

**MEETING NOTICE  
FOR THE WEST HAYMARKET  
JOINT PUBLIC AGENCY (JPA)  
TO BE HELD THURSDAY, FEBRUARY 25, 2021 AT 2:30 P.M.**

**CITY-COUNTY BUILDING  
COUNCIL CHAMBERS, 1ST FLOOR  
555 S. 10<sup>TH</sup> STREET  
LINCOLN, NE 68508**

**FOR THE PROTECTION OF THE PUBLIC, STAFF, AND BOARD MEMBERS, THE WEST HAYMARKET JOINT PUBLIC AGENCY WILL BE VIDEOCONFERENCING ITS MEETING OF FEBRUARY 25, 2021. TWO BOARD MEMBERS MAY PARTICIPATE BY VIDEOCONFERENCE AND IF THEY CHOOSE TO ATTEND VIRTUALLY, TAMMY WARD WILL BE LOCATED AT 641 N.W. 20<sup>TH</sup> STREET, LINCOLN, NEBRASKA AND TIM CLARE WILL BE LOCATED AT 6712 HICKORY CREST CIRCLE, LINCOLN, NEBRASKA.**

**YOU MAY VIEW THE MEETINGS AT [HTTPS://YOUTUBE.COM/LNKTVcity](https://youtube.com/LNKTVcity)  
OR [HTTPS://FACEBOOK.COM/LNKTVcity](https://facebook.com/LNKTVcity)**

**IF YOU HAVE CONCERNS YOU WISH TO EXPRESS TO THE BOARD MEMBERS,  
PLEASE EMAIL THEM TO [KSIMONSON@LINCOLN.NE.GOV](mailto:ksimonson@lincoln.ne.gov).**

**IF YOU STILL WISH TO APPEAR IN PERSON ON AN ITEM ON THE AGENDA,  
YOU MAY COME TO THE COUNTY-CITY BUILDING,  
555 S. 10TH STREET, 1<sup>st</sup> FLOOR, CHAMBERS**

**FOR THOSE WHO WISH TO TESTIFY ON AN AGENDA ITEM BY VIDEO, YOU  
ARE INVITED TO THE FOLLOWING ZOOM WEBINAR:**

**WHEN: FEBRUARY 25, 2021 02:30 PM CENTRAL TIME (US AND CANADA)**

**TOPIC: WEST HAYMARKET JPA**

**<https://lincolnne.zoom.us/j/92011127065?pwd=UTA2QlhxTDg3WlhsTlE5MUl2YlRnUT09>**

**Password: 959891**

**AGENDA FOR THE WEST HAYMARKET  
JOINT PUBLIC AGENCY (JPA)  
TO BE HELD THURSDAY, FEBRUARY 25, 2021 AT 2:30 P.M.  
CITY-COUNTY BUILDING  
COUNCIL CHAMBERS, 1ST FLOOR  
555 S. 10<sup>TH</sup> STREET  
LINCOLN, NE 68508**

1. Introductions and Notice of Open Meetings Law Posted by Door
2. Public Comment and Time Limit Notification Announcement  
*Individuals from the audience will be given a total of 5 minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record.*
3. Approval of the minutes from the JPA meeting held January 28, 2021.
  - (Staff recommendation: Approval of the minutes as presented)
4. Approval of January 2021 Payment Register and review of the January 2021 Expenditure Reports. (David Young)
  - Public Comment
  - (Staff recommendation: Approval of the Payment Register. No action is required on the Expenditure Reports).
5. WH 21-3 Resolution to approve two Memorandums of Understanding between the West Haymarket JPA and Project Control of Texas, Inc., and Alfred Benesch and Company, for Construction Management Services for terms through August 31, 2021 with combined costs not to exceed \$60,000.00. (Bob Walla)
  - Public Comment
  - (Staff recommendation: Approval)
6. WH 21-4 Resolution to approve a Memorandum of Understanding between the West Haymarket JPA and the Lincoln-Lancaster County Health Department for purposes of administering COVID-19 vaccines at the Pinnacle Bank Arena. (Chris Connolly)
  - Public Comment
  - (Staff recommendation: Approval)
7. WH 21-5 Resolution to approve a Marketing Services Agreement between the West Haymarket JPA and IMG College for marketing services and sponsorship rights at Pinnacle Bank Arena. (Chris Connolly)
  - Public Comment
  - (Staff recommendation: Approval)
8. Next Meeting Date: The next meeting date will be Thursday, March 25, 2021 at 2:30 p.m. in Council Chambers, First Floor of the County-City Building.
9. Motion to Adjourn

**WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)**  
**Board Meeting**  
**January 28, 2021**

Meeting Began At: 2:31 P.M.

Meeting Ended At: 2:56 P.M.

Members Present: Leirion Gaylor Baird, Tim Clare, and Tammy Ward

**Item 1 - Introductions and Notice of Open Meetings Law Posted by Door.**

Gaylor Baird advised that this is a public meeting subject to the open meetings act posted at the back of the room.

**Item 2 - Public Comment and Time Limit Notification.**

Gaylor Baird advised members of the public are given five minutes for public comment on specific items listed on today's agenda and those testifying should identify themselves for the record.

**Item 3 – Approval of the minutes from the JPA meeting held November 19, 2020.**

Clare moved approval of the minutes as presented. Ward seconded the motion. Motion carried 3-0.

**Item 4 - Approval of November and December 2020 Payment Registers and Review of November and December 2020 Expenditure Reports.**

David Young, Interim Finance Director and JPA Treasurer, stated in reviewing the November 2020 payment register the operating budget had \$844,341.67 in operating expenditures with the major payments consisting of a payment for parking deck management for September of \$111,995.41; Third Quarter Sponsorship payment of \$287,171.50; Third Quarter Operating Increment of \$150,000.00; \$79,097 for the volleyball floors; and a DEC payment of \$209,064.00 of which 69% is billed to the West Haymarket private customers.

In reviewing the December 2020 payment register the operating budget had \$14,016,828.11 in operating expenditures with the major payments consisting of a payment for First Quarter City Staff Reimbursement of \$100,901.00; Bond payments totaling \$12,726,911.08; parking deck management for October of \$102,892.35; Five Year Environmental Insurance Policy for \$301,012.35; October arena repair and maintenance of \$20,782.99; Fourth Quarter Sponsorship payment of \$287,171.56; Fourth Quarter Operating Increment of \$150,000.00; DEC payment of \$210,387.00 of which 69% is billed to the West Haymarket private customers; November arena repair and maintenance of \$16,311.23; and parking deck management for November of \$85,419.14.

Jane Kinsey, Watch Dogs of Lincoln Government, asked if people are paying their share of the thermal heating and cooling. Young confirmed they are. Kinsey asked if the Arena got the \$2 million it applied for with the CARES Act. Young stated that the Arena received the money but it is not reflected in this report and will show up on the January report. Kinsey asked what effort has been made to cut their expenses. Young stated he will follow up with an answer. Kinsey

asked what is Project Control of Texas. Young explained that Project Control provides all of the construction management for the JPA.

There being no further discussion or public comment, Clare moved approval of the payment register. Ward seconded the motion. Motion carried 3-0.

**Item 5 – WH 21-1 Resolution to authorize the Chair of the West Haymarket JPA or Purchasing Agent to execute an Agreement with Quadient Leasing USA, Inc. for the rental of a postage meter, for a term of five years, for use at Pinnacle Bank Arena.**

Chris Connolly, Chief Assistant City Attorney, stated the Pinnacle Bank Arena is in need of a postage meter. This is essentially a renewal of an existing agreement; however, the name of the company has changed to Quadient Leasing. This is a five-year lease for a total of \$4,500 or \$75.00 a month. This is needed to send out flyers, correspondence to suite holders, etc.

Kinsey asked how much this will cost. Connolly stated \$4,500 for five years. Kinsey asked what do they do that they need to have this. Connolly again stated that the Arena sends out flyers, correspondence to suite holders, and other regular communications. Kinsey asked if this is a renewal and Connolly confirmed it was. Kinsey asked if it is the same machine. Connolly stated he does not know if it is for the exact same machine. Kinsey asked if it is the same company. Connolly stated it is the same company although the company name has changed.

There being no further discussion or public comment, Ward moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

**Item 6 - WH 21-2 Resolution to accept the financial audit and management letter and report from BKD CPAs & Advisors LLP for the period ending August 31, 2020.**

Chris Lindner, BKD CPA, stated he will discuss the 2020 JPA financial audit statement. He started by thanking the City for all of their help in this process, specifically Mark Leikam, Brandon Kauffman, and the rest of the City Finance team. He stated they did a fantastic job of having the records ready in order to complete the audit. Lindner stated there are two documents that will be discussed, the financial audit and management letter and the audit report. Lindner stated within the audit report of the financial statements there are two opinions noted. The first is the opinion stating the financial statements are in accordance with the governmental accounting standards. This is a clean or unmodified opinion. The second is the opinion that the JPA is operating in accordance with the government auditing standards. Nothing was noted as there were no items of non-compliance found and no audit adjustments were made. This is also a clean or unmodified opinion.

Lindner further stated on pages 3-7 is the management discussion and analysis that gives a high-level summary of the financial statements of the fiscal changes from 2019 to 2020 and any future concerns that could have an impact on the JPA. He discussed the balance sheets on pages 8 and 9 and explained that the JPA is structured as a component of the City therefore it essentially has two presentations within one statement. There is the JPA Fund column looking at the current focus showing cash investments, short-term receivables, and short-term liabilities. The column on the right looks at everything on a full accrual encompassing all assets and liabilities. Looking at page 9, the Board will find the income statement showing the assets and liabilities activity that change from year to year. He stated the footnotes give a summary of the long-term liabilities that discusses what debt is outstanding, the repayment terms for the debt and when certain



obligations will become due and contractual arrangements with future payment and receipt terms. The footnotes can explain what the items are, how they are accounted for, and why they are there. Looking at the communication letter, on page 2 in the audit adjustments section there were no audit adjustments found. If they have other control items that they feel need to be reported it would be reported here. He is happy to report they did not identify anything from a control standpoint that needed to be reported.

Clare stated in summary it is a good, clean audit and obviously COVID has had an impact financially. He commented we are still on solid footing and have a clean bill of health. Lindner commented there is nothing from a control or audit standpoint that needed to be disclosed even with the issues occurring over the last year.

Kinsey, stated the only issue they have is they feel a different auditing company is needed instead of having the same one for six years at a time. She stated they have nothing against BKD but this company has been doing the audit for years and years now. They think a different pair of eyes looking at this is important for the benefit of the taxpayers.

There being no further discussion or public comment, Clare moved approval of the resolution. Ward seconded the motion. Motion carried 3-0.

**Item 7 – Set Next Meeting Date.**

The next meeting will be Thursday, February 25, 2021 at 2:30 p.m. in Council Chambers, First Floor of the County-City Building.

**Item 8 – Motion to Adjourn**

Ward moved to adjourn. Motion seconded by Clare. The meeting adjourned at 2:56 p.m.

West Haymarket Joint Public Agency  
Payment Register  
January 2021

Page - 1  
Date - 02/05/21

Vendor Number	Vendor Name	Payment Remark	Cat	Busi Unit	Obj Acct	Description	Do Ty	Document Number	Amount	Check Date	Payment Number
53356	Lincoln Electric System	277 Pinnacle Arena Dr	OP	06095	5821	Electricity - Bldg & Grnds	PV	2079173	342.38	01/07/21	157047
53356	Lincoln Electric System	200 N 7th St	OP	06095	5821	Electricity - Bldg & Grnds	PV	2079174	133.82	01/07/21	157047
53356	Lincoln Electric System	605 N 8th St Pk Lot Lgh	OP	06095	5821	Electricity - Bldg & Grnds	PV	2079175	45.14	01/07/21	157047
77921	County/City Property Management	Amtrak Station FY 2020-21	OP	06095	5870	Other Bldg Maintenance	PV	2079176	5,193.39	01/07/21	157055
98079	Black Hills Energy	277 Pinnacle Arena Dr	OP	06095	5825	Natural Gas	PV	2079177	164.66	01/07/21	157073
89156	Secretary of State	WHJPA Biennial Report 2021-22	OP	06095	5993	Fees Paid to State of NE	PV	2079954	20.00	01/13/21	622148
76881	Windstream	Billing number 402-477-6387	OP	06095	5829	Telephone	PV	2079927	111.68	01/14/21	157195
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079928	9,550.35	01/14/21	157196
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079929	235.07	01/14/21	157196
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079931	1,376.76	01/14/21	157196
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079932	2,770.23	01/14/21	157196
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079934	2,564.99	01/14/21	157196
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079937	240.08	01/14/21	157196
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079939	2,930.04	01/14/21	157196
77462	Lancaster County Treasurer	Maintenance WHM	OP	06095	5856	City Share Linc Center Maint	PV	2079946	249.06	01/14/21	157196
102154	Public Building Commission	Space Rental 01/21	OP	06095	5928	Rent of Co/City Bldg Space	PV	2079956	86.10	01/14/21	157220
102154	Public Building Commission	Space Rental 01/21	OP	06095	5931	Parking Rent Bldg Comm	PV	2079956	8.75	01/14/21	157220
324566	Union Bank & Trust Company	WHJPA Series 2010B	OP	195021	6233	Bd Trustee Pmt-Serv Chg	PV	2080829	524.00	01/20/21	622291
324566	Union Bank & Trust Company	WHJPA Series 2010C	OP	195021	6233	Bd Trustee Pmt-Serv Chg	PV	2080830	524.00	01/20/21	622291
324566	Union Bank & Trust Company	WHJPA Series 2013	OP	195041	6233	Bd Trustee Pmt-Serv Chg	PV	2080831	524.00	01/20/21	622291
588846	District Energy Corp	Customer ID 0005	OP	06095	5835	Thermal Heating & Cooling	PV	2080832	214,310.50	01/21/21	157452
620543	Midwest Alarm Services	Account Number 900508-11	OP	06095	5683	Fire Alarm Monitoring	PV	2080833	33.90	01/21/21	157498
431100	City of Lincoln - Parking	JPA Parking Garage Mgmt 12/20	OP	06095	5643	Deck 1 Mgmt Services	PV	2081613	24,553.70	01/27/21	622466
431100	City of Lincoln - Parking	JPA Parking Garage Mgmt 12/20	OP	06095	5643	Deck 2 Mgmt Services	PV	2081613	19,348.17	01/27/21	622466
431100	City of Lincoln - Parking	JPA Parking Garage Mgmt 12/20	OP	06095	5643	Deck 3 Mgmt Services	PV	2081613	28,233.67	01/27/21	622466
623607	Nicole Burger	Blue 3 Garage Refund	OP	06096	3941	Deck 3-Lease	PV	2081163	35.00	01/27/21	622467
77921	County/City Property Management	JPA-CITY CONTROLLER 12/20	OP	06095	5261	Postage	PV	2081612	88.85	01/28/21	157562
604774	Pinnacle Bank Arena	Arena Repair/Maint/CIP 12/20	OP	06095	5870	Other Bldg Maintenance	PV	2081614	26,878.04	01/28/21	157653
604774	Pinnacle Bank Arena	Arena Repair/Maint/CIP 12/20	OP	06095	6076	Miscellaneous Equipment	PV	2081614	475.00	01/28/21	157653
Category: OP total									341,551.33		
Grand total									341,551.33		

83410	City of Lincoln, NE					1
MARK	West Haymarket Joint Public Agency					02/05/21
JPAADMIN8	Operating Expenditure Report					08:16:57
	As of January 31, 2021					
	Original Budget	P/Y Enc & Revisions	Total	YTD Expend	Encumbered	Available Balance
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51 JPA						
00950 West Haymarket Revenue						
11 Materials & Supplies						
5221 Office Supplies	250.00		250.00			250.00
5261 Postage	2,500.00		2,500.00	1,098.50		1,401.50
5323 Bldg Maint Supplies	500.00		500.00			500.00
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11 Materials & Supplies	3,250.00		3,250.00	1,098.50		2,151.50
12 Other Services & Charges						
5621 Misc Contractual Services	889,674.00	51,864.75	941,538.75	128,409.34	34,468.75	778,660.66
5624 Auditing Service	19,130.00		19,130.00	8,000.00		11,130.00
5628 Consultant Services	60,000.00	16,079.87	76,079.87	1,098.58	14,981.29	60,000.00
5631 Data Processing Service	1,248.00		1,248.00	1,248.00		
5633 Software	236,000.00		236,000.00			236,000.00
5637 Engineering & Design		3,476.43	3,476.43		3,476.43	
5643 Management Services	1,802,568.00		1,802,568.00	1,748,686.00		53,882.00
5643.61 Deck 1 Mgmt Services	897,964.00		897,964.00	210,173.18		687,790.82
5643.62 Deck 2 Mgmt Services	501,633.00		501,633.00	109,489.57		392,143.43
5643.63 Deck 3 Mgmt Services	587,662.00		587,662.00	144,929.53		442,732.47
5683.04 Snow Removal	2,500.00		2,500.00			2,500.00
5683.05 Fire Alarm Monitoring	500.00		500.00	169.50		330.50
5762 Photocopying	500.00		500.00	32.69		467.31
5763 Printing	250.00		250.00			250.00
5783 General Liability	25,755.00		25,755.00	25,755.00		
5784 Misc Insurance				301,012.35		301,012.35-
5786 Property	178,317.00		178,317.00	178,317.00		
5794 Public Officials	28,119.00		28,119.00	23,442.30		4,676.70
5795 Misc Insurance Floater	4,099.00		4,099.00	4,099.00		
5821 Electricity - Bldg & Grnds	8,500.00		8,500.00	2,838.34		5,661.66
5825 Natural Gas	1,300.00		1,300.00	585.16		714.84
5829 Telephone	1,350.00		1,350.00	557.28		792.72
5830 Water	1,500.00		1,500.00	421.86		1,078.14
5835 Thermal Heating & Cooling	2,980,000.00		2,980,000.00	1,062,435.00		1,917,565.00
5856 City Share Linc Center Maint	28,000.00		28,000.00	19,916.58		8,083.42
5862 Grounds Maintenance	18,000.00		18,000.00			18,000.00
5868 Endowment Maint & Repair				22,660.00		22,660.00-
5870 Other Bldg Maintenance	414,000.00		414,000.00	104,578.23		309,421.77

83410	City of Lincoln, NE					2
MARK	West Haymarket Joint Public Agency					02/05/21
JPAADMIN8	Operating Expenditure Report					08:16:57
	As of January 31, 2021					
	Original Budget	P/Y Enc & Revisions	Total	YTD Expend	Encumbered	Available Balance
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51 JPA						
00950 West Haymarket Revenue						
12 Other Services & Charges						
5928 Rent of Co/City Bldg Space	1,034.00		1,034.00	430.50		603.50
5931 Parking Rent Bldg Comm	105.00		105.00	43.75		61.25
5952 Advertising/Media Serv	1,560.00		1,560.00			1,560.00
5959 Compensation Payments	41,068.00		41,068.00	41,067.13		.87
5993 Fees Paid to State of NE	45.00		45.00	45.00		
5996 Credit Card/Bank Fees	7,500.00		7,500.00			7,500.00
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12 Other Services & Charges	8,739,881.00	71,421.05	8,811,302.05	4,140,440.87	52,926.47	4,617,934.71
13 Capital Outlay - Equipment						
6068 Concession Equipment	100,000.00		100,000.00	1,409.41		98,590.59
6076 Miscellaneous Equipment	490,000.00		490,000.00	100,356.26	79,097.00	310,546.74
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13 Capital Outlay - Equipment	590,000.00		590,000.00	101,765.67	79,097.00	409,137.33
14 Capital Outlay - Improvements						
6132 Buildings	75,000.00		75,000.00			75,000.00
6140 Grounds Improvements	580,127.00	6,378.62	586,505.62	600.40	5,778.22	580,127.00
6142 Sewer System	97,200.00		97,200.00			97,200.00
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14 Capital Outlay - Improvements	752,327.00	6,378.62	758,705.62	600.40	5,778.22	752,327.00
15 Debt Service						
6233 Bd Trustee Pmt-Serv Chg	2,620.00		2,620.00	3,308.00		688.00-
6234 Bd Trustee Pmt-Principal	5,510,000.00		5,510,000.00	5,510,000.00		
6235 Bd Trustee Pmt-Interest	14,329,726.00		14,329,726.00	7,216,911.08		7,112,814.92
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15 Debt Service	19,842,346.00		19,842,346.00	12,730,219.08		7,112,126.92
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00950 West Haymarket Revenue	29,927,804.00	77,799.67	30,005,603.67	16,974,124.52	137,801.69	12,893,677.46
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51 JPA	29,927,804.00	77,799.67	30,005,603.67	16,974,124.52	137,801.69	12,893,677.46

	Current Fiscal Yr
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Revenues:	
Occupation Taxes	5,875,538.85
Intergovernmental	1,838,980.90
Permits & Fees	840.00
DEC Customer Payments	812,854.94
Interest	334,541.63
Arena Premium Seat Revenue	9,550.08
Facility Lease & Other Rent	26,178.16
Parking Revenue	521,709.23
Sponsorship & Misc Revenue	423,732.50
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Total Revenues	9,843,926.29
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Expenditures:	
General Government	4,243,905.44
Debt Service-Service Charge	3,308.00
Debt Service P & I	12,726,911.08
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Total Expenditures	16,974,124.52
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Excess (Deficiency) Of Revenues Over Expenditures	<7,130,198.23>
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Other Financing Sources (Uses):	
Sale Of Assets	531,964.00
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Total Other Financing Sources (Uses)	531,964.00
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Excess (Deficiency) Of Revenues And Other Financing Sources Over Expenditures and Other Uses	<6,598,234.23>
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Fund Balance Beginning Of Year	40,683,827.18
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Fund Balance End Of Year	34,085,592.95
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Pinnacle Bank Arena  
Income Statement  
For the Four Months Ending December 31, 2020

	Year to Date Actual	Year to Date Budget	Year to Date Variance	Annual Budget
<b>EVENT INCOME</b>				
Direct Event Income				
Rental Income	\$ 78,661	0	78,661	\$ 1,064,750
Service Revenue	68,416	0	68,416	2,451,600
Service Expenses	(109,967)	0	(109,967)	(3,172,377)
Total Direct Event Income	37,110	0	37,110	343,973
Ancillary Income				
F & B Concessions	49,755	0	49,755	1,224,130
F & B Catering	22,165	0	22,165	162,124
Novelty Sales	5,910	0	5,910	111,995
F & B Premium	2,889	0	2,889	136,886
Parking	3,149	0	3,149	62,748
Total Ancillary Income	83,868	0	83,868	1,697,883
Other Event Income				
Premium	0	0	0	87,400
Ticket Commissions	12,905	0	12,905	761,700
Facility Fees	7,427	0	7,427	340,550
Total Other Event Income	20,332	0	20,332	1,189,650
Total Event Income	141,310	0	141,310	3,231,506
Other Operating Income	392,258	402,060	(9,802)	1,210,186
JPA Operational Increment	200,000	200,000	0	600,000
NE Event Center Stabilization	2,000,000	0	2,000,000	0
Adjusted Gross Income	2,733,568	602,060	2,131,508	5,041,692
<b>INDIRECT EXPENSES</b>				
Salaries & Wages	845,036	838,566	6,470	3,965,625
Payroll Taxes & Benefits	221,697	312,084	(90,387)	936,210
Labor Allocations to Events	(80,903)	0	(80,903)	(1,449,903)
Net Salaries and Benefits	985,830	1,150,650	(164,820)	3,451,932
Contracted Services	0	1,332	(1,332)	4,000
General and Administrative	58,140	90,868	(32,728)	360,100
Operating	10,705	16,740	(6,035)	81,700
Repairs & Maintenance	1,564	2,100	(536)	6,300
Operational Supplies	5,525	44,000	(38,475)	140,000
Insurance	53,902	59,552	(5,650)	205,660
Utilities	305,468	361,332	(55,864)	1,073,000
Other	50,543	0	50,543	0
SMG Management Fees	72,633	73,000	(367)	219,000
Total Indirect Expenses	1,544,310	1,799,574	(255,264)	5,541,692
Net Income (Loss)	1,189,258	(1,197,514)	2,386,772	(500,000)
Beginning Retained Earnings	(175,075)	(175,075)	0	(175,075)
Net Income (Loss)	1,189,258	(1,197,514)	2,386,772	(500,000)
Ending Retained Earnings	\$ 1,014,183	\$ (1,372,589)	2,386,772	(675,075)

Pinnacle Bank Arena  
Income Statement  
For the Five Months Ending January 31, 2021

	Year to Date Actual	Year to Date Budget	Year to Date Variance	Annual Budget
<b>EVENT INCOME</b>				
Direct Event Income				
Rental Income	\$ 78,661	60,400	18,261	\$ 1,064,750
Service Revenue	91,929	73,100	18,829	2,451,600
Service Expenses	(115,473)	(147,891)	32,418	(3,172,377)
Total Direct Event Income	55,117	(14,391)	69,508	343,973
Ancillary Income				
F & B Concessions	49,755	142,369	(92,614)	1,224,130
F & B Catering	35,686	20,200	15,486	162,124
Novelty Sales	5,910	9,222	(3,312)	111,995
F & B Premium	2,889	23,016	(20,127)	136,886
Parking	3,149	4,870	(1,721)	62,748
Total Ancillary Income	97,389	199,677	(102,288)	1,697,883
Other Event Income				
Premium	0	3,500	(3,500)	87,400
Ticket Commissions	12,905	73,125	(60,220)	761,700
Facility Fees	7,427	16,847	(9,420)	340,550
Total Other Event Income	20,332	93,472	(73,140)	1,189,650
Total Event Income	172,838	278,758	(105,920)	3,231,506
Other Operating Income	491,044	502,575	(11,531)	1,210,186
JPA Operational Increment	250,000	250,000	0	600,000
NE Event Center Stabilization	2,000,000	0	2,000,000	0
Adjusted Gross Income	2,913,882	1,031,333	1,882,549	5,041,692
<b>INDIRECT EXPENSES</b>				
Salaries & Wages	1,022,956	1,196,688	(173,732)	3,965,625
Payroll Taxes & Benefits	274,694	390,105	(115,411)	936,210
Labor Allocations to Events	(87,097)	(148,479)	61,382	(1,449,903)
Net Salaries and Benefits	1,210,553	1,438,314	(227,761)	3,451,932
Contracted Services	0	1,665	(1,665)	4,000
General and Administrative	69,388	125,820	(56,432)	360,100
Operating	14,446	24,763	(10,317)	81,700
Repairs & Maintenance	1,669	2,625	(956)	6,300
Operational Supplies	7,831	55,975	(48,144)	140,000
Insurance	67,325	77,730	(10,405)	205,660
Utilities	381,484	448,915	(67,431)	1,073,000
Other	53,302	0	53,302	0
SMG Management Fees	90,792	91,250	(458)	219,000
Total Indirect Expenses	1,896,790	2,267,057	(370,267)	5,541,692
Net Income (Loss)	1,017,092	(1,235,724)	2,252,816	(500,000)
Beginning Retained Earnings	(175,075)	(175,075)	0	(175,075)
Net Income (Loss)	1,017,092	(1,235,724)	2,252,816	(500,000)
Ending Retained Earnings	\$ 842,017	\$ (1,410,799)	2,252,816	(675,075)

**RESOLUTION NO.**

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public  
2 Agency:

3 That the attached Memorandum of Understanding for West Haymarket Joint Public  
4 Agency Cooperative Contract (MOU094) between Project Control of Texas, Inc. (“Project  
5 Control”) and the West Haymarket Joint Public Agency and the Memorandum of Understanding  
6 for West Haymarket Joint Public Agency Cooperative Contract (MOU096) between Alfred  
7 Benesch and Company and the West Haymarket Joint Public Agency for construction  
8 management and inspection services, for terms through August 31, 2021 with combined costs not  
9 to exceed \$60,000.00 are hereby approved and the Chairperson of the West Haymarket Joint  
10 Public Agency Board of Representatives is hereby authorized to execute said Agreements on  
11 behalf of the JPA.

12 BE IT FURTHER RESOLVED that Jennifer Brinkman, Chris Connolly, and Bob Walla  
13 are hereby authorized as a committee to select which firm will work on projects. Projects on the  
14 lists of projects prepared by Project Control shall be managed by Project Control.

Adopted this \_\_\_\_\_ day of February, 2021.

Introduced by:

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Approved as to Form & Legality:

West Haymarket Joint Public Agency  
Board of Representatives

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Legal Counsel for  
West Haymarket Joint Public Agency

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Leirion Gaylor Baird

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Tim Clare

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Tammy Ward

**MEMORANDUM OF UNDERSTANDING FOR  
West Haymarket Joint Public Agency  
Lincoln, NE  
COOPERATIVE CONTRACT  
MOU094**

**Contract Title: Construction Management and Inspection Services**

**Lead Entity and Contract Number: City of Lincoln, Consultant Agreement, RFP 20-047  
Hereinafter referred to as “the Lead Contract”**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is hereby issued to **Project Control of Texas, Inc., 728 Q Street, Suite A, Lincoln, NE 68508** hereinafter called “Contractor”, and from the West Haymarket Joint Public Agency, Lincoln, Nebraska, hereinafter called “JPA” for the purpose of the Contractor and the JPA agreeing to the terms and conditions provided in this MOU.

The Contractor and the JPA hereby agree to the following supplemental Terms and Conditions from those in the Lead Contract listed above:

## **TERMS AND CONDITIONS**

### **A. PARTICIPATING TERM**

The JPA shall participate in the Lead Contract for Construction Management and Inspection Services, Consultant Agreement, RFP 20-047. This Memorandum of Understanding, (MOU) will be effective upon execution through August 31, 2021. Upon conclusion of the initial term, the JPA has the option of renewing for three (3) additional one (1) year terms under the same terms and conditions according to the renewals allowed by the Lead Contract.

### **B. SCOPE**

The Contractor shall provide the same scope of services and provide the same products as set forth in the Lead Contract.

### **C. PRICING**

Pricing for these goods and/or services shall be pursuant to the Lead Contract, a copy thereof is attached to this Memorandum.

“Contracted Vendors” shall mean all vendors who contract or who have contracted with the City pursuant to the Lead Contract, RFP No. 20-047 for Construction Management and Inspection Services.

“Contracts” shall mean the collective contracts entered into between the City and the Contracted Vendors pursuant to the Lead Contract, RFP No. 20-047 for Construction Management and Inspection Services.

**The JPA will pay for service according to the pricing as listed in the Lead Contract, a copy thereof being attached to and made a part of this MOU. The JPA shall order on an as-needed basis for the duration of the MOU. The cost of services for the JPA shall not exceed \$150,000.00 for both MOUs (MOU094 and MOU096) combined during the MOU term without approval by the JPA.**

### **D. CONFLICTING TERMS**

To the extent other terms and conditions attached hereto conflict with the terms and conditions stated herein, the parties agree that conflicts among the documents comprising this Memorandum shall be resolved according to priority, and that a document's priority shall be determined according to the order in which the document appears in the list below in section “E. Memorandum of Understanding Documents”.

### **E. MOU DOCUMENTS**

**The following documents comprise the Memorandum of Understanding:**

1. This Memorandum of Understanding and associated Terms and Conditions;
2. Copy of Consultant Agreement, RFP 20-047
3. Indemnification and Insurance Requirements, Exhibit D/Certificate of Insurance;
4. Tax Forms 13

### **F. LAWS**

The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this Memorandum of Understanding. During the term of the MOU, the Contractor shall perform all services and/or supply all goods in accordance with the established and applicable standards and in accordance with applicable State and Local laws.

