**ON-CALL PROFESSIONAL SERVICES**

**TASK ORDER AGREEMENT**

**STATE PROJECTS**

NEBRASKA DEPARTMENT OF TRANSPORTATION

CONSULTANT NAME>

PROJECT NO. <Project #>

CONTROL NO. <Control #>

<Project Location – ex. Brownson East Crossovers>

<Type of Service – ex. Roadway Design, Bridge Design, Environmental Services>

**THIS AGREEMENT**, is between the Nebraska Department of Transportation ("State") and Consultant Name ("Consultant”), and collectively referred to as the “Parties”.

**WHEREAS**, Consultant entered into an On-Call Professional Services Master Agreement No. Master AGR # (“Master Agreement”), with the State wherein Consultant agreed to provide <Type of Service> for future transportation projects when selected by State, and

**WHEREAS**, State selected Consultant to provide <describe services to be provided> (“Services”) for the project identified as Project No. <Project #>, and

**WHEREAS**, the Parties wish to enter into a task order agreement (“Task Order”), to provide for the completion of the Services for the project for which Consultant has been selected, and

**WHEREAS,** this Task Order is to specify the duties and obligations of the Parties for the Services described herein, and

**WHEREAS,** Consultant shall provide the Services in accordance with all applicable federal-aid transportation project related program requirements, and

**WHEREAS,** the Parties understand that this Agreement will be posted to a publicly accessible database of State agreements pursuant to the requirements Neb. Rev. Stat. § 84-602.04.

**NOW THEREFORE**, in consideration of these facts, Consultant and State agree as follows:

**SECTION 1. CONTACT INFORMATION**

Contact information, for the convenience of the Parties, is as follows:

|  |  |
| --- | --- |
| 1.1 Consultant Project Manager |  |
|  | Firm Name | Firm name |
|  | Contractor/Vendor Number | xxxx |
|  | Address | Firm address |
|  | Project Manager’s Name | PM’s name |
|  | Project Manager’s Phone | xxx-xx-xxxx |

USE/DELETE FOR SUBS

|  |  |
| --- | --- |
| 1.2 Subconsultant Project Manager |  |
|  | Firm Name | Sub name |
|  | Contractor/Vendor Number | xxxx |
|  | Address | Sub address |
|  | Project Manager’s Name | PM’s name  |
|  | Project Manager’s Phone | xxx-xx-xxxx |

END USE/DELETE FOR SUBS

|  |  |
| --- | --- |
| 1.3 State Project Coordinator |  |
|  | Name | name |
|  | Phone Number | xxx-xx-xxxx |
| 1.4 State Agreements Specialist |  |
|  | Name | name |
|  | Phone Number | xxx-xx-xxxx |

**SECTION 2. NOTICE TO PROCEED AND COMPLETION SCHEDULE OF THE SERVICES**

2.1 State will issue Consultant a written Notice to Proceed after execution of this Task Order. OR Consultant was issued a Notice to Proceed effective <NTP date>. Invoiced charges for services performed by Consultant on the project prior to the date specified in the written Notice to Proceed will not be paid by State.

2.2 In the event that prior to the Effective Date of this Task Order, State issues Consultant a Notice to Proceed and Consultant began work, State will pay for such work in accordance with this Task Order and the Parties are bound by this Task Order as if the work had been completed after the Effective Date of this Task Order.

2.3 Consultant shall complete the Services <use this extra language when there is also a schedule in the attached SOS>according to the schedule in attached Exhibit “<project schedule>” and shall complete all Services <End> required under this Task Order in a satisfactory manner by <completion date>. Costs incurred by Consultant after the completion date, are not eligible for reimbursement unless Consultant has received a written extension of time from State. Extensions of the time to complete the services must not be construed as an extension to the duration of this Task Order.

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

**SECTION 3. DURATION OF THE TASK ORDER (Matches Project Lifespan)**

**Use the appropriate “Section 3” depending on whether your project is directly related to a construction project, or if it is work that basically stands by itself (not dependent on a construction project).**

3.1 *Effective Date* – This Task Order is effective when executed by the Parties.

3.2 *Expiration Date* -- This Task Order expires when State has (a) completed the project final audit and cost settlement or (b) waived the requirement of a financial audit.

