

**BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA**

**RESOLUTION AUTHORIZING AGREEMENT WITH WLA CONSULTING, INC.
FOR PROFESSIONAL SERVICES**

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2007), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, general supervision and control of the public roads of each county is vested in the County Board by virtue of Neb. Rev. Stat. §39-1402 (Reissue 2008); and,

WHEREAS, Sarpy County desires to enter into an Agreement with the firm of WLA Consulting, Inc. for professional engineering services in conjunction with the Preliminary Stream and Tributary Inventory, Erosion and Stabilization Evaluation, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT this Board hereby approves and adopts the Agreement with WLA Consulting, Inc. for professional services with the Preliminary Stream and Tributary Inventory, Erosion and Stabilization Evaluation.

BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk are hereby authorized to execute on behalf of this Board the Agreement with WLA Consulting, Inc., a copy of which is attached, and any other related documents, the same being approved by the Board.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 13th day of December, 2011.

Attest



Tom Richard
Sarpy County Board Chairman

Debra J. Houghtaling
County Clerk



Consulting, Inc.
Engineers & Scientists

WaterLandAir

May 26, 2011

Dennis Wilson, P.E.
Sarpy County Public Works
15100 S. 84th Street
Papillion, NE 68046-4627

Re: Professional Engineering Services for Preliminary Workshop and Scope Definition – Preliminary Stream and Tributary Inventory, Erosion and Stabilization Evaluation. WLA Proposal No. P1105-58b

Dear Mr. Wilson:

WLA Consulting, Inc. (WLA) is pleased to present this Proposal for professional engineering services to the Sarpy County Public Works (Client) for conducting field services, presenting at a workshop and scope definition to establish program protocol. The objective of this scope will be to identify the needs and requirements for a long term strategy necessary for stream inventory, stability studies and hazard mitigation. This proposal is based on my meeting on-site with you on May 5, 2011 and our meeting on May 24th, 2011.

Based on this understanding, the following tasks constitute our proposed Scope of Services:

SCOPE OF SERVICES

Task 1 – Stream Mapping

WLA will gather GIS, USGS, aerial photography and LIDAR data to develop a stream inventory. This will be based on existing data currently available for the different watersheds within Sarpy County and used for developing stream inventory maps. The maps produced will be used by field crews during the subsequent stream studies. The maps will generally consist of the following information:

- Stream alignments and confluences
- Mapped channel gradient and pattern
- Property boundaries and jurisdictions
- Watershed boundaries and land use
- Road crossings, bridges, and culverts
- Potential stream access points

Deliverables for Task 1

- Sarpy County Stream Maps

Task 2 – Workshop and Stream Classification and Condition Protocol

Subsequent to the development of the stream maps in Task 1, WLA will conduct a stream inventory workshop with Sarpy County. The purpose of the workshop is to review the stream maps and determine the stream classification, condition and degradation priorities of Sarpy County. Based upon the information gathered from the workshop, WLA will prepare a Stream Classification and Condition Protocol that will be used by field crews for the subsequent stream studies.

Deliverables for Task 2

- Stream Classification and Condition Protocol

Task 3 – Additional Services

If additional services (not specified in this contract) become necessary, as determined by Sarpy County personnel, WLA may provide these services only after written authorization. These services are not included in the project fee given below, and will be invoiced at WLA's standard billing rates.

ASSUMPTIONS

The following assumptions have been made for this proposal:

- This scope addresses the stream inventory mapping and classification protocol.
- Subsequent stream studies will be completed under separate scope.

PERSONNEL

The following personnel will be assigned to this effort: Fred T. Scarpello, P.E. will serve as Principal Engineer; Darren Jack will serve as Project Manager and Mike Gnarra will serve as project scientist.

SCHEDULE

Services for Tasks 1 & 2 will be completed within a 4 week period upon the acceptance and receipt of this executed letter proposal. Please sign both copies of this letter proposal, return one to WLA and retain one for your records. WLA will coordinate with the designated representative(s) from the Sarpy County Public Works Department on the overall project schedule.

COMPENSATION

All fees will be billed on a time and material basis using the following billing rates. The total estimated fee is approximately \$19,800. Factors influencing the total fee include, but are not limited to, the ability to efficiently schedule meetings and the availability and quality of existing environmental documents. The estimated fee will not be exceeded without the prior approval of Client.