**G. IMPLIED REQUIREMENTS**

All products and services not specifically mentioned in this document or the Lead Contract, but which are necessary to provide the functional capabilities described in the Lead Contract, shall be included.

**H. CONTRACT MODIFICATION**

The MOU shall be modified only by a written MOU amendment and approval of the parties. No alteration or variation of the terms and conditions of this Memorandum shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

**I. TERMINATION**

This MOU may be terminated by the following:

1. Termination for Convenience. Either party may terminate this MOU upon thirty (30) days written notice to the other party, for any reason, without penalty.
2. Termination for Cause. The JPA may terminate this MOU for cause if the Contractor:
  - a. Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or products pursuant to the Lead Contract or;
  - b. Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders or;
  - c. Otherwise commits a substantial breach or default of any provision of the Lead Contract or this MOU. In the event of a substantial breach or default the County will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the MOU shall terminate.
3. In the event that funding is not available to continue with services as written, the JPA reserves the right to terminate use of the MOU for convenience with no financial obligation to the Contractor, Subcontractors or other stakeholders except for any amount due for services rendered or products supplied prior to notice of cancellation.

The JPA may terminate this MOU in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the JPA. In the event of unavailability of funds to pay any amounts due under the MOU, the JPA shall immediately notify the Contractor and the MOU shall terminate without penalty or expense to the JPA. Upon termination, the JPA shall pay the Contractor for any approved and documented services or products completed or purchased up to the date of termination, but not to exceed the maximum amount allowed by the Lead Contract or this MOU.

**J. SEVERABILITY**

If any provision of this MOU is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of the MOU shall not be affected and each provision of the MOU shall be enforced to the fullest extent permitted by law.

**K. ASSIGNMENT**

This MOU shall not be transferred to/or assigned to another Contractor without prior written consent confirming approval by the JPA. Any assignment without such prior written consent shall be absolutely void.

**L. FORCE MAJEURE**

Neither party shall be liable for any costs or damages from its inability to perform any of its obligations under the MOU due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of the Lead Contract or this MOU. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The JPA may grant relief from performance of the MOU if the Contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest on the Contractor. To be released based on a Force Majeure Event, the Contractor shall file a written request for relief with the City of Lincoln/Lancaster County Purchasing Division. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the Contract.

**M. ATTORNEY'S FEES**

In the event of any litigation, appeal, or other legal action to enforce any provision of the MOU, the Contractor agrees to pay all expenses of such action, as permitted by law, including Attorney's fees and costs, if the JPA is the prevailing party.

**N. PAYMENT**

Unless stated otherwise, the JPA will initiate payment within thirty (30) calendar days after:

1. All work has been performed and all equipment or other merchandise has been delivered.
2. All such labor and equipment and other materials have met all MOU specifications.
3. All such work has been approved by the JPA.
4. An invoice has been submitted which corresponds with the MOU amount and any subsequent changes approved by the JPA.

**O. INSURANCE**

See Exhibit D attached hereto for Insurance Requirements.

**P. TAXES AND TAX EXEMPTION CERTIFICATE**

The JPA is generally exempt from any taxes imposed by the State or Federal government. A Tax Exemption Certificate will be provided as applicable.

The Water Division of the City of Lincoln is taxable per Reg. 066.14A and no exemption certificate will be issued.

**Q. INDEPENDENT CONTRACTOR**

Employees of the Contractor shall not be deemed to be employees of the JPA and employees of the JPA shall not be deemed to be employees of the Contractor. The Contractor and the JPA shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the JPA's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

**R. EQUAL EMPLOYMENT OPPORTUNITY**

In connection with the carrying out of this project, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin,

ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

**S. LIVING WAGE**

The Contractor agrees to pay all employees employed in the performance of the MOU according to the City Living Wage per Section 2.81 of the Lincoln Municipal Code. The wages listed in Section 2.81 are subject to change every July. This provision is only applicable to City of Lincoln projects.

**T. E-VERIFY**

In accordance with Neb. Rev. Stat. 4-108 through 4-114, the Contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C 1324 a, otherwise 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 pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, [go to www.uscis.gov/everify](http://www.uscis.gov/everify).

**U. CITY AUDIT ADVISORY BOARD**

The Contractor's financial records may be subject to audit (City of Lincoln – Chapter 4.66 of the Lincoln Municipal Code) at a maximum of one time during any twelve (12) month period. Upon receiving thirty (30) days' advance notice. Contractor shall make available to the Contract Auditor copies of all financial records and materials germane to the MOU/purchase order, as allowed by law.

**V. INDEMNIFICATION**

See Exhibit D attached hereto for Indemnification Requirements.

**W. WAIVER**

JPA's failure or neglect to enforce any of its rights under this Memorandum will not be deemed to be a waiver of the JPA's rights.

**X. THIRD PARTIES**

This Memorandum is not intended to, and does not, create any rights or benefits on behalf of any person, whether an individual or an entity, other than the Parties involved. JPA shall not be obligated or liable hereunder to any person, whether an individual or an entity, other than Contractor.

The Contractor and the JPA hereby agree that all the terms and conditions of this MOU shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

The Contractor hereby agrees to this MOU upon completion of signatures on the Vendor Signature Page.

Vendor Signature Page

MEMORANDUM OF UNDERSTANDING FOR  
West Haymarket Joint Public Agency

Lincoln, NE  
MOU094  
Project Control of Texas, Inc.

EXECUTION BY CONTRACTOR

PROJECT CONTROL OF TEXAS, TX  
728 Q STREET SUITE A  
LINCOLN, NE 68508  
John C. Hill  
REGIONAL VICE PRESIDENT  
PARENT COMPANY

IF A CORPORATION:

Attest:

Renan Pierre-Louis Seal  
Secretary



Raba Kistner, Inc.

Name of Corporation

12821 W. Golden Ln. San Antonio, TX 78249  
Address

By: Renan A. Pierre-Louis

Duly Authorized Official

Chief Financial Officer

Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

Address

By: \_\_\_\_\_  
Member

By: \_\_\_\_\_  
Member

IF AN INDIVIDUAL:

Name

Address

Signature



**West Haymarket Joint Public Agency  
Signature Page**

**MEMORANDUM OF UNDERSTANDING FOR  
West Haymarket Joint Public Agency  
Lincoln, NE  
MOU094  
Project Control of Texas, Inc.**

**EXECUTION BY THE WEST HAYMARKET JOINT PUBLIC AGENCY**

**West Haymarket Joint Public Agency**

\_\_\_\_\_  
Leirion Gaylor Baird, Chairperson of the  
West Haymarket Joint Public Agency  
Board of Representatives

Approved Order No. \_\_\_\_\_

dated \_\_\_\_\_

## CONSULTANT AGREEMENT

THIS CONSULTANT AGREEMENT ("Agreement") is entered into by and between City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City" and

Project Control of Texas, Inc.

hereinafter referred to as "Consultant".

### RECITALS

WHEREAS, City proposes to engage Consultant in accordance with the terms and conditions set forth in RFP 20-047 and herein to render professional assistance in

Construction Management and Inspection Services

("Consultant Services") and;

WHEREAS, Consultant possesses certain skills, experience, education, and competency to perform the Consultant Services on behalf of City, and City desires to engage Consultant for such Consultant Services on an as-needed basis based on the terms listed in RFP 20-047 and those herein provided; and

WHEREAS, Consultant hereby represents that Consultant is willing and able to perform the Consultant Services in accordance with the proposed Consultant Services submitted with the RFP, Attachment A, and with this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the above Recitals and the mutual obligations of the parties hereto, the parties hereto agree as follows:

1. **Contract Administrators.** Various City Departments shall hire Consultant on an as-needed basis according to a scope developed on request. City Designee administering the project shall have authority on behalf of City to give approvals under this Agreement. Adam Hoebelheinrich, Consultant's representative, will supervise all services and be in charge of performance of the Consultant Services as set forth in this Agreement. Consultant does not have authority to bind the City to any terms and conditions associated with a project in progress without written approval of a designated City employee according to City Code and Charter.
2. **Scope of Services.** Consultant agrees to undertake, perform, and complete in an expeditious, satisfactory, and professional manner the Consultant Services, including those set forth in the attachments, on behalf of City. In the event there is a conflict between the terms proposed by Consultant and this Agreement, the terms of this Agreement shall control.
3. **Term of Agreement.** The term of this Agreement shall commence on September 1, 2020, or upon execution of this Agreement by both parties, and shall continue until completion of all obligations of this Agreement, but in no event longer than August 31, 2021, unless approved renewals or extensions are issued by written amendment. Upon agreement in writing, the parties may renew this Agreement for three (3) additional one (1) year terms.

4. **Compensation.** City agrees to pay all companies awarded a contract under 20-047 a total combined amount not to exceed Four Hundred Thousand Dollars (\$400,000.00). Unless otherwise set forth in the attachments, progress payments based upon a percentage of the Consultant Services performed as provided in the attachments shall be payable as follows upon receipt of supporting documentation acceptable to City for the work completed.

Monthly   X  
Quarterly  
Lump Sum  
As-needed  
Other

All approved payments will be made to Consultant. Failure of City to accept the recommendations or work of Consultant on the basis of differences of professional opinion shall not be the basis for rejection of the work performed by Consultant or for nonpayment of Consultant.

5. **Services; Confidentiality.** All services, including reports, opinions, and information to be furnished under this Agreement, shall be considered confidential and shall not be divulged by the Consultant, in whole or in part, to any person other than to duly authorized representatives of City, without the prior written approval of City. The parties understand that City is a governmental entity and may be required to disclose information to the extent required by law or by order of a court or other government entity. Any party may avail itself of any remedy allowed by law to respond or object to the disclosure. The provisions in this section shall survive any termination of this Agreement.
6. **City Employees; Raiding Prohibited.** Consultant shall not engage the services of any person or persons presently in the employ of City for work covered by this Agreement without the prior written consent of City.
7. **Termination of Agreement.** Termination may occur for any of the following reasons:
- This Agreement may be terminated by City or Consultant if the other party fails to adequately perform any material obligation required by this Agreement ("Default"). Termination rights under this section may be exercised only if the defaulting party fails to cure a Default within ten (10) calendar days after receiving written notice from the non-defaulting party specifying the nature of the Default.
  - City may terminate this Agreement, in whole or part, for any reason for City's own convenience upon at least ten (10) calendar days' written notice to Consultant.
  - City may terminate this Agreement in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of City. In the event of unavailability of funds to pay any amounts due under this Agreement, City shall immediately notify Consultant, and this Agreement shall terminate without penalty or expense to City. Upon termination, City shall pay Consultant for any approved and documented Consultant Services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.
  - If the Agreement is terminated by City as provided in (b) or (c) above, Consultant shall be paid for all Consultant Services performed, and reimbursable expenses incurred, not to exceed the maximum amount payable under the compensation section above, up until the date of termination. Consultant hereby expressly waives any and all claims for damages or compensation arising under this Agreement except as set forth in this section in the event of termination. Further, Consultant agrees that, upon termination as provided in this section, it shall not be employed by any developer or other party who is or may be interested in the Consultant Services for one (1) year after such termination, without prior approval of City.
  - City reserves the right to withhold payment for Consultant Services rendered that is not in compliance with this Agreement.

8. **Additional Services.** City may from time to time, require additional services from Consultant outside the scope of the contract. Such additional services, including the amount of compensation for such additional services, which are mutually agreed upon by and between City and Consultant shall be effective when incorporated in written amendments to this Agreement. Additional services shall not begin until the amendment is executed.
9. **Fair Employment.** Consultant shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08, Neb. Rev. Stat. §48-1122, as amended, or such similar federal law as may be applicable.
10. **Fair Labor Standards.** Consultant shall maintain Fair Labor Standards in the performance of this Agreement as required by Chapter 73, Nebraska Revised Statutes, as amended.
11. **Assignability.** Consultant shall not assign any interest in this Agreement, except for the work of the subcontractors identified in this Agreement, delegate any duties or work required under this Agreement, or transfer any interest in the same (whether by assignment or novation), without an executed amendment thereto; provided, however, that claims for money due or to become due to Consultant from City under this Agreement may be assigned without such approval, but notice of any such assignment shall be furnished promptly to City.
12. **Interest of Consultant.** Consultant agrees that Consultant presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of the Consultant Services required to be performed under this Agreement. Consultant further agrees that, in the performance of this Agreement, no person having any such interest shall be employed or retained by Consultant under this Agreement.
13. **Copyrights, Royalties, and Patents; Warranty.**
  - a. Without exception, Consultant represents and warrants that the consideration for this Agreement includes Consultant's payment, if any, for any and all royalties or costs due any third party arising from patents, trademarks, copyrights, and other similar intangible rights claimed by any such third party in any way involved with or related to the Consultant Services provided herein by Consultant pursuant to this Agreement. Further, Consultant shall pay all related royalties, license fees, or other similar fees for any such intangible rights. Consultant represents that all materials, processes, or other protected rights, if any, to be used in the creation of the Consultant Services have been duly licensed or authorized by the appropriate parties for such use. Consultant agrees to furnish City upon demand written documentation of such license or authorization and if unable to do so, Consultant agrees that City may withhold a reasonable amount from Consultant's compensation herein to defray any associated costs to secure such license or authorization or defend any infringement claim.
  - b. Consultant shall indemnify City and defend suits or claims for infringement for damages, including but not limited to attorney's fees, of any patent, copyright, trademark, or other intangible rights that Consultant has used in the course of performing this Agreement.
  - c. Consultant represents and warrants to City that it is free to enter into this Agreement and that its performance thereunder will not conflict with any other Agreement to which Consultant may be a party. Consultant represents and warrants to City that the Service is unique and original, is clear of any claims or encumbrances, and does not infringe on the rights of any third parties.
  - d. Consultant agrees to and hereby transfers all right, title, and interest, including those of a property or copyright nature, in any reports, studies, data, website creation, digital files, imagery, metadata, maps, statistics, forms, and any other works or materials produced under the terms of this Agreement. No such work or materials produced, in whole or in part, under this Agreement, shall be subject to private use or copyright by Consultant without express written consent of City. City shall have the unrestricted rights of ownership of such works or materials and may freely copy, reproduce, broadcast, or otherwise utilize such works or materials as City deems appropriate. Consultant warrants that all materials, processes or other protected rights to be used have been duly licensed or authorized for City's use.

14. **Insurance; Coverage; Indemnification.** Consultant, prior to beginning work, agrees to City's insurance clause requirements for vendors and contractors including indemnification requirements and shall provide proof of insurance coverage in a form satisfactory to City, which shall not withhold approval unreasonably, with the coverages, minimum limits, and endorsements described in the attached INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY, AND PUBLIC BUILDING COMMISSION CONTRACTS as found at: <https://lincoln.ne.gov/city/finance/purch/index.htm> and the insurance clause shall be attached and incorporated herein to the Agreement.
15. **Notice.** Any notice, requests, demands, or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed given if personally delivered on the other party by the party giving such notice, or mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight carrier, to the following addresses:
- |   |   |
|---|---|
| City of Lincoln, Nebraska<br>Department: Purchasing Department<br>Attention: Bob Walla<br><br>440 So. 8 <sup>th</sup> Street, Suite 200<br>Lincoln NE 68508 | Project Control of Texas, Inc.<br>Adam Hoebelheinrich<br>728 Q Street, Suite A<br>Lincoln, NE 68508 |
|---|---|
16. **Independent Contractor.** City is interested only in the results produced by this Agreement. Consultant has sole and exclusive charge and control of the manner and means of performance. Consultant shall perform as an independent contractor, and it is expressly understood that neither Consultant nor any of its staff are employees of City and are not entitled to any City benefits including, but not limited to, overtime, retirement benefits, workers' compensation, sick leave, injury leave, or other leave provisions.
17. **Nebraska Law.** This Agreement shall be construed pursuant to the laws of the State of Nebraska.
18. **Integration.** This Agreement represents the entire agreement between the parties, and all prior negotiations and representations are hereby expressly excluded from this Agreement. Any attachments to this Agreement are a part of and incorporated into this Agreement, which may include but are not limited to the scope of Consultant Services, schedule of fees, addendums, special provisions, specifications, plans, RFP or bid documents, and any insurance certificates and endorsements. Any RFP or bid documents not attached to this Agreement may be referenced at [www.lincoln.ne.gov](http://www.lincoln.ne.gov)
19. **Amendment.** All amendments to this Agreement shall be in writing signed by both City and Consultant.
20. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
21. **Waiver of Contractual Right.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
22. **Audit and Review.** This Agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code, and Consultant shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law.
23. **Records Retention.** Unless City specifies in writing a different period of time, Consultant agrees to preserve and make available at reasonable times all of its books, documents, papers, records, and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of the expiration or termination of this Agreement. See City of Lincoln Records Retention Schedule. Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

24. **Living Wage.** If the compensation for services provided pursuant to this Agreement is equal to or exceeds \$25,000, this Agreement is subject to the Living Wage Ordinance of the Lincoln Municipal Code Chapter 2.81. The ordinance requires that, unless specific exemptions apply or a waiver is granted, Consultant shall provide payment of a minimum living wage to employees providing services pursuant to this Agreement. Under the provisions of the Lincoln Living Wage Ordinance, City shall have authority to terminate this Agreement and to seek other remedies for violations of this Ordinance.
25. **Federal Immigration Verification.** In accordance with Neb. Rev. Stat. §4-108 through §4-114, Consultant agrees to register with and use a federal immigration verification system to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. §1324a, otherwise 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. Consultant shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C. §1324b. Consultant shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to [www.uscis.gov/everify](http://www.uscis.gov/everify).
- a. **Attestation Form.** If Consultant is an individual or sole proprietor, Consultant agrees to complete the United States Citizenship Attestation Form as provided by City and attach it to the Agreement.
- b. **Public Benefits Eligibility Status Check.** If Consultant is agreeing to determine eligibility for and provide a public benefit as public benefit is defined under Neb. Rev. Stat. §§ 4-108 through 4-114, Consultant agrees to have each applicant for public benefits attest that he or she is a U.S. citizen or qualified alien using the form attached. Consultant agrees to register and use the SAVE Program as required under Neb. Rev. Stat. §§4-108 through 4-114. If the applicant indicates he or she is an alien, Consultant shall verify the applicant's lawful presence in the United States as provided under the SAVE Program and retain all documentation and provide copies of such documentation at City's request. For information on the SAVE program, go to [www.uscis.gov/SAVE](http://www.uscis.gov/SAVE).
26. **Representations.** Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid, and binding obligation of said party.

IN WITNESS WHEREOF, Consultant and City do hereby execute this Agreement as of the date of execution set forth below.

CITY OF LINCOLN, NEBRASKA

DATE: 9/14/2020

By:

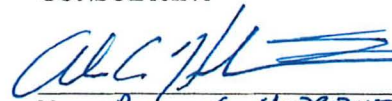
  
Leirion Gaylor Baird, Mayor of Lincoln

CONSULTANT

DATE:

8/31/2020

By:

  
Name: Adam C. Hoebelweitz  
Title: REGINA VILE PRESIDENT

Address:

728 Q STREET  
SUITE A  
LINCOLN, NE 68508

Phone:

402-477-0487

Federal EIN #

74-2334321





**UNITED STATES CITIZENSHIP ATTESTATION FORM  
FOR INDIVIDUAL CONSULTANT  
(to be used pursuant to Section XXVII.B)**

For the purposes of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

I am a citizen of the United States.

OR

I am a qualified alien under the Federal Immigration and Nationality Act. My immigration status and alien number are as follows:

\_\_\_\_\_, and I agree to provide a copy of the USCIS (United States Citizenship and Immigration Services) documentation upon request required to verify the Consultant's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete and accurate and I understand that this information may be used to verify my lawful presence in the United States. I understand and agree that lawful presence in the United States is required and the consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

PRINT NAME: Adam Christopher Hoebel-Henrich  
(First, Middle, Last)

SIGNATURE: 

DATE: 8/31/2020

**SIGN  
HERE**

**UNITED STATES CITIZENSHIP ATTESTATION FORM  
FOR PUBLIC BENEFIT  
(to be used pursuant to Section XXVII.C)**

For the purposes of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

I am a citizen of the United States.

OR

I am a qualified alien under the Federal Immigration and Nationality Act. My immigration status and alien number are as follows:

\_\_\_\_\_, and I agree to provide a copy of my USCIS (United States Citizenship and Immigration Services) documentation upon request.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete and accurate and I understand that this information may be used to verify my lawful presence in the United States.

PRINT NAME: Adam Christopher Hoebel  
(First, Middle, Last)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

8/31/2020

**SIGN  
HERE**





August 26th, 2020

Mr. Bob Walla  
City of Lincoln/Lancaster County Purchasing Agent  
City of Lincoln Nebraska  
440 So. 8<sup>th</sup> Street, Suite 200  
Lincoln, NE 68508

Re: Proposed Hourly and Expense Rates

Dear Bob:

We would like to once thank the City of Lincoln once again for allowing us to provide construction management and inspections on their projects. We look forward to successfully completing the current projects and to doing the same on future projects with the City.

Per your email we have assembled our proposed hourly rates to be in effect from September 2020 through August 31, 2021. If extensions are granted we can discuss at that time or agree to adjustments according to the Midwest CPI for cost of living will be included going forward.

The proposed rates are as follows:

September 1, 2020- August 31, 2021	
Proposed Billing Rates	
Staff Level	Billing Rate/HR
Project Executive /Executive Leadership	\$173
Senior Project Manager / Contract Lead	\$143
Project Manager	\$137
Onsite Lead PM/Project Inspector	\$125
Onsite PM/Project Inspector	\$95
Project Coordinator/Administration	\$60

We were also tasked with proposed expense rates. The rates above cover any typical expenses we will occur on projects performed with in the city limits. If for some reason non typical expenses are incurred they will be approved ahead of time, documented, and billed at cost.

Thank you again for awarding us this contract with the City of Lincoln. Should you have any further questions, you can reach me via cell at (402) 405-9311 or e-mail at [ahoebelheinrich@projectcontrol.com](mailto:ahoebelheinrich@projectcontrol.com).

Best regards,

Adam Hoebelheinrich  
Regional Vice President



**Lancaster**  
EVENT CENTER

## **20-047 Addendum 1**

### **Project Control / PC Sports**

### **Supplier Response**

#### **Event Information**

Number: 20-047 Addendum 1  
Title: Construction Management and Inspection Services  
Type: Request for Proposal  
Issue Date: 7/10/2020  
Deadline: 7/24/2020 12:00 PM (CT)

#### **Contact Information**

Contact: Robert Walla Purchasing Agent  
Address: Suite 200  
Purchasing  
440 S. 8th St.  
Lincoln, NE 68508  
Phone: 1 (402) 441-8309  
Fax: 1 (402) 441-6513  
Email: [rwalla@lincoln.ne.gov](mailto:rwalla@lincoln.ne.gov)

## Project Control / PC Sports Information

Contact: Adam Hoebelheinrich

Address: 728 Q Street  
Suite A  
Lincoln, NE 68508

Phone: (402) 477-0487

Fax: (210) 545-5450

Email: [ahoebelheinrich@projectcontrol.com](mailto:ahoebelheinrich@projectcontrol.com)

By submitting your response, you certify that you are authorized to represent and bind your company.

Adam Hoebelheinrich

*Signature*

*Submitted at 7/24/2020 8:39:29 AM*

[ahoebelheinrich@projectcontrol.com](mailto:ahoebelheinrich@projectcontrol.com)

*Email*

## Response Attachments

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### RFP 20-047 - Construction Management Services.pdf

Project Control's Response to RFP 20-047 Construction Management Services

## Bid Attributes

### 1 Agreement to Addendum No. 1

*Addenda are instruments issued by the Purchasing Department prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Vendor must acknowledge receipt of this addendum in the space provided at time of bid submission.*

*Be advised of the following clarifications and changes to the Specification and bidding documents:*

**1. The following are a list of projects which are currently being conducted by the current Vendor, or are being discussed by the City for future work that may be performed by the awarded Vendor from this RFP. There is no guarantee that the awarded Vendor will be responsible for any of the work listed herein:**

New fire stations: All are in warranty phase and work is being done with public safety on final budget closeout for the sales tax monies. LFR also has requested CM services for the median reconstruction and signal flasher work at stations 10, 12, and 15. Additional work may be requested to add permanent generators at 10, 12, and 16 with excess sales tax funds.

LPD Maintenance Garage: Project is between substantial and final completion. Awarded vendor may be helping with closeout and warranty claims. Additional work may be done to the building requiring CM assistance.

Eagle Parking Garage: Manage four separate contracts and three general contractors. Demolition has reached final completion. Structural restoration should be done late this fall. Elevator and general construction contract work will continue into the first few months of 2021.

Parking Deck 4: CMAR award is in process. Design is also in progress, construction anticipated to begin this fall with completion end of next year.

Aging Partners: Assist with analyzing and planning a potential move out to the VA campus.

Woods Tennis, Fire Station 11, Lumberworks Liner Block: Assist with warranty claims as they arise.

Gallery Alley - Assist with lighting maintenance.

Potential Future Projects - Library and Pershing and Block 65 parking garage project.

*All other terms, conditions, and requirements of the request remain the same as originally indicated in the document or as modified on previous addenda.*

Robert Walla  
Purchasing Agent

### 2 Electronic Signature

Please check here for your electronic signature.

### 3 Insurance Requirements and Endorsements

Vendor agrees to provide insurance coverage for each checked box on the Insurance Clause document in the Bid Attachments including the submission of the Certificate of ACORD and the applicable endorsements.

Insurance Certificate and required Endorsements are required at time of contract execution by the vendor.

**Vendors are strongly encouraged to send the insurance requirements and endorsement information to their insurance agent prior to bid close in order to expedite the contract execution process.**

**4 Bid Documents**

I acknowledge and accept that it is my responsibility as a Bidder to promptly notify the Purchasing Department Staff prior to the close of the bid of any ambiguity, inconsistency or error which I may discover upon examination of the bid documents including, but not limited to the Specifications.

**5 RFP**

I acknowledge reading, understanding and agree to the "Request for Proposal" document content and requirements.

**6 Contact**

Name of person submitting this bid:

**7 Sample Contract**

I acknowledge reading and understanding the sample contract.

**Bid Lines****1**

This is to notify you that RFP 20-047 for Construction Management and Inspection is available. Please prepare your response and attach a PDF file to the Response Attachment section of Ebid. Respond to the Attribute section (above) of this electronic bid and submit before the closing date and time. Also, you are required to enter a 0 for your response in this line item. If you have any questions, call 402-441-7417.

Quantity:   1   UOM:  EA  Unit Price:  Total:

**Response Total: \$0.00**

## INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS

Insurance coverage on this Contract will be required for the entities selected below

☒ City of Lincoln   ☐ Lancaster County   ☐ Public Building Commission

Vendors must provide coverage & documents related to the items with a check mark in Sections 1 – 1.9. This includes proof of coverage and waivers as required below.

All Vendors must comply with Sections 2-8.

THE REQUIREMENTS HEREIN APPLY TO CONTRACTS TO BE ISSUED BY THE CITY OF LINCOLN, LANCASTER COUNTY, AND THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION. FOR PURPOSES OF CERTIFICATES, ENDORSEMENTS AND OTHER PROOF REQUIRED HEREIN, ONLY INCLUDE THE ENTITY ISSUING THE CONTRACT.

FAILURE OF THE APPROPRIATE ENTITY (CITY, COUNTY, OR PUBLIC BUILDING COMMISSION) TO OBJECT TO THE FORM OF THE CERTIFICATE OR ENDORSEMENT OR TO DEMAND SUCH PROOF AS IS REQUIRED HEREIN SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE INSURANCE REQUIREMENTS SET FORTH BELOW.

### **Insurance; Coverage Information**

The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the City/County/PBC, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Contract are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Contract shall begin until all insurance obligations herein are met to the satisfaction of the City/County/PBC, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the City/County/PBC prior to execution of the Contract and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000 per occurrence or as may be approved by the City or County as appropriate. Said insurance shall be written on an **OCCURRENCE** basis, and shall be **PRIMARY, with any insurance coverage maintained by the City/County/PBC being secondary or excess.**

### **Certificates**

The Contractor shall provide certificates of insurance and such other proof, such as endorsements, as may be acceptable to the City or County (as appropriate) evidencing compliance with these requirements. The Contractor shall provide a Certificate of Insurance demonstrating the coverage required herein and the necessary endorsements or other proof and waivers described herein and below before being permitted to begin the work or project pursuant to this Contract.

☒ **1. Commercial General Liability**

The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/ Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the City/County/PBC. The required insurance must include coverage for all projects and operations of Contractor or similar language that meets the approval of the City/County/PBC, which approval shall not be unreasonably withheld.

☒ **1.1 Additional Insured (Requires an Endorsement Form)**

All Contractors shall provide an Additional Insured Endorsement form or other proof showing the City/County/PBC as additional insured for commercial general liability, auto liability and such other coverages as may be required by the City/County/PBC. The form or other proof shall be as is acceptable to the City/County Attorney.

☒ **1.2 Automobile Liability**

The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

☐ **1.3 Garage Keepers / Garage Liability**

The Contractor shall provide garage insurance, if required. Coverage shall include Garage Liability and Garage Keepers on a Direct Primary Basis, including Auto Physical Damage, with limits of not less than \$1,000,000 each accident Bodily Injury and Property Damage combined liability and Actual Cash Value auto physical damage. Coverage symbol(s) 30 and 21 shall be provided, where applicable.

☒ **1.4 Workers' Compensation; Employers' Liability**

The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000 each accident or injury shall be included. The Contractor shall provide the City/County/PBC with an endorsement for waiver of subrogation or other proof of such waiver as may be acceptable to the City or County. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

☐ **1.5 Builder's Risk Insurance**

The Contractor shall purchase and maintain builder's risk property insurance for all sites upon which construction is occurring as provided by Contract and all storage sites where equipment, materials, and supplies of any kind purchased pursuant to the Contract are being held or stored unless the Contractor receives notice that the City/County/PBC has obtained a builder's risk policy for itself. Except to the extent recoverable by Contractor from another subcontractor, deductibles shall be the responsibility of the Contractor. This coverage is required whenever the work under contract involves construction or repair of a building structure or bridge.

☐ **1.5.1 Waiver of Builder's Risk Insurance Carrier's Subrogation Rights**

The Contractor and its subcontractor(s) waive all rights of action and subrogation that the insurance company providing the builder's risk policy may have against each of them and/or the City/County/PBC, Architect, and the officers, agents and employees of any of them, for all claims, damages, injuries and losses, to the extent covered by such property insurance. Such waiver of subrogation shall be effective for such persons even though such persons would otherwise have a duty of indemnification or contribution, contractual or otherwise, and even though such persons did not pay the insurance premium directly or indirectly, and whether or not such persons had an insurable interest in any property damaged. The Contractor or subcontractor shall provide proof of such waiver.

☐ **1.6 Pollution Liability**

Contractors shall provide proof of pollution liability insurance arising out of all operations of the Contractors and subcontractors, due to discharge, dispersal, release, or escape of contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water with bodily injury and property damage limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- 2) Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 3) Defense including loss adjustment costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;
- 4) Definition of pollution conditions shall include asbestos, lead, and mold so that these risks are covered if caused by Contractor/successful candidate's work or operations.
- 5) Coverage is required on an occurrence form.



☒ **1.7 Errors and Omissions; Professional Liability**

Errors and Omissions or Professional Liability insurance, as may be required, covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act, including infringement of intellectual property (except patent and trade secret) of the Contractor. This coverage is required whenever the Contractor or service provider is required to be certified, licensed or registered by a regulatory entity and/or where the provider's judgment in planning and design could result in economic loss to City/County/PBC.

