

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

**RESOLUTION AUTHORIZING ENGINEERING AGREEMENT WITH E & A
CONSULTING GROUP, INC. FOR CONSTRUCTION OBSERVATION SERVICES**

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104 (Reissue 2012), 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;

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103 (Reissue 2012), the powers of the County as a body are exercised by the County Board;

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 2012); and,

WHEREAS, Sarpy County desires to enter into an Engineering Agreement with the firm of E&A CONSULTING GROUP, INC. for Construction Observation services in conjunction with the construction of 168th Street, from 800 feet south of Giles Road to 512 feet north of Giles Road and 520 feet west of 168th Street on Giles Road, in Sarpy County as further detailed in the Exhibit A, "Schedule of Services, Schedule of Costs" and Exhibit B documents. Copies of the Engineering Agreement, along with all Exhibits are attached hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT the this Board hereby approves and adopts the Engineering Agreement and associated documents with E&A CONSULTING GROUP, INC. for professional services in conjunction with the preliminary design and final design for 168th Street, from 800 feet south of Giles Road to 512 feet north of Giles Road and 520 feet west of 168th Street on Giles Road, in Sarpy County.

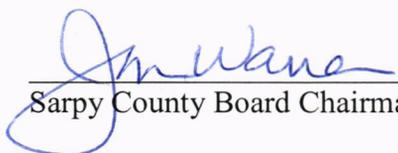
BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk are hereby authorized to execute on behalf of this Board , the Engineering Agreement and associated documents with E&A CONSULTING GROUP, INC., a copy of which is attached, and any other related documents, the same being approved by the Board

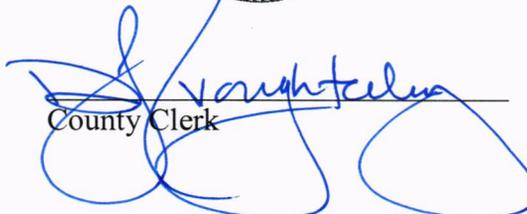
The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 13th day of August, 2013.

Attest

SEAL




Sarpy County Board Chairman


County Clerk

ENGINEERING AGREEMENT

**SARPY COUNTY
PROFESSIONAL SURVEYING & ENGINEERING CONSTRUCTION FIELD SERVICES
FOR
FINAL ROADWAY CONSTRUCTION
OF
168th & GILES STREET INTERSECTION**

THIS AGREEMENT, made and entered into this 6th day of August, 2013, by and between the firm of E & A Consulting Group, Inc., a corporation of the State of Nebraska, with offices at 330 N. 117th Street, Omaha, Nebraska, 68154 and hereinafter referred to as the "Consultant," and the County of Sarpy, Nebraska, a body politic and corporate, hereinafter, referred to as the "County".

WITNESSETH:

WHEREAS, the County desires to engage the Consultant to render professional surveying and engineering field services as hereinafter set forth for the necessary surveying and engineering field services as required for the construction phase services for the project listed above, and

WHEREAS, the Consultant is willing to perform such surveying and engineering work in accordance with the terms hereinafter provided and does represent that he is in compliance with the Nebraska Statutes relating to the registration of Professional Engineers, and

NOW, THEREFORE, in consideration of these facts, the parties hereto agree as follows:

I. DEFINITIONS

Wherever in this agreement the following terms are used, or pronouns used in their stead, they shall have the meaning here given:

The "EFFECTIVE DATE" of this agreement shall mean the date mentioned in the first paragraph of this document.

"CONSULTANT" or "CONTRACTOR" shall mean E & A Consulting Group, Inc. whose business and mailing address is 330 N. 117th Street, Omaha, Nebraska 68154.

"COUNTY" shall mean the County of Sarpy, Nebraska

To "ABANDON" the work shall mean that a determination has been made by the County that conditions or intentions as originally existed have changed and that the work as contemplated herein is to be renounced and deserted for as long in the future as can be foreseen.

To "SUSPEND" the work shall mean that it has been determined by the County that conditions or intentions as originally existed have changed and that the work as contemplated herein should be ceased on a temporary basis. This cessation or holding in this undetermined state will prevail until such time as a determination can be made to abandon the work or to reinstate under the conditions as defined in this agreement.

To "TERMINATE" or the "TERMINATION" of this contract shall be the cessation or quitting of this contract based upon action or failure of action on the part of the Consultant as defined herein and as determined by the County.

