RESOLUTION AUTHORIZING CHAIR TO SIGN AGREEMENT WITH E&A CONSULTING GROUP, INC. FOR PROFESSIONAL SERVICES FOR THE DANIELL TRAIL

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104, 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, the powers of the County as a body are exercised by the County Board;

WHEREAS, Sarpy County has entered into an agreement pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. § 13-801 to 827 for the construction of certain trail improvements within Sarpy County, see Resolution 2016-61; and,

WHEREAS, Sarpy County desires to enter into the attached agreement with the firm of E&A Consulting Group Inc. ("E&A") for professional engineering services for land surveying, construction management services and erosion control regarding the Daniell Trail project, in Sarpy County; and

WHEREAS, said agreement 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 authorizes the Chairman to sign the attached agreement with E&A Consulting Group Inc. for professional services, and any other 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 29th day of March, 2016.
January 25, 2016

Michael Kosa  
Sarpy County Public Works  
15100 South 84th Street  
Papillion, NE 68046

RE: Proposal for Professional Services  
Land Surveying Services, Construction Management Services, & Erosion Control – Daniell Trail  
E&A Project Number #P2014.510.001

Dear Mr. Kosa:

Thank you for providing E & A Consulting Group, Inc. ("E&A") the opportunity to provide you a proposal for land surveying services, construction management services, and sediment and erosion control inspecting and reporting for the above referenced project. The following sections detail our proposed scope of services. We trust you will be satisfied with the quality and timeliness of our services.

CONSTRUCTION STAKING

- Stake Trail  
  o Set hub every 25 feet at centerline and or with an offset
- Stake Rough Grade  
  o Set lath for ditches, toes, and top of slopes (where needed)
- Stake Right-of-way Limits  
  o Set lath for the right-of-way or limits of construction (where needed, possible 50’ spacing)
- Stake Retaining Walls  
  o Set hubs on an offset for face of walls at major horizontal and vertical break in footing
- Stake bridge abutments  
  o Set hubs on an offset for the bridge abutments and centerline of bridge
- Stake Storm Sewer Pipe  
  o Set hubs on a offset for the centerline of each pipe at 50’ intervals and at each structure

This proposal is based on the assumption of 12 trips (based on similar projects). All of the crew and vehicle charges are included in the proposal cost.

RLS (Eric Schaben) $132/hr. A Registered Land Surveyor (RLS) is the supervisor of the Survey Crews and the Cad Technician. Ultimately the responsible for all aspects of the surveys completed.

Cad Technician (Jeff Stoll) $78/hr.; Cad Technicians are needed to create electronic files the surveyors need to perform the work on site. They are also used to process any needed topographic survey needed throughout the project that may be needed.
Survey Crew $146/hr.; A two person survey crew will be placing survey stakes for project control, removals, earthwork, bridge construction, storm sewers, paving and any other needed survey for the project.

CONSTRUCTION MANAGEMENT SERVICES

- Act as the County’s representative on-site.
- Conduct construction inspection and oversight on the average of 27.5 hours per week by a resident observer only present for critical controlling operations.
- Relay construction issues arising in the field related to County representatives, provide a recommended action for each.
- Verify constructed/installed material quantities.
- Review and recommend how much the Contractor should be paid based on completed work.
- Coordinate and complete any testing necessary (compaction, construction materials, etc).
- General administration of construction contract – Consult with County and act as county’s representative. All correspondence between the County and the Contractor shall be routed through Consultant.
- Participate in a pre-construction meeting, Contractor progress meetings, and other project-related meetings as issues arise. Consultant shall prepare and circulate meeting minutes for meetings attended.
- Maintain a log of submittals/shop drawings, including received and returned dates.
- Notify County of work commencing without having received appropriate submittals/shop drawings for review.
- Maintain records of all correspondence and contact information for subcontractors and major suppliers of materials and equipment.
- Review all construction submittals/shop drawings for technical acceptance.
- Review and respond to requests for information for the Contractor. If a request results in a change in the Contractor’s scope or will have cost implications, Consultant shall notify County and confirm solution prior to directing Contractor.
- Review construction schedule on a weekly basis to confirm that contractor is on schedule. Notify County if Contractor is falling behind project milestones.
- An experienced and qualified design professional shall make approximately 15 visits to the site during various stages of construction to observe the progress and quality of the Contractor’s executed work. Visits are limited to spot checking, selective sampling, and general observations. After each visit, Consultant shall notify the County of work progress.
- Notify County when Contractor’s work does not meet design specifications. Consultant shall recommend an engineering solution to fix the defective work, including but not limited to full removal and replacement of defective work.
- Prepare change order documentation to present to the County, including Contractor’s recommendation and Consultant’s recommendation.
• Complete progress reports as work progresses, at a minimum of one report every week.
• Prepare a daily report or keep a project diary/log book, recording Contractor’s hours on the site, weather conditions, data relative to questions of Change Orders, Field Orders, Requests for Information, or field conditions, site visitors, daily activities, decisions, general observations. Note approximate material quantities installed.
• Review certifications for inspections, tests, and approvals, including truck ticket scales and construction worker certifications.
• Receive completion documentation from Contractor regarding operations and maintenance manuals or other required completion documents.
• Prepare pay estimates, submit to Sarpy County Public Works staff for processing.
• County will have access to any pertinent documentation, diaries, pay applications, etc. at the end of the project as requested for a 5-year period.