☐ **1.8 Railroad Contractual Liability Insurance**

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or railroad crossing, the Contractor must provide proof acceptable to the City or County that any exception for such work in the Contractor's commercial general liability policy has been removed or deleted.

☐ **1.8.1 Railroad Protective Liability**

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City/County/PBC Purchasing Department prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

☐ **1.9 Cyber Insurance**

The Contractor shall maintain network risk and cyber liability coverage (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

2. **Cancellation Notice**

All Contractors shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation during the term of the Contract and during the period of any required continuing coverages. The Contractor shall provide, prior to expiration of the policies, certificates and endorsement forms evidencing renewal insurance coverages. The parties agree that the failure of City/County/PBC to object to the form of a certificate and/or additional insured endorsement or endorsement forms provided shall not constitute a waiver of this requirement.

3. **Risk of Loss**

Except to the extent covered by the builder's risk insurance, the Contractor shall have the sole responsibility for the proper storage and protection of, and assumes all risk of loss of, any subcontractor's Work and tools, materials, equipment, supplies, facilities, offices and other property at or off the Project site. The Contractor shall be solely responsible for ensuring each subcontractor shall take every reasonable precaution in the protection of all structures, streets, sidewalks, materials and work of other subcontractors. Contractor shall protect its Work from damage by the elements or by other trades working in the area.

4. **Umbrella or Excess Liability**

The Contractor may use an Umbrella, Excess Liability, or similar coverage to supplement the primary insurance stated above in order to meet or exceed the minimum coverage levels required by this Contract.

5. **Minimum Scope of Insurance**

All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

6. **Indemnification**

To the fullest extent permitted by law the Contractor shall indemnify, defend, and hold harmless the Owner, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the Work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the

indemnification by the Contractor shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the Owner.

7. **Reservation of Rights**

The City/County/PBC reserves the right to require a higher limit of insurance or additional coverages when the City/County/PBC determines that a higher limit or additional coverage is required to protect the City/County/PBC or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.

8. **Sovereign Immunity**

Nothing contained in this clause or other clauses of this Contract shall be construed to waive the Sovereign Immunity of the City/County/PBC.

9. **Further Contact**

For further information or questions concerning coverage or acceptable forms, Contractors may contact the Purchasing Division or the department that issued the bid or the request for proposal.

For general questions regarding Insurance Requirements, please contact Risk Management for the City or County.

## EXHIBIT 1

If your company meets the minimum requirements as listed in this RFP under Section I., **F. ESSENTIAL QUALIFICATIONS AND EXPERIENCE**, then please complete this form and include copies in all hard copy responses (Include one in the Original and each of the hard copy Proposal responses) along with a copy in the USB Drive. Fill in your company name in the two areas listed below, sign and date.

I have read and understand the "ESSENTIAL QUALIFICATIONS AND EXPERIENCE" requirements as outlined. I declare that our company, \_\_\_\_\_ meets all said requirements in the capacity of the Company and not through the experience of our sub-contractors or staffs' experience acquired through previous employment at other companies.

\_\_\_\_\_ was identified as the Contractor/Provider contractually responsible in contract agreements performing all the requirements as listed in the above referenced section of the RFP.

Further, our company understands and agrees that this form does not represent or replace any other submissions requested under Section IV., **B. 2. for EXPERIENCE, PROPOSED STAFF MANAGEMENT APPROACH AND SUBCONTRACTORS** for the evaluation. The sole purpose of this form is to declare that our company meets the minimum qualifications and experience for acting in the capacity of the responsible party and to ascertain our company, regardless of sub-contractors and former experience of employees, is eligible for consideration in this RFP process.

I am an authorized signer to represent our company on this proclamation.

\_\_\_\_\_  
Authorized Company Representative

\_\_\_\_\_  
Date

Prepared for  
**City of Lincoln**

**Response to RFP 20-047**  
**Construction Management/Inspection Services**

**Submitted: Friday, July 24, 2020**



**PROJECT  
CONTROL**  
A RABA KISTNER COMPANY

## EXHIBIT 1

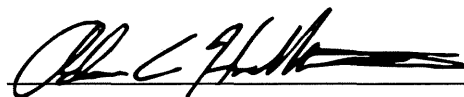
If your company meets the minimum requirements as listed in this RFP under Section I., **F. ESSENTIAL QUALIFICATIONS AND EXPERIENCE**, then please complete this form and include copies in all hard copy responses (Include one in the Original and each of the hard copy Proposal responses) along with a copy in the USB Drive. Fill in your company name in the two areas listed below, sign and date.

I have read and understand the "ESSENTIAL QUALIFICATIONS AND EXPERIENCE" requirements as outlined. I declare that our company, Project Control meets all said requirements in the capacity of the Company and not through the experience of our sub-contractors or staffs' experience acquired through previous employment at other companies.

Project Control was identified as the Contractor/Provider contractually responsible in contract agreements performing all the requirements as listed in the above referenced section of the RFP.

Further, our company understands and agrees that this form does not represent or replace any other submissions requested under Section IV., **B. 2. for EXPERIENCE, PROPOSED STAFF MANAGEMENT APPROACH AND SUBCONTRACTORS** for the evaluation. The sole purpose of this form is to declare that our company meets the minimum qualifications and experience for acting in the capacity of the responsible party and to ascertain our company, regardless of sub-contractors and former experience of employees, is eligible for consideration in this RFP process.

I am an authorized signer to represent our company on this proclamation.



Authorized Company Representative

July 24, 2020

Date



To Whom It May Concern:

Project Control has partnered with the City of Lincoln since 2014 and we sincerely look forward to continuing to serve the City and our community by providing Construction Management/Inspection services. Given our commitment to excellence, proven project management experience, local market expertise, and our ability to bring continuity to the projects and processes, we trust you will find our team uniquely qualified and unmatched in our ability to serve the City.

## **Commitment to Excellence**

Our team is poised and ready to serve as a steward for the City. We apply our commitment to excellence and accountability to every single project we are assigned, and we look forward to continuing to do that for you. Our Nebraska-based team of experts will draw upon over 40 years of providing Project Management services to meeting the challenges and demands of your projects.

## **Proven Project Management/Inspections Experience**

Project Control is a Project Management firm known across the country as a pioneer in program and project management with intimate knowledge of inspection services. Our experience has led us to the realization that every new building project is comprised of three companion projects – the design and construction project, the IT infrastructure project, and the furniture and equipment procurement project. Our staff of project managers embrace this concept and apply themselves across all these tasks on behalf of our owner clients on every facility project we deliver.

## **Local Market Expertise**

Since 2011, Project Control has successfully managed over \$700 million in projects in Nebraska, the overwhelming majority of which are public projects for the City of Lincoln and the West Haymarket JPA. We understand and follow public procurement processes and the need to work together with the designers and contractors to achieve our owner's goals for a successful project.

## **Continuity**

Since 2014, Project Control has served as Construction Manager/Inspector for the City of Lincoln. Our team is uniquely qualified to provide seamless management services as outlined in the RFP given our successful history of working with the City. The City can leverage our intimate knowledge of the projects and the City's processes to eliminate any project delays on active projects and immediately start on any upcoming projects without a learning curve.

We believe our approach, coupled with our commitment to team building and serving the community is a great fit for the City of Lincoln. Please note, I am authorized to bind Project Control to a contract.

Respectfully submitted,

Adam Hoebelheinrich  
Regional Vice President



---

## Company name, address and telephone number

Project Control  
728 Q Street, Suite A  
Lincoln, Nebraska 68508  
Phone: 402-477-0487

## Years established and former names of your company

Founded in 1977, Project Control has always operated as Project Control. There as an incorporation change in 1984 as outlined below.

Project Control of Texas, Inc.: State of Texas Corporation incorporated 09/26/1984

Project Control, Inc.: Previous State of California Corporation incorporated 04/28/1977

## Types of services your company is particularly qualified to perform

Project Control provides Owner's Representation, Project (Construction) Management, Program Management, and Inspection services.

## Average number of staff employed

Our firm currently has 52 total employees with 8 employees in Nebraska; this is representative of the average number of employees for the past several years.

**All deviations, modifications, additional or other changes, including but not limited to, the RFP document, Insurance requirements, Ebid attachments (i.e. sample "Contract Agreement") and Addendums, shall be declared on company letterhead with reference to the affected document(s) and section(s). Any such deviations, modifications placed elsewhere and not described in this section**

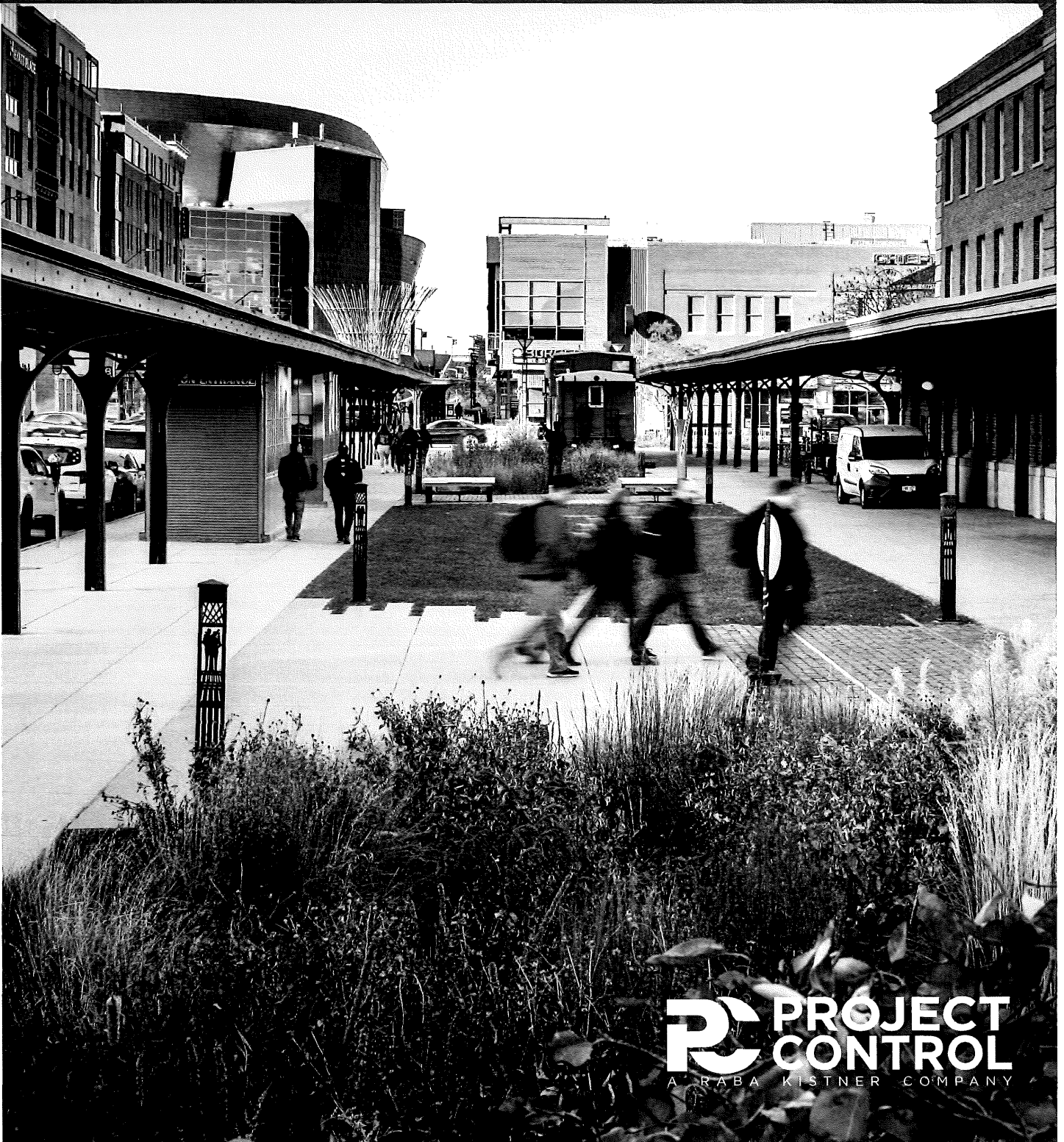
Project Control does not have any deviations, proposed modifications, or changes as outlined in the RFP.





**EXPERIENCE , PROPOSED STAFF MANAGEMENT  
APPROACH, AND SUBCONTRACTORS**

**1**



**PROJECT  
CONTROL**  
A RABA KISTNER COMPANY

# City of Lincoln Services Contract

Lincoln, Nebraska



## **a. Time Period of Contract**

2014 - Present

## **b. Current Contracts and estimated costs**

Multiple Projects since beginning of contract.  
Final Completed Project Value: ~ \$67 M  
Currently Managed Project Value: ~ \$33 M

Current contract is an extension to our original agreement, effective from 4/1/20-8/31/20; based on hours with a cap of \$120,000.

## **d. Company/Owner Reference**

City of Lincoln  
Jennifer Brinkman, Chief of Staff, Mayor  
402-441-7511, jbrinkman@lincoln.ne.gov

Chris Connolly, Assistant City Attorney  
402-441-7281, CConnolly@lincoln.ne.gov

Chief Pat Borer, Lincoln Fire & Rescue  
402-441-8351, pborer@lincoln.ne.gov

## **e. Prime or Subcontract**

Prime Contractor  
No Subcontractor; not applicable

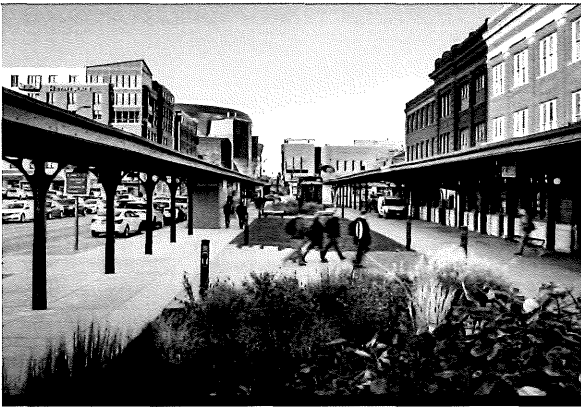
## **c. Proposer's Responsibilities**

In the spring of 2014, the City of Lincoln hired Project Control to provide a wide variety of Owner's representation and project management services to supplement its existing staff. Since that time, Project Control has assisted the City on projects including the Municipal Services Center renovations, new fire stations and a joint police/fire station, a new indoor tennis complex, parking garages, a variety of infrastructure projects, streetscape improvements, lighting and civic art projects, and coordination with private redevelopment projects.

From budget development and management to scope definition, from designer procurement to final closeout, we have successfully worked on more than twenty different projects of varying size, scope, difficulty, and complexity, with each and every project being completed successfully and to the City's satisfaction.

## **f. Specialized Qualifications**

We hold the ability to staff up or down as our clients require, as demonstrated throughout our work with the City of Lincoln. This provides the flexibility to complete projects at the opportune times without worrying about overloading an already busy City staff or hiring additional employees that might need to be furloughed during slow periods.



#### **a. Time Period of Contract**

2011 - Present

#### **b. Current Contracts and estimated costs**

Multiple Projects since beginning of contract.  
Final Completed Program Value: ~ \$366 M  
Currently Managed Project Value: ~ \$220,000  
for ongoing small projects and oversight of some JPA properties.

Current contract with WHJPA is an extension added to our original agreement effective from 1/1/20-12/31/20. It based on hours with a cap of \$79,805.

#### **d. Company/Owner Reference**

West Haymarket Joint Public Agency  
Tim Clare, Board Member  
402-475-5100  
tclare@nebraska.edu

#### **e. Prime or Subcontract**

Prime Contractor  
No Subcontractor; not applicable

#### **c. Proposer's Responsibilities**

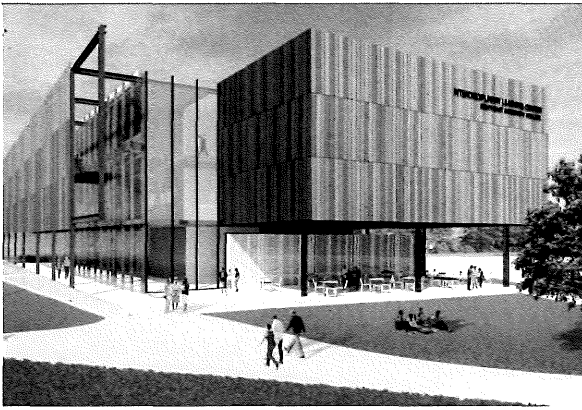
Project Control began work for the West Haymarket JPA on the Pinnacle Bank Arena in the spring of 2011. The JPA quickly realized the value and professionalism which Project Control brought to the project, and in the fall of 2011 expanded our scope of services to include program management of the entire West Haymarket Redevelopment Program. Improvements include several critical entertainment, streetscape, business, parking garages, and infrastructure projects as well as the Pinnacle Bank Arena project. Our work continues on this major downtown redevelopment.

Project Control provided both program and project management services including day-to-day construction management to include budget management, change order management, contractor coordination, design management, and close-out. We continue to provide budget management on the overall capital program budget which currently has \$11 million in available contingency after all major projects have been completed.

#### **f. Specialized Qualifications**

Through our detailed record keeping and thorough budgetary practices, Project Control serves as a knowledge base for all of the WHJPA projects. That, combined with our low employee turnover and almost 9 years of the experience with the JPA, affords our team the ability to quickly answer questions and resolve problems.





#### **a. Time Period of Contract**

April 2018 - Present

#### **b. Current Contracts and estimated costs**

Multiple Projects at 5 Campus Locations  
Final Completed Project Value: ~ \$50 M  
Currently Managed Project Value: ~ \$90 M

Contract is hourly with a cap and a current end date of October 2022.

#### **d. Company/Owner Reference**

Southeast Community College  
Aaron Epps, Facilities Director  
402-437-2700  
aepps@southeast.edu

#### **e. Prime or Subcontract**

Prime Contractor  
No Subcontractor; not applicable

#### **c. Proposer's Responsibilities**

Project Control is assisting Southeast Community College with Owner's Representation and Supplementation to their facilities team on several projects they are beginning to design and construct on all of their campuses.

All of the diverse projects have separate design and construction contracts. They are being managed simultaneously and built in several locations. Project Control is bringing our expertise with the successful use of Construction Manager at Risk construction delivery on Nebraska Public Projects to ensure SCC has successful projects their students and taxpayers can be proud of. Project Control is also assisting SCC with the planning of the next phases of major capital construction projects and master planning at all of their campuses.

#### **f. Specialized Qualifications**

After SCC's initial bond request vote did not pass, we helped them assess all of the projects on their master plan and then prioritize projects for needs, budgets, and schedule. We also provided cash flows for financing plans. Several of these projects are now complete and have boosted SCC's enrollment.

## b. Summary of Proposer's Proposed Staff Management Approach and Subcontractors

### B.I. PROPOSED APPROACH TO MANAGEMENT

Project Control's implementation of our four project management principles (***Teamwork and Communication, Quality in All Processes, Budget and Schedule Conformance, and Complete and Accurate Documentation***) translates to success for the City's projects. These same principles our team utilized to make certain of success with the City's projects since 2014 will continue to drive our approach for the projects outlined in this RFP.

Our team, led by Adam Hoebelheinrich and Caleb Swanson, will continue to approach every project by first understanding the project needs and goals, setting a complete budget, assisting in the RFP process, managing the designers to make sure needs are met, managing the contractor until completion of warranty for fulfillment, limiting changes, tracking the budget and being a team player that is firm but fair with others while keeping our client first. We also will leverage our understanding of the City's policies and procedures and the relationships we have built with City staff to be very efficient with our time.

### B.II. PROFESSIONAL STAFF AND PRIMARY WORK ASSIGNED

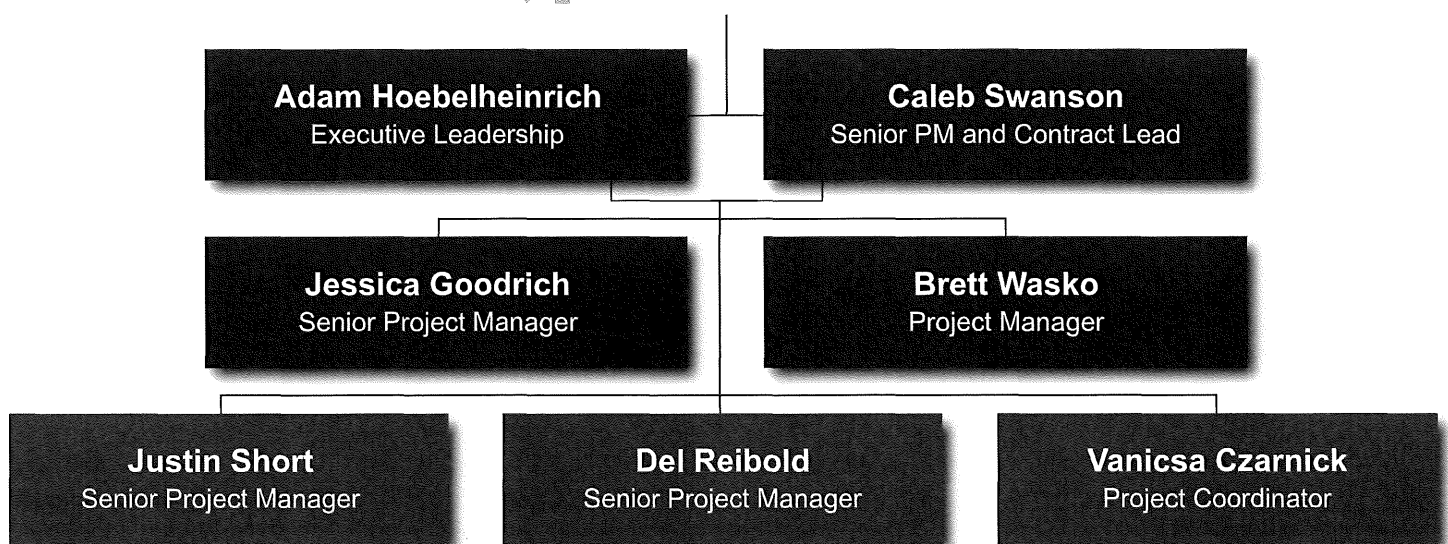
Project Control brings sufficient professional staff with the experience and expertise required to execute on the City of Lincoln's projects and meet the proposed schedules. Our team brings the same people to the City of Lincoln

that is has for the past six years, with additional staff resources available. Our Nebraska team is led by Regional Vice President Adam Hoebelheinrich who will serve in an Executive Leadership capacity and provide senior-level project oversight as required. He will be support by Caleb Swanson serving as a Senior Project Manager and Contract Lead for the City of Lincoln. Project Execution will primarily be carried out by Caleb along with Senior Project Manager Jessica Goodrich and Project Manager Brett Wasko. Jessica and Brett will provide day-to-day management and support to Caleb or Adam who will be leading each project.

Should additional resources be required, we have Senior Project Managers Del Reibold and Justin Short as well as Project Coordinator Vanicsa Czarnick to supplement our staff. These additional resources may be utilized during future periods of peak workload and also makes certain that we provide capable project management, even if one team member has reached capacity or is out of the office.

Initially, we will continue the current project teams as follows: Caleb and Brett will continue to manage the closeout of the new fire stations and the LPD maintenance, the Eagle Parking Garage, and Parking Deck 4. Adam and Jessica will assist Aging Partners. Caleb will respond to and manage all warranty items and Gallery Alley. Adam and Caleb will initially handle all potential future projects and staff the projects appropriately to fulfill the projects needs and timelines. In addition, they will provide overall guidance on all projects to make certain of success.

Please see below for an Organizational Chart outlining how our team will interface with the City of Lincoln, each other, and the individual project teams.



# TECHNICAL PROPOSAL

# 2

nostalgic

So this is Nebraska. A Sunday afternoon, July. Driving along with your hand out squeezing the air, a meadowlark waiting on every post."



PROJECT  
CONTROL

A RABA KIMBLE COMPANY

# TECHNICAL PROPOSAL

# 2

## **a) Understanding of the project environment and requirements**

Project Control has worked in the exact capacity outlined in the RFP for the City of Lincoln since 2014. Our team is intimately familiar with not only the project environment and requirements but the City's processes and procedures.

## **b) Narrative describing proposed development approach**

Our development starts by bringing: experienced staff; effective tools, designed to streamline and deliver greater value and predictability, while enabling effective decision making; a collaborative culture encouraging team selection and behaviors; and a disciplined approach driving team responsiveness and accountability.

We understand that it is our primary duty to serve the best interest of the City of Lincoln. Our approach recognizes the importance of being a good and faithful steward of the City's resources. Rooted in our approach is being transparent and seeking the best use of project funds. To implement our approach, we bring a disciplined method, making certain that we:

- Assign the right people;
- Identify and Communicate with stakeholders;
- Define the right scope of work;
- Identify the appropriate contracting strategy;
- Manage and communicate project budget, schedule, design, and quality; and
- Execute, monitor, control, and adjust, as needed.

Getting the right team in place at the front of the project is critical to a project's success and having a project manager who values team building like Project Control sets the City up for success at the very beginning. Our reputation is one of providing great leadership towards all team members. We are ethical and fair in our management of the entire project team. Still, our primary role is to serve the Owner's best interest and so we have developed a tried and true process for evaluating, approving, and overseeing contractors and consultants that provide work products or services impacting the quality of a project.

Project Control offers a broad range of services that we tailor to each project.

## **PROGRAMMING**

Project Control brings extensive experience in selecting and directing programming consultants. This experience in working with programmers will ensure that the owner's facility needs are clearly determined and defined.

## **REPORTING**

We prepare detailed monthly status reports for distribution to the appropriate parties addressing the current status of every project. These reports can be tailored in content depending on the project and the information required by City staff overseeing them. For the Woods Tennis project, we provided a monthly high-level overview for sharing with both the Friends of Woods Tennis and the Parks Foundation, touching on general project status and progress, with an emphasis on project pictures. On the fire stations project, the monthly information we provided was solely financial, providing detailed reporting on budget status, encumbrances, cash amounts paid, and other data related to the status of the sales tax funding stream.

## **BUDGETING**

Our team prepares a proprietary, comprehensive project budget, with the owner's approval, for every facility and forecasts costs for all anticipated budget categories. We monitor and update budgets for the duration of the project, including tracking invoices. Our attention to detail when it comes to budgets is demonstrated by the fire stations funded by the ¼ cent sales tax over the past several years. Initially there was great uncertainty as to what the true cost of these facilities would be. Project Control helped the City to identify the scope of the project and then develop an appropriate and accurate budget that fit the funding mechanism. The projects, now in warranty phase, were completed within this budget, and savings has been utilized to implement several options and upgrades to the facilities.

## **CONSULTANT SELECTION**

Our team assists owners in selecting the most qualified consultants by preparing and evaluating requests for proposals, conducting interviews, and making recommendations. We have been able to blend our



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experience in consultant selection with the City's public procurement systems, lending our expertise without changing how the City conducts its procurement work.

## **LEED® CERTIFICATION**

Project Control specializes in LEED® certified projects, the Green Building Rating System nationally accepted standard for the design, construction and operation of high performance buildings. We also have experience in helping projects pursue LEED equivalency, achieving many of the sustainability goals and objectives without going through the formal LEED process.

## **CONTRACTING**

Project Control has prepared and negotiated thousands of contracts for owners on over 700 projects with an aggregate value of over \$13 billion. We have been able to bring this experience to bear in helping review and negotiate contracts for City projects, especially on several Construction Manager at Risk (CMAR) projects such as Woods Tennis, the fire stations, and most recently the Deck 4 parking garage. Combining our knowledge and experience in CMAR contracting with our strong working relationship with the City Law Department, we have helped the City negotiate strong and equitable contracts on these and other important projects.

## **SCHEDULING**

Our experience managing the entire process allows us to prepare reliable project schedules for both the design and construction phases early in the development stage. We monitor and update schedules in an effort to identify potential problems and address issues before the project is delayed.

## **MONITORING**

Finishing a project on time, within budget and with the desired quality, requires qualified monitoring. Project Control oversees all aspects of a project, anticipates problems and assists in resolving problems and conflicts that may arise during a project.

## **VALUE ANALYSIS**

Our team has saved owners millions of dollars in construction costs. We work constantly with the owner and design team during design development to review savings opportunities. With the agreement of the owner, these opportunities are available to be implemented prior to bidding. Recently on the Eagle Garage renovation project, the initial designs from the architect came in significantly over budget. By sitting down and working through possible ideas and alternatives with potential suppliers and contractors, we were able to help identify areas of cost savings while minimizing overly negative impacts to the design, resulting in a rebid of the project which saved the City over \$1 million in cost.

## **CLOSE OUT**

During final stages of project completion, we closely monitor the activities of the contractor to make certain that punch list items are promptly completed, providing constant follow up and updates on the punchlist status to the Owner. We recommend and assist in enforcing contract provisions which severely penalize the contractor should he fail to diligently complete the punch list. During the warranty period, Project Control continues to serve as the owner's advocate to make certain that any warranty work is expeditiously completed.

## **c) Technical considerations and any potential challenges**

A notable challenge in the management of complex public projects is being able to understand the variety of different public departments and agencies involved, and the varying goals and objectives that each brings to the table for the project. Without an in-depth understanding of these various interests, managing projects like those included in the RFP is nearly impossible. Project Control has developed and grown this knowledge of these and other City projects over the past several years, and is uniquely equipped to provide the City with experienced personnel who are able to understand and guide these various goals and interests in a common direction.

## **d) Detailed project work plan, management and implementation**

Our approach to project management is to act as an extension of the Owner, and to pursue the interests of the Owner first and foremost. This is best achieved by frequent, regular, and honest communication and interaction with the City personnel responsible for each project we help manage. Building these relationships with those most intimately involved with each project allows us to truly see the project through the eyes of our client, and understand what it is they need at any given point in time. We then treat each project as if it were our own, pursuing the goals and objectives of our client as if they were our own. Our frequent communication with our clients, and the partnerships we develop with them, are based on trust and teamwork, which allows constant refinement of our understanding of their true needs. This understanding allows us to pursue the delivery of projects which meet their operational needs, while also adhering to budget and schedule parameters.



# PROJECT SCHEDULE

# 3



# PROJECT SCHEDULE

# 3

## a) Performance record for timeliness

Project Control's management approach requires our team to keep the project schedule at the forefront of everyone's minds. We consider timeliness to not only to be important for the overall project schedule but also within our timeliness of communication, project updates (to include budget updates), and responses to the City and project team. We help guide our clients to make timely decisions which typically leads to project savings. We invite you to discuss our staff's timeliness with any of our previously listed references and we are confident they will respond positively regarding our proactive, timely communication and that the schedule is always something we value. We endeavor to complete all of our projects on time and have demonstrated that ability and effort on all of our projects. Examples of this include the four fire stations/joint station for the City of Lincoln and the Olsson Phase II Streetscape project for the West Haymarket JPA. In addition, using the Construction Manager at Risk contracting method, which lets us have the most involvement and impact, we completed all currently finished projects for Southeast Community College on time. This is just a small sampling of examples on how important schedule is to us on projects and we can confidently say the vast majority of our projects are completed on time.