<Use for work tied to the letting and construction of a project>

3.3 *Duration of this Task Order* – This Task Order duration is from the Effective Date to the Expiration Date. This Task Order duration is “specified” under Neb. Rev. Stat. § 73-506 to the period of time necessary for a Consultant to complete the applicable phase or phases of the development of this particular federal, state or locally funded construction project, including when applicable, the time during construction of the project. <End>

-or-

<Use for “projects” that aren’t tied to a construction project or projects that are difficult to determine the timeframe>

3.3 *Duration of this Task Order* – This Task Order duration is from the Effective Date to the Expiration Date. This Task Order duration is “specified” under Neb. Rev. Stat. § 73-506 to the period of time necessary for a Consultant to complete this particular project “<Studies, Manuals, >”. The time it will take Consultant to complete the work is uncertain by its nature depending on many factors including the scope and complexity of the proposed project work and the availability of funding. It is in the State’s and Consultant’s best interest to keep this Task Order in effect for the completion of all project work. <End>

3.4 *Identifying Date* – This Task Order may be identified by the date State signed this Task Order.

3.5 *Termination or Suspension* -- State reserves the right to terminate or suspend this Task Order at any time for any of the reasons provided herein.

**SECTION 3. DURATION OF THIS AGREEMENT (SOW)**

**Use the appropriate “Section 3” depending on whether your project is directly related to a construction project, or if it is work that basically stands by itself (not dependent on a construction project).**

3.1 *Effective Date* – This Agreement is effective when executed by the Parties.

3.2 *Expiration Date* – This Agreement expires when the last of the following events is completed: The expiration of the initial duration, the expiration of any extension of the initial duration, and the waiver or completion of the project financial audit and cost settlement.

3.3 *Initial Duration* – The initial duration of this Agreement will be [years or months] beginning [on the Effective Date] OR [on Month/Day Year] and ending on Month/Day/Year.

3.4 *Extension of the Agreement* - State may, in its sole discretion, extend the duration of this Agreement in writing, for an additional period of time up to, but not to exceed, one-half of the initial duration of the Agreement. State will notify Consultant of an extension to this Agreement approximately one month prior to the expiration of the initial duration of the Agreement.

3.5 *Identifying Date* – This Agreement may be identified by the date State signed the Agreement.

3.6 *Termination or Suspension* – State reserves the right to terminate or suspend this Agreement at any time for any of the reasons provided herein.

**SECTION 4. TASK ORDER SCOPE OF SERVICES**

4.1 Consultant agrees that the entire Scope of Services for this Task Order includes SECTION 5. SCOPE OF SERVICES of the Master Agreement, and the Scope of Services as set out in Exhibit “Scope of Service”, attached and incorporated herein by this reference. This Task Order Scope of Services will govern over any contrary language in the Scope of Services of the Master Agreement.

4.2 Upon receiving a written notice to proceed from State, Consultant shall complete the Services required under this Task Order and in accordance with the terms of the Master Agreement. State reserves the unconditional right to add to, subtract from, or alter the Services at any time, and such action by State will in no event be deemed a breach of this Task Order. The addition, subtraction, or alteration will become effective seven (7) days after mailing written notice of such addition, subtraction, or alteration.

4.3 Any change in the Services will follow the process specified in the *Out-of-Scope Services* section in Exhibit “<fees & payments exhibit>”, attached and incorporated herein by this reference.

**SECTION 5. STAFFING PLAN (For PE Services, TO)**

**>**USE WHEN STAFFING PLAN IS A STANDALONE EXHIBIT>

5.1 Consultant has provided State with a Staffing Plan or Staffing Plans, described in Exhibit “<staffing plan>”, attached and incorporated herein by this reference. The Staffing Plan identifies the employees of Consultant, and when applicable subconsultants, who are anticipated to provide Services under this Task Order. Consultant understands that State is relying on key personnel from the Staffing Plan to be primarily responsible for completing the Services under this Task Order. State considers the Principals, senior level staff, Project Managers, Team Leaders or other similar classifications, to be the key personnel for the Services provided. Consultant, and when applicable subconsultants, may make occasional temporary changes to the key personnel. However, any permanent change to Consultant’s or subconsultant’s key personnel will require prior written approval from State.