Engineer X (Randy Pierce) $180/hr.; The Engineer X responsible for ensuring adherence to plans and specifications, meeting testing requirements, contractor methods observation, staking services, charging of working days, writing change orders, creating and approving progress payments, staff scheduling, sub-consultant coordination, contractor contacts, utility coordination, and public / client coordination required to complete our construction projects.

Construction Admin. Tech. III (Jim Hammitt) $90/hr.; The Construction Administration Technician III will oversee the project on site. He will observe and document the materials used on the project are in conformance to the plans and specifications. Along with the materials he will assure the means and methods of construction adhere to the plans and specifications. Additional tasks would include communication with the testing lab to perform materials testing on the project, communication with stakeholders, coordination of needed surveys, completion of Working Day Reports, and documenting the quantities of completed work and to supervise less tenured employees on site.

Construction Admin. Tech. I (Intern/Summer Help) $70/hr.; In efforts to remain within budget on the project, less tenured the Construction Administration Technician I will be used to oversee less complex portions of the project with oversight from the Const. Admin. Tech. III. They will continually document the work and report any concerns to the supervisors.

Administrative Assistant III (Mandy Anderson) $78/hr.; The Administrative Assistant III performs duties such as making plans and specifications, distributing Working Day Reports, processing payments for material testing, and maintaining the electronic & paper files on the project.
Sediment and Erosion Control Inspecting and Reporting

Scope of Services:

1. Set up an Erosion Control Project File and initial input onto the Permix Website.
2. Install (4) Permix Erosion Control signs 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.
   Stage 1 - Weekly inspections are required when grading is active on site.
4. Bi-Monthly Inspections by an Erosion Control Specialist.
   Stage 2 - Bi-Monthly inspections are required when paving, sanitary, storm, and utilities construction are active on site. The site has also been temporary seeded and growing vegetation exists on site.
5. Monthly Inspections by an Erosion Control Specialist.
   Stage 3 - Monthly inspections are required when home or building construction is active on site and the site has temporary dense vegetation on site.
6. Additional site inspections at a cost of $82 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.
7. Weekly / Bi-Weekly / Monthly reporting to the Permix website.

Fee Proposal:

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

- Project File Setup @ $313.00 one-time fee
  - Install 4 Sign (Included)
- Weekly Inspection Visit & Report @ $82.00 per hour (Typical 1-2 Hour Inspection / Report for this project size).
- Mileage @ $0.54 per mile

This proposal is based on the assumption of 19 trips (based on similar projects).

Environmental Specialist VIII (Zach Jilek) $155.00/hr.: The Environmental Specialist VIII is responsible for overseeing the Erosion Control Department and staff. He also ensures distributed documentation is correct and accurate. Additional duties are managing the information supplied to the Permix website.

Environmental Specialist II (Patrick Sechser) $82.00/hr.; The Environmental Specialist II is responsible for ensuring erosion control measures are in adherence to plans and specifications. They achieve this by inspecting the project and making recommendations to superintendents and contractors for correction to erosion control measures. Based on the inspections preliminary reports are created and sent to the Environmental Specialist VIII for review.
Our not to exceed price to perform these services is **$62,000.00 (Sixty-two thousand)** and any additional requests made by you or as directed by the engineer/contractor, will be charged at our normal hourly rates.

If this proposal is acceptable, please sign both this proposal and the attached Terms & Conditions (see Appendix "A") as indicated and return one copy to E&A.