PROJECT BILLING RATES

Project Manager	\$130 / hour
Principal Engineer	\$150 / hour
Senior Project Engineer	\$120 / hour
Project Engineer	\$90 / hour
Staff Engineer	\$85 / hour
Project Scientist	\$70 / hour
CAD Technician I	\$65 / hour
Clerical	\$50 / hour

Subconsultant Fees	Actual Cost + 15%
Other Direct Costs	Actual Cost + 10%

GENERAL PROVISIONS

This proposal excludes all other services not specifically detailed above in the Scope of Services. This offer is valid for a period of 30 days from the date of this proposal. We will review our scope, schedule and fees if an agreement to provide our services has not been reached within this period. Attached and made part of this Proposal as if fully incorporated herein are WLA Consulting TERMS AND CONDITIONS OF SERVICE subject to the following:

1. CLIENT is not obligated to pay any additional charge or interest to balances that remain unpaid for more than thirty (30) days as stated in Paragraph 4b.
2. WLA will deliver all drawings, maps, and documents (inclusive of any electronic versions) related to the deliverables described above for use at CLIENT'S discretion.
3. WLA agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. WLA is required and hereby 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. 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.

Mr. Dennis Wilson
May 26, 2011
Page Four

We appreciate the opportunity to serve your needs and look forward to working with you on this project. Please contact me at (402) 475-8588 if you have any questions or require clarification on any item.

Respectfully Submitted,

WLA CONSULTING, INC.


Fred T. Scarpello, P.E.

The foregoing Proposal is hereby accepted:

Sarpy County Public Works

By: Tom Richards

Name: Tom Richards

Title: Chairman

Date: 12/13/11

Approved as to form:

Kerry A. Schmid
County Attorney



MEMORANDUM

To: Sarpy County Board of Commissioners
From: Bill Herr, Engineering Manager
Subject: WLA Consulting for Professional Services
Date: December 9, 2011

I recommend approval of the Agreement with WLA Consulting, Inc for Professional Engineering Services to provide Preliminary Stream and Tributary Inventory, Erosion and Stabilization Evaluation for a not to exceed fee of \$19,800.00.

BJH/bjh



TERMS AND CONDITIONS OF SERVICE

1. Agreement.

The proposal, exhibits and schedules (the "Proposal") attached hereto and these General Terms and Conditions collectively shall constitute the AGREEMENT between the CLIENT identified in the Proposal and WLA Consulting, Inc. ("CONSULTANT") in respect to the services to be performed by CONSULTANT (the "Services"). Except as expressly set forth below, these General Terms and Conditions supercede any inconsistent or contradictory provisions contained in the Proposal or any offer, contract, purchase order, requisition, notice-to-proceed, or like document regarding CONSULTANT's Services.

2. Standard of Care; Disclaimer of Warranties; Limitation of Services.

a. The CONSULTANT agrees to perform the Services in accordance with the standard of care used by persons of CONSULTANT's profession practicing under similar circumstances at the same time and in the same locality. All estimates, recommendations, opinions, and decisions of CONSULTANT will be made upon the basis of the information available to CONSULTANT and CONSULTANT's experience, technical qualifications, and professional judgment.

b. CONSULTANT warrants that it will exercise due care in the performance of the Services subject to the limitations described in the AGREEMENT. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WITH RESPECT TO THE SERVICES, WHETHER EXPRESSED OR IMPLIED. CLIENT ACKNOWLEDGES AND AGREES THAT CONSULTANT EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY AND ALL OTHER WARRANTIES OR ANY KIND OR NATURE WHATSOEVER. CONSULTANT makes no other warranties, expressed or implied, under this AGREEMENT or otherwise, in connection with CONSULTANT'S Services.

c. CLIENT acknowledges and agrees that (i) subterranean conditions may vary at locations other than at a particular location where borings, explorations, surveys and samplings are made, and that CONSULTANT'S data interpretations and recommendations are based solely upon information available to CONSULTANT at the time of assessment; (ii) investigations may disclose the presence of existing geological conditions or other substances, the presence of which may require disclosure to appropriate governmental authorities by CLIENT; (iii) although necessary to perform the Services, investigation methods involve an inherent risk of contamination of previously uncontaminated air, soil and water; (iv) CONSULTANT is not responsible for data, interpretation and/or recommendations by others; (v) all data obtained during investigative phases are subject to confirmation of conditions encountered during subsequent phases of the project; and (vi) the extent and scope of Services under this AGREEMENT may be limited by CLIENT's schedule and financial considerations and that additional services may provide more accurate information in respect to conditions at or near the site.

