



**AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of 1/25/23 between City of Grand Island ("Owner") and JEO Consulting Group, Inc. ("Engineer").

Owner's project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Grand Island West Connector Trail Extension ("Project").

JEO Project Number: 222153.00

Owner and Engineer further agree as follows:

**ARTICLE 1 - SERVICES OF ENGINEER**

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**1.01 Scope**

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

**ARTICLE 2 - OWNER'S RESPONSIBILITIES**

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**2.01 Owner Responsibilities**

- A. Owner responsibilities are outlined in Section 3 of Exhibit B.

**ARTICLE 3 - COMPENSATION**

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**3.01 Compensation**

- A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.
- B. The fee for the Project is:
- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

**ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS**

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**4.01 Exhibits**

Exhibit A – Scope of Services

Exhibit B – General Conditions

4.02 Total Agreement

- A. This Agreement (consisting of pages 1 to 2 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Owner: City of Grand Island

Roger G. Steele

By: Roger G. Steele

Title: Mayor

Date Signed: 1/25/2023

Address for giving notices:

City of Grand Island

100 East 1st St.

Grand Island NE 68801

Engineer: JEO Consulting Group, Inc.

[Signature]

By: Andrew Wilshusen

Title: Project Manager

Date Signed: 01/04/2022

Address for giving notices:

JEO Consulting Group, Inc.

308 West 3<sup>rd</sup> Street

Grand Island, NE 68801

[Signature]  
**Stacy R. Nonhof**  
**Assistant City Attorney**



**SCOPE OF SERVICES:  
Exhibit A**

**PROJECT DESCRIPTION:**

Grand Island, NE: The project will consist of approximately 7,600 linear feet of a 10'-wide concrete trail. The trail will extend from the southwest corner of Old Potash and North Road south, west to the City of Grand Island's water tower. The trail is anticipated to run along the west and north side of the Morris Creek drainage way. This agreement is to conduct a preliminary design with an opinion of costs to help support the application for Transportation Alternatives Program (TAP) funding.

**1 DESIGN PHASE**

- 1.1 Provide Project Management throughout all Phase of this project, to include:
  - 1.1.1 Coordination of all design disciplines including communication of all tasks and transfer of documents between disciplines to minimize errors. This effort shall include conducting bi-weekly internal meetings.
  - 1.1.2 Provide timely and coordinated communication to and from the Owner for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.
  - 1.1.3 Provide oversight to ensure scope of services and schedule is met.
  - 1.1.4 Work with disciplines to identify potential risks and how to mitigate those risks.
  - 1.1.5 Review billed hours by design team and prepare invoice statements for Owner.
- 1.2 Attend and facilitate Initiation/Kick-off meeting with Owner (1 meeting). Meeting review to include:
  - 1.2.1 Review the scope, schedule, and project requirements.
  - 1.2.2 Collect additional information about the City of Grand Island's Trail system and review the available data.
  - 1.2.3 Review the proposed locations of the trail route.
  - 1.2.4 Engineer will also ask for any specific requirements or concerns from the Owner about the project.
- 1.3 Engineer will schedule and obtain a topographic survey containing the following:
  - 1.3.1 Survey the locations of all visible physical features (i.e.: concrete, asphalt, gravel, rock, driveways, sidewalks, trees, utility poles, valves, manholes, signs, drainage structures, curb stops, water meter pits, terrain profiles, etc.) within the proposed project limits.
  - 1.3.2 Create an electronic drawing using AutoCAD illustrating elevations, site features, property boundaries, and existing utilities resulting from the surveys performed.
  - 1.3.3 Collect available property pins and/or sections corners.
  - 1.3.4 Collect ground physical elevations and features along the proposed trail alignment, extending 20' on either side of the alignment.
- 1.4 Surveyor will make a "One Call" for utility locates to be marked in the project corridor and together with other survey data, will map existing site conditions within the electronic drawing.

Any public infrastructure shall be clearly identified in the field through the One Call for collection by JEO survey staff and incorporation into the electronic drawing.