Again, thank you for the opportunity to present our proposal for land surveying services, construction management services, and sediment and erosion control inspecting and reporting. We look forward to working with you to complete this project. If you have any questions, please feel free to call with any questions.

Sincerely,

E & A Consulting Group, Inc.

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I have received and read Appendix "A" and agree to all of the terms & conditions as outlined in Appendix "A" and in this proposal for professional services. By signing, this proposal for professional services becomes the agreement and is executed.

Date: 3-29-16
Signature: Don Kelly
Name: Don Kelly
Client: Sarpy County
Address: 1210 Golden Gate Dr.
City, State, ZIP: Papillion, NE 68046
Phone: (402) 593-4155

Approved as to Form:
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 the Proposal for Professional Services, and Client shall pay E&A for such 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 thirty (30) days of receipt. If Client fails to make any payment due E&A for services and expenses within thirty (30) days after the date of E&A's invoice, then the amounts due E&A will be increased at the rate of 1.5% per month from said thirtieth (30th) day. E&A may, without liability, after giving seven (7) 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 Professional 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 with Construction Phase Services
A. 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.
B. 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.
C. 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 fourteen (14) 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 except as stipulated in Section 2.01.
      (b) By E&A:
         (i) Upon seven (7) 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 (7) days written notice if E&A's services for the Project are delayed or suspended for more than ninety (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 (7) days of receipt of such notice, to correct its failure and proceeds diligently to cure such failure within no more than fourteen (14) days of receipt of notice; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such fourteen (14) 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, thirty (30) 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 thirty (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.

Client's Initials

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E & A CONSULTING GROUP, INC.
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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 Defects in Service
The Client shall promptly report to E&A any defects or suspected defects in E&A's services of which the Client becomes aware, so that E&A may take measures to minimize the consequences of such a defect. The Client further agrees to impose a similar notification requirement on all contractors in its Client/Contractor contracts and shall require all subcontracts at any level to contain a like requirement. Should legal liability for the defects exist, failure by the Client and the Client's contractors or subcontractors to notify E&A shall relieve E&A of any liability for costs of remedying the defects above the sum the remedy would have cost had prompt notification been given when such defects were first discovered.

9.01 Insurance
E&A will carry insurance as detailed in Appendix "B" ("Insurance Requirements"). At the Client's request, E&A will provide an Acord certificate of insurance executed by a licensed representative of the participating insurer(s).

10.01 General Considerations
A. The standard of care for all professional 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. Mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party property damage and arising from their own or its own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that each party is responsible for such damages, liabilities or costs on a comparative basis of fault, 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) 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
      (c) Site access or damage to any subterranean structures or any damage required for site access.
   3. With the exception of death, personal injury, willful misconduct and negligence, agree that E&A's total liability to Client under this Agreement shall be limited to $100,000 or the total amount of compensation received by E&A from the Client, whichever is greater. All claims by Client shall be deemed relinquished unless filed within one (1) year after substantial completion of the Services.
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.
F. RESIDENCY VERIFICATION. E&A agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. E&A 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.

G. NON-DISCRIMINATION. Pursuant to Neb. Rev. Stat. §73-102, E&A declares, promises, and warrants it has 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 Contract, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

H. DRUG POLICY. E&A certifies, by signing this agreement that it maintains a drug free workplace environment to ensure worker safety and workplace integrity. E&A agrees to provide a copy of its drug free workplace policy at any time upon request by the Client.

I. INDEPENDENT CONTRACTORS. Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

11.01 Total Agreement

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

Client: Sarpy County
Date: 3-29-16

By: Don Kelly
Name: Chairman
Title: Approved as to Form:

Client's Initials: [Signature]

E & A CONSULTING GROUP, INC.
Engineering Answers

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Appendix “B”
Insurance Requirements

General Liability
- Limits:
  $1,000,000 per Occurrence
  $2,000,000 General Aggregate
  $2,000,000 Completed Operations Aggregate
  $1,000,000 Personal and Advertising Injury
- 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.

Automobile Liability
- Limits: $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
- Employers Liability limits:
  $500,000 each Accident
  $100,000 Disease – Per Person
  $500,000 Disease – Policy Limit

Umbrella / Excess
- Limits: $1,000,000 per Occurrence
- Policy shall provide liability coverage in excess of the specified Workers Compensation/Employers Liability, Commercial General Liability and Auto Liability.

Professional Liability
- Limits: $2,000,000 per Occurrence
  $4,000,000 General Aggregate.
- Policy shall provide for a retroactive date prior to the starting date of services for which this agreement applies.