## b) Outline of Current Projects

CLIENT	PROGRAM / PROJECT NAME	PHASE
SCC	Capital Planning	Ongoing
SCC	3 Campus Site Master Plan & Site Work	Ongoing
City of Lincoln	West Haymarket Deck 4	Design
SCC	SAS & Main Campus Building Remodel	Design
CKUS	Remodel/Addition	Procurement
City of Lincoln	Eagle Parking Garage Renovation	Construction
LES	LES South Headquarters - Phase 2	Construction
SCC	Health Sciences Building	Construction
SCC	General Classroom Building	Construction
SCC	Beatrice Ag / Energy Building	Construction
SCC	Milford Residence Hall #2	Construction
City of Lincoln	Police Dept. Fleet Maintenance Facility	Closeout
SCC	Beatrice Soccer Field	Closeout

CLIENT	PROGRAM / PROJECT NAME	PHASE
WHJPA	Oscar 2.0 Streetscape Project	Closeout
Goodwill	Canfields Store	Closeout
City of Lincoln	Fire Station 10	Warranty
City of Lincoln	Fire Station 12	Warranty
City of Lincoln	Fire Station 16	Warranty
City of Lincoln	Joint Fire and Police Station 15	Warranty
LES	LES South Headquarters - Phase 1	Warranty
SCC	Milford Residence Hall	Warranty
SCC	Beatrice Residence Hall	Warranty
SCC	Diesel Tech Facility	Warranty
SCC	Falls City Learning Center	Warranty
SCC	Beatrice Dining Hall	Warranty

CKUS: Cody-Kilgore Unified Schools

LES: Lincoln Electric System

SCC: Southeast Community College

WHJPA: West Haymarket JPA

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## c) Schedule for transition of the projects

Project Control is uniquely positioned to provide seamless management services for all of the tasks outlined in the RFP. From consultation on lease options to full project management, Project Control has been involved on the City's behalf to some degree on all the projects listed, and hold knowledge of project statuses and details that would be difficult to find elsewhere. With Project Control, the City is able to leverage that experience and eliminate any project delays or extensions due to transitioning to a less experienced project manager. A detailed explanation of our understanding of each project listed in the RFP is below.

**New Fire Stations:** Serving in the capacity of project manager for Lincoln Fire and Rescue, Project Control has a deep knowledge and understanding of every aspect of these new facilities, as well as the mechanisms and budgets by which they are funded. We will bring an understanding of project history and objectives to warranty management, and will provide an unparalleled knowledge of the status of the program budget, along with the work needed to finalize, reconcile, and close out the project budget with City administrative staff.

**LPD Maintenance Garage:** As project manager for the Lincoln Police Department, Project Control understands the status of the closeout phase of this project, including some of the unique challenges to be worked through as the contract is closed out. We will bring our knowledge of the long history of this project to bear as we work to resolve outstanding issues favorably for the City.

**Eagle Parking Garage:** Project Control understands the unique nature of this project and the management challenge it presents to the City as it strives to coordinate multiple prime contractors on one site. The challenges of keeping all contractors moving ahead together is one which requires daily communication and coordination efforts by a project manager who is familiar with all aspects of the project and how work done by one contractor may affect that of another. This is a level of understanding which Project Control is well suited to provide without any learning curve.

**Parking Deck 4:** Acting as the project management staff for Parking Services, Project Control has a detailed understanding of the unique challenges this project faces in terms of coordination with the adjacent private development currently under construction, and will not lose any time having to learn the many intricate details which have both already been negotiated between the City and the Developer, and those which remain to be solved. Our past experience managing similar garage projects in the West Haymarket will provide an additional benefit to the City as we apply lessons learned to benefit both project budget and schedule.

**Aging Partners:** The move of Aging Partners to the VA campus in east Lincoln is one that has been contemplated and analyzed for several years. Project Control is able to provide a complete understanding of past negotiations and discussions between the City and Developer, as well as a thorough grasp of the programming needs of Aging Partners. This will allow the analysis and planning of a move to continue unhindered, as no education on the complex history of this project will be necessary.

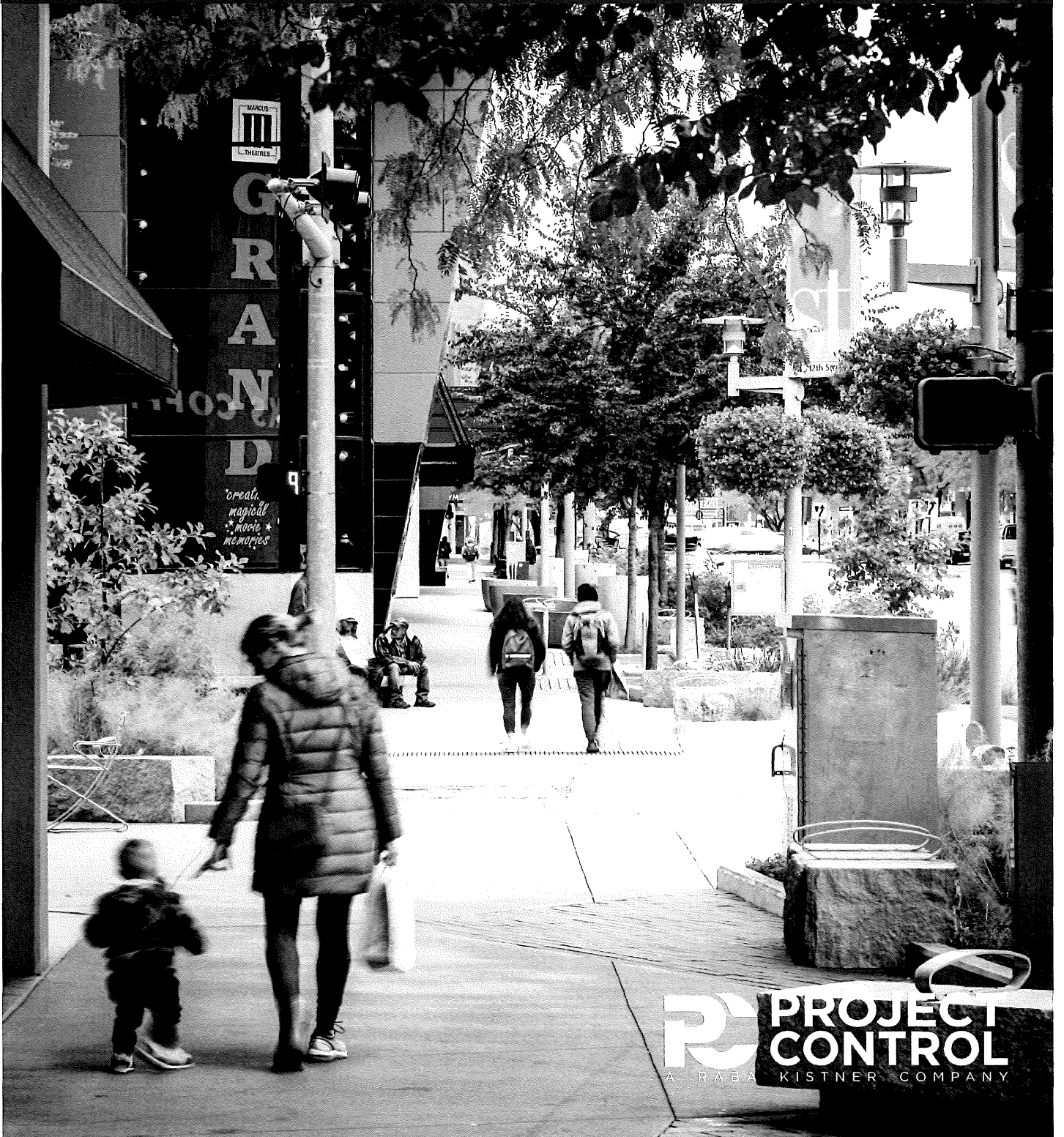
**Woods Tennis, Fire Station #11, and the Lumberworks Liner Block:** Serving in the past as the City's project manager for each of these projects, no one is more suited to provide seamless oversight of warranty items as they arise. Project Control's knowledge of the history of these projects will allow for quick understanding and resolution of problems, without the need to spend large amounts of time researching and asking questions of City staff on project history.

**Gallery Alley:** The various phases of the Gallery Alley project implementation were all overseen by Project Control, and having a project manager who knows the many nuances of this lighting system will prove extremely beneficial to the City. The installation is made up of a variety of interacting control and lighting elements, and when issues arise Project Control is able to bring its extensive understanding of the system to bear, assisting in achieving quick and efficient solutions to often challenging technical problems.

**Potential Future Projects (Library, Pershing, and Block 65):** Project Control has been aware of the discussions and plans surrounding each of these projects for several years, and understands many of the issues facing each. Equipped with this knowledge, the City will waste no effort in bringing our staff up to speed, and will instead have a partner already versed and prepared to serve the City's interests.



# APPENDIX 4





# Adam Hoebelheinrich, LEED AP

## REGIONAL VICE PRESIDENT; EXECUTIVE LEADERSHIP

Adam joined Project Control in 2011 as a Project Manager. He began his professional career with Kiewit Building Group Inc. gaining experience on various projects in Nebraska, Alaska, and Texas. Since joining Project Control Adam has performed the role of a Project Manager, Senior Project Manager, and now Midwest Regional Vice President. As a lifelong Nebraskan, Adam has used his project management skills to grow our Midwest Region with proper planning and execution. Always with building client relationships and satisfaction at the center. Adam has extensive experience with managing large programs consisting of several individual projects with consistently great results. He prides himself on his change management skills as well as owner, architect, engineer, and contractor coordination and management. Adam has performed a variety of roles on several building types, giving him a broad understanding of the industry. His general contracting experience promotes understanding and resolving of issues that many projects face. Adam feels understanding client goals, site visits, planning, working with AE and Contractor teammates, budgeting, and life cycle costs are what results in a successful project for all involved.

### Education and Credentials

B.S., Construction Management  
University of Nebraska, Lincoln

LEED Accredited Professional  
(LEED AP)

OSHA 30hr Certified

### Years of Experience

17 years

### Years with Firm

9 years

### Capacity to Perform Work

40%

### Select Project Experience

#### CITY OF LINCOLN VARIOUS PROJECTS Lincoln, NE

Lumberworks Parking Garage  
"P" Street Streetscape  
Airport Corridor Improvements  
Aging Partners Developer Assistance  
Municipal Services Center Retrofit Projects

#### WEST HAYMARKET JPA BOND PROGRAM Lincoln, NE

Pinnacle Bank Arena  
Parking Decks 1, 2, & 3  
Core Area Roadways and Utilities  
Arena and Core Area Fiber  
Watson Brickson and Alter Metal Demolition Projects  
Streetscape Phases I & II

#### CODY-KILGORE UNIFIED SCHOOLS PCD Cody, NE

#### SOUTHEAST COMMUNITY COLLEGE – PHASE I CAPITAL

#### CONSTRUCTION PROJECTS Multiple Locations, NE

#### LINCOLN ELECTRIC SYSTEM, OPERATIONS CENTER Lincoln, NE

#### DISTRICT ENERGY CORPORATION (LOC) THERMAL FACILITY Lincoln, NE

#### SALVATION ARMY KROC CENTER Omaha, NE\*

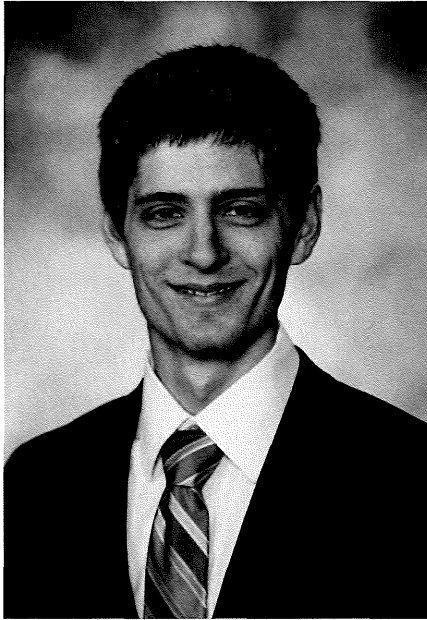
#### DURHAM MUSEUM - TRUHLSEN LECTURE HALL Omaha, NE\*

#### SHELL OLYMPUS & COBRA CASTOR LQS Ingleside, TX\*

#### C-17 AIRPLANE HANGER AND MAINTENANCE BAY Anchorage, AK\*

#### TD AMERITRADE PARK Omaha, NE\*

*\* Work Completed with Previous Firm*



# Caleb Swanson

## SENIOR PROJECT MANAGER; CONTRACT LEAD

Caleb Swanson joined Project Control in 2011 while completing his degree at the University of Nebraska-Lincoln. Upon graduation with a degree in Construction Management, Caleb was named Assistant Project Manager to assist with work being completed at the Pinnacle Bank Arena site as well as the historic Haymarket Area in downtown Lincoln, Nebraska.

In his time at Project Control, Caleb has served as the owner's representative and project manager on a variety of building and infrastructure projects, primarily for the City of Lincoln and the West Haymarket JPA. He has experience with architect, engineer, and contractor management, and has developed an in- depth understanding of contract change management and project procurement. Prior to joining Project Control, Caleb served as estimating intern at Reese Construction. His duties included producing project estimates, assembling project budgets, and drafting project contracts.

## Select Project Experience

### PINNACLE BANK ARENA Lincoln, NE

### CITY OF LINCOLN Lincoln, NE

- Lincoln Police Fleet Maintenance Facility
- Eagle Parking Garage Renovation
- Joint Police and Fire Facility
- 4 Fire & Rescue Stations
- Tower Square
- Woods Tennis Center
- Lumberworks Streetscape
- Centennial Mall Phase II and Phase III
- N Street Bike Lane Improvement
- Multiple TIF Projects
- Gallery Alley Lighting Project

### WEST HAYMARKET DEVELOPMENT Lincoln, NE

- Amtrak Station
- Festival Area
- Pedestrian Bridge
- District Streetscape
- District Wayfinding Project
- Infrastructure Improvement Projects

### CODY-KILGORE UNIFIED SCHOOLS PCD Cody, NE

## Education and Credentials

B.S., Construction Management  
University of Nebraska, Lincoln

## Years of Experience

9 years

## Years with Firm

9 years

## Capacity to Perform Work

80%



# Jessica Goodrich

## SENIOR PROJECT MANAGER

Jessica Goodrich joined Project Control in 2016 after working as the Capital Facilities Project Manager for the Nebraska Department of Transportation (NDOT). Jessica has developed an extensive skill set as a leader in project management of building construction, coordinating activities with architects, engineers, consultants, and contractors. She has experience writing and updating specifications and contracts, managing electronic and physical project documentation, and the management of budgets for multiple projects.

### Select Project Experience

#### VARIOUS PROJECTS, CITY OF LINCOLN Lincoln, NE

- Fire Station #11
- Joint Fire Station and Lincoln Police Department #15
- Fire Station #10
- Fire Station #12
- Fire Station #16
- Municipal Services Center Retrofit Projects
- Historic Haymarket Streetscape

#### DISTRICT ENERGY CORPORATION LOC THERMAL FACILITY Lincoln, NE

#### LINCOLN ELECTRIC SERVICES, OPERATIONS CENTER Lincoln, NE

#### SOUTHEAST COMMUNITY COLLEGE Multiple Campuses, NE

- General Classroom Building, Beatrice
- Health Sciences Center, Lincoln

#### VARIOUS PROJECTS, NEBRASKA DEPARTMENT OF TRANSPORTATION Statewide, NE \*

#### NDOT 20 YEAR STATEWIDE FACILITY PLANNING PROGRAM WALLACE FACILITY AND MAINTENANCE YARD Wallace, NE \*

#### PALISADE YARD AND FACILITY ADDITION Palisade, NE \*

#### OCONTO MAINTENANCE FACILITY AND YARD Oconto, NE \*

#### GRAND ISLAND MAINTENANCE FACILITY ADD. Grand Island, NE \*

### Education and Credentials

M.B.A., Construction and Leadership,  
Chadron State College  
Chadron, NE

B.S., Construction Management,  
University of Nebraska at Kearney  
Kearney, Nebraska

Stormwater Pollution Prevention  
(SWPPP) Certification

### Years of Experience

19 years

### Years with Firm

4 years

### Capacity to Perform Work

40%

\* Work Completed with Previous Firm



# Brett Wasko

## PROJECT MANAGER

Brett Wasko holds over 5 years of management experience as well as a Masters of Arts in Project Management. He brings expertise in overseeing construction job sites and vendors with additional expertise in operational and human resources management and business development. Brett is an effective communicator and is seen as a leader. He leads projects with a strong focus on communication, trust, and creativity while encouraging commitment and positivity from all project team members.

### Select Project Experience

#### CITY OF LINCOLN Lincoln, NE

Eagle Garage Renovation

Municipal Parking Garage Deck 4

#### WEST HAYMARKET JPA OSCAR 2.0 AND BNSF PARKING Lincoln, NE

#### SOUTHEAST COMMUNITY COLLEGE Multiple Campuses, NE

Soccer Field, Beatrice

Energy Building, Beatrice

General Classroom Building, Beatrice

#### FULLERTON CONTRACT/LEASE NEGOTIATIONS Fullerton, NE

#### SR. PROJECT MANAGER \*

Created a PMO, branded the business, streamlined lined processes, created an employee development program, managed HR, managed office operations, managed special projects, business development, lead team meetings, communicate with stakeholders, estimating, trained new staff.

#### PROJECT MANAGER \*

Streamed lined processes, started the process of creating a PMO, managed large scale projects, led team meetings, communicate with stakeholders, estimating.

### Education and Credentials

M.A. Management  
Doane University

B.S., Misology  
Toccoa Falls College

### Years of Experience

24 years

### Years with Firm

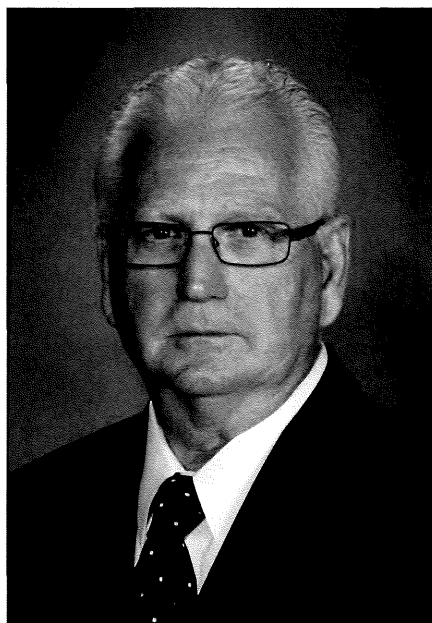
1 year

### Capacity to Perform Work

80%

\* Work Completed with Previous Firm





# Del Reibold

## SENIOR PROJECT MANAGER

Residing just outside Omaha, Del Reibold brings over 30 years of construction experience to Project Control. His skills include negotiation, stakeholder management, team management, project schedules and budgets, and risk management. Del has worked on a variety of projects throughout the United States including projects in education, corporate campuses, food and beverage distribution facilities, infrastructure, and museums. Most recently, Del has served Southeast Community College on several projects.

### Education and Credentials

B.S., Construction Engineering,  
University of Nebraska

### Years of Experience

35 years

### Years with Firm

5 years

### Capacity to Perform Work

As needed

### Select Project Experience

#### SOUTHEAST COMMUNITY COLLEGE MULTIPLE PROJECTS NE

#### GOODWILL OMAHA RETAIL STORE Omaha, NE

#### DAVIS DIAMOND, TEXAS A&M UNIVERSITY SOFTBALL STADIUM College Station, TX

#### E.B. CUSHING TRACK & FIELD STADIUM, TEXAS A&M UNIVERSITY College Station, TX

#### PENBERTHY FIELDS RELOCATION, TEXAS A&M UNIVERSITY College Station, TX

#### BRAZOS VALLEY FOOD BANK Bryan, TX

#### KYLE FIELD STADIUM REDEVELOPMENT PROJECT College Station, TX

*Served in Cost Control for the \$485 million project. Del was responsible for receiving, auditing, and negotiating change orders and the prime contractor's cost.*

#### NAU CENTER FOR TEXAS CULTURAL HERITAGE MUSEUM Houston, TX \*

*Served as on-site Project Director/Construction Manager for the new \$80 million museum located in downtown Houston, Texas. Primary responsibilities included negotiating contracts, managing the overall project budget and schedule, managing bi-weekly team meetings, building permit submittals, and coordination with City of Houston officials, adjacent businesses, and utilities.*

#### TD AMERITRADE HEADQUARTERS, OPERATIONS, AND TECHNOLOGY CENTER (LEED PLATINUM) Omaha, NE\*

*On-site Construction Manager/Owner's Representative for new \$250 million, 540,000 s.f., 12-story, LEED Platinum facility. Primary responsibilities included negotiating contracts, managing the overall project budget and schedule, managing bi-weekly team meetings, preparing monthly Steering Committee reports, preparing weekly cost control logs, and other project management responsibilities.*

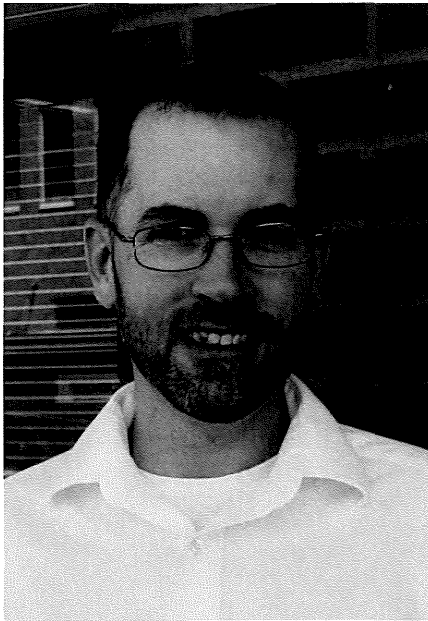
#### TD AMERITRADE CAMPUS BUILDOUT Omaha, NE \*

#### ANHEUSER BUSCH DISTRIBUTION FACILITY Richmond, VA \*

#### ANHEUSER BUSCH DISTRIBUTION FACILITY Houston, TX \*

#### DOWNTOWN INTERSTATE INTERCHANGE PROJECT Atlanta, GA \*

\* Work Completed with Previous Firm



# Justin Short

## SENIOR PROJECT MANAGER

Justin has more than 21 years of experience in various Project Management and Estimating related fields. Prior to joining Project Control, Justin worked as a Senior Program Manager at an Owners Representation firm where he managed pharmaceutical and healthcare projects for the owner. Before that, he was President of a global construction estimating firm where he performed construction cost estimates and schedules for owners, contractors, architects, and law firms.

As a Senior Project Controller and Estimator, Justin's knowledge of Educational, Industrial, Commercial, Healthcare, and Governmental projects give him a unique perspective to managing projects. Combined with his experience and leadership in managing a construction estimating firm provides the keys to his success in on budget and on time project delivery.

### Education and Credentials

Associates of Applied Science in  
Electrical Technology, Southeast  
Community College Milford Campus

### Years of Experience

24 years

### Years with Firm

2 years

### Capacity to Perform Work

As needed

### Select Project Experience

**SOUTHEAST COMMUNITY COLLEGE MULTIPLE PROJECTS** Multiple  
Campuses, NE

Diesel Technology and Welding Facility, Milford  
Prairie Hall, Milford  
Learning Center, Falls City  
Homestead Hall, Beatrice  
Classroom Building, Beatrice  
Storm Center Dining, Beatrice  
Health Science Center, Lincoln

**OMAHA PUBLIC SCHOOLS 1999 BOND MULTIPLE PROJECTS** Omaha,  
NE \*

**OMAHA PUBLIC SCHOOLS SADDLEBROOK ELEMENTARY** Omaha,  
NE \*

**UNIVERSITY OF NEBRASKA LINCOLN - MULTIPLE PROJECTS** Lincoln,  
NE \*

**CONSTRUCTION ESTIMATING AND SCHEDULING – ON OVER 1,000  
PROJECTS \***

**UNIVERSITY OF NEBRASKA MEDICAL CENTER (UNMC) - MULTIPLE  
PROJECTS** Omaha, NE \*

**ZOETIS ANIMAL HEALTH – FACILITY EXPANSION** Lincoln, NE \*

*\* Work Completed with Previous Firm*



# Vanicsa Czarnick

## PROJECT COORDINATOR

Vanicsa Czarnick brings over 18 years of experience in retail and management to her role as Project Coordinator. As Project Coordinator, Vanicsa assists the Project Managers in administrative and operational duties to make certain our client's projects move forward seamlessly. Responsibilities include meeting minutes, document management, meeting coordination, processing invoices, contract management, and general communication. Her attention to detail and strong communication skills afford her the ability to meticulously complete any task assigned.

### Select Experience

**GOODWILL RETAIL STORE** Omaha, NE

**INTERCULTURAL SENIOR CENTER** Omaha, NE

**LED RELOCATION OF WARREN DISTRIBUTION, INC. HEADQUARTERS** Omaha, NE

**FACILITY MANAGEMENT** Omaha, NE

**RETAIL AND OPERATIONS MANAGEMENT** Omaha, NE

### Education and Credentials

Bellevue University

Metro Community College

### Years of Experience

5 years

### Years with Firm

1 year

### Capacity to Perform Work

40%



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# REQUEST FOR PROPOSALS

## CITY OF LINCOLN CONSTRUCTION MANAGEMENT/INSPECTION SERVICES RFP 20-047

Issue Date: Friday, July 10, 2020

Closing Date and Time:  
Friday, July 24, 2020 at 12:00 p.m. (CST)



City of Lincoln | Lancaster County Purchasing  
Robert Walla, CPPB  
Purchasing Agent  
440 S. 8<sup>th</sup> Street, Suite 200  
Lincoln, NE 68508  
402-441-8103

## Table of Contents

GLOSSARY OF TERMS.....	i
I. PROJECT INFORMATION AND ESSENTIAL QUALIFICATIONS: .....	1
A. PROJECT OVERVIEW .....	1
B. PROJECT/BACKGROUND INFORMATION .....	1
C. RFP DOCUMENTS.....	1
D. AVAILABLE INFORMATION AND/OR IMPORTANT DOCUMENTS .....	1
E. CONTRACT PERIOD.....	1
F. ESSENTIAL QUALIFICATIONS AND EXPERIENCE .....	1
II. PROCUREMENT PROCEDURE .....	3
A. AFFIRMATIVE ACTION .....	3
B. RFP APPROACH.....	3
C. SELECTION COMMITTEE.....	3
D. PROPOSAL PROCEDURE .....	3
E. PROPOSER'S OFFER AND REPRESENTATION.....	3
F. INDEPENDENT PRICE DETERMINATION.....	3
G. PROJECT TIMELINE .....	4
H. PROPOSAL SUBMISSION INFORMATION AND INSTRUCTIONS: .....	4
I. PROTECTION OF PROPRIETARY AND TRADE SECRET INFORMATION .....	4
J. COPYRIGHT AND POSTING WAIVER .....	5
K. RFP CLARIFICATION AND ADDENDA.....	6
L. PRE-PROPOSAL CONFERENCE .....	7
M. PRICES .....	7
N. WRITTEN CLARIFICATIONS .....	7
O. ORAL INTERVIEWS.....	7
P. AWARD AND NEGOTIATIONS.....	8
Q. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS .....	8
R. ETHICS IN GOVERNMENT CONTRACTING .....	8
S. DEVIATIONS FROM THE REQUEST FOR PROPOSAL.....	8
T. ANTI-LOBBYING PROVISION .....	9
U. SITE VISITATION .....	9
V. REFERENCE CHECKS .....	9
W. AWARD NOTIFICATION .....	9
X. DEBRIEFING .....	9
Y. ENTIRE AGREEMENT .....	9
III. PROJECT INFORMATION .....	10
A. PROJECT ENVIRONMENT & REQUIREMENTS .....	10
B. PROPOSED DEVELOPMENT APPROACH .....	<b>Error! Bookmark not defined.</b>
C. TECHNICAL CONSIDERATIONS AND CHALLENGES.....	12
D. PROJECT WORK PLAN, MANAGEMENT AND IMPLEMENTATION .....	12
E. DELIVERABLES AND DUE DATES .....	13
IV. EVALUATION AND SUBMITTAL INFORMATION.....	14
A. SELECTION AND EVALUATION FACTORS .....	14
B. PROPOSAL SUBMISSION AND FORMAT .....	14
V. CONTRACT RESPONSIBILITIES .....	17
A. INSURANCE REQUIREMENTS.....	17

B.	PERFORMANCE BOND.....	17
C.	BID BOND.....	17
D.	EQUAL EMPLOYMENT OPPORTUNITY.....	17
E.	E-VERIFY.....	17
F.	COOPERATION WITH CONTRACTORS.....	17
G.	PERMITS, REGULATIONS, LAWS.....	18
H.	MATERIALS AND WORKMANSHIP.....	18
I.	INDUSTRY STANDARDS.....	18
J.	DATA PRIVACY.....	18
K.	SITE RULES AND REGULATIONS (IF APPLICABLE).....	18
VI.	TERMS AND CONDITIONS.....	19
A.	CONFLICTING TERMS.....	19
B.	CONTRACT DOCUMENTS.....	19
C.	TERMINATION.....	19
D.	SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS.....	19
E.	IMPLIED REQUIREMENTS.....	19
F.	CONTRACT MODIFICATION.....	19
G.	ASSIGNMENT, SALE OR MERGER.....	20
H.	LIQUIDATED DAMAGES.....	20
I.	LAWS.....	20
J.	SEVERABILITY.....	20
K.	LIVING WAGE.....	20
L.	INDEPENDENT CONTRACTOR.....	20
M.	STAFF QUALIFICATIONS.....	20
N.	OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES.....	20
O.	CITY AUDIT ADVISORY BOARD.....	21
VII.	PAYMENT AND INVOICING.....	22
A.	PROHIBITION AGAINST ADVANCE PAYMENT.....	22
B.	TERMS OF PAYMENT.....	22
C.	TAXES AND TAX-EXEMPT CERTIFICATE.....	22
D.	INVOICES.....	22
E.	INSPECTION AND APPROVAL.....	22
	INSURANCE CLAUSE.....	23
	EXHIBIT 1.....	29

## GLOSSARY OF TERMS

*Note: In the event of a conflict of definition of terms between the Glossary of Terms and language contained within the Request for Proposal document (RFP), the RFP language shall take precedence.*

**Acceptance Test Procedure:** Benchmarks and other performance criteria, developed by the Owner or other sources of testing standards, for measuring the effectiveness of products or services and the means used for testing such performance.

**Addendum:** Something to be added or deleted to an existing document; a supplement to the originally published information.

**After Receipt of Order (ARO):** After Receipt of Order begins when the successful Contractor receives either an executed Contract or a Notice to Proceed (NTP) after a contract has been executed by all parties.

**Agencies:** The City of Lincoln – hereinafter referred to as Owner.

**Agent/Representative:** A person authorized to act on behalf of another.

**Amend:** To alter or change by adding, subtracting, or substituting.

**Amendment:** A written correction or alteration to a contract document.

**Appropriation:** Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

**Award:** All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the RFP and associated documents in Ebid. The Owner reserves the right to reject any or all proposals, wholly or in part, or to award to multiple proposers in whole or in part. The Owner reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the proposer's competitive position. All awards will be made in a manner deemed in the best interest of the Owner.

**Best Value:** A determination made through the evaluation of responses using factors in addition to price to identify the highest ranked, responsible and responsive Proposer who has the best offering for the Owner.

**Bid Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the proposer will not withdraw the bid.

**Bidder:** A proposer who submits an offer in response to a written solicitation.

**Business:** Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture or any other private legal entity.

**Business Day:** Any weekday, except Owner-recognized holidays.

**Calendar Day:** Every day shown on the calendar including Saturdays, Sundays and holidays.

**Cancellation:** To call off or revoke a purchase order or contract without expectation of conducting or performing it at a later time.

