38.63	10.0%	
Matt Rief	Senior Project Engineer	\$42.59	10.0%	
		Blended Rate	\$42.52	
Engineer				
Tim Golka	Associate Engineer	\$29.84	70.0%	
Darin Gourka	Project Engineer - Lighting	\$34.17	10.0%	
Shane King	Project Engineer - Traffic	\$31.94	20.0%	
		Blended Rate	\$30.69	
Assistant Engineer				
Evan Schmitz	Assistant Engineer	\$22.77	60.0%	
Caleb Strate	Assistant Engineer	\$23.31	20.0%	
Greg Seib	Assistant Engineer	\$23.28	20.0%	
		Blended Rate	\$22.98	
Senior Designer/Technician				
Zack Loomis	Senior Technician	\$22.15	15.0%	
Mike Sorgenfrei	Design Associate - Drilling	\$24.25	15.0%	
Dan Kowalski	Senior Tech - Lab Technician	\$20.39	15.0%	
Craig Larson	Project Landscape Architect	\$25.96	55.0%	
		Blended Rate	\$24.30	
Assistant Environmental Scientist				
Dani McNeil	Assistant Scientist	\$18.51	100.0%	
		Blended Rate	\$18.51	
Technician				
Noah Seim	Survey Technician	\$20.86	70.0%	
Dustin Huffman	Assistant Drill Technician	\$17.50	10.0%	
Ryan Meints	Assistant Traffic Technician	\$15.45	10.0%	
Brian Sliva	Assistant Lighting Technician	\$17.51	10.0%	
		Blended Rate	\$19.65	
Registered Surveyor				
Jai Andrist	Group Leader - Survey	\$30.57	20.0%	
Jesse Hurt	Senior Surveyor	\$22.84	80.0%	
		Blended Rate	\$24.39	
Administration				
Enid Cederlind	Administrative Assistant	\$16.63	25.0%	
Lisa Sedivy	Senior Communication Coord	\$22.12	75.0%	
		Blended Rate	\$20.75	

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".

EXHIBIT "D"
**INSURANCE REQUIREMENTS FOR
PROFESSIONAL SERVICE PROVIDERS
LPA PROJECTS**

Consultant agrees to:

- (1) Make a detailed review of its existing insurance coverage,
- (2) Compare that coverage to the expected scope of the work under this contract,
- (3) Obtain the insurance coverage that it deems necessary to fully protect Consultant from loss associated with the work. Also, Consultant shall have at a minimum the insurance described below:

General Liability –

Limits of at least:

\$ 1,000,000 Per Occurrence

\$ 2,000,000 General Aggregate

\$ 2,000,000 Completed Operations Aggregate (if applicable)

\$ 1,000,000 Personal/Advertising Injury

- Consultant shall be responsible for the payment of any deductibles.
- Coverage shall be provided by a standard form Commercial General Liability Policy covering bodily injury, property damage including loss of use, and personal injury.
- General Aggregate to apply on a Per Project Basis.
- The LPA shall be named as Additional Insured on a primary and non-contributory basis including completed operations (the completed work/product) for three (3) years after the work/product is complete.
- Consultant agrees to waive its rights of recovery against the LPA. Waiver of Subrogation in favor of the LPA shall be added to, or included in, the policy.
- Contractual liability coverage shall be on a broad form basis and shall not be amended by any limiting endorsements.
- If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- In the event that this contract provides for consultant to construct, reconstruct or produce a completed product, products and completed operations coverage in the amount provided above shall be maintained for the duration of the work, and shall be further maintained for a minimum period of five years after final acceptance and payment.

- Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations (as per standard CG0001 Pollution Exclusion or equivalent). (If the standard pollution exclusion as provided by CG0001 has been amended, please refer to the following section entitled "Pollution Coverage.")
- **Pollution Coverage –**
- In the event that the standard pollution exclusion as provided by CG0001 has been amended, coverage may be substituted with a separate Pollution Liability policy or a Professional Liability policy that includes pollution coverage in the amount of \$1.0 million per occurrence or claim and \$1.0 million aggregate. If coverage is provided by a "claims made" form, coverage will be maintained for three years after project completion. Any applicable deductible is the responsibility of the Consultant.