d. CLIENT acknowledges and agrees that CONSULTANT is not a generator, storer, transporter, arranger for transport or disposer of hazardous or toxic substances, pollutants or contaminants found or identified at the project site. CONSULTANT'S Services do not include any services regarding the presence or discovery at the site of asbestos, PCBs, petroleum, hazardous waste, radioactive materials or any other hazardous material or toxic substance. CLIENT shall undertake or arrange for the handling, removal, treatment, storage, transportation, and disposal of hazardous substances or constituents found or identified at the site. CONSULTANT is only responsible for providing the Services described in the Proposal.

3. Information; Third parties; Access to Site.

a. CLIENT represents and warrants that it has or will timely (i) furnish or cause to be furnished to CONSULTANT all documents and information known to CLIENT that relates to the identity, location, quantity, nature or characteristics of any hazardous waste at, on, or under the site; and (ii) furnish and pay for such other reports, aerial photographs, data, studies, drawings, specifications, documents, and other information regarding surface and subsurface site conditions which will be required by CONSULTANT for performance of its services. CONSULTANT shall be entitled to rely upon documents and information provided by CLIENT in performing the Services. CONSULTANT assumes no responsibility or liability for the accuracy or completeness of said documents and information. CLIENT provided documents will remain the property of CLIENT.

b. CLIENT acknowledges and agrees that CONSULTANT may engage the services of independent contractors to perform the work necessary to complete the services. CLIENT agrees that such independent contractors are not agents or employees of CONSULTANT. CONSULTANT will not direct, supervise or control the work of contractors or their subcontractors. CONSULTANT'S Services do not include a review or evaluation of a contractor's (subcontractor's) safety measures. CONSULTANT shall be responsible only for its employees on any site. CONSULTANT shall not be responsible for the operations of others or safety at the site.

c. CLIENT shall provide right of entry for CONSULTANT personnel, CONSULTANT subconsultants and all equipment and vehicles necessary to perform services. CONSULTANT will take reasonable measures to minimize damage to property; however, CLIENT understands that some damage may occur, and the cost of repair of such damage shall solely be the responsibility and obligation of CLIENT.

CLIENT is responsible for designating the location of below grade structures, foundations, utilities and other subterranean obstacles. CONSULTANT will take reasonable effort to avoid damage to these items. If these items cannot be located, CONSULTANT, upon CLIENT's written authorization, and at CLIENT's cost, will engage feasible locating methods and employ persons to confirm locations. CLIENT agrees to hold CONSULTANT harmless for damages to or damages caused by any subsurface or subterranean utilities or structures which are not correctly located by CLIENT or which CONSULTANT could not locate using a reasonable standard of care.

4. Fees and Expenses; Payment for Services.

a. In consideration of CONSULTANT'S agreement to provide the Services, CLIENT shall pay to CONSULTANT the fees specified in the Proposal and reimburse CONSULTANT for its costs and expenses incurred in connection with the Services.

b. CONSULTANT will submit invoices to CLIENT no less than on a monthly basis and such invoices are due and payable upon receipt. Any balances that remain unpaid for more than thirty (30) days from the date of invoice may be subject to an additional charge at the rate of one and one-fourth (1 1/4%) per month from the date of the invoice. Payment of invoices is not subject to discounting by CLIENT. Time is of the essence in payment of invoices, and timely payment is a material part of the consideration of the AGREEMENT between CONSULTANT and CLIENT.

c. In addition to the termination provisions in Section 7 below, if CLIENT fails to pay CONSULTANT within ninety (90) days of an invoice, CONSULTANT, without liability to CLIENT, may terminate this AGREEMENT and/or suspend Services until payment of all past due amounts has been received by CONSULTANT.

5. Changes or Delays.

Unless the accompanying Proposal provides otherwise, the proposed fees constitute CONSULTANT'S estimate to perform the Services required under the Proposal. Facts may develop that may require a change in the Services to be performed. CONSULTANT will inform CLIENT of such situations so that negotiation and compensation can be accomplished as required. If such change, additional services, or suspension of services results in an increase or decrease in the cost of or time required for performance of the Services, whether or not changed by any order, an equitable adjustment shall be made, and the AGREEMENT modified accordingly.