II. GENERAL DESCRIPTION OF SCOPE AND CONTROL WORK

The Consultant shall, upon receipt of the Notice to Proceed from the County, perform all the services required under this agreement for the project described above and as outlined in the attached Exhibit "A", Schedule of Services, hereby made a part of this agreement.

III. TIME OF BEGINNING AND COMPLETION

The Consultant shall begin work on the project upon receipt of written "Notice to Proceed" from the County. The work on the project shall be completed within 100 days after receipt of the written Notice to Proceed. The time for completion of the work shall be equitably adjusted for delays not the fault of Consultant.

Delays grossly affecting the completion of the work within the time specified for completion attributable to or caused by the Consultant or the County shall be considered as cause for termination of this agreement by the other.

It is hereby mutually agreed that the County has continuing rights to work progress inspections and any and all additions, deletions, changes, elaborations or modifications of the services to be performed under the terms of this agreement which may from time to time be determined by the County as desirable or preferable, shall be controlling and governing.

IV. ABANDONMENT, CHANGE OF PLAN, SUSPENSION AND TERMINATION

The County shall have the absolute right to abandon the project or to change the general scope of work as defined in Section II, at any time. Such action on its part shall in no event be deemed a breach of contract.

The right is reserved by the County to suspend this agreement at any time or to terminate for just cause. Such suspension or termination may be effected by giving the Consultant fifteen (15) days written notice. Should the project be suspended for thirty (30) days or more, Consultant's Fee and time for completion shall be equitably increased.

If the County abandons the work or subtracts from the work as presently outlined, the Consultant shall be compensated on the basis of the percentage completion ratio of the net fee shown in Exhibit "A" plus actual costs as defined in Section VI. In determining the percentage of work completed, the County shall consider the work performed by the Consultant to the total amount of work contemplated by this agreement.

The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and study activities and shall make such materials available at his office at all reasonable times during the contract period and for three (3) years from the date of final payment under this Agreement; such records to be available for inspection by the County and copies thereof shall be furnished by the Consultant, if required.

Additions to the scope of work as defined in Exhibit "A" will require negotiation of a supplemental agreement or agreements. For any work beyond the scope of services outlined by Exhibit "A", the Consultant will be required to document the additional work, estimate the cost to complete said work and obtain written approval from the County before such work begins.

V. OWNERSHIP OF ENGINEERING DOCUMENTS

All tracings, plans, maps, computations, sketches, charts and other data prepared or obtained under the terms of this Agreement shall be delivered to and shall become the property of the County without restriction or limitation as to its further use.

VI. FEES AND PAYMENTS

In consideration of the performance of the Engineering Services described in this Agreement, the Consultant shall be paid on an hourly basis (including reimbursables) estimated not to exceed **\$76,893.50** as provided in Exhibit "A", attached.

The Consultant shall submit monthly invoices, which shall be based on the actual work completed during the calendar month. The monthly payments shall be based upon the satisfactory prosecution of the work and shall be substantiated by monthly progress reports. The Consultant shall submit a final voucher for the project no later than 30 days after the completion of the project.

The Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and study activities and shall make such materials available at his office at all reasonable times during the contract period and for three (3) years from the date of final payment under this Agreement; such records to be available for inspection by the County and copies thereof shall be furnished by the Consultant, if required.

The Consultant shall be responsible to determine when his actual costs shall exceed the anticipated costs for any work activity. In such event, the Consultant must immediately notify the County in writing.

The Consultant shall also be responsible to determine when a change in the work scope necessitates an increase in the fee. When the Consultant determines that an increase is in order, he will be required to estimate the additional costs necessary to complete the additional work, document the reasons for this increase and receive prior approval from the County in writing before expenditures beyond the contract maximum. The County shall not be obligated to reimburse the Consultant for costs, which have not been approved in excess of the contract maximum.

VII. FORBIDDING USE OF OUTSIDE AGENTS

The Consultant warrants that he has not employed or retained any company or person, other than bona fide employees working for the Consultant, to solicit or secure this Agreement and that he 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 County shall have the right 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.

IX. NON-RAIDING CLAUSE

The Consultant shall not engage the services of any personnel or persons presently in the employ of the County for work covered by this Agreement without the written consent of the employer of such persons.

X. GENERAL COMPLIANCE WITH LAWS

The Consultant hereby agrees to comply with all Federal, State and Local laws and ordinances applicable to the work.