Automobile Liability –

Limits of at least: \$ 1,000,000 CSL Per Accident

- Coverage shall apply to all Owned, Hired, and Non-Owned Autos.

Workers' Compensation –

Limits: Statutory coverage for the State where the project is located.

Employer's Liability limits: \$100,000 Each Accident

\$100,000 Disease – Per Person

\$500,000 Disease – Policy Limit

- Consultant agrees to waive its rights of recovery against the LPA. Waiver of Subrogation in favor of the LPA shall be added to, or included in, the policy

Professional Liability –

Limits of at least: \$ 1,000,000 Per Claim and Annual Aggregate

- Coverage shall be provided for three years after work/project completion.

Electronic Data and Valuable Papers –

Limits of at least: \$100,000 Electronic Data Processing Data and Media

\$25,000 Valuable Papers

Umbrella/Excess –

Limits of at least: \$1,000,000 Per Occurrence and Annual Aggregate

- Policy shall provide liability coverage in excess of the specified Employers Liability, Commercial General Liability and Auto Liability.
- The LPA, shall be an "Additional Insured".
- Consultant agrees to waive its rights of recovery against the LPA. Waiver of subrogation

in favor of the LPA shall be provided.

Additional Requirements –

- Any insurance policy shall be written by a reputable insurance company acceptable to the LPA or with a current Best's Insurance Guide Rating of A – and Class VII or better, and authorized to do business in Nebraska.
- Evidence of such insurance coverage in effect shall be provided to the LPA in the form of an Accord certificate of insurance executed by a licensed representative of the participating insurer(s).
- For so long as insurance coverage is required under this agreement, the Consultant shall have a duty to notify the LPA and the State of Nebraska Department of Roads (State) when the Consultant knows, or has reason to believe, that any insurance coverage required under this agreement will lapse, or may be canceled or terminated. The Consultant must forward any pertinent notice of cancelation or termination to the LPA and to the State by mail (return receipt requested), hand-delivery or facsimile transmission within 2 business days of receipt by Consultant of any such notice from an insurance carrier. Copies of notices received by the Consultant shall be sent to the LPA, in care of the LPA's Responsible Charge and to the State at the following address:

Nebraska Department of Roads
Construction Division – Insurance Section
1500 Highway 2, P. O. Box 94759
Lincoln, NE 68509-4759
Facsimile No. 402-479-4854

- Failure of the owner or any other party to review, approve, and/or reject a certificate of insurance in whole or in part does not waive the requirements of this agreement.
- The Limits of Coverage's set forth in this document are suggested minimum limits of coverage. The suggested limits of coverage shall not be construed to be a limitation of the liability on the part of the consultant or any of its subconsultants/tier subconsultants. The carrying of insurance described shall in no way be interpreted as relieving the consultant, subconsultant, or tier subconsultant of any responsibility of liability under the contract.
- If there is a discrepancy of coverage between this document and any other insurance specification for this project, the greater limit or coverage requirement shall prevail.

FEES AND PAYMENTS

EXHIBIT "E"

- A. **Payment Method.** Payment under this agreement will be made based on Actual Costs plus a Fixed Fee for profit.
- B. **Total Agreement Amount.** For performance of the services as described in this agreement, the Consultant will be paid a fixed-fee-for-profit of \$18,908.28 and up to a maximum amount of \$148,578.19 for actual costs as defined in paragraph "H" of this section. The total agreement amount is \$167,486.47. The Consultant's compensation shall not exceed this maximum amount without prior written approval of the LPA.
- C. **Ineligible Costs.** The LPA is not responsible 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 section of this agreement or as provided in a written time extension notification.
- D. **Federal Cost Principles.** For performance of Services under the terms of this agreement, the Consultant will be paid subject to the terms of this agreement and all requirements and limitations of the federal cost principles contained in the Federal Acquisition Regulation (48 CFR 31).
- E. **Federal-aid.** (2-1-12) 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 of Section 18 herein shall be used by the parties.
- F. **Subconsultant Over-runs and Under-runs.** The Consultant shall require any subconsultant to notify Consultant if at any time the subconsultant determines that its costs will exceed its negotiated fee estimate. The Consultant shall not allow any

subconsultant to exceed its negotiated fee estimate without prior written approval of the LPA. The Consultant understands that the amount of any subconsultant cost under-run will be subtracted from the total compensation to be paid to Consultant under this agreement, unless prior written approval is obtained from the LPA and, when applicable, FHWA.

