

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

**RESOLUTION APPROVING AGREEMENT WITH E&A CONSULTING GROUP, INC. FOR SEDIMENT  
AND EROSION CONTROL INSPECTING AND REPORTING**

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6)(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; and,

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

WHEREAS, the County of Sarpy desires to enter into a contract for services with E&A Consulting Group, Inc., as outlined in the Proposal for Service attached hereto as Exhibit A; and,

WHEREAS, entering into the contract for services with E&A Consulting Group, inc. is in the best interests of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that this Board hereby approves and adopts the agreement with E&A Consulting Group, Inc., a copy of which is attached.

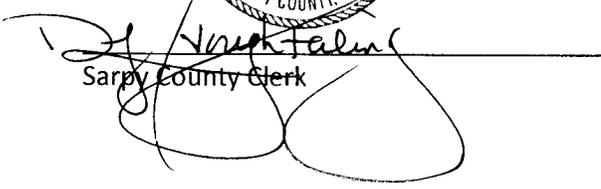
BE IT FURTHER RESOLVED that the Chairman of this Board, together with the County Clerk is hereby authorized to sign on behalf of this Board the agreement with E&A Consulting Group, Inc., a copy of which is attached, and any other related documents, the same being approved by the Board.

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 1<sup>st</sup> day of April, 2014.

ATTEST:



  
Sarpy County Board Chairman

  
Sarpy County Clerk

# Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE  
1210 GOLDEN GATE DRIVE SUITE 1220  
PAPILLION, NE 68046



Brian Hanson, Purchasing Agent  
(402) 593-2349  
Debby Peoples, Asst. Purchasing Agent  
(402) 593-4164  
Beth Garber, Senior Buyer/Contract Administrator  
(402) 593-4476  
Lois Spethman, Supply Clerk/Purchaser  
(402) 593-2102

## MEMO

To: Sarpy County Board of Commissioners

From: Beth Garber

Re: Sediment & Erosion Control Services

As part of the Travelers Data Center – Sanitary Sewer Outfall construction we are required to provide sediment and erosion control inspection and reporting. Public Works has one staff member who is trained to provide these services and will not have adequate time this season to provide this service. However, they plan on training additional people in the future.

The attached agreement is for a one time setup fee of \$256 with weekly inspections at \$64.00 per hour with \$15.00 per report weekly reporting. With the construction expected to last approximately 60 days it is estimated this contract will not exceed \$5,000.00.

Please feel free to contact me with any questions at [bgarber@sarpy.com](mailto:bgarber@sarpy.com).

March 25, 2014

---

Beth Garber

cc: Deb Houghtaling  
Mark Wayne  
Scott Bovick  
Brian Hanson  
Denny Wilson



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

March 18, 2014

Mr. Mark Wayne, County Administrator  
Sarpy County, NE  
15100 South 84<sup>th</sup> Street  
Papillion, NE 68046-4627

**RECEIVED**  
**MAR 20 2014**  
**Sarpy County Public Works**

RE: Proposal for Services- Sediment and Erosion Control Inspecting and Reporting  
Travelers Data Center – Sanitary Sewer Outfall  
E&A Proposal # M2012.588.005

Dear Mark,

Thank you for this opportunity for E & A Consulting Group, Inc. ("E&A") to provide you with a proposal for services for Sediment and Erosion Control Inspecting and Reporting for the above referenced site. The following sections detail our proposed scope of services, and cost of the study. We trust you will be satisfied with the quality and timeliness of our services.

**Scope of Services:**

1. Set up an Erosion Control Project File and initial input onto the Papio Partnership Website.
2. Install (3) PCWP Erosion Control sign on site per the Papio Partnership. (City / State Requirement), Additional signs at \$52.00 each as requested by Inspector or Regulatory Agency.
3. Weekly Inspections by an Erosion Control Specialist.
4. Additional site inspections at a cost of \$64 per hour are required in event of ½" cumulative rain events between site inspections. Inspections are required until 70% density of the permanent ground cover has been established. Closure has to be approved by City / State prior to closure of permit.
5. Weekly reporting to the Papio Partnership website.