XI. PROFESSIONAL REGISTRATION AND SUBCONTRACTS

The Consultant hereby agrees to comply with all Federal, State and Local laws and ordinances applicable to the work.

The Consultant hereby agrees to affix the seal of a registered professional engineer licensed to practice in the State of Nebraska on all reports and plans prepared hereunder except for those plans designed by the County.

The Consultant agrees to provide these professional services using staff personnel with specialized skills, experience, and professional qualifications. Any work subcontracted other than that specifically provided by this Agreement shall first have the written approval of the County.

XII. ORGANIZATION CHART

The Consultant shall furnish an organization chart of all key personnel who will be involved in this project as outlined in this Agreement. Any deviations or revisions in personnel as shown in the project organization chart shall be subject to the prior approval of the County. All personnel revisions or replacements shall be made with people of equal ability and experience, in the opinion of the County, and failure of the Consultant to provide capable replacements to the satisfaction of the County shall be basis for termination of the Contract and the method of Contract settlement shall be as outlined in Section IV. The project organization chart is as shown in Exhibit "B" hereto, and made a part of this Agreement.

XIII. ARBITRATION

Any disputes between the County and the Consultant not disposed of by this Agreement between the parties may be settled by arbitration as provided by Neb. Rev. Stat Section 25-2601 et. seq.

XIV. FAIR EMPLOYMENT PRACTICES ACT

The Consultant agrees to abide by the provisions of the Nebraska Fair Employment Act of 1965, Neb. Rev. Stat. Section 48-1101 through 48-1125.

XV. SUCCESSORS AND ASSIGNS

This Agreement shall be binding on successors and assigns of either party.

XVI. SUBLETTING, ASSIGNMENT OR TRANSFER

Subletting, assignment or transfer of all or part of the interest of the consultant is hereby prohibited unless prior written consent of the other parties is obtained therefor

XVIII. CONTRACT

The work will begin within one week of the notice to proceed.

XIX. UNEMPLOYMENT COMPENSATION FUND PAYMENTS

Before final payment is made by the County to the Consultant of the final three percent (3%) due hereunder, the Consultant shall furnish the County a written clearance from the Commissioner of Labor of the State of Nebraska certifying that all payments due of contributions or interest which may have arisen under this contract have been paid by the Consultant, or its subcontractor to the Unemployment Compensation Fund of the State of Nebraska.

XX. COUNTY SUPERVISION

It is hereby mutually agreed that the County shall have responsible supervision of all the services included herein, but no employee of the Consultant or any of its subcontractors or of persons working under the Consultant's direction is or shall be deemed to be an employee of the County. The Consultant shall at all times have or cause to have in force Workers Compensation insurance covering all its employees and those of any subcontractor and those of anyone under its direction and control.

XXI. PAYMENT FOR SERVICES, MATERIAL AND EQUIPMENT

The Consultant agrees to pay all persons, firms or corporations, having contracts directly with the Consultant or with subcontractors of Consultant, all just claims due them for the payment of services, material and equipment furnished, and for the payment of material and equipment rental which is actually used or rented in the performance of this contract.

XXII. ASSESSMENT FOR TAXATION

Consultant shall comply with, and shall cause to be complied with Neb. Rev. Stat. Section 77-1323, as amended and shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the County where assessed. During the performance under this contract, additional such statements shall be furnished by the Consultant as may be required by such law or as may be required by the County or its authorized agent.

XXIII. AMENDMENTS OR ADDITIONS

No amendments or additions shall be made to this Agreement except in writing. Future agreements between the parties must likewise be in writing.

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

EXECUTED by the Consultant this 6th day of August, 2013.

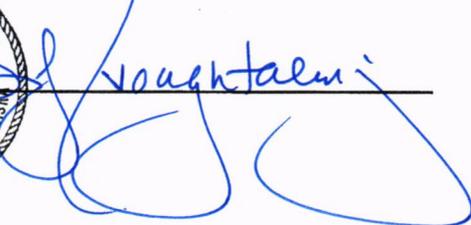
ATTEST:

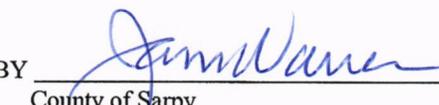


BY 
_____ Officer/President

EXECUTED by the County this 13th day of August, 2013.

ATTEST:



BY 
_____ County of Sarpy





Engineering Answers

E & A CONSULTING GROUP, INC.