**City/County Ebid System:** The internet-based system used by the City of Lincoln and Lancaster County for soliciting bids, issuing requests for proposals and qualifications, providing access to contracts and communicating with bidders and proposers and for the electronic submission of proposals and bid responses.

**Collusion:** An agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose.

**Commodities:** Any equipment, material, supply or goods; anything movable or tangible that is provided or sold.

**Commodities Description:** Detailed descriptions of the items to be purchased; may include information necessary to obtain the desired quality, type, color, size, shape, or special characteristics necessary to perform the work intended to produce the desired results.



**Competition:** The effort or action of two or more commercial interests to obtain the same business from third parties.

**Confidential Information:** Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

**Contract:** An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement.

**Contract Administration:** The management of the contract which includes and is not limited to: contract signing, contract amendments and any necessary legal actions.

**Contract Award:** Occurs upon execution of the City of Lincoln document titled "Agreement" by the proper authority.

**Contract Management:** The management of day to day activities at the agency which includes and is not limited to ensuring deliverables are received, specifications are met, handling meetings and making payments to the Contractor.

**Contract Period:** Language outlined in the contract documents that delineates the start and end dates of the contract performance period and may also include information regarding any optional renewals.

**Contractor:** Any individual or entity having a contract to furnish commodities or services.

**Cooperative Purchasing:** The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses or other public benefits.

**Copyright:** A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt and distribute the work.

**Cost:** See Price/Cost.

**Customer Service:** The process of ensuring customer satisfaction by providing assistance and advice on those products or services provided by the contractor.

**Default:** The omission or failure to perform a contractual duty.

**Department:** A division of the City of Lincoln, Lancaster County, or City of Lincoln/Lancaster County Public Building Commission responsible for the entire procurement process from initiation to contract administration of the Purchase Order or Contract to be executed.

**Deviation:** Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written solicitation or contract.

**Essential Qualifications and Experience:** Information provided in Section I. of this RFP that describes the minimum qualifications and/or experience necessary to be deemed eligible for consideration in the evaluation process and/or receive a contract award.

**Evaluation:** The process of examining an offer after opening to determine the proposer's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award.

**Extension:** Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with "Renewal Period".

**Free on Board (F.O.B.) Destination:** The delivery charges are included in the quoted price and prepaid by the contractor. Contractor is responsible for all claims associated with damages during delivery of product.

**Foreign Corporation:** A foreign corporation that was organized and chartered under the laws of another state, government, or country.

**Installation Date:** The date when the Contractor shall perform duties as outlined in the documents of the RFP, proposal and subsequent contract.

**Interested Party:** A person, acting in their personal capacity, or an entity entering into a contract or other agreement creating a legal interest therein.

**Late Proposal:** An offer received after the Opening Date and Time.

**Licensed Software Documentation:** The user manuals and any other materials in any form or medium customarily provided by the Contractor to the users of the Licensed Software which will provide the Owner with sufficient information to operate, diagnose, and maintain the Licensed Software properly, safely, and efficiently.

**Mandatory/Must:** Required, compulsory, or obligatory.

**May:** Discretionary, permitted; used to express possibility.

**Module (see System):** A collection of routines and data structures that perform a specific function of software.

**Must:** See Mandatory/ Must and Shall/Will/Must.

**National Institute for Governmental Purchasing (NIGP):** National Institute of Governmental Purchasing – Source used for assignment of universal commodity codes to goods and services.

**Negotiation Committee:** Committee appointed by the requesting agency that advises and assists the Purchasing office in negotiating a final scope and fee based on offers made in response to written solicitations.

**Non-Responsive:** A classification of the Proposer that occurs when the Request for Proposal (RFP) response fails to conform to the substantive requirements of the solicitation and/or does not provide information material to evaluation and/or award eligibility.

**Notice to Proceed:** A written notice sent to the awarded Contractor stating that work may commence on a certain date, following the complete execution of the contract.

**Not-Responsible:** A classification of the Proposer that occurs when the respondent does not demonstrate the necessary qualifications, experience, capabilities, acceptable past performance, reputation and/or yield favorable information from references to meet the required standards necessary to be eligible for a contract award.

**Opening Date and Time:** Specified date and time for the public opening of received, labeled, and sealed formal proposals.

**Outsourcing:** The contracting out of a business process which an organization may have previously performed internally or has a new need for, to an independent organization from which the **process** is purchased back.

**Owner:** City of Lincoln

**Performance Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the contractor fulfills any and all obligations under the contract.

**Pre-Proposal Conference:** A meeting scheduled for the purpose of clarifying a written solicitation and related expectations.

**Price/Cost:** The cost for performing duties according to the terms of the proposal and subsequent contract as proposed by the Proposer at time of RFP submission. Price may be negotiated following a recommendation of the Selection Committee. Price is an evaluation factor and is not evaluated by the Selection Committee with the other qualification factors. Price is normally submitted in a separate envelope and is completed according to the Cost Proposal Sheet included in the RFP documents.

**Product:** Something that is distributed commercially for use or consumption and that is usually (1) tangible personal property, (2) the result of fabrication or processing, and (3) an item that has passed through a chain of commercial distribution before ultimate use or consumption.

**Program Error:** Code in Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the specifications. A program error includes, without limitation, any Critical Program Error.

**Program Set:** The group of programs and products, including the Licensed Software specified in the RFP, plus any additional programs and products licensed by the City of Lincoln/Lancaster County/Lancaster County Public Building Commission under the contract for use by the City of Lincoln/Lancaster County/Lancaster County Public Building Commission.

**Project:** The total scheme, program, or method worked out for the accomplishment of an objective, including all documentation, commodities and services to be provided under the contract.

**Proposal:** The offer submitted by a proposer in a response to a written solicitation.

**Proposer:** Company submitting a proposal to an RFP issued by the City/County Purchasing Department.

**Proprietary Information:** Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. § 84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific named competitor(s) advantaged by release of the information and the demonstrated advantage the named competitor(s) would gain by the release of information.

**Public Proposal Opening:** The process of unsealing the RFP in Ebid at the time specified in the written solicitation.

**Renewal Period:** Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions by all parties involved. Not to be confused with Extension.

**Request for Proposal (RFP):** A written solicitation for obtaining competitive offers utilizing qualifications and costs.

**Responsible Proposer:** A Proposer who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

**Responsive Proposer:** A Proposer who has submitted an RFP response which conforms to all requirements of the solicitation document.

**Selection Committee:** Committee(s) appointed by the requesting agency that advises and assists the procuring office in the evaluation of proposals (offers made in response to written solicitations).

**Shall/Will/Must:** An order/command; mandatory.

**Should:** Expected; suggested, but not necessarily mandatory.

**Software License:** Legal instrument with or without printed material that governs the use or redistribution of licensed software.

**Sole Source – Commodity:** When an item is available from only one source due to the unique nature of the requirement, its supplier, or market conditions.

**Sole Source – Services:** A service of such a unique nature that the contractor selected is clearly and justifiably the only practical source to provide the service. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required.

**Specifications:** The detailed statement, especially of the measurements, quality, materials, and functional characteristics or other items to be provided under a contract.

**Termination:** Occurs when either party, pursuant to a power created by agreement or law, puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

**Third Party:** Any person or entity, including but not limited to fiduciaries, shareholders, owner, officers, managers, employees, legally disinterested persons, and sub-contractors or agents and their employees. It shall not include any entity or person who is an interested party to the contract or agreement.

**Trade Secret:** Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that (a) derives independent economic value, actual or potential,

from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. §87-502(4)).

**Trademark:** A word, phrase, logo, or other graphic symbol used by a manufacturer or distributor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office.

**Upgrade:** Any change that improves or alters the basic function of a product or service.

**Vendor:** An individual or entity lawfully conducting business in the State of Nebraska, or licensed to do so, who seeks to provide goods or services under the terms of a written solicitation.

**Will:** See Shall/Will/Must

**Work Day:** See Business Day.

## **I. PROJECT INFORMATION AND ESSENTIAL QUALIFICATIONS:**

### **A. PROJECT OVERVIEW:**

The City of Lincoln hereinafter called Owner is requesting proposals from qualified proposers to submit responses for Construction Management/Inspection Services.

The Owner intends to select a Contractor based on the evaluation criteria outlined herein which will accomplish the objectives of the project while incorporating innovative and cost-effective methods.

The successful contractor(s) will be responsible for remaining on established schedules for all services rendered to meet the proposed schedule for the project deliverable(s).

### **B. PROJECT/BACKGROUND INFORMATION:**

The City of Lincoln is seeking an experienced individual or firm to provide Construction Management/Inspection services for a wide variety of on-going and future city construction projects. The City will expect the Construction Manager to inspect and/or review all work at the site of each construction project and maintain a positive relationship with the City, Design Professionals, and Contractors on each project. The primary responsibilities of the position are to ensure that work is in full compliance with the plans and specifications and to keep the Owner and Design Professionals informed on all technical aspects of construction in a timely and efficient manner.

### **C. RFP DOCUMENTS**

Proposers are to promptly notify the Purchasing Department Staff, prior to the close of the RFP, of any ambiguity, inconsistency or error discovered upon examination of the RFP documents, including, but not limited to the information outlined herein and any information provided in Ebid.

### **D. AVAILABLE INFORMATION AND/OR IMPORTANT DOCUMENTS**

No additional documents or links being provided.

### **E. CONTRACT PERIOD**

The contract shall be for a period of one (1) year from the date of contract execution with the option for three (3), one (1) year renewals if mutually agreeable between both parties.

### **F. ESSENTIAL QUALIFICATIONS AND EXPERIENCE:**

The Owner is seeking a contractor with the following minimum qualifications to be deemed responsible and eligible for evaluation. If your company does not meet and/or exceed ALL the essential qualifications listed, your company is advised to not proceed with preparing and submitting an RFP response to this solicitation.

Confirmation that your company has read, understands and meets the minimum qualifications is to be included in your Proposal submission – see “EXHIBIT 1”. Complete the form and include in the proper areas of the RFP response as requested in the submission instructions outlined in Section IV. Failure to include “EXHIBIT 1” in your proposal submission PDF may result in your company being deemed as “Not Responsible” and disqualified from consideration. Meeting the minimum essential qualifications and experience are required elements to be deemed responsible.

1. Five (5) years of successful experience that the Company submitting has been providing the construction management services described herein. This experience must be from the company and not through arrangements with sub-contractors or individuals working at former positions.

2. Proposer has the capability to perform the primary functions of this service – i.e. management or maintenance aspects]; and
3. Proposer holds applicable certifications or licenses which are issued by a professional association for work described herein.

This RFP invites qualified proposers to submit responses for accomplishment of the items of work described in **Section III. PROJECT INFORMATION.**

The scope of general and required services identified in this RFP are intended to serve as a general description of anticipated objectives and tasks.

The Owner will rely on the proposer's competence and experience to work with all Owner departments and divisions in meeting all necessary tasks, providing ongoing quality services and communicating successfully to provide the most effective and efficient products and/or services.

## **II. PROCUREMENT PROCEDURE**

### **A. AFFIRMATIVE ACTION**

The City of Lincoln-Lancaster County Purchasing Division provides equal opportunity for all proposers and encourages minority businesses and women's business enterprises to participate in our bidding process.

### **B. RFP APPROACH**

The RFP process is designed to be a competitive negotiation platform, where price is not a determinative factor; also, the Owner has the flexibility to negotiate with a select proposer to arrive at a mutually agreeable relationship.

The Owner reserves the right to accept or reject any or all offers, parts of offers; request rebids; waive irregularities and technicalities in offers; such as shall best serve the requirements and interests of the Owner.

### **C. SELECTION COMMITTEE**

A Selection Committee will be assigned the task of reviewing the proposals received.

1. The Selection Committee may request documentation from Proposer(s) of any information provided in their proposal response or require the Proposer to clarify or expand qualification statements.
2. The Selection Committee may also require a site visit and/or verbal interview(s) with a Proposer or select group of Proposers to clarify and expand upon the proposal response.

### **D. PROPOSAL PROCEDURE**

A Proposer must complete both steps directly below to create an RFP submission.

- 1) Proposers shall submit their response and all other documents as a PDF file by responding electronically using the City/County Ebid. No written documents will be accepted other than through the Ebid system.

Proposal responses submitted by a Proposer other than a corporation must include the name and address of each member. A response by a corporation must be signed in the name of such corporation by a duly authorized official thereof. Any person signing a proposal for a company, corporation, or other organization must show evidence of his/her authority to bind such company, corporation, or organization.

**Ebid Proposals received after the date and time established for receiving offers will be rejected.**

### **E. PROPOSER'S OFFER AND REPRESENTATION**

The signed proposal shall be considered an offer on the part of the proposer. Such offer shall be deemed accepted upon issuance by the Owner(s) of purchase orders or other contract documents appropriate to the work.

No offer shall be withdrawn for a period of one hundred and twenty (120) calendar days after the time/date established for receiving proposals, and each proposer agrees in submitting an offer.

Each proposer by signing and submitting an offer, represents that he/she has read and understands the proposal documents, and the offer has been made in accordance therewith.

Each offer represents the proposer is familiar with the local conditions under which the work will take place and has correlated observations with the RFP requirements.

### **F. INDEPENDENT PRICE DETERMINATION**

By signing and submitting this RFP, the proposer certifies that the proposal offered has been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, with any other Proposer/Competitor; unless otherwise required by law,

the proposal which has been submitted in this offer has not been knowingly disclosed by the Proposer prior to RFP opening directly or indirectly to any other competitor; no attempt has been made, or will be made, by the Proposer to induce any person or proposer to submit, or not to submit, a response for the purpose of restricting competition.

#### **G. PROJECT TIMELINE**

The tentative project schedule is listed directly below and is subject to change:

ACTIVITY ITEM	DATE (TIME IF APPLICABLE) (All dates in 2020)
Request for Proposal Issued	July 10, 2020
Pre-Proposal Meeting	NA
Last day to submit questions for clarification	July 17, 2020
<b>Proposal Submittal Deadline</b>	July 24, 2020
Evaluation period	7/27-7/31
Short-list Notification (If applicable)	Wk of 8/3
Interviews (If applicable)	Wk of 8/10
Final Selection	8/14
Scope of services, negotiations and fee	Wk of 8/17
Projected Notice to Proceed – Contract Execution	September 1, 2020

#### **H. PROPOSAL SUBMISSION INFORMATION AND INSTRUCTIONS:**

The RFP response shall conform to all instructions, conditions and requirements outlined in the RFP and related documents. Prospective proposers shall carefully examine all documents, attachments and requirements associated with this RFP and be responsive to each requirement in the format prescribed. Proposals that do not conform may be deemed non-responsive.

Proposals must be submitted via an electronic Ebid response no later than 12:00 Noon on July 24, 2020 or if extended, then shall be no later than the closing date and time listed in Ebid. **No exceptions to this deadline will be given.**

Proposer shall submit their proposal as a PDF in the Response Attachment section of the Ebid response. PDF must be titled RFP 20-047 – Construction Management Services

Proposer must be registered on the City/County's Ebid site to respond to the above RFP.

1. To register, go to the City of Lincoln website [www.lincoln.ne.gov](http://www.lincoln.ne.gov)
2. Type "bid" in the search box, click on the "Supplier Registration" and follow the instructions to complete the registration.

#### **ALTERNATE PROPOSALS**

No Alternate Proposals will be accepted for this project.

#### **I. PROTECTION OF PROPRIETARY AND TRADE SECRET INFORMATION**

Data contained in any proposal or bid (hereinafter "Submission") and all documentation provided therein, become the property of the City of Lincoln. Upon receipt of any Submission by the City of Lincoln and/or Lancaster County, all data and documentation becomes a public record and is subject to disclosure by the City of Lincoln and/or Lancaster County to any party initiating a public records request under Nebraska Revised Statutes § 84-712 et seq. In response to a public records request, the City of Lincoln and/or Lancaster County may include the entire proposal or response. The City of Lincoln and/or Lancaster County has no duty to protect proprietary or commercial information and/or trade secrets.

If the Proposer/Bidder wishes to have any information withheld from a public records request, such information must fall within the definition of "proprietary or commercial information" contained within Nebraska Public Records Statutes as defined by Nebraska Revised Statute § 84-712.05(3) and/or must be considered "trade secrets" as defined by Nebraska Revised Statutes §§ 87-501 to 87-507.



Any and all information the Proposer/Bidder wishes the City of Lincoln and/or Lancaster County to withhold from public disclosure must be submitted in a sealed package which:

1. Is separate from the remainder of the Submission;
2. Is clearly marked "*proprietary or commercial information*" and/or "*trade secrets*" on the outside of the package;
3. Individually identifies each separate page as confidential; and
4. Contains supporting documentation specifically enumerating why the information in such documents are marked and qualify as proprietary or commercial information/trade secrets. Under Nebraska law, in order for such information to be protected, the information, if released, would give competitors an advantage **and** serve no public purpose.

**FAILURE TO STRICTLY COMPLY WITH THESE INSTRUCTIONS WILL RESULT IN DISCLOSURE OF INFORMATION DECLARED BY THE BIDDER/PROPOSER TO BE PROPRIETARY OR COMMERCIAL INFORMATION AND/OR TRADE SECRETS. NO NOTICE OF FAILURE TO COMPLY WILL BE PROVIDED.**

If the instructions above for designating proprietary or commercial information and/or trade secrets are strictly followed, the City of Lincoln and/or Lancaster County will provide the bidder/proposer with reasonable notice that a public records request has been made that may include the information designated as proprietary and commercial or a trade secret. It is the sole responsibility of the Proposer/Bidder to take actions necessary to protect the information claimed as proprietary or commercial, or a trade secret.

Proposers/Bidders may not mark their entire Submission as *proprietary or commercial information and/or trade secrets*. Proposer's/Bidder's cost proposals may not be marked as proprietary or commercial information/trade secrets and are deemed to be a public record in the State of Nebraska. Failure of the Proposer/Bidder to follow the instructions for submitting proprietary or commercial information/trade secrets may result in the material being viewed by other proposers/bidders and/or the public.

"Proprietary or commercial information" is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose. (see Neb. Rev. Stat. § 84-712.05(3)).

"Trade Secrets" is defined as information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that:  
Derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.  
(See Neb. Rev. Stat. § 87-502 (4)(a)(b))

In accordance with the Nebraska Attorney General Opinions 92068 and 97033, Proposers/Bidders submitting information as proprietary or commercial information/trade secrets may be required to prove specific competitor(s) by name who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

## **J. COPYRIGHT AND POSTING WAIVER**

Any individual or entity awarded a contract, or who submits a proposal or response to this RFP, specifically waives any copyright or other protection the contract, proposal, or response to the RFP may have; and, it shall be implied that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this RFP and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the RFP being found non-responsive and rejected.

To facilitate public postings, except for proprietary information, the City of Lincoln/Lancaster County reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this RFP for any purpose, and to authorize others to use the documents.

Any entity awarded a contract or submitting a proposal or response to the RFP agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the City of Lincoln/Lancaster County and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the City of Lincoln/Lancaster County, arising out of, resulting from, or attributable to the posting of the contract or the proposals and responses to the RFP, awards, and other documents.

## **K. RFP CLARIFICATION AND ADDENDA**

### ***Clarification and Question Procedures***

Proposers shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of RFP and related bid documents.

Proposers desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing office to the attention of the contact name listed below at least seven (7) calendar days prior to date and time for response receipt.

All inquiries requesting clarification, interpretations and/or deviations regarding the Request for Proposal or other related documents shall be submitted in writing, via email, during the clarification period to the contact name listed below at the City/County Purchasing office:

Name:	Robert Walla, CPPB
Department:	City/County Purchasing
Email	<a href="mailto:rwalla@lincoln.ne.gov">rwalla@lincoln.ne.gov</a>

These inquiries and/or responses shall be distributed to prospective proposers electronically as an addendum via Ebid.

All inquiries regarding the submission of the proposal through Ebid or providing written instructions of the submittals may be made via email or phone to the City/County Bid Line in the Purchasing Office:

**Bid Line Phone Number: 402-441-8103**

Interpretations, corrections and changes made to the RFP or Ebid documents will be issued electronically via addenda in Ebid. It is the Proposer's responsibility to review all Addendums issued prior to bid response.

Oral interpretations/changes to the RFP and related documents made in any other manner than written form, will not be binding on the Owner; Proposers shall not rely upon oral interpretations.

### ***Addenda procedure:***

Addenda are instruments issued by the Owner prior to the date for receipt of offers which modify or interpret the Request for Proposal and related documents by addition, deletion, clarification or correction.

No addendum will be issued less than two (2) calendar days prior to the date and time for receipt of offers, except an addendum withdrawing the RFP, or addendum including postponement.

Proposers shall verify addendum receipt electronically in Ebid prior to RFP closing or RFP may be rejected.

**L. PRE-PROPOSAL CONFERENCE**

There will not be a pre-proposal conference for this RFP.

**M. PRICES**

Price is not a consideration

**N. WRITTEN CLARIFICATIONS**

Formal request(s) for written clarification may be made to one or more Proposers during the written evaluation period which are specific to an individual Proposer.

Written clarifications are intended to occur prior to any oral interviews being held and will outline the specific elements of the RFP response. The purpose of obtaining written clarification is to assist the Selection Committee members in determining if the RFP response submitted meets the RFP requirements and if the Proposer will move forward in the evaluation process. If deemed necessary, written clarification requests may also occur after Oral Interviews.

Such requests shall be provided to the Proposer through a written request for clarifications, sent via email, and will detail the specific items of the RFP response requiring clarification.

Failure of a Proposer to submit the written clarification response with all the information requested by the date provided in the written request, may result in the Proposer being deemed non-responsive and exclude the Proposer from receiving further consideration of their RFP response.

**O. ORAL INTERVIEWS**

The Owner may determine after the completion of the Written Evaluation and any necessary written clarifications that oral interviews/presentations and/or demonstrations are required to determine the successful Contractor.

In the event interviews are conducted, all proposers may not be granted an opportunity to interview/present and/or give demonstrations; the Owner reserves the right, in its discretion, to select only the top scoring proposers to present/give oral interviews. The scores from the oral interviews/presentations and/or demonstrations will be added to the scores from the written evaluation.

1. The Owner will contact those short-listed proposers to schedule interviews.
2. Interviews will include a formal presentation and a question and answer session based upon subject matter provided by the Owner in advance of the interview.

The presentation process will allow the proposers to demonstrate their proposal offering, explaining and/or clarifying any unusual or significant elements related to their proposals. Proposer's key personnel, identified in their proposal, may be requested to participate in the structured interview to ascertain their understanding of the requirements of this proposal, their authority and reporting relationships within their company, and their management style and philosophy. A written copy or summary of the presentation, and demonstrative information (such as briefing charts, et cetera) may be offered by the proposer, but the owner reserves the right to refuse or not consider the offered materials. Proposers shall not be allowed to replace their written proposal information by altering or amending the proposals in the interview process.

Once the oral interviews/presentations and/or demonstrations have been completed the Owner reserves the right to make an award without any further discussion with the proposers regarding the proposals received.

Any cost incidental to the oral interviews/presentations and/or demonstrations shall be borne entirely by the proposer and will not be compensated by the Owner.

The Owner will contact the awarded contractor, by email, after all the interviews have been completed and the Owner has had sufficient time and information to discuss and rank the proposers.

**P. AWARD AND NEGOTIATIONS**

The resulting contract from this RFP will be awarded to the Proposer who has been deemed responsible, responsive to the requirements outlined herein, received the highest-ranking scores, and whose services and/or products have been determined by the Selection Committee to be the most advantageous to the Owner.

Such determination that identified the highest ranked proposer offering shall be based on the selection committee's resulting scores from the evaluation criteria set forth in **Section IV.** and, proposers' performance in any oral interviews conducted.

The Owner reserves the right to make an award based on the "written evaluation" without holding oral interviews. Whereby, the scores from the "written evaluation" shall be the final ranking of the best qualified proposer.

The Owner reserves the right to seek additional information from Proposers through various methods such as, but not limited to, multiple rounds of Oral Interviews, demonstrations, written clarification, information, and research at various stages of the process for the Selection Committee to make a final decision. All awards will be made in a manner deemed in the best interest of the Owners.

The successful Proposer shall receive information from the Owner and/or meet with Owner's Representative(s) to negotiate an initial detailed work plan, finalize the scope of services and the Cost Proposal.

If the Owner is unable to arrive at an agreement with the top ranked proposer, the Owner retains the sole right to move on to negotiations with the second (then third, etc.) ranked proposer. Contract to be executed will be based on a Cost Proposal/Fee Schedule with a "not to exceed total" for total expenditures agreed upon in negotiations.

**Q. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS**

Proposer shall respond to the Attribute in Ebid regarding Sole Proprietorship and complete all documentation as required by the State of Nebraska as instructed.

**R. ETHICS IN GOVERNMENT CONTRACTING**

The Owner reserves the right to reject proposals, overturn an award notification and/or terminate a contract if it is discovered that a Proposer commits or has committed ethical violations, such as but not limited to, the following offenses:

1. Offering or giving, directly or indirectly, a bribe, fee, commission, compensation, gift, gratuity, or anything of value to any person or entity in an attempt to influence the procurement process.
2. Utilize the services of lobbyists, attorneys, political activists, or consultants to influence or subvert the procurement process.
3. Being considered for, presently being, or becoming debarred, suspended, ineligible, or excluded from contracting with any local, state or federal entity.
4. Submitting a proposal on behalf of another party or entity.
5. Collusion with any person or entity to influence the procurement process, submit sham proposals, preclude bidding, fix pricing or costs, create an unfair competitive advantage, subvert the RFP or prejudice the Owner.

**S. DEVIATIONS FROM THE REQUEST FOR PROPOSAL**

Proposer must include any deviations from the RFP and the proposed replacement language on company letterhead and attach to the section as required in the Submittal portion outlined herein. Failure to include deviations will be interpreted to infer that Proposer agrees to all terms as outlined in the Specifications and RFP documents with no deviations.

The Owner reserves the right to accept or reject the deviations according to the best interests of the Owner.

Deviations that are not acceptable to the Owner and are not negotiable by the Proposer may result in the Proposer being deemed "Non-responsive" and rejection of the RFP response.

**T. ANTI-LOYBBYING PROVISION**

During the period between the advertised date and the contract award, proposers, including their agents and representatives, shall not directly discuss or promote their proposal with any City/County Elected Official or Owner Staff except in the course of Owner-sponsored inquiries, briefings, interviews, or presentations sent or provided directly to the City/County Purchasing Department

**U. SITE VISITATION**

Proposers shall inform themselves of the conditions under which work is to be performed, including: site of work, the structures or obstacles which may be encountered and all other relevant matters concerning work performance. The Proposer will not be allowed any extra compensation by or for any condition which he/she might fully have informed themselves of prior to submitting the offer.

If the project is in a designated non-public area, Proposers are not allowed to visit the sites except for a Pre-Proposal Meeting or upon written approval by the City/County Purchasing Department.

**V. REFERENCE CHECKS**

By submitting a proposal in response to this RFP, the proposer grants to the Owner the right to perform reference and/or credit checks to verify characteristics, such as but not limited to experience, skills, reputation, judgement and/or the capacity to perform the contractual obligations resulting from this RFP. The Owner shall use the submittals requested in Section IV. of this RFP (Summary of Proposer's Experience) as references. Further, the Owner reserves the right to request additional information related to experience and financial documents if deemed necessary to ascertain the Proposer's ability to meet the requirements outlined herein and in other related RFP documents.

Unsatisfactory information obtained from any references and/or credit checks performed may be grounds to reject a proposal, withdraw an Intent to Award or rescind the award of a contract. A proposer may not use work performed for their own company as a reference to substantiate performance.

**W. AWARD NOTIFICATION**

Notification will be sent via email to proposers who were included on correspondence and/or registered under the code used. The successful Contractor will receive a notification, via email, advising the details of their award along with preliminary instructions. All non-successful proposers, who received correspondence on this RFP, will receive email correspondence notifying they did not receive an award.

**X. DEBRIEFING**

The Owner does not provide verbal or written debriefing sessions regarding any part of the RFP solicitation process.

**Y. ENTIRE AGREEMENT**

The resulting contract awarded shall constitute the complete and entire agreement between the Owner and the successful Contractor and supersedes any prior representations, understandings, communications, commitments, agreements or Proposals, oral or written that are not incorporated as a part of the Contract. See "Sample Contract" in the Attachment section of Ebid.

### III. PROJECT INFORMATION

Proposers are to review this section, prepare and submit a "Technical Proposal" outlining detailed responses to items **A. through C.** listed below. Submittals within **TAB 2** of the Proposal response shall correspond with this information.

#### A. PROJECT ENVIRONMENT & REQUIREMENTS

##### 1. SCOPE OF WORK

The City of Lincoln is seeking an experienced individual or firm to provide Construction Management/Inspection services for a wide variety of on-going and future city construction projects. The City will expect the Construction Manager to inspect and/or review all work at the site of each construction project and maintain a positive relationship with the City, Design Professionals, and Contractors on each project. The primary responsibilities of the position are to ensure that work is in full compliance with the plans and specifications and to keep the Owner and Design Professionals informed on all technical aspects of construction in a timely and efficient manner, and close out the project according to contract requirements.

##### 2. PROJECT REQUIREMENTS

Contractor shall be a representative of, and advise/consult with, the City throughout the term of each project or until services on that specific project are terminated. The amount of consultation and representation will vary by project according to the scope developed for each project prior to project start. All work performed by the selected vendor must be approved by a City of Lincoln employee prior to implementation of assigned tasks.

Exercise diligence in discovering and promptly reporting to the City any defects or deficiencies in the work.

Enforce program schedules and schedule milestones and review any progress schedules submitted by design teams and contractors through final completion or as instructed by City.

Should any schedules conflict, the Construction Manager shall immediately notify the City and follow up with a written report to the City.

Conduct meetings as needed, with the project team for each project to review and resolve the following: old problems, new problems, potential problems, critical items, schedule progress, contractor performance, work schedule for the upcoming week, current action items, and budget and adequacy of Contractors' activities with respect to other City requirements.

The Construction Manager/Inspector shall advise the City of the date and time of such meetings prior to the meetings.

Recommend payment by the City based on a report of observations of construction and evaluation of the of the Contractors' applications for payment.

Recommend the rejection of work or additional terms which do not conform to the contract documents.

Anytime the Construction Manager finds conflicts, discrepancies, or omissions on the plans or in the field, or that the plans are inadequate or not in harmony with field conditions, or cannot be built, he/she shall immediately notify the City for remedial action or clarification.

Such recommendation shall be in writing and forwarded to the City for review and approval or disapproval.

Forward any requests for additional inspection or testing of the contractors' work in accordance with the provisions of the contract documents to the City.

Conduct inspections to verify compliance with the various completion deadlines called for under the contract documents.

Upon completion of all work required by the contract documents, the Construction Manager shall develop a Certificate of Final Completion, in form and substance satisfactory to the City, which shall constitute a representation by the Construction Manager to the City that all of the work has been completed.

Final Completion Certificate is not valid without a City of Lincoln employee signature.

Receive, review, approve or disapprove, any records, written warranties, manuals, or related documents required by the contract documents and assembled by the Contractors and shall inform the City that final payment is due and issue final payment requests upon the Contractors compliance with all of the contract requirements.

Final payment shall not be approved without a City of Lincoln employee signature.

Coordinate with the Contractors to arrange for delivery, storage, protection, and security for all materials, systems, and equipment that may be purchased by the City and provided to the Contractors outside of the construction contract.

Coordinate the activities of all parties involved in individual projects.

Respond to Contractors' requests for information and coordinate required responses from the appropriate design status meetings.