7. Termination.

The term of this AGREEMENT shall commence on the date set forth in the Proposal and will continue until the parties' obligations have been fully performed or the AGREEMENT is sooner terminated. Either party may terminate the AGREEMENT in the event of a material breach that is not cured within seven (7) days after written notice of such breach. In addition, the parties may mutually agree in writing to terminate the AGREEMENT.

8. Limitation of Liability.

To the fullest extent permitted by law, and notwithstanding any other provision of this AGREEMENT, CONSULTANT and CONSULTANT'S directors, officers, principals, managers, employees, agents and CONSULTANT'S consultants and subconsultants, and any of them, total liability to CLIENT and anyone claiming, by, through, or under CLIENT for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Services or the AGREEMENT from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of CONSULTANT or CONSULTANT'S directors, officers, principals, managers, employees, agents and CONSULTANT'S consultants and subconsultants, or any of them, shall not exceed the total compensation received by CONSULTANT under this AGREEMENT.

9. Insurance.

CONSULTANT agrees to purchase workers' compensation insurance and comprehensive general liability insurance. CONSULTANT agrees to purchase additional insurance if requested by CLIENT (presuming such insurance is reasonably available from carriers acceptable to CONSULTANT), provided the costs for additional insurance are reimbursed by CLIENT.

10. Indemnification.

a. CLIENT hereby agrees to indemnify and hold harmless, CONSULTANT and its officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, brought by any third party against CONSULTANT which arise directly or indirectly out of this AGREEMENT or the performance of CONSULTANT'S Services hereunder, except arising solely from the gross negligence or willful misconduct of CONSULTANT.

b. CONSULTANT and CLIENT each agree to indemnify and hold the other harmless from and against liability for all claims, losses, damages and expenses, including reasonable attorney's fees to the extent such claims, losses

damages, or expenses are caused by the indemnifying party's negligent or wrongful acts, or omissions to act.

11. Confidentiality.

CONSULTANT agrees to maintain as confidential and not disclose to others without CLIENT's prior consent all information obtained from CLIENT that was not otherwise previously known to CONSULTANT or in the public domain and is expressly designated by CLIENT in writing to be "CONFIDENTIAL." Notwithstanding the foregoing, this paragraph shall not apply to information that (1) is published or comes into the public domain through no fault of CONSULTANT, (2) is furnished by or obtained from a third party who is under no obligation to keep the information confidential, or (3) is required to be disclosed by law or order of a court, administrative agency, or other authority with proper jurisdiction.

12. Re-use of Documents and Use of Electronic Media.

All documents including drawings and specifications prepared or furnished by CONSULTANT (and CONSULTANT's affiliates, subsidiaries, independent professional associates, consultants, and subconsultants) pursuant to this AGREEMENT are instruments of service in respect of the project, and CONSULTANT shall retain an ownership and property interest therein, whether or not the Project is completed. CLIENT may make and retain copies for information and reference in connection with the project, however, such documents are not intended or represented to be suitable for re-use by CLIENT or others as extensions of the project or on any other project. Any re-use without written verification or adaptation by CONSULTANT for the specific purpose intended will be at CLIENT's sole risk and without liability or legal exposure to CONSULTANT or CONSULTANT's affiliates, subsidiaries, independent professional associates, consultants, and subconsultants with respect to any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting therefrom. CONSULTANT will be entitled to additional compensation for verification or adaptation at rates to be agreed upon by CLIENT and CONSULTANT.

Copies of documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Files in electronic media format or text, data, graphic or other types that are furnished by CONSULTANT to CLIENT are only for convenience of CLIENT. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, CONSULTANT makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by CONSULTANT at the time electronic files were furnished to the CLIENT.

13. Governing Law.

This AGREEMENT is to be governed by and construed in accordance with the laws of the State of Nebraska.

14. Severability.

If any provision of this AGREEMENT is determined to be invalid, the offending provision shall be deemed severed from this AGREEMENT and the determination shall not affect the validity of any other clause or provision of this AGREEMENT.

15. Independent Contractor. CONSULTANT at all times during the term of this AGREEMENT an independent contractor. CONSULTANT shall not, for any purpose, be deemed an agent, employee, partner or legal representative of CLIENT.

16. Binding Effect.

This AGREEMENT shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, representatives, agents and permanent assigns.