Planning • Engineering • Environmental & Field Services

330 North 117th Street
Omaha, NE 68154-2509

www.eacg.com

Phone: 402.895.4700
Fax: 402.895.3599

June 4, 2013

Sarpy County Surveyors Office
Attn. Bill Herr
15100 S 84th Street
Papillion, NE 68046

RE: 168th & Giles - Construction Observation Services
E & A # M 2012.199.002

Dear Bill:

Thank you for this opportunity to provide you with a proposal for Construction Observation for this project. We are proposing using Steffon Adolf or James Hammitt on this project and will be his main priority and will be Engineer Answers for our team to make this project a success. This proposal assumes we are providing part time inspection on all items except the paving which will be full time. This proposal assumes a project duration of 60 calendar days, or 9 weeks of observation.

CONSTRUCTION OBSERVATION
(ESTIMATED HOURS FOR TYPICAL PROJECT) EMPLOYEE GRADE

TASK	ENGR IX	CONST.		ADM ASSISTANT	COSTS
		DEPT. MANG. I			
PRECONSTRUCTION MEETING & MINUTES	4	4		2	\$1,006.00
UTILITY COORDINATION	12				\$1,680.00
REMOVALS- 6 DAYS	6	24			\$2,808.00
EARTHWORK 6 DAYS	12	24			\$3,648.00
STORM SEWER, 6 DAYS	6	24			\$2,808.00
PAVING, 18 DAYS	30	180			\$18,960.00
TRAFFIC SIGNALS, 4 DAYS	6	12			\$1,824.00
CURB INLETS, 6 DAYS	2	24			\$2,248.00
BACKFILL-SEEDING, 6 DAYS	12	24			\$3,648.00
PAVEMENT MARKING, 4 DAYS	6	24			\$2,808.00
PUNCHLIST, 6 DAYS	8	24			\$3,088.00
AS BUILT PLANS & PROJECT CLOSEOUT	4	16		2	\$1,990.00
PROCESS TESTING REPORTS	2			2	\$398.00
MILEAGE/PHONE, \$0.70/MILE, 25 MILES ROUND TRIP, 90 TRIPS					\$1,575.00
SUB-TOTAL					\$48,489.00

SURVEY & EROSION CONTROL
(ESTIMATED HOURS FOR TYPICAL PROJECT)

	EMPLOYEE GRADE			EROSION CONTROL		COSTS
	<u>REG.</u>	<u>SURVEY</u>		<u>CONTROL</u>	<u>EROSION</u>	
	<u>LAND</u>	<u>CADD</u>	<u>SURVEY</u>	<u>DEPT.</u>	<u>CONTROL</u>	
	<u>SURVEY</u>	<u>TECH.</u>	<u>PARTY</u>	<u>MANG.</u>	<u>SPEC. II</u>	
PRECONSTRUCTION MEETING & MINUTES						
UTILITY COORDINATION	2	4	4			\$1,044.00
REMOVALS- 6 DAYS	1	2	2	0.5	1.25	\$657.00
EARTHWORK 6 DAYS	18	12	32	0.5	1.25	\$7,147.00
STORM SEWER, 6 DAYS	2	3	12	0.5	1.25	\$2,125.00
PAVING, 18 DAYS	16	20	40	1.5	3.75	\$8,845.00
TRAFFIC SIGNALS, 4 DAYS	1	2	6			\$1,034.00
CURB INLETS, 6 DAYS				0.5	1.25	\$135.00
BACKFILL-SEEDING, 6 DAYS				0.5	1.25	\$135.00
PAVEMENT MARKING, 4 DAYS						\$0.00
PUNCHLIST, 6 DAYS				0.5	1.25	\$135.00
AS BUILT PLANS & PROJECT CLOSEOUT				3.5	8.75	\$945.00
PROCESS TESTING REPORTS						
MILEAGE/PHONE, \$0.70/MILE, 25 MILES ROUND TRIP, 15 TRIPS						\$262.50

SUB-TOTAL \$22,464.50

ESTIMATED SUB TOTAL E&A 70,953.50

THIELE GEOTECH-ESTIMATED TESTING	TRIPS	<u>COMP.</u>	<u>CONCRETE</u>	<u>PAVE.</u>	
		<u>TESTING</u>	<u>TESTING</u>	<u>THICK.</u>	
EARTHWORK 6 DAYS	6	18			\$840.00
STORM SEWER, 6 DAYS	2	4			\$220.00
PAVING, 18 DAYS	18	10	15	12	\$4,650.00
TRAFFIC SIGNALS	2		1		\$230.00

ESTIMATED SUB TOTAL THIELE 5,940.00

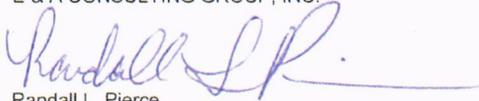
ESTIMATED GRAND TOTAL 76,893.50

NOTES:

TESTING IS ESTIMATED, TO BE BILLED WITHOUT MARKUP TO SARPY COUNTY.