**>**USE WHEN STAFFING PLAN IS INCLUDED WITH THE FEE PROPOSAL WORKBOOK >

5.1 Consultant has provided State with a Staffing Plan or Staffing Plans, described in Exhibit “<Fee Proposal>”, attached and incorporated herein by this reference. The Staffing Plan identifies the employees of Consultant, and when applicable subconsultants, who are anticipated to provide Services under this Task Order. Consultant understands that State is relying on key personnel from the Staffing Plan to be primarily responsible for completing the Services under this Task Order. State considers the Principals, senior level staff, Project Managers, Team Leaders or other similar classifications, to be the key personnel for the Services provided. Consultant and, when applicable subconsultants, may make occasional temporary changes to the key personnel. However, any permanent change to Consultant’s or subconsultant’s key personnel will require prior written approval from State.

5.2 Personnel who are added to the Staffing Plan as replacements must be persons of comparable training and experience. Personnel added to the Staffing Plan as new personnel and not replacements must be qualified to perform the intended services. Failure on the part of Consultant and subconsultant to provide acceptable replacement personnel or qualified new personnel to keep the services on schedule will be cause for termination of this Task Order, with settlement to be made as set out on Exhibit “<Fees and Payments Exhibit>” attached and incorporated herein by this reference.

**SECTION 6. NEW EMPLOYEE WORK ELIGIBILITY STATUS** (Task Order)

6.1 Consultant agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. Consultant agrees to contractually require any subconsultants to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

6.2 The undersigned duly authorized representative of Consultant, by signing this Task Order, hereby attests to the truth of the following certifications, and agrees as follows:

Neb. Rev. Stat. § 4-114. I certify compliance with the provisions of Section 4-114 and, hereby certify that this Consultant shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. I agree to require all subconsultants, by contractual agreement, to require the same registration and verification process.

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

a. Consultant must complete the United States Citizenship Attestation form and attach it to this Task Order. This form is available on the Department of Transportation’s website at <https://dot.nebraska.gov/media/2802/ndot289.pdf>.

b. If Consultant indicates on such Attestation form that he or she is a qualified alien, Consultant agrees to provide the US Citizenship and Immigration Services documentation required to verify Consultant lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

c. Consultant understands and agrees that lawful presence in the United States is required and Consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

**SECTION 7. FEES AND PAYMENTS**

7.1 Consultant’s fee proposal is attached as Exhibit “<Fee Proposal>” and incorporated herein by this reference.

7.2 The maximum payment amounts and general provisions concerning payment under this Task Order are set out on Exhibit “<Fees and Payments Exhibit>”.

**SECTION 8. SUSPENSION OR TERMINATION** (PE Task Order)

8.1 Suspension or Termination

State has the absolute and exclusive right to suspend the work or terminate this Task Order at any time and for any reason and such action on its part will in no event be deemed a breach of this Task Order by State. Without limiting the rights set out in this section, the following is a non-exclusive list of the examples of the circumstances under which this Task Order may be suspended or terminated:

1. A loss, elimination, decrease, or re-allocation of funds that, in the sole discretion of State, make it difficult, unlikely or impossible to have sufficient funding for the Services or the project
2. State abandons the Services or the project for any reason
3. State’s funding priorities have changed
4. State determines, in its sole discretion, that State's interests are best protected by suspension or termination of this Task Order
5. Consultant fails to meet the schedule, milestones, or deadlines established in this Task Order or agreed to in writing by the Parties
6. Consultant fails to provide acceptable replacement personnel or qualified new personnel as determined by State
7. Consultant has not made sufficient progress to assure that the Services are completed in accordance with the schedule in attached Exhibit “<Scope of Services>” or in a timely manner
8. Consultant fails to meet the standard of care applicable to the Services
9. Consultant fails to meet the performance requirements of this Task Order
10. Consultant's breach of a provision of this Task Order or failure to meet a condition of this Task Order
11. Consultant's unlawful, dishonest, or fraudulent conduct in Consultant's professional capacity
12. Consultant fails to complete the project design in a form that is ready for letting a contract for construction according to the approved contract documents, including, but not limited to, project plans and specifications.
13. <Add anything else or delete>

8.2 Suspension

1. Suspension for Convenience. If State suspends the work for State's convenience, State will give Consultant notice of the date of suspension, which date will be no fewer than three (3) business days after notice is given. Such notice will provide the reason(s) for such suspension. Consultant will not be compensated for any Services completed or costs incurred after the date of suspension. Consultant shall provide State a detailed summary of the current status of the Services completed and an invoice of all costs incurred up to and including the date of suspension.
2. Suspension for Cause. If State suspends Consultant's work for cause or for issues related to performance, responsiveness or quality that must be corrected by Consultant, State will give Consultant notice of the date of suspension, which date will be no fewer than three (3) business days after notice is given. State's notice of suspension will provide Consultant with the reason(s) for the suspension, a timeframe for Consultant to correct the deficiencies, and when applicable, and a description of the actions that must be taken for State to rescind the suspension. Consultant's right to incur any additional costs will be suspended at the end of the day of suspension and will continue until all remedial action is completed to the satisfaction of State. Failure to correct the deficiencies identified in a suspension will be grounds for termination of this Task Order.