**Fee Proposal:**

We propose to perform the above described scope of services as follows:

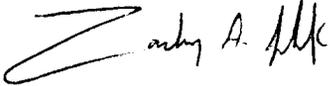
- Project File Setup @ \$256.00 one time fee  
- Install Sign (Included)
- Weekly Inspection Visit @ \$64.00 per hour (Typical 1-2 Hour Inspection for this project size)
- Weekly Reporting @ \$15.00 per report

M2012.588.005, Travelers Data Center - Sanitary Sewer Outfall, Erosion & Sediment Control.doc

If this proposal for services and the attached Terms & Conditions (See Appendix "A") are acceptable to you, please sign below where indicated and return one (1) signed copy to us. If you have any questions or comments regarding our proposal, please do not hesitate to call. Thank you for thinking of E&A and this opportunity to present our proposal.

Sincerely,

E & A CONSULTING GROUP, INC.



Zachary A. Jilek, CPESC, CISEC  
Environmental Services Dept. Manager

CLIENT: Sarpy County  
By:   
Date: 4/1/14  
Name: Jim Thompson, Chairman  
Address: 1210 Golden Gate Drive #1250  
City, State: Papillion, NE  
Phone: 402-593-4155  
Fax: 402-593-4471

CC: File

E & A CONSULTING GROUP, INC.

Planning • Engineering • Environmental & Field Services

# Appendix 'A'

## Terms and Conditions

### 1.01 Basic Agreement

E & A Consulting Group, Inc. ("E&A") shall provide, or cause to be provided, the services set forth in this Agreement, and Client shall pay E&A for such Services as set forth in the Proposal for Services.

### 2.01 Invoicing

E&A will prepare a monthly invoice in accordance with E&A's standard invoicing practices and submit the invoice to Client. Invoices are due and payable within 30 days of receipt. If Client fails to make any payment due E&A for services and expenses within 30 days after receipt of E&A's invoice, the amounts due E&A will be increased at the rate of 1.5% per month from said thirtieth day. E&A may, without liability, after giving seven days written notice to Client, suspend services under this Agreement until E&A has been paid in full all amounts due for services, expenses, and other related charges. Client agrees to pay any and all reasonable charges incurred by E&A for the collection of unpaid invoices. Payments will be credited first to interest and then to principal.

### 3.01 Additional Services

If authorized by Client, or if required because of changes in the Project, E&A shall furnish services in addition to those set forth in the Proposal for Services. Client shall pay E&A for such additional services as follows: For additional services of E&A's employees engaged directly on the Project an amount equal to the cumulative hours charged to the Project by each class of E&A's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and E&A's subconsultants' charges, if any.

### 4.01 Design without Construction Phase Services

A. It is understood and agreed that the E&A's Scope of Services under this Agreement does not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided for by the Client. The Client assumes all responsibility for interpretation of the Contract Documents and for construction observation and the Client waives any claims against E&A that may be in any way connected thereto.

B. In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless E&A, its officers, directors, employees and subconsultants (collectively, E&A) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or in any way connected with the performance of such services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments or changes made to the Contract Documents to reflect changed field or other conditions, except for claims arising from the sole negligence or willful misconduct of E&A.

C. If the Client requests in writing that E&A provide any specific construction phase services, and if E&A agrees in writing to provide such services, then E&A shall be compensated as an Additional Service(s) as provided in Section 3.01.

D. E&A shall not at any time supervise, direct, or have control over any contractor's work, nor shall E&A have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

E. E&A neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Client and such contractor.

F. E&A shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except E&A's own employees) at the Project site or otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Client without consultation and advice of E&A.

### 5.01 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. For cause:

(a) By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.

(b) By E&A:

(i) Upon seven days written notice if E&A believes that E&A is being requested by Client to furnish or perform services contrary to E&A's responsibilities as a licensed professional; or

(ii) Upon seven days written notice if the E&A's services for the Project are delayed or suspended for more than 90 days for reasons beyond E&A's control.

(iii) E&A shall have no liability to Client on account of such termination.