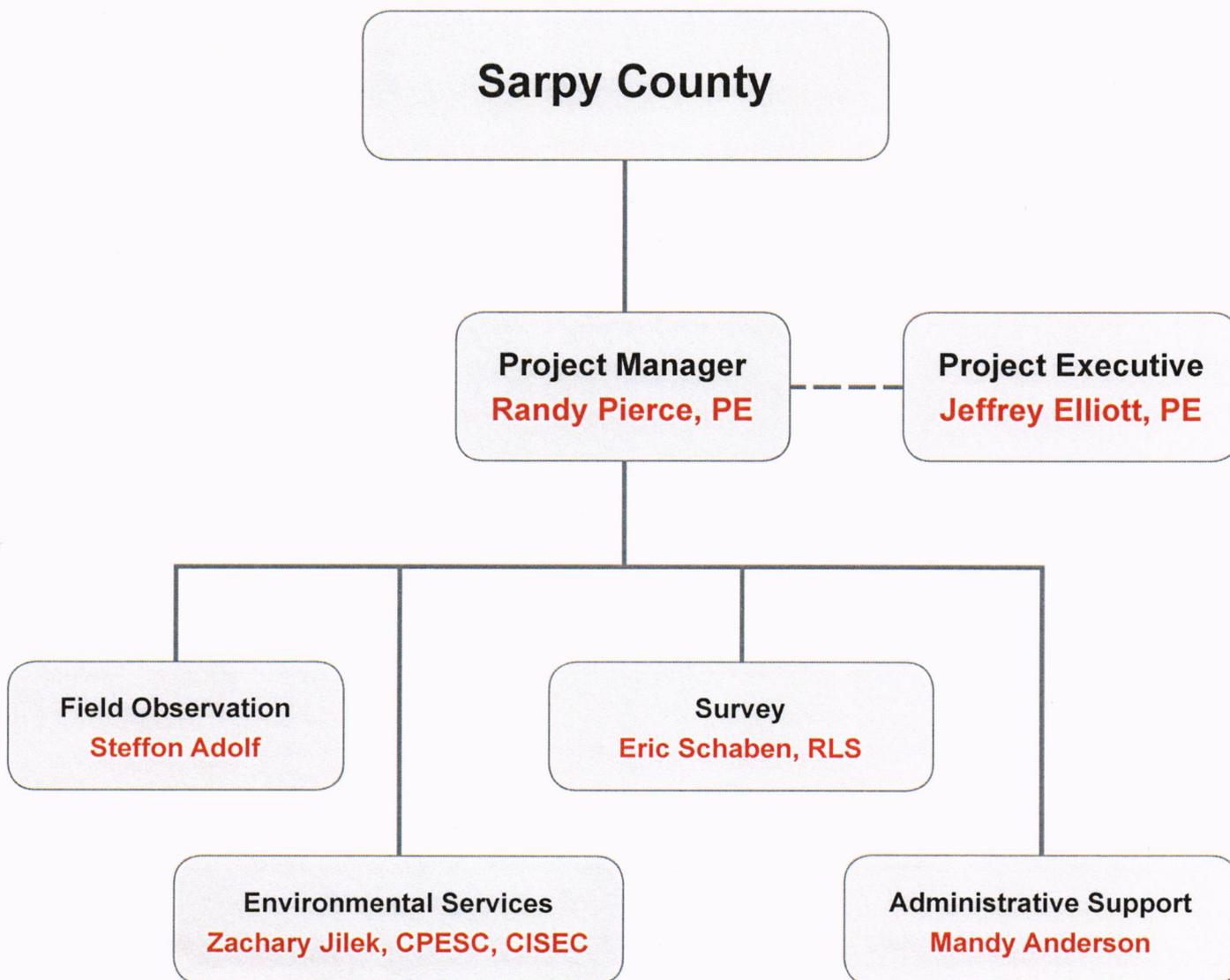
Very truly yours

E & A CONSULTING GROUP, INC.