- 1.5 Review of existing data and design requirements.
  - 1.5.1 Includes one meeting with the consultant of the area developer
  - 1.5.2 Review and incorporate existing CADD data.
- 1.6 Prepare 30% complete preliminary plans, to include:
  - 1.6.1 Cover sheet and general location maps
  - 1.6.2 Survey control sheets
  - 1.6.3 Concrete trail paving plan and preliminary profile
  - 1.6.4 Typical section of trail
- 1.7 Prepare a 30% complete opinion of probable construction cost.
- 1.8 Perform an internal quality assurance/quality control (QA/QC) review of the preliminary plans.
- 1.9 Conduct a review with the Owner to confirm the proposed layout, survey information, and opinion of probable construction cost. (One meeting)
- 1.10 Assisting with TAP application (No Charge to the City)

## 2 OWNER RESPONSIBILITIES

- 2.1 Provide timely review of documents or requests for information.
- 2.2 Provide access to property to conduct proposed services
- 2.3 Provide contact information for utility companies within the right-of-way along the project route.
- 2.4 Coordination with NDOT regarding TAP Funding.

## 3 FEE

- 3.1 JEO proposes to provide the services defined above for the fees defined below:

<u>Task</u>	<u>Fee</u>
<b>Design Phase</b> (Lump Sum)	<b>\$ 29,900.00</b>
<b>Total</b>	<b>\$ 29,900.00</b>

## 4 PROGRESS PAYMENTS

- 4.1 JEO will bill for services completed near the end of each month. All invoices are due payable upon receipt and are considered delinquent after 30 days.
- 4.2 Invoices not paid within 30 days may be charged interest at the annual rate of 12% (1.0%/month).
- 4.3 Payments will be applied first to the interest then principal.
- 4.4 Work by JEO will cease if invoices have not been paid in full within 60 days and will not begin again until full payment with interest has been received.

## 5 CONTRACT TIME

- 5.1 JEO will work as expeditiously as possible, pending authorization from Owner, to complete the tasks in this scope of services.
- 5.2 Design Phase – 90 days from authorization to proceed.

## **6 EXCLUSIONS**

- 6.1 Any work beyond preliminary design, with the exception of attending up to three (3) meetings facilitated by City staff to secure outside funding (TAP).
- 6.2 Design of any nature beyond the trail, inclusive of, but not limited to storm sewer and utility infrastructure
- 6.3 Land rights and ownership research, platting, or relates services
- 6.4 Floodplain, US Army Corps of Engineers Section 404, or other environmental permitting
- 6.5 Wetlands determination and mitigation
- 6.6 Traffic study
- 6.7 SWPPP preparation, administration, and inspections
- 6.8 Any permit fees associated with permit applications
- 6.9 Special meetings and meetings not outlined in the Scope of Services
- 6.10 Signing, marking, and traffic control plans
- 6.11 Electrical evaluation and design, including street lighting
- 6.12 Grant administration
- 6.13 Design beyond the 30% level
- 6.14 Bidding Services
- 6.15 Geotechnical Investigation
- 6.16 Construction services
- 6.17 Easement description preparation
- 6.18 Electrical distribution plat maps (existing and proposed)

## **7 REIMBURSABLE EXPENSES**

- 7.1 Typical reimbursable expenses are included in the lump-sum and cover: mileage for trips required to complete the work defined above, long-distance phone calls, meals, other travel expenses, software, copies/prints, and faxes.
- 7.2 Other reimbursable expenses shall be billed at 110% of their cost. None are anticipated within this scope of services.

## **8 ADDITIONAL TERMS**

- 8.1 The General Conditions are specified in Exhibit B.

## JEO CONSULTING GROUP INC. • JEO ARCHITECTURAL INC.

**1. SCOPE OF SERVICES:** JEO Consulting Group, Inc. (JEO) shall perform the services described in Exhibit A. JEO shall invoice the owner for these services at the fee stated in Exhibit A.

**2. ADDITIONAL SERVICES:** JEO can perform work beyond the scope of services, as additional services, for a negotiated fee or at fee schedule rates.

**3. OWNER RESPONSIBILITIES:** The owner shall provide all criteria and full information as to the owner's requirements for the project; designate and identify in writing a person to act with authority on the owner's behalf in respect to all aspects of the project; examine and respond promptly to JEO's submissions; and give prompt written notice to JEO whenever the owner observes or otherwise becomes aware of any defect in work.

Unless otherwise agreed, the owner shall furnish JEO with right-of-access to the site in order to conduct the scope of services. Unless otherwise agreed, the owner shall also secure all necessary permits, approvals, licenses, consents, and property descriptions necessary to the performance of the services hereunder. While JEO shall take reasonable precautions to minimize damage to the property, it is understood by the owner that in the normal course of work some damage may occur, the restoration of which is not a part of this agreement.