Coordinate the commissioning and opening of all projects completed.

Communicate with the City and all other relevant parties via telephone, cellular telephone, and e-mail.

### 3. BUSINESS REQUIREMENTS

Promptly submit to the City a detailed written report of all projects prior to the 5<sup>th</sup> day of the month for the previous month activities.

Assist departments by recommending qualified designers, contractors, testing and inspection firms, and all other necessary subcontractors.

Have detailed knowledge of City of Lincoln contract documents and City of Lincoln Purchasing guidelines as outlined in the City Code, City Charter and Procurement Manuals.

Provide detailed information to the City of Lincoln Purchasing Department for any and all change order amendments, contract extensions, and any changes in contract terms and conditions.

Awarded Vendor shall not approve contract amendments or changes to contract terms without prior written approval of the department, and/or the City of Lincoln Purchasing Department.

## **B. TECHNICAL CONSIDERATIONS AND CHALLENGES**

### **TECHNICAL REQUIREMENTS**

Determine in detail if the work is proceeding in accordance with all requirements of the contract documents; ensure compliance with the plans, specifications, and budget; and ensure compliance with all applicable laws, statutes, ordinances, codes, rules, regulations, orders, and decrees.

Review and forward to the appropriate parties the Contractors' submittals, such as shop drawings, product data and samples, for appropriate action in determining compliance with the requirements of the contract documents.

The Construction Manager's actions shall not cause a delay in the work.

Work with the Contractors and the Design Professionals to ensure that a complete record set of all Contractors' submittals are maintained.

Assist in the initial evaluation of Change Orders (if needed) by ensuring signed and stamped drawings and sketches are prepared for items of extra work or change of scope and by preparing an independent estimate for each request or directed change in the work.

The Construction Manager may not conduct negotiations with the Contractors and develop change orders to submit to the City for approval without written approval by the City.

The Construction Manager shall not agree or sign off on additional fees or charges associated with contract terms without the written consent of the City Purchasing Department.

Construction Manager shall follow the most current policies and procedures initiated and approved by the City for all change orders.

Construction Manager shall ensure that all documents associated with the contract are updated.

In the event that documents should expire prior to full completion, Construction Manager shall follow the City of Lincoln Purchasing Department process for updating such documents.

Conduct budget and variance reporting, which shall consist of showing anticipated cost, by month and cumulatively, for each cost element.

The Construction Manager shall report each month on the monthly and cumulative costs incurred and claimed as compared to the budget.

Schedule and participate in project status meetings.

## **C. PROJECT WORK PLAN, MANAGEMENT AND IMPLEMENTATION**

### **PROVIDE POST IMPLEMENTATION SUPPORT**

Contractor must keep project on schedule according to the dates in the contract. Contractor must notify General Contractor and the City immediately upon seeing that a project is, or will be, falling behind schedule and take action to ensure timely completion and amount of Liquidated Damages to be withheld from final payment.



Receive, review, approve or disapprove, any records, written warranties, manuals, or related documents required by the contract documents and assembled by the Contractors and shall issue final payment requests upon the Contractors compliance with all of the contract requirements.

Upon final completion, the Construction Manager shall coordinate with the Contractors and Design Professionals to ensure that the design professionals provide a set of Mylar reproducible record drawings and CAD disks in a format acceptable to the City.

Drawings must show all changes in the work during the construction phase and the complete project as built.

Drawings and CAD disks shall be deemed to be the property of the City.

## IV. EVALUATION AND SUBMITTAL INFORMATION

### A. SELECTION AND EVALUATION FACTORS:

Proposals that do not meet the minimum requirements as outlined herein and related Ebid attachments may be deemed non-responsive and may not be evaluated by the Selection Committee.

1. Proposals deemed to meet the requirements shall be evaluated by a Selection Committee and will be scored for each of the following areas:
  - a. Experience, Proposed Staff Management Approach and Subcontractors;
  - b. Technical Proposal;
  - c. Quality, Organization and Completeness of Proposal Response;
  - d. Project Schedule
  - e. Oral Interviews (if necessary)
2. The selection criteria for the "written evaluation" is listed directly above in a. through d. and shall be the basis for an award or the determination for the proposers to be short-listed for personal interview.
3. If interviews are conducted, the scores from the "written evaluation" and "oral interviews" shall be added together for a cumulative total and final ranking of the best qualified proposer.
4. If interviews are not conducted, the scores from the "written evaluation" shall be the final ranking of the best qualified proposer.

### B. PROPOSAL SUBMISSION AND FORMAT:

Proposer shall **submit** a proposal in a quality manner that is clear and concise. **Proposal responses that do not contain each of the categories and items as listed below may be deemed to be non-responsive.**

Contents of the response shall be placed in separate sections, properly organized in order by category as listed with each individual section tabbed and labeled as indicated. Proposals shall be limited to 10 pages of content (excluding tabs, cover, title pages and appendices). Minimum 10pt Arial or Calibri font style and size, 8 ½ x 11 paper, single spaced.

Proposers attempting to submit portions of the response containing Proprietary Information and/or Trade Secrets must strictly comply with the instructions as outlined in Section II. under Protection of Proprietary Information and Trade Secrets.

The information being requested in each of the respective categories listed below (1 through 6) shall be used as the primary basis in the determination of the Proposer's ranking in the "Written Evaluation."

1. Include the following documents within the Proposal Response - **(No TAB - Place these documents between the Front Cover and TAB 1 of the Proposal).**
  - a. EXHIBIT 1;
  - b. Letter of Interest;
  - c. A summary of the following information about your company:
    - i. Company name, address and telephone number;
    - ii. Years established and former names of your company;
    - iii. Types of services your company is particularly qualified to perform;
    - iv. Average number of staff employed; and
  - d. All deviations, modifications, additional or other changes, including but not limited to, the RFP document, Insurance Requirements, Ebid attachments (i.e. sample "Contract Agreement") and Addendums, shall be declared on company letterhead with reference to the affected document(s) and section(s). Any such deviations, modifications placed elsewhere and not described in this section

shall be null and void. Further, deviations may result in the Proposer's submission being deemed as non-responsive. The review process for approval of any type of deviation shall occur prior to the evaluation process.

**2. EXPERIENCE, PROPOSED STAFF MANAGEMENT APPROACH AND SUBCONTRACTORS – (TAB 1 OF PROPOSAL RESPONSE) (400 Points)**

This section shall consist of the following information about each sub-category listed:

**a. Summary of Proposer's Experience**

The proposer shall provide an organized summary listing their previous contracts similar to this RFP in size, scope, and complexity. The Owner will use three (3) narrative contract descriptions submitted by the proposer during its evaluation of the proposal and shall also use information from the organized summary of experience to perform any necessary reference checks. The Owner reserves the right to request additional information and/or clarification to assist in making assessments in either capacity.

The proposer shall address each of the following:

- i. Provide detailed narrative descriptions to highlight the similarities between the proposer's past performance/experience and this RFP. These descriptions should include:
  - a) The time period of the contract;
  - b) Current contracts and estimated costs of each;
  - c) The proposer's responsibilities;
  - d) Company name (including the name of a contact person, a current telephone number, and e-mail address); and
  - e) Each contract should identify whether the work was performed as the prime Contractor or as a Subcontractor.
  - f) Any other specialized qualifications which your company might possess which would be of benefit to the City related to the core requirements as listed.
- ii. Contractor and Subcontractor(s) experience should be listed separately. Narrative descriptions submitted for Subcontractors should be specifically identified as Subcontractor projects.
- iii. If the work was performed as a Subcontractor, the narrative description should identify the same information as requested for the Contractors above. In addition, Subcontractors should identify what share of contract costs, project responsibilities, and time period were performed as a Subcontractor.

**b. Summary of Proposer's Proposed Staff Management Approach and Subcontractors**

- i. The proposer shall present a detailed description of its proposed approach to the management of the project.
- ii. The proposer shall provide information to substantiate that they have sufficient professional staff to meet proposed schedule. Proposer shall identify the specific professionals who will work on the Owner's project if their company is awarded the contract resulting from this RFP. The names and titles of the team proposed for assignment to the Owner's project should be identified in full, with a description of the team leadership, interface and support functions and reporting relationships. The primary work assigned to each person should also be identified.

- iii. The Proposer shall provide resumes for all key personnel proposed to work on the project. The Owner will consider the resumes as a key indicator of the Proposer's understanding of the skill mixes required to carry out the requirements of the RFP in addition to assessing the experience of specific individuals.
- iv. Resumes should not be longer than one (1) double-sided page. Resumes should include, at a minimum, individual's name, experience and length of service with the company, academic background and degrees, professional certifications, understanding of the process. Provide the qualifications of these individuals, including a summary of their experience with related work and their available capacity to perform this work.  
  
Any changes in proposed personnel shall only be implemented after written approval from the Owner.
- v. Respective resumes for all key personnel to be used may be placed in the Appendix – TAB 4 of the Proposal Response. Resumes are not part of the total page count as listed in Section B.

**Subcontractors:**

If the Proposer intends to subcontract any part of its performance hereunder, the Proposer shall provide:

- i. name, address and email address of the Subcontractor(s);
- ii. list of specific tasks that will be performed by each Subcontractor(s)
- iii. percentage of performance hours intended for each Subcontract; and
- iv. total percentage of Subcontractor(s) performance hours.

**3. TECHNICAL PROPOSAL – (TAB 2 OF PROPOSAL RESPONSE) (350 Points)**

The technical proposal section submission shall include each of the items listed below. See information regarding these categories in Section III. – PROJECT INFORMATION.

- a. Understanding of the project environment and requirements;
- b. Narrative describing proposed development approach;
- c. Technical considerations and any potential challenges; and
- d. Detailed project work plan, management and implementation to demonstrate assurance and competency in successful completion.

**4. PROJECT SCHEDULE – (TAB 3 OF PROPOSAL RESPONSE) (200 Points)**

- a. Submit information that describes performance record for timeliness.
- b. Outline the current projects which are being conducted from the location of the Proposer's office responding.
- c. Submit a schedule for transition of the projects from the current Contractor to a new Contractor.

**5. APPENDIX – (TAB 4 OF PROPOSAL RESPONSE)**

- a. Resumes to be submitted for qualifications of proposed key staff.

**6. Completeness and Organization of Proposal (50 Points)**

## V. CONTRACT RESPONSIBILITIES

### A. INSURANCE REQUIREMENTS:

Prior to the execution of the contract resulting from this RFP, the successful Proposer will be required to provide proof of insurance that is compliant with the "INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS." See the INSURANCE CLAUSE attached herein.

**Important:** If a firm has any deviations to the above-mentioned Insurance Clause, such deviations must be declared within the RFP response and through the format outlined in Section (IV)(B)(1)(d). Further, if a firm is seeking self-insurance, it shall be stated through the same procedure. During the review process, the Owner may require submission of financial information for analysis of self-insurance eligibility. The firm shall be responsive to a request for financial documents, which are sufficient in content, to perform an analysis on the firm's ability to provide self-insurance coverage for the resulting contract. Either type of request submitted is subject to review and approval by the City's Law department.

**Proposers are strongly encouraged to send the insurance requirements and endorsement information to their insurance agent prior to RFP closing date and time to expedite the contract execution process.**

### B. PERFORMANCE BOND

No Performance Bond is required for this project.

### C. BID BOND

No Bid Bond will be required for this project.

### D. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

### E. E-VERIFY

In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise 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 pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to [www.uscis.gov/everify](http://www.uscis.gov/everify). **E-VERIFY.**

### F. COOPERATION WITH CONTRACTORS

Contractor may be required to work with or in proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals and shall not commit or permit any act which may interfere with the performance of work by any other Contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

**G. PERMITS, REGULATIONS, LAWS**

The Contractor must comply with all current Local, State and Federal requirements necessary to perform all duties and requirements of the resulting contract. The Contractor shall be responsible for obtaining and paying for all royalties, licenses, permits and approvals necessary for the execution of the contract. The Contractor guarantees that it has the full legal right to the materials, supplies, equipment, software and other items used in performing all aspects associated with the contract.

**H. MATERIALS AND WORKMANSHIP**

The Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by the resulting Contract, within the time specified, in accordance with the provisions as specified.

The Contractor shall be responsible for all work put in under the RFP Specifications and shall make good, repair and/or replace, at the Contractor's own expense, as may be necessary any defective work, material etc. if in the opinion of the department and/or Purchasing said issue is due to imperfection in material, design, workmanship or Contractor fault.

**I. INDUSTRY STANDARDS**

If not otherwise provided, materials or work outlined for the resulting contract shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations which shall apply.

**J. DATA PRIVACY**

Proposer agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

The Proposer agrees to hold the Owner harmless from any claims resulting from the Proposer's unlawful disclosure or use of private or confidential information.

Proposer agrees to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and implementing regulations pertaining to confidentiality of health information.

If applicable to the work requested a sample "Business Associate Agreement" will be included, which will be part of the contract and incorporated by this reference.

**K. SITE RULES AND REGULATIONS (IF APPLICABLE)**

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on Owner's premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the Owner, they must make arrangements with the Owner to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the Owner on the basis of lack of access, unless the Owner fails to provide access as agreed to in writing between the Owner and the Contractor.

## **VI. TERMS AND CONDITIONS**

### **A. CONFLICTING TERMS**

To the extent other terms and conditions attached hereto conflict with the terms and conditions stated herein, the resulting contract agreement shall control.

### **B. CONTRACT DOCUMENTS**

The Contract Documents comprise the Contract and consist of all items contained in the Ebid and documents submitted by the firm during the RFP process. Proposers shall disclose any and all disputes with the City's standard Contract. Disputes with the terms of the standard Contract, or requests for amendments to the standard Contract may be a basis for disqualifying proposals.

### **C. TERMINATION**

This Contract may be terminated by the following:

1. Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
2. Termination for Cause. The Owner may terminate the Contract for cause if the Contractor:
  - a. Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
  - b. Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
  - c. Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the Owner will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.

### **D. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS**

In the event funding is not available to continue with services as written, the Owner(s) reserve the right to cancel the contract for convenience with no financial obligation to the Contractor, Subcontractors or other stakeholders besides the amount due for services rendered prior to notice of cancellation.

The Owner(s) may terminate the resulting contract in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the Owner(s). In the event of unavailability of funds to pay any amounts due under the resulting Contract, the Owner(s) shall immediately notify the Contractor and the resulting contract shall terminate without penalty or expense to the Owner(s). Upon termination, the Owner(s) shall pay Contractor for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by the resulting Contract.

### **E. IMPLIED REQUIREMENTS**

All products and services not specifically mentioned in this contract, but which are necessary to provide the functional capabilities described by the RFP documents, shall be included.

### **F. CONTRACT MODIFICATION**

The resulting contract shall be modified only by the written agreement and approval of the parties through a contract amendment. No alteration variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties through a contract amendment. Every amendment shall specify the date on which its provisions shall be effective.



**G. ASSIGNMENT, SALE OR MERGER**

The contract established resulting from this RFP process shall not be transferred to/or assigned without prior written consent of the Owner and must be handled through the Owner's document approval process.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the Owner in executing amendments to the contract to all for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform the obligations of the contract.

**H. LIQUIDATED DAMAGES**

No liquidated damages are associated with this project.

**I. LAWS**

The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

**J. SEVERABILITY**

If any provision of the resulting contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected, and each provision of the resulting contract shall be enforced to the fullest extent permitted by law.

**K. LIVING WAGE**

The Contractors agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per Section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July. This provision is only applicable to City of Lincoln projects.

**L. INDEPENDENT CONTRACTOR**

It is the express intent of the parties that the contract awarded shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the Owner and employees of the Owner shall not be deemed to be employees of the Contractor. The Contractor and the Owner shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the Owner's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

**M. STAFF QUALIFICATIONS**

The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be the employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

Failure of the Contractor to provide qualified staffing at the level required by the awarded contract may result in termination of the contract or damages.

**N. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES**

All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Contractor under the contract resulting from this RFP shall be owned by the using department. The Contractor may not release any materials without the written approval of the using department.

**O. CITY AUDIT ADVISORY BOARD**

All parties of any City agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/purchase order, as allowed by law. This provision is only applicable to City of Lincoln Projects.

## **VII. PAYMENT AND INVOICING**

### **A. PROHIBITION AGAINST ADVANCE PAYMENT**

Owner will not pay for services or equipment in advance of receipt and approval of such product or service throughout the term of the contract unless specifically listed in the final contract document.

### **B. TERMS OF PAYMENT**

The payment schedule for the project is tied to specific dates and deliverables as outlined in the awarded contract. Invoices may be submitted by the Contractor on specific dates based on the completion and acceptance of related deliverables. No invoice will be approved unless the associated deliverables have been approved by the Owner's designee. A percentage of the total contract cost may then be invoiced based on the schedule.

### **C. TAXES AND TAX-EXEMPT CERTIFICATE**

The Owner is generally exempt from any taxes imposed by the State or Federal Government. A Tax Exemption Certificate will be provided as applicable.

The exception to this statement is the Water Division of the City of Lincoln. All service and supplies are taxable per Reg. 066.14A and no exemption certificate will be issued.

### **D. INVOICES**

Contractor's invoice(s) for payment of services and products must be sent to the appropriate department according to contract terms with all applicable information included to ensure proper billing and final payment. Invoices shall include the following:

1. Contractor's information:
  - a. Company Name;
  - b. Address; and
  - c. Phone number for billing inquiries.
2. Owner's information:
  - a. Name of requesting department;
  - b. Contact name;
  - c. Address;
  - d. Phone number; and
  - e. Specific list of duties performed and rates charged.

Failure to provide invoices in this manner may result in late payment to the Contractor with no repercussion to the Owner.

### **E. INSPECTION AND APPROVAL**

This section does not apply to this project.

**INDEMNIFICATION AND INSURANCE REQUIREMENTS  
FOR ALL WEST HAYMARKET JOINT  
PUBLIC AGENCY CONTRACTS**

**1. INDEMNIFICATION**

**A. Indemnification of JPA**

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART), PERFORMANCE OF THE CONTRACT THAT RESULTS IN BODILY INJURY, SICKNESS, DISEASE, OR DEATH CAUSED IN WHOLE OR IN PART BY ANY ACT OR OMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE WHETHER OR NOT IT IS CAUSED IN WHOLE OR PART BY A PARTY INDEMNIFIED HEREUNDER.

Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

- B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against JPA, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.
- C. The obligations of indemnification herein shall not include or extend to:
- (1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to JPA and related to the Contract; and
  - (2) Any claims wholly caused by the JPA's sole negligence and excluding claims to the extent such claims are caused by the willful misconduct or gross negligence of the JPA.
- D. In the event of any litigation of any such claims shall be commenced against JPA, Contractor shall defend the same at Contractor's sole expense upon notice thereof from JPA. Contractor shall notify the insuring company that JPA reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of JPA without the express written consent of the JPA.

## 2. INSURANCE GENERAL PROVISIONS

- A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- B. **Occurrence Basis Coverage.** All insurance shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.
- C. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City Attorney.
- D. **Certificates Showing Coverage.** Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency  
c/o City Attorney  
City of Lincoln, Nebraska  
555 South 10th Street  
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

- E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

- F. **Other Requirements.** Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2. will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

### 3. INSURANCE REQUIREMENTS

- A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' compensation, disability benefit, or other employee benefit acts;
- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

**B. Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
<b>Worker's Comp.</b>			
	State	Statutory	
	Applicable Federal	Statutory	
<b>Employer's Liability</b>			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

**C. Commercial General Liability Insurance.**

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.



Coverage	Min Amt	Notes
General	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	\$ 100,000	any one fire
Medical Damage Limit	\$ 10,000	any one person

- (2) The required Commercial General Liability Insurance shall also include coverage for the following:
- Bodily injury and property damage.
  - Fire legal liability
  - Coverage for all premises and operations.
  - Personal and advertising injury.
  - Operations by independent contractors.
  - X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
  - Any fellow employee exclusions shall be deleted.
  - Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
  - Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
  - Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
  - Contractual liability coverage.
- (3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.
- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
  - Endorsement to provide the general aggregate per project endorsement.
  - Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
  - Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
  - Separation of insureds.
  - Additional insured endorsement in favor of and acceptable to the JPA.
- (4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

**D. Vehicle liability insurance coverage.**

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor of and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

**E. Umbrella/Excess Insurance.** At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

**F. Railroad Protective Liability.** If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$5,000,000 per occurrence, \$10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

**G. Special Provision.** At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

#### **4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.**

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

#### **5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.**

- A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

#### **6. PROPERTY INSURANCE/ BUILDER'S RISK.**

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.
- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
01/22/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Aon Risk Services Southwest, Inc. Houston TX Office 5555 San Felipe Suite 1500 Houston TX 77056 USA	<b>CONTACT NAME:</b>		
	<b>PHONE (A/C. No. Ext):</b> (866) 283-7122	<b>FAX (A/C. No.):</b> (800) 363-0105	
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> Raba Kistner, Inc. Project Control 12821 W. Golden Lane San Antonio TX 78249 USA	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A:</b> Zurich American Ins Co		16535
	<b>INSURER B:</b> American Guarantee & Liability Ins Co		26247
	<b>INSURER C:</b>		
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		
	<b>INSURER F:</b>		

**COVERAGES****CERTIFICATE NUMBER:** 570085842493**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b>			GL0030509701	10/31/2020	10/31/2021	EACH OCCURRENCE	\$2,000,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
							MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$5,000,000
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG	\$2,000,000
	OTHER:							
A	<b>AUTOMOBILE LIABILITY</b>			BAP 0305096-01	10/31/2020	10/31/2021	COMBINED SINGLE LIMIT (Ea accident)	\$2,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person)	
	<input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						BODILY INJURY (Per accident)	
	<input type="checkbox"/> HIRED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b>	<input checked="" type="checkbox"/> OCCUR		AUC037275301	10/31/2020	10/31/2021	EACH OCCURRENCE	\$5,000,000
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE	\$5,000,000
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION							
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>			WC030509501	10/31/2020	10/31/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A				E.L. EACH ACCIDENT	\$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	\$1,000,000
								E.L. DISEASE-POLICY LIMIT

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Project Name/No. West Haymarket JPA, Project Description: Capital Project Management for the West Haymarket Joint Public Agency, RK Prop./Proj. No. APT21-00300, Dept. No. 6716. City of Lincoln/West Haymarket Joint Public Agency is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability and Automobile Liability policies evidenced herein are Primary and Non-Contributory to other insurance available to an Additional Insured, but only in accordance with the policy's provisions. A Waiver of Subrogation is granted in favor of City of Lincoln/West Haymarket Joint Public Agency in accordance with the policy provisions of the General Liability, Automobile Liability and Workers' Compensation policies. The General Liability policy evidenced herein includes Ongoing

**CERTIFICATE HOLDER****CANCELLATION**

West Haymarket Joint Public Agency c/o City Attorney City of Lincoln, Nebraska 555 So., 10th Street Lincoln NE 68508 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Aon Risk Services Southwest, Inc.</i>

**ADDITIONAL REMARKS SCHEDULE**

Page \_ of \_

AGENCY Aon Risk Services Southwest, Inc.		NAMED INSURED Raba Kistner, Inc.	
POLICY NUMBER See Certificate Number: 570085842493			
CARRIER See Certificate Number: 570085842493	NAIC CODE	EFFECTIVE DATE:	

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

Additional Description of Operations / Locations / Vehicles:

Completed Operations for the Additional Insured. The General Liability policy evidenced herein includes Explosion, Collapse and Underground Hazard (XCU). The General Liability policy evidenced herein includes Contractual Liability. The General Liability policy evidenced hereon includes a Separation of Insureds (Severability of Interest) provision. The General Liability policy evidenced herein does not exclude Construction or demolition within 50 feet of a railroad. Should General Liability, Automobile Liability and workers' Compensation policies be cancelled before the expiration date thereof, the policy provisions will govern how notice of cancellation may be delivered to Certificate Holders in accordance with the policy provisions of each policy.



## Additional Insured – Automatic – Owners, Lessees Or Contractors

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

Policy No. GLO 0305097-01

Effective Date: 10/31/2020

This endorsement modifies insurance provided under the:

### **Commercial General Liability Coverage Part One, Common Coverage Provisions**

**A. Section I – Who Is An Insured** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or
- b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

- (1) Your ongoing operations, with respect to Paragraph 1.a. above; or
- (2) "Your work", with respect to Paragraph 1.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

- (a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

Solely with respect to this Paragraph (b), if the written contract or written agreement provides a minimum time period for providing such coverage, and such minimum time period ends prior to the end of the policy period, this insurance shall not apply to "bodily injury", "property damage" or a "personal and advertising injury" offense which occurs during the policy period and after the end of that minimum time period.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or
- b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

- (1)** Your acts or omissions; or
- (2)** The acts or omissions of those acting on your behalf,  
in the performance of:

- (a)** Your ongoing operations, with respect to Paragraph **2.a.** above; or
- (b)** "Your work" and included in the "products-completed operations hazard", with respect to Paragraph **2.b.** above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **2.**, insurance afforded to such additional insured:

- (i)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (ii)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

Solely with respect to this Paragraph **(ii)**, if the written contract or written agreement provides a minimum time period for providing such coverage, and such minimum time period ends prior to the end of the policy period, this insurance shall not apply to "bodily injury", "property damage" or a "personal and advertising injury" offense which occurs during the policy period and after the end of that minimum time period.

- 3.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:
  - a.** Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
  - b.** With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1)** Your acts or omissions; or
- (2)** The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph **3.**, insurance afforded to such additional insured:

- (a)** Only applies to the extent permitted by law;
- (b)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
- (c)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

- 4.** If neither Paragraph **1.** nor Paragraph **2.** above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:
  - a.** Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
  - b.** With respect to the "products-completed operations hazard" (if no form is specified),



such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 4., insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law;
- (2) Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3) Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (4) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

Solely with respect to this Paragraph (4), if the written contract or written agreement provides a minimum time period for providing such coverage, and such minimum time period ends prior to the end of the policy period, this insurance shall not apply to "bodily injury" or "property damage" which occurs during the policy period and after the end of that minimum time period.

- B.** Solely with respect to the insurance afforded to any additional insured referenced in Section **A.** of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

- C.** Solely with respect to the coverage provided by this endorsement, the following is added to Common Coverage Provisions, Section **IV – Claims Provisions**, Paragraph 2:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

- D.** Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section **V – Conditions**, Paragraph 8:

**Primary and Noncontributory insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph **8.b.** of the **Other Insurance Condition** under Section **V –**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

- E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.
- F. Solely with respect to the insurance afforded to an additional insured under this endorsement, the following is added to Section III – **Limits Of Insurance**:

**Additional Insured – Automatic – Owners, Lessees Or Contractors Limit**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section **A.** of this endorsement; or
  2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured: INTEGA, INC.**

**Endorsement Effective Date: 10/31/2020**

### **SCHEDULE**

**Name Of Person(s) Or Organization(s):**

ANY PERSON OR ORGANIZATION TO WHOM OR WHICH YOU ARE REQUIRED TO PROVIDE ADDITIONAL INSURED STATUS OR ADDITIONAL OR ADDITIONAL INSURED STATUS ON A PRIMARY, NON-CONTRIBUTORY BASIS, IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT EXECUTED PRIOR TO LOSS, EXCEPT WHERE SUCH CONTRACT OR AGREEMENT IS PROHIBITED BY LAW

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph **A.1.** of Section **II** – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph **D.2.** of Section **I** – Covered Autos Coverages of the Auto Dealers Coverage Form.