G. **Out of Scope Services and Consultant Work Orders.** The LPA 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 the LPA decides that these services require an adjustment in costs, the Consultant shall: (a) describe the proposed services, (b) provide an explanation why Consultant believes that the proposed services are not within the original scope of services and additional work effort is therefore required, and (c) estimate the cost to complete the services. Consultant must receive written approval from the LPA before proceeding with the out-of-scope services. Before written approval will be given by the LPA, the LPA must determine that the situation meets the following criteria:

- That the additional work is beyond the scope of services initially negotiated with Consultant; and
- That the proposed services are within the scope of the Request for Proposal under which Consultant was selected and contract entered into; and
- That it is in the best interest of the LPA that the services be performed under this agreement.

Once the need for a modification has been established, a supplemental agreement will be prepared.

If the additional work requires the Consultant to incur costs prior to execution of a supplemental agreement, the LPA shall use the process set out below:

- The Consultant Work Order (CWO) – DR Form 250 shall be used to describe and provide necessary justification for the additional the scope of services, effort, the deliverables, modification of schedule, and to document the cost of additional services. The CWO form is available on the Department of Roads website at www.transportation.nebraska.gov/gov-aff/lpa-guide-man.html#forms4. The CWO must be executed to provide authorization for the additional work and to specify when that work may begin. This agreement will be supplemented after one or more CWOs have been authorized and approved for funding.

H. **Payments.** Payment for work under this agreement will be made based on actual costs plus a fixed fee for profit. Actual costs include direct labor costs, direct non-labor costs, and overhead costs.

(1) Direct Labor Costs are the earnings that individuals receive for the time they are working directly on the project.

(a) Hourly Rates: For hourly employees, the hourly earnings rate shall be the employee's straight time hourly rate for the pay period in which the work was performed. For salaried employees, the hourly earnings rate shall be their actual hourly rate as recorded in the Consultant's accounting books of record.

(b) Time records: The hours charged to the project must be supported by adequate time distribution records. The records must clearly indicate the distribution of hours to all activities on a daily basis for the entire pay period, and there must be a system in place to ensure that time charged to each activity is accurate.

(2) Direct Non-Labor Costs: These costs include all necessary, actual, and allowable costs related to completing the work under the agreement, including but not limited to: meals, lodging, mileage, subject to the limitations outlined below; communication costs; reproduction and printing costs; special equipment and materials required for the project; special insurance premiums if required solely for this agreement; and such other allowable items.

A non-labor cost charged as a direct cost cannot be included in the Consultant's overhead rate. If for reasons of practicality, the consultant is treating a direct non-labor cost category, in its entirety, as an overhead cost, then costs from that category are not eligible to be billed to this project as a direct expense.

Consultant shall submit to the LPA an invoice or billing itemizing all direct non-labor costs claimed for work under this agreement, and all supporting receipts or invoices. The State, on behalf of the LPA, will pay the Consultant for all necessary, allowable, eligible and properly documented direct non-labor costs related to the work under this agreement.

The following expenses will be reimbursed at actual costs, not to exceed the rates as shown below.

(a) The reimbursement for mileage associated with the use of company owned vehicles shall 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:

- 1) The mileage rate which the consultant reimbursed to the person who submitted the claim for POV use, or
 - 2) The prevailing standard rate as established by the IRS.
- (b) Automobile Rentals and Air Fares will be actual reasonable cost and if discounts are applicable the Consultant shall give the LPA the benefit of all discounts.
- (c) The reimbursement for meal and lodging rates shall be limited to the prevailing standard rate as indicated in the current website address for U.S. General Services Administration's (GSA) rates which is indicated below:

<http://www.gsa.gov/portal/category/100120>

- 1) For the Consultant and its employees to be eligible for the meal allowance, the following criteria must be met.

Breakfast:

- a) Employee is required to depart at or before 6:30 a.m., or
- b) Employee is on overnight travel.

Lunch:

- a) Employee must be on overnight travel. No reimbursement for same day travel.
- b) Employee is required to leave for overnight travel at or before 11:00 a.m., or
- c) Employee returns from overnight travel at or after 2:00 p.m.