17. Force Majeure.

CONSULTANT will not be liable to CLIENT for CONSULTANT'S failure to fulfill its obligations under this AGREEMENT due to causes beyond CONSULTANT'S reasonable control and without its fault or negligence including, but not limited to, governmental laws and regulations, acts of God or the public, war or other violence, civil commotion, blockades, embargoes, calamities, floods, fires, earthquakes, explosions, accidents, storms, strikes, lockouts, work stoppages, labor disputes, or unavailability of labor, raw materials, power or supplies. CLIENT shall pay any additional costs incurred by CONSULTANT in connection with the performance of services under this AGREEMENT that are related to any labor disputes between the CLIENT and any unions representing the employees of the CLIENT.

18. Execution.

If CLIENT is a corporation, limited liability company or partnership, the person signing this Agreement on its behalf certifies that such person is an officer, member, manager or partner thereof, that his or her action was duly authorized by appropriate corporate, company or partnership action, that such action does not conflict with the corporate charter or bylaws, articles of organization or operating agreement, or the partnership agreement, as the case may be, or any contractual provision binding on such corporation or partnership, and that no consent of any stockholders, members or partners to his or her action is required.

19. Assignment.

CLIENT shall not assign any right, or delegate any obligation, arising under this AGREEMENT without prior written consent of CONSULTANT. CONSULTANT may assign its rights, and delegate its obligations, arising hereunder at any time by providing written notice of such assignment to CLIENT.

20. Entire Agreement; Modifications.

This AGREEMENT contains all the terms and conditions between the parties and supersedes all prior and contemporaneous negotiations, representations, understandings and other agreements, oral or otherwise, that may have been entered into by the parties. All other statements, conditions, covenants, representations, and warranties are merged herein. Any modifications of this AGREEMENT shall be in writing and duly executed by the parties.

21. No Implied Waiver.

Any delay or failure of either party at any time to require performance by the other party of any provision of this AGREEMENT shall not in any way affect the right of such party to require performance. No waiver by either party of any breach of any provision of this AGREEMENT shall be enforceable against such party, unless such waiver is in writing, and no waiver shall be construed to be a waiver of any subsequent breach or of any other right or remedy under this AGREEMENT.

22. Taxes.

CLIENT shall timely pay all applicable sales taxes which are levied upon the Services provided hereunder, in accordance with applicable law.

23. Incorporation of Schedules.

All Schedules attached hereto are incorporated herein by reference and made a part hereof for all purposes as if fully set forth herein.

24. Notices.

Any notice, request, instruction or documents required or permitted to be delivered hereunder shall be in writing and shall be deemed given if delivered personally or by courier service or sent by regular U.S. mail or facsimile to a party at the address set forth in the first paragraph of this AGREEMENT or its facsimile number.

25. Dispute Resolution.

CLIENT and CONSULTANT agree that as a prerequisite to the filing of a lawsuit or a demand for arbitration, they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this AGREEMENT to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this AGREEMENT.

Rev. 3/06

© WLA Consulting, Inc.

Deb Houghtaling

Fred Uhe
Chief Deputy

Sarpy County Clerk

Renee Lansman
Assistant Chief Deputy

1210 Golden Gate Drive • Papillion, Nebraska 68046-2895
Phone: 402-593-2105 • Fax: 402-593-4471 • Website www.Sarpy.com • Email: Clerk@sarpy.com

December 15, 2011

Fred Scarpello P.E.
WLA Consulting Inc.
4944 S. 114th Street
Omaha, NE 68137

Dear Mr. Scarpello,

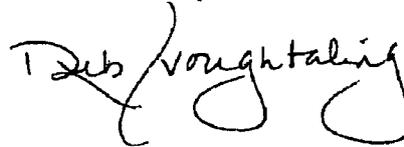
Action by the Sarpy County Board of Commissioners on December 13, 2011 is as follows:

Resolution 2011-417: Authorize Chairman to sign agreement with WLA Consulting, Inc. for professional engineering services in conjunction with the Preliminary Stream and Tributary Inventory, Erosion and Stabilization Evaluation. Denny Wilson, Engineer

MOTION: Hike resolved, seconded by Thompson, to approve the resolution for the agreement with WLA Consulting, Inc. Ayes: Hike, Thompson, Richards, Nekuda & Warren. Nays: None.

Attached is the above referenced master agreement and task order #1 for your files.

Sincerely,



Deb Houghtaling
Sarpy County Clerk

Enclosure
DH/cv