# SCHEDULE OF FORMS AND ENDORSEMENTS

Policy Number: WC 0305095-01

Form Number & Edition Date		Form Name
WORKERS COMPENSATION FORMS AND ENDORSEMENTS		
U-WC-3068-B	CA	04-18 CA NOTICE - WAIVER OF WC COVERAGE
U-WC-3080-A	CW	08-17 UNINTENTIONAL ERROR OR OMISSIONS ENDT
U-WC-3081-A	CW	08-17 NOTICE OF OCCURRENCE ENDORSEMENT
U-WC-3082-A	CW	08-17 KNOWLEDGE OF INJURY ENDORSEMENT
U-GU-1223-B	CA	09-16 REVISED DEFINITION OF SPOUSE ENDORSEMENT
WC 99 06 43		01-13 BLANKET NOTIFICATION TO OTH CANC/NONREN
U-WC-D-314-A		07-94 WORKERS COMPENSATION INFORMATION PAGE
U-WC-320-A		07-94 SCHEDULE OF FORMS AND ENDORSEMENTS
WC 99 00 02		10-99 SCHEDULE OF INSUREDS AND LOCATIONS
U-WC-315-A		07-94 CLASSIFICATION SCHEDULE
U-WC-316-A		07-94 NJ CLASSIFICATION SCHEDULE
WC 00 00 00	C	01-15 INSURANCE POLICY
WC 00 01 04		04-84 FEDERAL EMPLOYERS' LIAB ACT COVG ENDT
WC 00 01 06	A	04-92 LONGSHORE/HARBOR WORKERS' COMP COVG ENDT
WC 00 02 01	B	01-15 MARITIME COVERAGE ENDT
WC 00 03 01		04-84 ALTERNATE EMPLOYER ENDORSEMENT
WC 00 03 02		04-84 DESIGNATED WORKPLACES EXCLUSION ENDT
WC 00 03 10		04-84 SOLE PROPRIETORS, PARTNERS OFFICERS ENDT
WC 00 03 11	A	08-91 VOLUNTARY COMPENSATION AND EMPLOYERS COV
WC 00 03 13		04-84 WAIVER OF RIGHTS TO RECOVER FROM OTHERS
WC 00 04 04		04-84 PENDING RATE CHANGE ENDORSEMENT
WC 00 04 06		08-84 PREMIUM DISCOUNT ENDORSEMENT
WC 00 04 06	A	07-95 PREMIUM DISCOUNT ENDT
WC 00 04 14		07-90 NOTIFICATION OF CHANGE IN OWNERSHIP ENDT
WC 00 04 14	A	01-19 90DAY REPORT-NOTIF CHANGE IN OWNERSHIP
WC 00 04 19		01-01 PREMIUM DUE DATE ENDORSEMENT
WC 00 04 21	C	09-08 CATASTROPHE (OTHER THAN CERT ACTS) ENDT
WC 00 04 21	D	01-15 CATASTROPHE (OTHER THAN CERT ACTS) ENDT
WC 00 04 22	B	01-15 TERRORISM RISK PGM REAUTH ACT DISCL ENDT
WC 00 04 24		01-17 AUDIT NONCOMPLIANCE CHARGE ENDT
WC 00 04 25		05-17 EXPERIENCE RATING MODIFICATION FCCTR REV
WC 99 06 42	A	03-15 WASHINGTON CHANGES
WC 02 06 01	B	08-20 AZ CANCELLATION AND NONRENEWAL ENDT
WC 04 03 01	D	02-18 CA POLICY AMENDATORY ENDORSEMENT
WC 04 03 60	B	01-15 CA EMPLOYERS' LIAB COV AMENDATORY ENDT
WC 04 04 21		01-08 CA OPTIONAL PREMIUM INCREASE ENDORSEMENT
WC 04 04 22		01-12 CA SHORT-RATE CANCELATION ENDORSEMENT
WC 04 06 01	A	12-93 CA CANCELATION ENDORSEMENT
WC 05 04 02		11-90 CO CLASSIFICATION ENDORSEMENT
WC 09 02 01		01-15 FL MARITIME COV ENDT
WC 09 03 03		08-05 FL EMPLOYERS LIAB COV. ENDT
WC 09 04 03	B	01-15 FL TERRORISM RISK INS PROGRAM REAUTH ACT
WC 09 04 07		07-13 FL NON-COOPERATION W/ PREMIUM AUDIT ENDT
WC 09 06 06		10-98 FL EMPLOYMENT AND WAGE INFO. REL. ENDT.
WC 09 06 07	A	07-19 FL WC GUARANTY SURCHARGE ENDT
WC 10 06 01	C	07-18 GA CANCELLATION NONRENEWAL & CHANGE ENDT
WC 12 03 06	A	07-11 IL WC & EMPL LIAB POLICY EXCLUSION ENDT
WC 12 06 01	F	01-19 IL AMENDATORY ENDORSEMENT
WC 12 06 03		01-19 IL RENEWAL ENDT
WC 17 03 03		12-00 LA DUTY TO DEFEND ENDORSEMENT
WC 17 06 01	J	08-18 LA AMENDATORY ENDT
WC 17 06 02	A	02-96 LA COST CONTAINMENT ACT
WC 20 03 01		04-84 MA LIMITS OF LIABILITY ENDT
WC 20 03 02	A	09-08 MA ASSESSMENT CHARGE
WC 20 03 03	D	08-10 MA NOTICE TO POLICYHOLDER ENDT
WC 20 04 03		01-91 MA CONSTRUCTION CLASS PREMIUM ADJUSTMENT
WC 20 04 05		06-01 MA PREMIUM DUE DATE ENDT
WC 20 06 01	A	07-08 MA CANCELLATION ENDT
WC 21 03 04		04-84 MI LAW ENDORSEMENT

# SCHEDULE OF FORMS AND ENDORSEMENTS

Policy Number: WC 0305095-01

Form Number & Edition Date					Form Name	
WC	21	04	02	B	01-15	MI TERRORISM RISK INS PROGRAM REAUTH ACT
WC	22	00	00	A	11-03	MN AMENDATORY ENDT
WC	22	06	01	D	08-06	MN CANCELLATION AND NONRENEWAL ENDT
WC	23	06	01		07-18	MS CANCELLATION NONRENEWAL & RENEWL ENDT
WC	24	03	02		01-14	MO NOTIF OF ADDL MESOTHELIOMA BEN ENDT
WC	24	04	06	D	08-16	MO EMPLOYER PAID MEDICAL ENDORSEMENT
WC	24	06	01	B	01-96	MO CANCELATION AND NONRENEWAL ENDT
WC	24	06	02	B	07-06	MO PROPERTY & CASUALTY GUARANTY ASSOC
WC	24	06	04	C	09-19	MO AMENDATORY ENDORSEMENT
WC	26	04	03		05-17	NE EXP RATING MODIFICATION REVISION ENDT
WC	26	06	01	C	07-96	NE CANCELATION & NONRENEWAL
WC	27	06	01	C	10-08	NV CANCELLATION AND NONRENEWAL ENDT
WC	29	03	06	B	07-07	NJ PART TWO EMPLOYERS LIABILITY ENDT
WC	30	03	01		04-84	NM SAFETY DEVICE COV
WC	30	06	01	A	03-15	NM CANCELATION AND NONRENEWAL ENDT
WC	31	03	08		04-84	NY LIMIT OF LIABILITY
WC	31	03	19	J	05-20	NY CONST CLASS PREM ADJ ENDT
WC	31	04	05	A	05-20	NY SAFE PATIENT HANDLING ACT FLAT CREDIT
WC	31	06	18	A	05-20	NY POLICY NOTICE OF RIGHT TO APPEAL
WC	32	03	01	D	07-18	NC AMENDED COVERAGE ENDT
WC	36	03	06		01-02	OR LIMITS OF LIABILITY ENDORSEMENT
WC	36	04	06		10-01	OR PREMIUM DUE DATE ENDT
WC	36	06	01	E	01-08	OREGON CANCELLATION ENDORSEMENT
WC	36	06	04		01-17	OREGON AMENDATORY ENDORSEMENT
WC	37	04	01		01-17	PA AUDIT NONCOMPLIANCE CHARGE ENDT
WC	37	06	01		04-84	SPECIAL PA ENDT-INSPECTION OF MANUALS
WC	37	06	02		04-84	PA NOTICE
WC	37	06	03	A	08-95	PA ACT 86-1986 ENDT
WC	37	06	04		10-99	PA EMPLOYER ASSESSMENT ENDORSEMENT
WC	42	03	01	J	06-20	TEXAS AMENDATORY ENDORSEMENT
WC	42	03	04	B	06-14	TX-WAIVER OF OUR RIGHT TO RECOVER
WC	42	04	07		03-02	TX AUDIT PREM AND RETRO PREM ENDT
WC	43	06	02		07-02	UT CANCELLATION ENDORSEMENT
WC	45	06	02		07-93	VA AMENDATORY ENDT
WC	48	06	01	C	04-01	WI LAW ENDT
WC	48	06	06	B	01-02	WI CANCELLATION AND NONRENEWAL ENDT
WC	99	00	01	A	04-10	WC AND EMPLOYERS LIABILITY IN WITNESS
WC	99	06	33		05-10	NOTIFICATION TO OTHERS OF CANCELLATION
PN	04	99	08		12-19	CA POLICYHOLDER NOTICE-ASSEMBLY BILL N05
WC	36	06	03		01-11	OR EMP PAID MED CLAIMS ENDT
DNE-1	A				06-14	TX DEDUCTIBLE NOTICE OF ELECTION

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**Schedule**

ANY PERSON OR ORGANIZATION THAT REQUIRES YOU TO WAIVE YOUR RIGHTS OF RECOVERY, IN A WRITTEN CONTRACT OR AGREEMENT WITH THE NAMED INSURED THAT IS EXECUTED PRIOR TO THE ACCIDENT OR LOSS.

**MEMORANDUM OF UNDERSTANDING FOR  
West Haymarket Joint Public Agency  
Lincoln, NE  
COOPERATIVE CONTRACT  
MOU096**

**Contract Title: Construction Management and Inspection Services**

**Lead Entity and Contract Number: City of Lincoln, Consultant Agreement, RFP 20-047  
Hereinafter referred to as “the Lead Contract”**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is hereby issued to Alfred Benesch and Company, 825 M Street, Suite 100, Lincoln, NE 68508 hereinafter called “Contractor”, and from the West Haymarket Joint Public Agency, Lincoln, Nebraska, hereinafter called “JPA” for the purpose of the Contractor and the JPA agreeing to the terms and conditions provided in this MOU.

The Contractor and the JPA hereby agree to the following supplemental Terms and Conditions from those in the Lead Contract listed above:

## **TERMS AND CONDITIONS**

### **A. PARTICIPATING TERM**

The JPA shall participate in the Lead Contract for Construction Management and Inspection Services, Consultant Agreement, RFP 20-047. This Memorandum of Understanding, (MOU) will be effective upon execution through August 31, 2021. Upon conclusion of the initial term, the JPA has the option of renewing for three (3) additional one (1) year terms under the same terms and conditions according to the renewals allowed by the Lead Contract.

### **B. SCOPE**

The Contractor shall provide the same scope of services and provide the same products as set forth in the Lead Contract.

### **C. PRICING**

Pricing for these goods and/or services shall be pursuant to the Lead Contract, a copy thereof is attached to this Memorandum.

“Contracted Vendors” shall mean all vendors who contract or who have contracted with the City pursuant to the Lead Contract, RFP No. 20-047 for Construction Management and Inspection Services.

“Contracts” shall mean the collective contracts entered into between the City and the Contracted Vendors pursuant to the Lead Contract, RFP No. 20-047 for Construction Management and Inspection Services.

**The JPA will pay for service according to the pricing as listed in the Lead Contract, a copy thereof being attached to and made a part of this MOU. The JPA shall order on an as-needed basis for the duration of the MOU. The cost of services for the JPA shall not exceed \$150,000.00 for both MOUs (MOU094 and MOU096) combined during the MOU term without approval by the JPA.**

### **D. CONFLICTING TERMS**

To the extent other terms and conditions attached hereto conflict with the terms and conditions stated herein, the parties agree that conflicts among the documents comprising this Memorandum shall be resolved according to priority, and that a document's priority shall be determined according to the order in which the document appears in the list below in section “E. Memorandum of Understanding Documents”.

### **E. MOU DOCUMENTS**

**The following documents comprise the Memorandum of Understanding:**

1. This Memorandum of Understanding and associated Terms and Conditions;
2. Copy of Consultant Agreement, RFP 20-047
3. Insurance Requirements, Exhibit D/Certificate of Insurance;
4. Tax Forms 13

### **F. LAWS**

The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this Memorandum of Understanding. During the term of the MOU, the Contractor shall perform all services and/or supply all goods in accordance with the established and applicable standards and in accordance with applicable State and Local laws.



**G. IMPLIED REQUIREMENTS**

All products and services not specifically mentioned in this document or the Lead Contract, but which are necessary to provide the functional capabilities described in the Lead Contract, shall be included.

**H. CONTRACT MODIFICATION**

The MOU shall be modified only by a written MOU amendment and approval of the parties. No alteration or variation of the terms and conditions of this Memorandum shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

**I. TERMINATION**

This MOU may be terminated by the following:

1. Termination for Convenience. Either party may terminate this MOU upon thirty (30) days written notice to the other party, for any reason, without penalty.
2. Termination for Cause. The JPA may terminate this MOU for cause if the Contractor:
  - a. Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or products pursuant to the Lead Contract or;
  - b. Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders or;
  - c. Otherwise commits a substantial breach or default of any provision of the Lead Contract or this MOU. In the event of a substantial breach or default the County will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the MOU shall terminate.
3. In the event that funding is not available to continue with services as written, the JPA reserves the right to terminate use of the MOU for convenience with no financial obligation to the Contractor, Subcontractors or other stakeholders except for any amount due for services rendered or products supplied prior to notice of cancellation.

The JPA may terminate this MOU in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the JPA. In the event of unavailability of funds to pay any amounts due under the MOU, the JPA shall immediately notify the Contractor and the MOU shall terminate without penalty or expense to the JPA. Upon termination, the JPA shall pay the Contractor for any approved and documented services or products completed or purchased up to the date of termination, but not to exceed the maximum amount allowed by the Lead Contract or this MOU.

**J. SEVERABILITY**

If any provision of this MOU is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of the MOU shall not be affected and each provision of the MOU shall be enforced to the fullest extent permitted by law.

**K. ASSIGNMENT**

This MOU shall not be transferred to/or assigned to another Contractor without prior written consent confirming approval by the JPA. Any assignment without such prior written consent shall be absolutely void.

**L. FORCE MAJEURE**

Neither party shall be liable for any costs or damages from its inability to perform any of its obligations under the MOU due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of the Lead Contract or this MOU. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The JPA may grant relief from performance of the MOU if the Contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest on the Contractor. To be released based on a Force Majeure Event, the Contractor shall file a written request for relief with the City of Lincoln/Lancaster County Purchasing Division. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the Contract.

**M. ATTORNEY'S FEES**

In the event of any litigation, appeal, or other legal action to enforce any provision of the MOU, the Contractor agrees to pay all expenses of such action, as permitted by law, including Attorney's fees and costs, if the JPA is the prevailing party.

**N. PAYMENT**

Unless stated otherwise, the JPA will initiate payment within thirty (30) calendar days after:

1. All work has been performed and all equipment or other merchandise has been delivered.
2. All such labor and equipment and other materials have met all MOU specifications.
3. All such work has been approved by the JPA.
4. An invoice has been submitted which corresponds with the MOU amount and any subsequent changes approved by the JPA.

**O. INSURANCE**

See Exhibit D attached hereto for Insurance Requirements.

**P. TAXES AND TAX EXEMPTION CERTIFICATE**

The JPA is generally exempt from any taxes imposed by the State or Federal government. A Tax Exemption Certificate will be provided as applicable.

The Water Division of the City of Lincoln is taxable per Reg. 066.14A and no exemption certificate will be issued.

**Q. INDEPENDENT CONTRACTOR**

Employees of the Contractor shall not be deemed to be employees of the JPA and employees of the JPA shall not be deemed to be employees of the Contractor. The Contractor and the JPA shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the JPA's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

**R. EQUAL EMPLOYMENT OPPORTUNITY**

In connection with the carrying out of this project, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin,

ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

**S. LIVING WAGE**

The Contractor agrees to pay all employees employed in the performance of the MOU according to the City Living Wage per Section 2.81 of the Lincoln Municipal Code. The wages listed in Section 2.81 are subject to change every July. This provision is only applicable to City of Lincoln projects.

**T. E-VERIFY**

In accordance with Neb. Rev. Stat. 4-108 through 4-114, the Contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C 1324 a, otherwise 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 pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, [go to www.uscis.gov/everify](http://www.uscis.gov/everify).

**U. CITY AUDIT ADVISORY BOARD**

The Contractor's financial records may be subject to audit (City of Lincoln – Chapter 4.66 of the Lincoln Municipal Code) at a maximum of one time during any twelve (12) month period. Upon receiving thirty (30) days' advance notice. Contractor shall make available to the Contract Auditor copies of all financial records and materials germane to the MOU/purchase order, as allowed by law.

**V. IDEMNIFICATION**

To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the JPA, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the Work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the indemnification by the Contractor shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in

this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the JPA.

**W. WAIVER**

JPA's failure or neglect to enforce any of its rights under this Memorandum will not be deemed to be a waiver of the JPA's rights.

**X. THIRD PARTIES**

This Memorandum is not intended to, and does not, create any rights or benefits on behalf of any person, whether an individual or an entity, other than the Parties involved. JPA shall not be obligated or liable hereunder to any person, whether an individual or an entity, other than Contractor.

The Contractor and the JPA hereby agree that all the terms and conditions of this MOU shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

The Contractor hereby agrees to this MOU upon completion of signatures on the Vendor Signature Page.

## Vendor Signature Page

### MEMORANDUM OF UNDERSTANDING FOR West Haymarket Joint Public Agency Lincoln, NE MOU096

Alfred Benesch and Company

#### EXECUTION BY CONTRACTOR

#### IF A CORPORATION:

Alfred Benesch & Company

Name of Corporation

825 M Street; Suite 100; Lincoln, NE 68508

Address

By: **Anthony Dirks** Digitally signed by Anthony Dirks  
DN: cn=Anthony Dirks, ou=Alfred Benesch &  
Company, ou=Sr. Vice President,  
email=adirks@benesch.com, c=US  
Date: 2021.01.26 08:24:44 -06'00'

Duly Authorized Official

Sr. Vice President

Legal Title of Official

#### IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

Address

By:

Member

By:

Member

#### IF AN INDIVIDUAL:

Name

Address

Signature

**West Haymarket Joint Public Agency  
Signature Page**

**MEMORANDUM OF UNDERSTANDING FOR  
West Haymarket Joint Public Agency  
Lincoln, NE  
MOU096  
Alfred Benesch and Company**

**EXECUTION BY THE WEST HAYMARKET JOINT PUBLIC AGENCY**

**West Haymarket Joint Public Agency**

\_\_\_\_\_  
Leirion Gaylor Baird, Chairperson of the  
West Haymarket Joint Public Agency  
Board of Representatives

Approved Order No. \_\_\_\_\_

dated \_\_\_\_\_

## CONSULTANT AGREEMENT

THIS CONSULTANT AGREEMENT ("Agreement") is entered into by and between City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City" and

Alfred Benesch and Company

hereinafter referred to as "Consultant".

### RECITALS

WHEREAS, City proposes to engage Consultant in accordance with the terms and conditions set forth in RFP 20-047 and herein to render professional assistance in

Construction Management and Inspection Services

("Consultant Services") and;

WHEREAS, Consultant possesses certain skills, experience, education, and competency to perform the Consultant Services on behalf of City, and City desires to engage Consultant for such Consultant Services on an as-needed basis based on the terms listed in RFP 20-047 and those herein provided; and

WHEREAS, Consultant hereby represents that Consultant is willing and able to perform the Consultant Services in accordance with the proposed Consultant Services submitted with the RFP, Attachment A, and with this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the above Recitals and the mutual obligations of the parties hereto, the parties hereto agree as follows:

1. **Contract Administrators.** Various City Departments shall hire Consultant on an as-needed basis according to a scope developed on request. City Designee administering the project shall have authority on behalf of City to give approvals under this Agreement. Anthony Dirks, Consultant's representative, will supervise all services and be in charge of performance of the Consultant Services as set forth in this Agreement. Consultant does not have authority to bind the City to any terms and conditions associated with a project in progress without written approval of a designated City employee according to City Code and Charter.
2. **Scope of Services.** Consultant agrees to undertake, perform, and complete in an expeditious, satisfactory, and professional manner the Consultant Services, including those set forth in the attachments, on behalf of City. In the event there is a conflict between the terms proposed by Consultant and this Agreement, the terms of this Agreement shall control.
3. **Term of Agreement.** The term of this Agreement shall commence on September 1, 2020, or upon execution of this Agreement by both parties, and shall continue until completion of all obligations of this Agreement, but in no event longer than August 31, 2021, unless approved renewals or extensions are issued by written amendment. Upon agreement in writing, the parties may renew this Agreement for three (3) additional one (1) year terms.

4. **Compensation.** City agrees to pay all companies awarded a contract under 20-047 a total combined amount not to exceed Four Hundred Thousand Dollars (\$400,000.00). Unless otherwise set forth in the attachments, progress payments based upon a percentage of the Consultant Services performed as provided in the attachments shall be payable as follows upon receipt of supporting documentation acceptable to City for the work completed.

Monthly    X  
Quarterly  
Lump Sum  
As-needed  
Other

All approved payments will be made to Consultant. Failure of City to accept the recommendations or work of Consultant on the basis of differences of professional opinion shall not be the basis for rejection of the work performed by Consultant or for nonpayment of Consultant.

5. **Services; Confidentiality.** All services, including reports, opinions, and information to be furnished under this Agreement, shall be considered confidential and shall not be divulged by the Consultant, in whole or in part, to any person other than to duly authorized representatives of City, without the prior written approval of City. The parties understand that City is a governmental entity and may be required to disclose information to the extent required by law or by order of a court or other government entity. Any party may avail itself of any remedy allowed by law to respond or object to the disclosure. The provisions in this section shall survive any termination of this Agreement.
6. **City Employees; Raiding Prohibited.** Consultant shall not engage the services of any person or persons presently in the employ of City for work covered by this Agreement without the prior written consent of City.
7. **Termination of Agreement.** Termination may occur for any of the following reasons:
- This Agreement may be terminated by City or Consultant if the other party fails to adequately perform any material obligation required by this Agreement ("Default"). Termination rights under this section may be exercised only if the defaulting party fails to cure a Default within ten (10) calendar days after receiving written notice from the non-defaulting party specifying the nature of the Default.
  - City may terminate this Agreement, in whole or part, for any reason for City's own convenience upon at least ten (10) calendar days' written notice to Consultant.
  - City may terminate this Agreement in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of City. In the event of unavailability of funds to pay any amounts due under this Agreement, City shall immediately notify Consultant, and this Agreement shall terminate without penalty or expense to City. Upon termination, City shall pay Consultant for any approved and documented Consultant Services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.
  - If the Agreement is terminated by City as provided in (b) or (c) above, Consultant shall be paid for all Consultant Services performed, and reimbursable expenses incurred, not to exceed the maximum amount payable under the compensation section above, up until the date of termination. Consultant hereby expressly waives any and all claims for damages or compensation arising under this Agreement except as set forth in this section in the event of termination. Further, Consultant agrees that, upon termination as provided in this section, it shall not be employed by any developer or other party who is or may be interested in the Consultant Services for one (1) year after such termination, without prior approval of City.
  - City reserves the right to withhold payment for Consultant Services rendered that is not in compliance with this Agreement.



8. **Additional Services.** City may from time to time, require additional services from Consultant outside the scope of the contract. Such additional services, including the amount of compensation for such additional services, which are mutually agreed upon by and between City and Consultant shall be effective when incorporated in written amendments to this Agreement. Additional services shall not begin until the amendment is executed.
9. **Fair Employment.** Consultant shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status pursuant to the requirements of Lincoln Municipal Code Chapter 11.08, Neb. Rev. Stat. §48-1122, as amended, or such similar federal law as may be applicable.
10. **Fair Labor Standards.** Consultant shall maintain Fair Labor Standards in the performance of this Agreement as required by Chapter 73, Nebraska Revised Statutes, as amended.
11. **Assignability.** Consultant shall not assign any interest in this Agreement, except for the work of the subcontractors identified in this Agreement, delegate any duties or work required under this Agreement, or transfer any interest in the same (whether by assignment or novation), without an executed amendment thereto; provided, however, that claims for money due or to become due to Consultant from City under this Agreement may be assigned without such approval, but notice of any such assignment shall be furnished promptly to City.
12. **Interest of Consultant.** Consultant agrees that Consultant presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of the Consultant Services required to be performed under this Agreement. Consultant further agrees that, in the performance of this Agreement, no person having any such interest shall be employed or retained by Consultant under this Agreement.
13. **Copyrights, Royalties, and Patents; Warranty.**
  - a. Without exception, Consultant represents and warrants that the consideration for this Agreement includes Consultant's payment, if any, for any and all royalties or costs due any third party arising from patents, trademarks, copyrights, and other similar intangible rights claimed by any such third party in any way involved with or related to the Consultant Services provided herein by Consultant pursuant to this Agreement. Further, Consultant shall pay all related royalties, license fees, or other similar fees for any such intangible rights. Consultant represents that all materials, processes, or other protected rights, if any, to be used in the creation of the Consultant Services have been duly licensed or authorized by the appropriate parties for such use. Consultant agrees to furnish City upon demand written documentation of such license or authorization and if unable to do so, Consultant agrees that City may withhold a reasonable amount from Consultant's compensation herein to defray any associated costs to secure such license or authorization or defend any infringement claim.
  - b. Consultant shall indemnify City and defend suits or claims for infringement for damages, including but not limited to attorney's fees, of any patent, copyright, trademark, or other intangible rights that Consultant has used in the course of performing this Agreement.
  - c. Consultant represents and warrants to City that it is free to enter into this Agreement and that its performance thereunder will not conflict with any other Agreement to which Consultant may be a party. Consultant represents and warrants to City that the Service is unique and original, is clear of any claims or encumbrances, and does not infringe on the rights of any third parties.
  - d. Consultant agrees to and hereby transfers all right, title, and interest, including those of a property or copyright nature, in any reports, studies, data, website creation, digital files, imagery, metadata, maps, statistics, forms, and any other works or materials produced under the terms of this Agreement. No such work or materials produced, in whole or in part, under this Agreement, shall be subject to private use or copyright by Consultant without express written consent of City. City shall have the unrestricted rights of ownership of such works or materials and may freely copy, reproduce, broadcast, or otherwise utilize such works or materials as City deems appropriate. Consultant warrants that all materials, processes or other protected rights to be used have been duly licensed or authorized for City's use.

14. **Insurance; Coverage; Indemnification.** Consultant, prior to beginning work, agrees to City's insurance clause requirements for vendors and contractors including indemnification requirements and shall provide proof of insurance coverage in a form satisfactory to City, which shall not withhold approval unreasonably, with the coverages, minimum limits, and endorsements described in the attached INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY, AND PUBLIC BUILDING COMMISSION CONTRACTS as found at: <https://lincoln.ne.gov/city/finance/purch/index.htm> and the insurance clause shall be attached and incorporated herein to the Agreement.
15. **Notice.** Any notice, requests, demands, or other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed given if personally delivered on the other party by the party giving such notice, or mailed by certified mail, postage prepaid, return receipt requested, or sent by overnight carrier, to the following addresses:
- |   |   |
|---|---|
| City of Lincoln, Nebraska<br>Department: Purchasing Department<br>Attention: Bob Walla<br><br>440 So. 8 <sup>th</sup> Street, Suite 200<br>Lincoln NE 68508 | Alfred Benesch & Company<br>Anthony Dirks<br>825 M Street, Suite 100<br>Lincoln, NE 68508 |
|---|---|
16. **Independent Contractor.** City is interested only in the results produced by this Agreement. Consultant has sole and exclusive charge and control of the manner and means of performance. Consultant shall perform as an independent contractor, and it is expressly understood that neither Consultant nor any of its staff are employees of City and are not entitled to any City benefits including, but not limited to, overtime, retirement benefits, workers' compensation, sick leave, injury leave, or other leave provisions.
17. **Nebraska Law.** This Agreement shall be construed pursuant to the laws of the State of Nebraska.
18. **Integration.** This Agreement represents the entire agreement between the parties, and all prior negotiations and representations are hereby expressly excluded from this Agreement. Any attachments to this Agreement are a part of and incorporated into this Agreement, which may include but are not limited to the scope of Consultant Services, schedule of fees, addendums, special provisions, specifications, plans, RFP or bid documents, and any insurance certificates and endorsements. Any RFP or bid documents not attached to this Agreement may be referenced at [www.lincoln.ne.gov](http://www.lincoln.ne.gov)
19. **Amendment.** All amendments to this Agreement shall be in writing signed by both City and Consultant.
20. **Severability.** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
21. **Waiver of Contractual Right.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
22. **Audit and Review.** This Agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code, and Consultant shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law.
23. **Records Retention.** Unless City specifies in writing a different period of time, Consultant agrees to preserve and make available at reasonable times all of its books, documents, papers, records, and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of the expiration or termination of this Agreement. See City of Lincoln Records Retention Schedule. Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

24. **Living Wage.** If the compensation for services provided pursuant to this Agreement is equal to or exceeds \$25,000, this Agreement is subject to the Living Wage Ordinance of the Lincoln Municipal Code Chapter 2.81. The ordinance requires that, unless specific exemptions apply or a waiver is granted, Consultant shall provide payment of a minimum living wage to employees providing services pursuant to this Agreement. Under the provisions of the Lincoln Living Wage Ordinance, City shall have authority to terminate this Agreement and to seek other remedies for violations of this Ordinance.

25. **Federal Immigration Verification.** In accordance with Neb. Rev. Stat. §4-108 through §4-114, Consultant agrees to register with and use a federal immigration verification system to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. §1324a, otherwise 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. Consultant shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C. §1324b. Consultant shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to [www.uscis.gov/everify](http://www.uscis.gov/everify).

a. **Attestation Form.** If Consultant is an individual or sole proprietor, Consultant agrees to complete the United States Citizenship Attestation Form as provided by City and attach it to the Agreement.

b. **Public Benefits Eligibility Status Check.** If Consultant is agreeing to determine eligibility for and provide a public benefit as public benefit is defined under Neb. Rev. Stat. §§ 4-108 through 4-114, Consultant agrees to have each applicant for public benefits attest that he or she is a U.S. citizen or qualified alien using the form attached. Consultant agrees to register and use the SAVE Program as required under Neb. Rev. Stat. §§4-108 through 4-114. If the applicant indicates he or she is an alien, Consultant shall verify the applicant's lawful presence in the United States as provided under the SAVE Program and retain all documentation and provide copies of such documentation at City's request. For information on the SAVE program, go to [www.uscis.gov/SAVE](http://www.uscis.gov/SAVE).

26. **Representations.** Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid, and binding obligation of said party.

IN WITNESS WHEREOF, Consultant and City do hereby execute this Agreement as of the date of execution set forth below.

CITY OF LINCOLN, NEBRASKA

DATE: 9/14/2020

By:

  
Leirion Gaylor Baird, Mayor of Lincoln

CONSULTANT

DATE: August 27, 2020

By:

  
Name: \_\_\_\_\_  
Title: Sr. Vice President

Address: 825 M St.

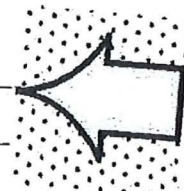
Phone:

Federal EIN #

Ste. 100

Lincoln, NE 68503  
68508

36-2407363



**SIGN  
HERE**

**UNITED STATES CITIZENSHIP ATTESTATION FORM  
FOR INDIVIDUAL CONSULTANT  
(to be used pursuant to Section XXVII.B)**

For the purposes of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

I am a citizen of the United States.

OR

I am a qualified alien under the Federal Immigration and Nationality Act. My immigration status and alien number are as follows:

\_\_\_\_\_, and I agree to provide a copy of the USCIS (United States Citizenship and Immigration Services) documentation upon request required to verify the Consultant's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete and accurate and I understand that this information may be used to verify my lawful presence in the United States. I understand and agree that lawful presence in the United States is required and the consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

PRINT NAME: \_\_\_\_\_

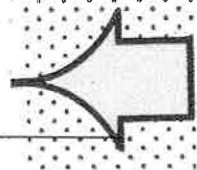
*Anthony Dirks*  
(First, Middle, Last)

SIGNATURE: \_\_\_\_\_

*[Signature]*

DATE: \_\_\_\_\_

*August 27, 2020*



**SIGN  
HERE**



**UNITED STATES CITIZENSHIP ATTESTATION FORM  
FOR PUBLIC BENEFIT  
(to be used pursuant to Section XXVII.C)**

For the purposes of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

I am a citizen of the United States.

OR

I am a qualified alien under the Federal Immigration and Nationality Act. My immigration status and alien number are as follows:

\_\_\_\_\_, and I agree to provide a copy of my USCIS (United States Citizenship and Immigration Services) documentation upon request.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete and accurate and I understand that this information may be used to verify my lawful presence in the United States.