2. For convenience by Client effective upon the receipt of notice by E&A.

3. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under paragraph 5.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than 30 days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

4. The terminating party under paragraphs 5.01.A.1 or 5.01.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow E&A to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

**6.01 Controlling Law**

This Agreement is to be governed by the law of the state in which the Project is located.

**7.01 Successors, Assigns, and Beneficiaries**

A. Client and E&A each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Client and E&A (and to the extent permitted by paragraph 7.01.B the assigns of Client and E&A) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.

B. Neither Client nor E&A may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

**8.01 General Considerations**

A. The standard of care for all professional engineering and related services performed or furnished by E&A under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. E&A makes no warranties, express or implied, under this Agreement or otherwise, in connection with E&A's services. E&A and its subconsultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. All design documents prepared or furnished by E&A are instruments of service, and E&A retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

C. To the fullest extent permitted by law, Client and E&A:

1. Waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and

2. Agree that Client shall indemnify, defend, and save E&A harmless from and against any liability, claim, judgment, demand, or cause of action arising out of or relating to:

- (a) Client's breach of this Agreement;
- (b) The negligent acts or omissions of Client of its employees, contractors or agents;
- (c) Any allegation that E&A is the owner or operator of a site or arranged for the treatment, transportation or disposal of hazardous materials including the adverse health effects thereof, and
- (d) Site access or damage to any subterranean structures or any damage required for site access.

3. Where the services included the preparation of plans and specifications, agree that Client will have its construction contractors agree in writing to indemnify and save harmless E&A from and against loss, damage, injury or liability attributable to personal injury or property damage arising out of or resulting from such contractor's performance or non-performance of their work. Contractor shall be required to list the E&A, and any subconsultants of E&A, as an additional insured, including completed operations, on a primary and non-contributory basis

4. Agree that E&A's total liability to Client under this Agreement shall be limited to \$50,000 or the total amount of compensation received by E&A, whichever is less. All claims by Client shall be deemed relinquished unless filed within one (1) year after substantial completion of the Services.

5. In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and E&A agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation.

6. The Client and E&A further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution among the parties to all those agreements.

D. The parties acknowledge that E&A's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If E&A or any other party encounters a Hazardous Environmental Condition, E&A may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Client:

1. Retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and

2. Warrants that the Site is in full compliance with applicable Laws and Regulations.

E. Unless specifically identified otherwise in the scope of services of this agreement, it is the responsibility of the Client to obtain all permits and approvals required by law. E&A may assist the Client in applying for those permits and approvals for an additional fee; however such services are not included in the basic services of this Agreement.

**9.01 Total Agreement**

This Agreement constitutes the entire agreement between Client and E&A and supersedes all prior written or oral understandings.

Client: Jan [Signature] Sarpy County By: Jim Thompson  
Date: 4/17/14 Name: Jim Thompson  
Title: Chairman

ADDENDUM

The undersigned contracting parties agree that the following residency verification language shall be incorporated into the "Proposal for Services – Sediment and Erosion Control Inspecting and Reporting".

"The Consultant agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. The Consultant 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."

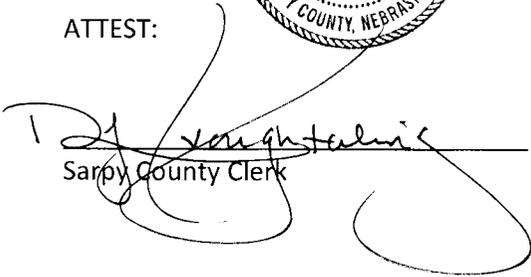
IN WITNESS WHEREOF, we the contracting parties, by our respective and duly authorized agents, hereto affix our signatures and seals in duplicate this 1<sup>st</sup> day of April, 2014.

(Seal)

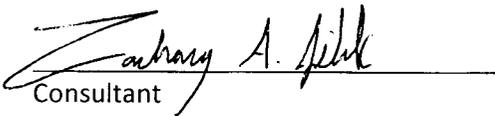


COUNTY OF SARPY, NEBRASKA,  
A body Politic and Corporate

ATTEST:

  
Sarpy County Clerk

  
Chairperson  
Sarpy County Board of Commissioners

  
Consultant