Randall L. Pierce
Construction Engineer

Organizational Chart



ADDENDUM TO ENGINEERING AGREEMENT

- I. SCOPE OF AGREEMENT: The Agreement, Exhibit A, Exhibit B, Exhibit C, and Addendum (collectively "Agreement") contain the entire Agreement between the County and the Consultant, and there are no other written or oral promises, contracts or warrants which may affect it. The Agreement cannot be amended except by written agreement of both the County and the Consultant.

- II. SAVINGS CLAUSE: The Agreement shall be interpreted, construed and enforced under the laws of the State of Nebraska. It is understood and agreed by the County and the Consultant hereto that if any part, term, condition, or provision of this Agreement is held to be illegal or in conflict with any law of the State of Nebraska or of the United States, the validity of the remaining parts, terms, conditions, or provisions shall not be affected, and the rights and obligations of the County and the Consultant shall be construed and enforced as if the Agreement did not contain the particular part, term, condition, or provisions held to be invalid.

- III. HOLD HARMLESS: The Consultant agrees to hold harmless and indemnify the County, its employees, agents, assignees, and legal representatives harmless from all liabilities, demands, claims, suits, losses, damages, causes of action, fines, or judgments and all expenses incident thereto, for injuries to persons, for civil rights liability, and for loss of, damage to, or destruction of property arising out of or in connection with this Agreement and proximately caused by the negligent or intentional acts or omissions of the Consultant, its officers, employees, assignees, or agents. Any liability on the part of the County is limited to the extent provided by the Nebraska Political Subdivisions Tort Claims Act and any other applicable provisions of law. The County does not assume liability for the actions of the Consultant.

- IV. RESIDENCY VERIFICATION CLAUSE: Pursuant to Neb. Rev. Stat. § 4-114 *et seq.*, each party shall 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.

- V. INDEPENDENT CONTRACTOR STATUS: It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the parties. Any and all acts that either party or their personnel, employees, agents, contractors, or servants, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or

construed to be the employee or agent of the other for any purpose whatsoever. Neither party nor its personnel, employees, agents, contractors, or servants shall be entitled to any benefits of the other. The parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers' compensation insurance. Each party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers' compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters. Neither party shall have any authority to bind the other by or with any contract or agreement, nor to impose any liability upon the other. All acts and contracts of each shall be in its own name and not in the name of the other, unless otherwise provided herein.

- VI. NONDISCRIMINATION CLAUSE: Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A. § 1985, *et seq.*), and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, *et seq.*, in that there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.
- VII. CONFLICT OF INTEREST: Pursuant to Neb. Rev. Stat. § 23-3113, the Parties hereto declare and affirm that no officer, member, or employee of the County, and no member of its governing body, and no other public official of the County who exercises any functions or responsibilities in the review or approval of the undertaking described in this Agreement, or the performing of services pursuant to this Agreement, shall participate in any decision relating to this Agreement which affects his or her personal interest, or any corporation, partnership, or association in which he or she is directly or indirectly interested; nor shall any employee of the County, nor any member of its governing body, have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- VIII. INSURANCE: During the course of services provided for by this Agreement, the Consultant shall maintain Worker's Compensation Insurance in accordance with the Worker's Compensation laws of the State of Nebraska; Professional Liability Insurance with a minimum coverage of \$1,000,000 per occurrence, \$2,000,000 aggregate; Automobile Liability Insurance with a combined single limit coverage of \$1,000,000 for each accident; and Commercial General Liability of \$1,000,000 per occurrence, \$2,000,000 aggregate. For the Commercial General Liability and Automobile Liability Insurance, the County is to be named as an additional insured on the insurance coverage identified in this section. In addition, the insurance coverage identified in this section shall be kept in force during the life of the Agreement and if there is any event of cancellation or, or material change in any of the insurance coverage, the Consultant shall notify the County within thirty (30) days. The Consultant shall furnish proof of insurance coverage, if requested by the County.

IX. NOTICE: Notice to the County and the Consultant shall be given in writing to the agents for each party named below.

County:

Ms. Debra Houghtaling
Clerk of Sarpy County
1210 Golden Gate Drive, Suite 1250
Papillion, NE 68046

Consultant:


E&A Consulting Group, Inc.
330 N. 117th Street
Omaha, NE 68154