Dinner:

- a) Employee returns from overnight travel or work location at or after 7:00 p.m., or
- b) Employee is on overnight travel.

Meals are not eligible for reimbursement if the employee eats within 20 miles of the headquarters town of the employee.

The Consultant shall note the actual lodging and meal costs in a daily diary, expense report, or on the individual's time report along with the time of departure to the project and time of return to the headquarters town. The total daily meal costs must not exceed the GSA rates set out above.

- (3) Overhead Costs include indirect labor costs, indirect non-labor costs, and direct labor additives that are allowable in accordance with 48 CFR 31. Overhead 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 overhead rate. Overhead

rate increases which occur during the project period will not be cause for an increase in the maximum amount established in this agreement.

I. **Fee for Profit (Actual Cost Plus Fixed Fee).** The Fixed Fee for Profit was computed upon the negotiated direct labor and overhead costs. The Fee for Profit is not allowable upon direct non-labor costs. For monthly or progress invoices, the Fee for Profit is calculated by multiplying the sum of the direct labor and overhead costs billed by the negotiated Fee for Profit Rate of "13.10%". Upon completion of the work under this agreement, the Consultant shall invoice the LPA any remaining Fixed Fee for Profit. If all of the work under this agreement is not completed for any reason, fixed fee for profit will be adjusted based on the LPA's determination of the actual percentage of work completed.

J. **Invoices and Progress Reports.** The Consultant shall submit invoices to the LPA no more frequently than at monthly intervals and in accordance with the "LPA Reimbursement Procedures" which can be found on the State's website at: <http://www.transportation.nebraska.gov/gov-aff/lpa-guide-man.html#policies4>. The invoices must present actual direct labor, actual overhead, actual direct non-labor costs, as well as the Fee for Profit based upon the actual direct labor and overhead costs billed for that period. The invoices must identify each employee by name and classification, the hours worked, and each individual's actual labor cost. Direct non-labor expenses must be itemized and provide a complete description of each item billed. Each monthly invoice must include a completed "Cost Breakdown Form" (see State's webpage at <http://www.transportation.nebraska.gov/gov-aff/lpa-guide-man.html>) and must be substantiated by a progress report which is to include/address, as a minimum:

1. A description of the work completed for that period
2. A description of the work anticipated for the next pay period
3. Information needed from the LPA
4. Percent of work completed to date

Consultant shall submit a progress report monthly even if Consultant does not submit a monthly invoice.

K. **Progress Payments.** Payments will not be made unless the monthly progress reports provide adequate substantiation for the work and the LPA and the State determine that the work has been properly completed. The State, on behalf of the LPA, will make a reasonable effort to pay the Consultant within 30 days of receipt of the Consultant invoices.

L. **Final Invoice.** Upon completion of the work under this agreement, the Consultant shall submit their final invoice with a letter identifying it as the final invoice. The letter shall also include the following information/statements:

1. Project name/location, project number, control number, service provided, and agreement number.
2. All the work under this agreement has been completed and all required deliverables have been submitted to the LPA,
3. Consultant has no outstanding issues to be resolved regarding the work under this agreement.

In addition, the Consultant shall review the overhead costs billed to-date to determine if the overhead rates used on the progress billings match the actual allowable rate applicable to the time period that the labor was incurred. If cost adjustments are necessary, they should be reflected on the final invoice. If a particular year's actual overhead has not yet been computed or approved by the State, the most recent years accepted rate should be applied.

M. **Final Payment.** Upon determination by the LPA and the State that the work was adequately substantiated and completed in accordance with this agreement, payment will be made in the amount of the approved final invoice. The acceptance by the Consultant of the final payment will constitute and operate as a release to the LPA and the State for all claims and liability to the 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.

N. **Audit and Final Cost Adjustment.** Upon acceptance by the LPA and the State, the 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. The Consultant agrees to reimburse the State for any overpayments identified in the audit review, and State agrees to pay Consultant for any identified underpayments.

O. **Consultant Cost Record Retention.** The Consultant shall maintain, all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such material available for examination at its office at all reasonable times during the agreement period and for three years from the date of final cost settlement by FHWA and project closeout by the State. Such materials must be

available for inspection by the LPA, State, FHWA, or any authorized representative of the federal government, and when requested, the Consultant shall furnish copies.