**4. TIMES FOR RENDERING SERVICES:** JEO's services and compensation under this agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion. Unless specific periods of time or specific dates for providing services are specified in the scope of services, JEO's obligation to render services hereunder shall be for a period which may reasonably be required for the completion of said services.

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the owner has requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

**5. INVOICES:** JEO shall submit invoices to the owner monthly for services provided to date and a final bill upon completion of services. Invoices are due and payable within 30 days of receipt. Invoices are considered past due after 30 days. Owner agrees to pay a finance charge on past due invoices at the rate of 1.0% per month, or the maximum rate of interest permitted by law.

If the owner fails to make any payment due to JEO for services and expenses within 30 days after receipt of JEO's statement, JEO may, after giving 7 days' written notice to the owner, suspend services to the owner under this agreement until JEO has been paid in full all amounts due for services, expenses, and charges.

**6. STANDARD OF CARE:** The standard of care for all services performed or furnished by JEO under the agreement

shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

JEO shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the owner shall not be responsible for discovering deficiencies therein. JEO shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in owner furnished information.

**7. REUSE OF DOCUMENTS:** Reuse of any materials (including in part plans, specifications, drawings, reports, designs, computations, computer programs, data, estimates, surveys, other work items, etc.) by the owner on a future extension of this project, or any other project without JEO's written authorization shall be at the owner's risk and the owner agrees to indemnify and hold harmless JEO from all claims, damages, and expenses including attorney's fees arising out of such unauthorized use.

**8. ELECTRONIC FILES:** Copies of Documents that may be relied upon by the owner are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text, data, graphics, or of other types that are furnished by JEO to the owner are only for convenience of the owner. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

a. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it shall perform acceptance tests or procedures within 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30 day acceptance period shall be corrected by the party delivering the electronic files. JEO shall not be responsible to maintain documents stored in electronic media format after acceptance by the owner.

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

c. The owner may make and retain copies of documents for information and reference in connection with use on the project by the owner.

d. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

e. Any verification or adaptation of the documents by JEO for extensions of the project or for any other project shall entitle JEO to further compensation at rates to be agreed upon by the owner and JEO.

**9. SUBCONSULTANTS:** JEO may employ consultants as JEO deems necessary to assist in the performance of the services. JEO shall not be required to employ any consultant unacceptable to JEO.

**10. INDEMNIFICATION:** To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other

## JEO CONSULTING GROUP INC. • JEO ARCHITECTURE INC.

harmless and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages, and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of JEO and the owner, they shall be borne by each party in proportion to its negligence.

**11. INSURANCE:** JEO shall procure and maintain the following insurance during the performance of services under this agreement:

- a. Workers' Compensation: Statutory
- b. Employer's Liability
  - i. Each Accident: \$500,000
  - ii. Disease, Policy Limit: \$500,000
  - iii. Disease, Each Employee: \$500,000
- c. General Liability
  - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
  - ii. General Aggregate: \$2,000,000
- d. Auto Liability
  - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
  - i. Each Occurrence: \$1,000,000
  - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
- i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

**12. TERMINATION:** This agreement may be terminated by either party upon 7 days prior written notice. In the event of termination, JEO shall be compensated by owner for all services performed up to and including the termination date. The effective date of termination may be set up to thirty (30) days later than otherwise provided to allow JEO to demobilize personnel and equipment from the 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.

**13. GOVERNING LAW:** This agreement is to be governed by the law of the state in which the project is located.

**14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES:** The owner and JEO each is hereby bound and the partners, successors, executors, administrators and legal representatives of the owner and JEO 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, with respect to all covenants, agreements and obligations of this agreement.

a. Neither the owner nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies 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 shall release or discharge the assignor from any duty or responsibility under this agreement.

b. Unless expressly provided otherwise in this agreement. Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the owner or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

c. All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the owner and JEO and not for the benefit of any other party.

**15. PRECEDENCE:** These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding JEO's services.

**16. SEVERABILITY:** Any provision or part of the agreement held to be void or unenforceable shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the owner and JEO, who agree that the agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

**17. NON-DISCRIMINATION 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.

**18. E-VERIFY:** JEO shall register with and use 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 pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work shall be performed. Engineer shall require the same of each consultant.