8.3 Termination

If State terminates this Task Order, State will give Consultant notice of the date of termination, which will be no fewer than three (3) business days after notice is given. State's notice of termination will provide Consultant with a description of the reason(s) for the termination. State's notice will specify when this Task Order will be terminated along with the requirements for completion of the work under this Task Order. Consultant's right to incur any additional costs shall cease at the end of the day of termination or as otherwise provided by State.

8.4 Compensation upon suspension or termination

If State suspends the work or terminates this Task Order, Consultant must be compensated in accordance with the provisions set out in Exhibit “<fees & payments exhibit>”, provided however, that in the case of suspension or termination for cause or for Consultant's breach of this Task Order, State will have the power to suspend payments, pending Consultant's compliance with the provisions of this Task Order. In the event of termination of this Task Order for cause, State may make the compensation adjustments set out in Exhibit “<fees & payments exhibit>”.

**SECTION 9. CONSULTANT CERTIFICATIONS**

9.1 The undersigned duly authorized representative of Consultant, by signing this Task Order, hereby reaffirms, under penalty of law, to the best of my knowledge and belief, the truth of the certifications set out in SECTION 29. CONSULTANT CERTIFICATIONS of the Master Agreement.

9.2 Neb. Rev. Stat. § 81-1715(1). I certify compliance with the provisions of Section 81-1715 and, to the extent that this Task Order is a lump sum, specific rates of compensation, or actual cost-plus-a-fixed fee professional service agreement, I hereby certify that wage rates and other factual unit costs supporting the fees in this Task Order are accurate, complete, and current as of the date of this Task Order. I agree that this Task Order price and any additions thereto shall be adjusted to exclude any significant sums by which the State determines this Task Order price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

**SECTION 10. NEBRASKA DEPARTMENT OF TRANSPORTATION CERTIFICATION**

By signing this Task Order, I hereby reaffirm, under penalty of law, the truth of the certifications set out in the Master Agreement.

**SECTION 11. AGREEMENT SIGNING PROCESS**

The Parties agree to execute agreements, including this agreement, by electronic means, when requested by State. Consultant has provided State with the name and valid password protected email address of Consultant’s employee(s) who is(are) currently authorized by Consultant, and by law, to execute agreements with State. Consultant has and will make its best efforts to safeguard the email account passwords and DocuSign PIN codes. Consultant shall promptly notify State when a designated employee is no longer authorized to sign agreements on behalf of Consultant, and shall notify State of the new employee authorized to sign on Consultant’s behalf. Consultant shall promptly notify State of any delay or defect in the electronic signing process, including (a) in receiving, reviewing, or transmitting the agreement to State, (b) difficulty signing the agreement, or (c) discovery of an unauthorized signature. Consultant agrees to be responsible for its own negligence or actions related to the electronic signing process used by Consultant for agreements with State.

**SECTION 12. SEVERABILITY**

The invalidity or unenforceability of any such clause, provision, section, or part shall not affect the validity or enforceability of the balance of the Agreement, which shall be construed and enforced as if the Agreement did not contain such invalid or unenforceable clause, provision, section or part.

**SECTION 13. COMPLETENESS**

This Agreement is the complete and exclusive statement of the arrangement between the parties, and supersedes all proposals, oral or written, and all other communications between the parties relating to the subject matter thereof. It may be amended from time to time in writing by the mutual consent of the Parties hereto.

*[Remainder of Page Intentionally Left Blank]*

**IN WITNESS WHEREOF**, the Parties hereby execute this Task Order pursuant to lawful authority as of the date signed by each party. Further, the Parties, by signing this Task Order, attest and affirm the truth of each and every certification and representation set out herein.

USE FOR ELECTRONIC SIGNATURES

 **EXECUTED** by Consultant on:

 CONSULTANT FIRM NAME

 Consultant Signatory Name

 Consultant Signatory Title

 **EXECUTED** by State on:

 NEBRASKA DEPARTMENT OF

 TRANSPORTATION

 NDOT Signatory Name

 NDOT Signatory Title