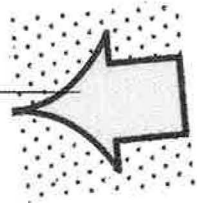
PRINT NAME: \_\_\_\_\_

(First, Middle, Last)

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

August 27, 2020



**SIGN  
HERE**



## 2020 EMPLOYMENT CLASSIFICATION AND RATE SCHEDULE

<u>CLASSIFICATION</u>	<u>BILLABLE RATE</u>
Project Manager I	\$152.00
Project Manager II	\$175.00
Senior Project Manager	\$190.00
Project Principal	\$246.00
Project Engineer I	\$123.00
Project Engineer II	\$135.00
Senior Project Engineer	\$160.00
Construction Representative I	\$80.00
Construction Representative II	\$97.00
Construction Representative III	\$120.00
Inspector I	\$72.00
Inspector II	\$80.00
Inspector III	\$88.00
Designer I	\$105.00
Designer II	\$116.00
Technologist I	\$68.00
Technologist II	\$80.00
Senior Technologist	\$120.00
Technical Specialist I	\$97.00
Technical Specialist II	\$120.00
Senior Technical Specialist	\$135.00
Intern	\$65.00
Field/Lab Technician I	\$59.00
Field/Lab Technician II	\$68.00
Field/Lab Technician III	\$80.00
Senior Field/Lab Technician	\$97.00
Instrument Operator	\$65.00
Party Chief	\$95.00
Surveyor (RLS)	\$104.00
Senior Surveyor (RLS)	\$140.00
Scientist I	\$68.00
Scientist II	\$80.00

Project Scientist I (Environmental)	\$97.00
Project Scientist II (Environmental)	\$120.00
Project Scientist III (Environmental)	\$127.00
Senior Project Scientist	\$143.00
Project Scientist I (Geotechnical)	\$80.00
Project Scientist II (Geotechnical)	\$88.00
Marketing Assistant	\$59.00
Marketing Coordinator	\$80.00
Marketing Manager	\$120.00
Office Assistant	\$59.00
Project Assistant I	\$59.00
Project Assistant II	\$70.00
Division Administrative Assistant I	\$59.00
Division Administrative Assistant II	\$68.00

<b>AGGREGATE</b>		
Sieve Analysis (Dry) Less than 3,000 G	Test	\$76.00
Sieve Analysis (Dry) More than 3,000 G	Test	\$103.00
Sieve Analysis (Washed) Less than 3,000 G	Test	\$103.00
Sieve Analysis (Washed) More than 3,000 G	Test	\$127.00
Moisture Content of Aggregate by Drying	Test	\$38.00
Surface Moisture in Fine Aggregate	Test	\$28.00
Absorption of Coarse Aggregate	Test	\$76.00
Absorption of Fine Aggregate	Test	\$90.00
Specific Gravity and Absorption of Aggregate	Test	\$200.00
Soundness of Aggregate (Nebraska Freeze-Thaw)	Test	\$210.00
Soundness of Aggregate by use of Sodium Sulfate	Test	\$380.00
Soundness of Aggregate by use of Magnesium Sulfate	Test	\$380.00
Los Angeles Abrasion Coarse Aggregate	Test	\$166.00
Soft Particles in Coarse Aggregate (Scratch)	Test	\$82.00
Lightweight Pieces in Aggregate	Test	\$127.00
Clay Lumps and Friable Particles in Aggregate	Test	\$76.00
Flat and Elongated Pieces in Aggregate	Test	\$141.00
Fractured Faces	Test	\$141.00
Sand Equivalent Value of Soils and Fine Aggregate	Test	\$162.00
Calcium Carbonate Equivalent	Test	\$82.00
Preparation of Aggregate Specimen for Calcium Carbonate Equivalent	Test	\$76.00
Organic Impurities	Test	\$76.00
Lightweight Pieces in Aggregate Coal and Lignite	Test	\$305.00
Lightweight Pieces in Aggregate Chert	Test	\$204.00
Dry Rodded Unit Weight	Test	\$141.00
Fine Aggregate Angularity (Uncompacted Void Content)	Test	\$109.00
Coarse Aggregate Angularity	Test	\$109.00
Potential Alkali Reactivity of Aggregates (Mortar Bar Test)	Test	\$579.00
<b>ASPHALT, CONCRETE (ROAD &amp; PAVING MATERIALS)</b>		
Gyratory Compaction of Bituminous Paving Mixture	Test	\$75.00
Extraction of Bitumen from Bituminous Paving Mixture (Ignition Method)	Test	\$149.00
Asphalt Content Nuclear Gauge	Test	\$118.00
Bulk Specific Gravity and Density of Compacted Bituminous Mixture (Field Core Specimen)	Test	\$42.00
Trimming Field Specimen	Each	\$33.00
Marshall Specimen with Stability and Flow	Each	\$65.00
Coating and Stripping of Bituminous - Aggregate Mixture	Test	\$121.00
Effect of Moisture on Asphalt Concrete Paving Mixture (Set of Six Specimens)	Set	\$717.00
Effect of Moisture on Asphalt Concrete Paving Mixture (Set of Six Specimens, No Fabrication)	Set	\$377.00
Theoretical Maximum Specific Gravity of Bituminous Paving Mixture (Rice Method)	Test	\$126.00
Bituminous Paving Mixture, Design and Report	Each	Per Bid
Moisture Content of Bituminous Paving Mixture	Test	\$139.00
Volatile Disillates in Bituminous Paving Mixture (Percent Aeration)	Test	\$139.00
<b>CEMENT</b>		
Compressive Strength of Mortar Cubes	Each	\$28.00
Determination of Flow of Hydraulic Cement Mortar	Test	\$217.00
Normal Consistency of Hydraulic Cement	Test	\$217.00
Air Content of Hydraulic Cement <sup>1</sup>	Test	\$141.00
Water Retention of Masonry Cement <sup>1</sup>	Test	\$141.00
Time of Setting of Hydraulic Cement by Vicant Needle <sup>2</sup>	Test	\$184.00
Time of Setting of Hydraulic Cement by Gillmore Needle <sup>2</sup>	Test	\$184.00
<sup>1</sup> Requires the determination of flow of hydraulic cement mortar.		
<sup>2</sup> Requires the determination of normal consistency of hydraulic cement.		



CONCRETE		
Compressive Strength of 6"x12" Concrete Cylinders includes Mold	Test	\$26.00
Handling Charge for Reserve Cylinder	Each	\$7.00
Compressive Strength of Concrete Core (includes trimming and capping)	Test	\$60.00
Trimming Irregular Concrete for Compressive Strength Determination	Each	\$60.00
Measuring Length of Drilled Concrete Core	Each	\$28.00
Air Content of Freshly Mixed Concrete (Pressure Method)	Test	\$28.00
Unit Weight, Yield, and Air Content (Gravimetric) of Concrete	Test	\$28.00
Air Content of Freshly Mixed Concrete (Volumetric Method)	Test	\$38.00
Slump of Portland Cement Concrete	Test	\$28.00
Obtaining Specimen of Hardened Concrete for Chloride Ion Analysis	Specimen	\$65.00
Determination of Total Chloride Ions in Hardened Concrete	Test	\$135.00
Preparation of Specimens of Hardened Concrete for Alkalinity Determination	Specimen	\$65.00
Determination of Alkalinity of Hardened Concrete (A.O.A.C. Method)	Test	\$135.00
Absorption of Concrete Cores	Test	\$60.00
Specific Gravity, Absorption, and Voids in Hardened Concrete after 48-Hour Immersion	Specimen	\$97.00
Specific Gravity, Absorption, and Voids in Hardened Concrete after 5-Hour Boiling	Specimen	\$114.00
Concrete Mix Design and Report	Each	Per Bid
Flexural Strength of Concrete Beam including Mold Rental and Cleaning	Test	\$50.00
Handling Charge for Reserve Concrete Beam	Each	\$12.00
Concrete Vibrator, Rental	Day	\$60.00
Rebound Hammer, Rental	Hour	\$45.00
Electric Core Machine (\$54/day minimum)	Hour	\$27.00
Support Generator	Day	\$75.00
Core Bit Wear	Inch	\$7.00
Electric Jack Hammer	Day	\$76.00
Roto Hammer Drill	Day	\$65.00
RH Moisture Reader Rental	Day	\$50.00
Disposal RH Probe Sensor	Each	\$68.00

MASONRY, MORTAR, AND UNITS		
Compressive Strength of Concrete Masonry Unit	Test	\$50.00
Compressive Strength of 2"x2" Cube Specimens includes Mold Rental	Test	\$32.00
Moisture Content of Concrete Masonry Unit	Test	\$50.00
Water Absorption of Concrete Masonry Unit	Test	\$50.00
Unit Weight of Concrete Masonry Unit	Test	\$50.00
Compressive Strength, Absorption, Moisture Content, Unit Weight, and Dimensions of Concrete Masonry Unit	Block	\$135.00
Drying Shrinkage on Concrete Block	Block	\$571.00
Compressive Strength of Brick (Five half-brick specimens)	Set	\$184.00
Absorption of Brick (24-Hour Submersion and 5-Hour Boil, Five half-brick specimens)	Set	\$179.00
Initial Rate of Absorption of Brick (Five half-size bricks)	Set	\$146.00
Freezing and Thawing of Brick (50 cycles; five bricks)	Set	\$338.00
Efflorescence of Brick (Ten full-size bricks)	Set	\$135.00
Modulus of Rupture of Brick (Five full-size bricks)	Set	\$166.00
Sulfate Soundness of Paving Brick (15 cycles; five bricks)	Set	\$272.00
Abrasion Resistance of Paving Block	Test	\$166.00
Abrasion Index of Paving Block	Test	\$60.00
Solubility of Brick in Sulfuric Acid	Test	\$235.00
Compression Test - 4"x4" Grout Prism includes Mold	Test	\$32.00
Handling Charge - Reserve Prism	Prism	\$7.00
Cutting Brick Charge	Each	\$12.00

SOIL, SOIL-CEMENT, & ROCK		
Moisture Density Relations of Soil (Method A)	Test	\$293.00
Moisture Density Relations of Soil (Method B or C)	Test	\$322.00
Moisture Density Relations of Soil (One-Point Check)	Test	\$109.00
California Bearing Ratio (Laboratory, Each CBR Point)	Point	\$290.00
Resistance of Soil to Penetration by Soil Penetrometer	Set	\$76.00
Minimum and Maximum Index Densities of Soil	Set	\$323.00
Moisture Content of Soil	Test	\$22.00
Moisture Content and Density of Shelby Tube Sample	Test	\$44.00
Liquid Limit, Plastic Limit, and Plasticity Index of Soil (Dry Preparation)	Test	\$135.00
Liquid Limit, Plastic Limit, and Plasticity Index of Soil (Wet Preparation)	Test	\$173.00
Particle-Size Analysis of Soil without Plus No. 10 Material (does not include Specific Gravity)	Test	\$162.00
Particle-Size Analysis of Soil with Plus No. 10 Material (does not include Specific Gravity)	Test	\$191.00
One-Dimensional Consolidation Properties of Soil	Test	\$282.00
One-Dimensional Consolidation Properties of Soil (not including time deformation, permeability data, or rebound curve)	Test	\$216.00
One-Dimensional Swell of Cohesive Soil	Test	\$253.00
Permeability (Fined Grained Soils)	Test	\$228.00
Permeability (Coarse Aggregates)	Test	\$248.00
Unconfined Compressive Strength (Shelby Tube Sample)	Test	\$109.00
Unconfined Compressive Strength (Carved Specimen)	Test	\$173.00
Specific Gravity of Soil	Test	\$97.00
Shrinkage Factors of Soil	Test	\$65.00
Dispersive Characteristics of Soil by the Pinhole Test	Test	\$184.00
Dispersive Characteristics of Soil by the Crumb Test	Test	\$22.00
Triaxial Compression of Cohesive Soil, Unconsolidated-Undrained (Natural/Molding Moisture)	Specimen	\$190.00
Triaxial Compression of Cohesive Soil, Unconsolidated-Undrained (Back-Pressure Saturated)	Specimen	\$197.00
Triaxial Compression of Cohesive Soil, Consolidated-Undrained (Natural/Molding Moisture)	Specimen	\$235.00
Triaxial Compression of Cohesive Soil, Consolidated-Undrained (Back-Pressure Saturated)	Specimen	\$305.00
Triaxial Compression of Cohesive Soil, Consolidated-Undrained with Pore-Pressure Measurements (Back-Pressure Saturated)	Specimen	\$478.00
Direct Shear (Granular Material)	Specimen	\$190.00
Direct Shear (Cohesive Material)	Specimen	\$190.00
Material Finer than No. 200 Sieve (ASTM D1140)	Test	\$45.00
Corrosivity of Soil to Steel (Moisture content, pH, resistivity, oxidation, redox potential, and sulfides)	Set	\$114.00
Corrosivity of Soil to Concrete (pH, sulfates, chlorides, oxidation, redox potential)	Set	\$114.00
Moisture Density Relations of Soil - Cement Mixture	Test	\$272.00
Compressive Strength of Compacted Soil - Cement Mixture	Specimen	\$33.00
Freezing and Thawing of Compacted Soil - Cement Mixture (Set of 2)	Set	\$242.00
Wetting/Drying of Compacted Soil - Cement Mixture (Set of 2)	Set	\$242.00
Unconfined Compressive Strength of Intact Rock Core Specimens	Test	\$141.00
Sand Cone Soil Density Test	Test	\$82.00
Volume Measure Soil Density Test	Test	\$71.00
Flexible - Wall Permeability Tests	Test	\$394.00
Trim Unconfined Rock Core Specimen	Each	\$60.00
EQUIPMENT CHARGE RATES		
Support Vehicle	Day	\$65.00
Support Vehicle	Mile	\$9.75
Back-Saver Soil Probe (8 hr/day maximum charge)	Hour	\$8.00
Hand Auger	Day	\$24.00
ESP Probe & Jack	Hour	\$30.00
Dynamic Cone Penetrometer	Day	\$83.00
Use of Shelby Tube (3-inch O.D.)	Each	\$15.00
Use of Shelby Tube (5-inch O.D.)	Each	\$21.00

## INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS

Insurance coverage on this Contract will be required for the entities selected below

☒ City of Lincoln    ☐ Lancaster County    ☐ Public Building Commission

Vendors must provide coverage & documents related to the items with a check mark in Sections 1 – 1.9. This includes proof of coverage and waivers as required below.

All Vendors must comply with Sections 2-8.

THE REQUIREMENTS HEREIN APPLY TO CONTRACTS TO BE ISSUED BY THE CITY OF LINCOLN, LANCASTER COUNTY, AND THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION. FOR PURPOSES OF CERTIFICATES, ENDORSEMENTS AND OTHER PROOF REQUIRED HEREIN, ONLY INCLUDE THE ENTITY ISSUING THE CONTRACT.

FAILURE OF THE APPROPRIATE ENTITY (CITY, COUNTY, OR PUBLIC BUILDING COMMISSION) TO OBJECT TO THE FORM OF THE CERTIFICATE OR ENDORSEMENT OR TO DEMAND SUCH PROOF AS IS REQUIRED HEREIN SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE INSURANCE REQUIREMENTS SET FORTH BELOW.

### **Insurance; Coverage Information**

The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the City/County/PBC, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Contract are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Contract shall begin until all insurance obligations herein are met to the satisfaction of the City/County/PBC, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the City/County/PBC prior to execution of the Contract and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000 per occurrence or as may be approved by the City or County as appropriate. Said insurance shall be written on an **OCCURRENCE** basis, and shall be **PRIMARY, with any insurance coverage maintained by the City/County/PBC being secondary or excess.**

### **Certificates**

The Contractor shall provide certificates of insurance and such other proof, such as endorsements, as may be acceptable to the City or County (as appropriate) evidencing compliance with these requirements. The Contractor shall provide a Certificate of Insurance demonstrating the coverage required herein and the necessary endorsements or other proof and waivers described herein and below before being permitted to begin the work or project pursuant to this Contract.

☒ **1. Commercial General Liability**

The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/ Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the City/County/PBC. The required insurance must include coverage for all projects and operations of Contractor or similar language that meets the approval of the City/County/PBC, which approval shall not be unreasonably withheld.

☒ **1.1 Additional Insured (Requires an Endorsement Form)**

All Contractors shall provide an Additional Insured Endorsement form or other proof showing the City/County/PBC as additional insured for commercial general liability, auto liability and such other coverages as may be required by the City/County/PBC. The form or other proof shall be as is acceptable to the City/County Attorney.

☒ **1.2 Automobile Liability**

The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

☐ **1.3 Garage Keepers / Garage Liability**

The Contractor shall provide garage insurance, if required. Coverage shall include Garage Liability and Garage Keepers on a Direct Primary Basis, including Auto Physical Damage, with limits of not less than \$1,000,000 each accident Bodily Injury and Property Damage combined liability and Actual Cash Value auto physical damage. Coverage symbol(s) 30 and 21 shall be provided, where applicable.

☒ **1.4 Workers' Compensation; Employers' Liability**

The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000 each accident or injury shall be included. The Contractor shall provide the City/County/PBC with an endorsement for waiver of subrogation or other proof of such waiver as may be acceptable to the City or County. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

☐ **1.5 Builder's Risk Insurance**

The Contractor shall purchase and maintain builder's risk property insurance for all sites upon which construction is occurring as provided by Contract and all storage sites where equipment, materials, and supplies of any kind purchased pursuant to the Contract are being held or stored unless the Contractor receives notice that the City/County/PBC has obtained a builder's risk policy for itself. Except to the extent recoverable by Contractor from another subcontractor, deductibles shall be the responsibility of the Contractor. This coverage is required whenever the work under contract involves construction or repair of a building structure or bridge.

☐ **1.5.1 Waiver of Builder's Risk Insurance Carrier's Subrogation Rights**

The Contractor and its subcontractor(s) waive all rights of action and subrogation that the insurance company providing the builder's risk policy may have against each of them and/or the City/County/PBC, Architect, and the officers, agents and employees of any of them, for all claims, damages, injuries and losses, to the extent covered by such property insurance. Such waiver of subrogation shall be effective for such persons even though such persons would otherwise have a duty of indemnification or contribution, contractual or otherwise, and even though such persons did not pay the insurance premium directly or indirectly, and whether or not such persons had an insurable interest in any property damaged. The Contractor or subcontractor shall provide proof of such waiver.

☐ **1.6 Pollution Liability**

Contractors shall provide proof of pollution liability insurance arising out of all operations of the Contractors and subcontractors, due to discharge, dispersal, release, or escape of contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water with bodily injury and property damage limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- 2) Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 3) Defense including loss adjustment costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;
- 4) Definition of pollution conditions shall include asbestos, lead, and mold so that these risks are covered if caused by Contractor/successful candidate's work or operations.
- 5) Coverage is required on an occurrence form.

☒ **1.7 Errors and Omissions; Professional Liability**

Errors and Omissions or Professional Liability insurance, as may be required, covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act, including infringement of intellectual property (except patent and trade secret) of the Contractor. This coverage is required whenever the Contractor or service provider is required to be certified, licensed or registered by a regulatory entity and/or where the provider's judgment in planning and design could result in economic loss to City/County/PBC.

☐ **1.8 Railroad Contractual Liability Insurance**

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or railroad crossing, the Contractor must provide proof acceptable to the City or County that any exception for such work in the Contractor's commercial general liability policy has been removed or deleted.

☐ **1.8.1 Railroad Protective Liability**

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City/County/PBC Purchasing Department prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

☐ **1.9 Cyber Insurance**

The Contractor shall maintain network risk and cyber liability coverage (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

2. **Cancellation Notice**

All Contractors shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation during the term of the Contract and during the period of any required continuing coverages. The Contractor shall provide, prior to expiration of the policies, certificates and endorsement forms evidencing renewal insurance coverages. The parties agree that the failure of City/County/PBC to object to the form of a certificate and/or additional insured endorsement or endorsement forms provided shall not constitute a waiver of this requirement.

3. **Risk of Loss**

Except to the extent covered by the builder's risk insurance, the Contractor shall have the sole responsibility for the proper storage and protection of, and assumes all risk of loss of, any subcontractor's Work and tools, materials, equipment, supplies, facilities, offices and other property at or off the Project site. The Contractor shall be solely responsible for ensuring each subcontractor shall take every reasonable precaution in the protection of all structures, streets, sidewalks, materials and work of other subcontractors. Contractor shall protect its Work from damage by the elements or by other trades working in the area.

4. **Umbrella or Excess Liability**

The Contractor may use an Umbrella, Excess Liability, or similar coverage to supplement the primary insurance stated above in order to meet or exceed the minimum coverage levels required by this Contract.

5. **Minimum Scope of Insurance**

All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

6. **Indemnification**

To the fullest extent permitted by law the Contractor shall indemnify, defend, and hold harmless the Owner, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the Work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the

indemnification by the Contractor shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the Owner.

7. **Reservation of Rights**

The City/County/PBC reserves the right to require a higher limit of insurance or additional coverages when the City/County/PBC determines that a higher limit or additional coverage is required to protect the City/County/PBC or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.

8. **Sovereign Immunity**

Nothing contained in this clause or other clauses of this Contract shall be construed to waive the Sovereign Immunity of the City/County/PBC.

9. **Further Contact**

For further information or questions concerning coverage or acceptable forms, Contractors may contact the Purchasing Division or the department that issued the bid or the request for proposal.

For general questions regarding Insurance Requirements, please contact Risk Management for the City or County.



## EXHIBIT 1

If your company meets the minimum requirements as listed in this RFP under Section I., F. **ESSENTIAL QUALIFICATIONS AND EXPERIENCE**, then please complete this form and include copies in all hard copy responses (Include one in the Original and each of the hard copy Proposal responses) along with a copy in the USB Drive. Fill in your company name in the two areas listed below, sign and date.

I have read and understand the "ESSENTIAL QUALIFICATIONS AND EXPERIENCE" requirements as outlined. I declare that our company, \_\_\_\_\_ meets all said requirements in the capacity of the Company and not through the experience of our sub-contractors or staffs' experience acquired through previous employment at other companies.

\_\_\_\_\_ was identified as the Contractor/Provider contractually responsible in contract agreements performing all the requirements as listed in the above referenced section of the RFP.

Further, our company understands and agrees that this form does not represent or replace any other submissions requested under Section IV., B. 2. for **EXPERIENCE, PROPOSED STAFF MANAGEMENT APPROACH AND SUBCONTRACTORS** for the evaluation. The sole purpose of this form is to declare that our company meets the minimum qualifications and experience for acting in the capacity of the responsible party and to ascertain our company, regardless of sub-contractors and former experience of employees, is eligible for consideration in this RFP process.

I am an authorized signer to represent our company on this proclamation.

\_\_\_\_\_  
Authorized Company Representative

\_\_\_\_\_  
Date



**Lancaster**  
EVENT CENTER

## **20-047 Addendum 1**

### **Alfred Benesch and Company**

### **Supplier Response**

#### **Event Information**

Number: 20-047 Addendum 1  
Title: Construction Management and Inspection Services  
Type: Request for Proposal  
Issue Date: 7/10/2020  
Deadline: 7/24/2020 12:00 PM (CT)

#### **Contact Information**

Contact: Robert Walla Purchasing Agent  
Address: Suite 200  
Purchasing  
440 S. 8th St.  
Lincoln, NE 68508  
Phone: 1 (402) 441-8309  
Fax: 1 (402) 441-6513  
Email: [rwalla@lincoln.ne.gov](mailto:rwalla@lincoln.ne.gov)

## **Alfred Benesch and Company Information**

Contact: Anthony Dirks  
Address: 825 M Street  
Suite 100  
Lincoln, NE 68508  
Phone: (402) 479-2200  
Fax: (402) 479-2276  
Email: [adirks@benesch.com](mailto:adirks@benesch.com)

By submitting your response, you certify that you are authorized to represent and bind your company.

Anthony Dirks, PE

*Signature*

*Submitted at 7/24/2020 11:15:24 AM*

[adirks@benesch.com](mailto:adirks@benesch.com)

*Email*

## **Response Attachments**

### **RFP 20-047 – Construction Management Services [Benesch].pdf**

Benesch submittal for RFP 20-047

## Bid Attributes

### 1 Agreement to Addendum No. 1

*Addenda are instruments issued by the Purchasing Department prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Vendor must acknowledge receipt of this addendum in the space provided at time of bid submission.*

*Be advised of the following clarifications and changes to the Specification and bidding documents:*

**1. The following are a list of projects which are currently being conducted by the current Vendor, or are being discussed by the City for future work that may be performed by the awarded Vendor from this RFP. There is no guarantee that the awarded Vendor will be responsible for any of the work listed herein:**

New fire stations: All are in warranty phase and work is being done with public safety on final budget closeout for the sales tax monies. LFR also has requested CM services for the median reconstruction and signal flasher work at stations 10, 12, and 15. Additional work may be requested to add permanent generators at 10, 12, and 16 with excess sales tax funds.

LPD Maintenance Garage: Project is between substantial and final completion. Awarded vendor may be helping with closeout and warranty claims. Additional work may be done to the building requiring CM assistance.

Eagle Parking Garage: Manage four separate contracts and three general contractors. Demolition has reached final completion. Structural restoration should be done late this fall. Elevator and general construction contract work will continue into the first few months of 2021.

Parking Deck 4: CMAR award is in process. Design is also in progress, construction anticipated to begin this fall with completion end of next year.

Aging Partners: Assist with analyzing and planning a potential move out to the VA campus.

Woods Tennis, Fire Station 11, Lumberworks Liner Block: Assist with warranty claims as they arise.

Gallery Alley - Assist with lighting maintenance.

Potential Future Projects - Library and Pershing and Block 65 parking garage project.

*All other terms, conditions, and requirements of the request remain the same as originally indicated in the document or as modified on previous addenda.*

Robert Walla  
Purchasing Agent

☐ Yes

### 2 Electronic Signature

Please check here for your electronic signature.

☐ Yes

### 3 Insurance Requirements and Endorsements

Vendor agrees to provide insurance coverage for each checked box on the Insurance Clause document in the Bid Attachments including the submission of the Certificate of ACORD and the applicable endorsements.

Insurance Certificate and required Endorsements are required at time of contract execution by the vendor.

**Vendors are strongly encouraged to send the insurance requirements and endorsement information to their insurance agent prior to bid close in order to expedite the contract execution process.**

☐ Yes

**4 Bid Documents**

I acknowledge and accept that it is my responsibility as a Bidder to promptly notify the Purchasing Department Staff prior to the close of the bid of any ambiguity, inconsistency or error which I may discover upon examination of the bid documents including, but not limited to the Specifications.

**5 RFP**

I acknowledge reading, understanding and agree to the "Request for Proposal" document content and requirements.

**6 Contact**

Name of person submitting this bid:

**7 Sample Contract**

I acknowledge reading and understanding the sample contract.

**Bid Lines****1**

This is to notify you that RFP 20-047 for Construction Management and Inspection is available. Please prepare your response and attach a PDF file to the Response Attachment section of Ebid. Respond to the Attribute section (above) of this electronic bid and submit before the closing date and time. Also, you are required to enter a 0 for your response in this line item. If you have any questions, call 402-441-7417.

Quantity: 1 UOM: EA Unit Price:  Total:

**Response Total: \$0.00**

# CONSTRUCTION MANAGEMENT/ INSPECTION SERVICES RFP 20-047

CITY OF LINCOLN

Submitted by: Alfred Benesch & Company



## EXHIBIT 1

If your company meets the minimum requirements as listed in this RFP under Section I., **F. ESSENTIAL QUALIFICATIONS AND EXPERIENCE**, then please complete this form and include copies in all hard copy responses (Include one in the Original and each of the hard copy Proposal responses) along with a copy in the USB Drive. Fill in your company name in the two areas listed below, sign and date.

I have read and understand the "ESSENTIAL QUALIFICATIONS AND EXPERIENCE" requirements as outlined. I declare that our company, Alfred Benesch & Company meets all said requirements in the capacity of the Company and not through the experience of our sub-contractors or staffs' experience acquired through previous employment at other companies.

Anthony Dirks, PE was identified as the Contractor/Provider contractually responsible in contract agreements performing all the requirements as listed in the above referenced section of the RFP.

Further, our company understands and agrees that this form does not represent or replace any other submissions requested under Section IV., **B. 2. for EXPERIENCE, PROPOSED STAFF MANAGEMENT APPROACH AND SUBCONTRACTORS** for the evaluation. The sole purpose of this form is to declare that our company meets the minimum qualifications and experience for acting in the capacity of the responsible party and to ascertain our company, regardless of sub-contractors and former experience of employees, is eligible for consideration in this RFP process.

I am an authorized signer to represent our company on this proclamation.

Anthony Dirks Anthony Dirks, PE July 24, 2020  
Authorized Company Representative Date



Alfred Benesch & Company  
825 M Street, Suite 100  
Lincoln, NE 68508  
www.benesch.com  
P 402-479-2200  
F 402-479-2276

July 24, 2020

City of Lincoln | Lancaster County Purchasing  
Robert Walla, CPPB  
Purchasing Agent  
440 S. 8th Street, Suite 200  
Lincoln, NE 68508

RE: CONSTRUCTION MANAGEMENT/INSPECTION SERVICES - RFP 20-047

Mr. Walla and Members of the Selection Committee:

Alfred Benesch & Company (Benesch) is pleased to submit this proposal to the City of Lincoln for construction management and inspection services. We understand that a responsive, skilled team will be an integral part of the success of many projects over the next 5 years. We bring you an experienced team with a proven track record of success in managing projects of similar scope and bring the following benefits to you on this contract:

- ✓ Responsiveness - Benesch has a proven record of being responsive to the demands associated with construction management services. We understand the importance of timely communication and swift decision making to avoid the potential claims associated with delay. The key is maintaining a professional relationship with all parties and being proactive so that decisions can be made before they are a crisis.
- ✓ Expertise – Benesch brings a wealth of construction management expertise to the City of Lincoln as well as a complete portfolio of multi-disciplinary expertise to address any questions that may arise on a project site. Benesch's Construction Manager, Scott Gripenstroh is a highly accomplished construction manager with over 30 years of experience on a wide range of projects, including roadways, airports, bridges, trails, wastewater treatment facilities, buildings, fire rescue stations, ball fields, water mains and others.
- ✓ Value Methodology – Benesch is a national leader in Value Methodology and has invested heavily in training many of our employees across the company. Aaron Buettner is our local expert and recently became a Certified Value Specialist (CVS), certified by SAVE International. We leverage this training and expertise to bring value to our clients. Our Value Planning/Value Engineering process can be deployed on any project at any time during the project development process. We also use this training to work with contractors and identify ways to bring bids into budget. This process could add value during project planning to manage budget contingencies as well as to explore alternatives when projects are over budget.

Thank you for the opportunity to submit our qualifications for this project. We look forward to putting our expertise and project knowledge to work for you. Should you have any further questions regarding our qualifications, please contact me at any time.

Sincerely,

Anthony Dirks, PE  
Contract Manager / Senior Vice President  
P: (402) 479-2265  
E: adirks@benesch.com



## WHO WE ARE

Alfred Benesch & Company (Benesch) is a multi-disciplined engineering and professional services firm. Roads, bridges, schools, parks and airports are just a few examples of where you can find our work. We enhance infrastructure and communities across the country – creating spaces and providing connections in ways that make a difference.

As a mid-sized firm, we are nimble enough to remain responsive to client needs, yet large enough to offer exceptional bench strength. As a matter of practice, we look for ways to exercise innovation and resist relying on how things have been done before.

Since 1946, Benesch has successfully completed thousands of planning, design and construction projects throughout the United States and is currently ranked #119 among the Top 500 Design Firms in the country by Engineering News Record.

## ABOUT US

### Contact Information:

Alfred Benesch & Company  
825 M Street, Suite 100  
Lincoln, NE 68508  
www.benesch.com  
P 402-479-2200  
F 402-479-2276

**Established:** 1946

**Former Names:** HWS

**Exceptions:** We have no deviations, modifications, additional or other changes to the RFP document, insurance requirements, Ebid attachments or Addendum at this time.

## WHAT WE DO



Aviation



Geotechnical



Roadway



Bridges



Landscape Architecture



Site Development



Buildings



Municipal



Value Engineering



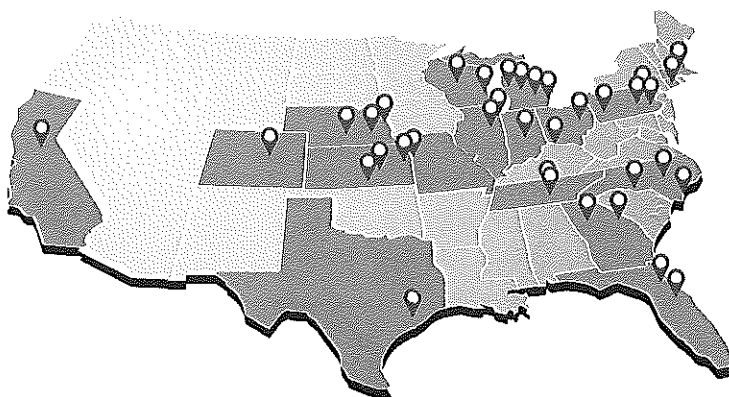
Environmental



Railroad



Water Services



750+ EMPLOYEES | 36 LOCATIONS | 18 STATES | 1 TEAM

We routinely tap into our firm's high-level expertise to solve project challenges for clients across the country. Each of our offices benefit from the wealth of engineering, design and planning resources of the combined Benesch Team. Through proactive knowledge sharing, state-of-the-art communications technology and work sharing, we turn our nationwide capacity and expertise into high-value solutions for local infrastructure challenges.

# Table of Contents

Letter of Interest

Section 1 // Experience, Proposed Staff Management Approach and  
Subcontractors .....1

Section 2 // Technical Proposal.....7

Section 3 // Project Schedule.....9

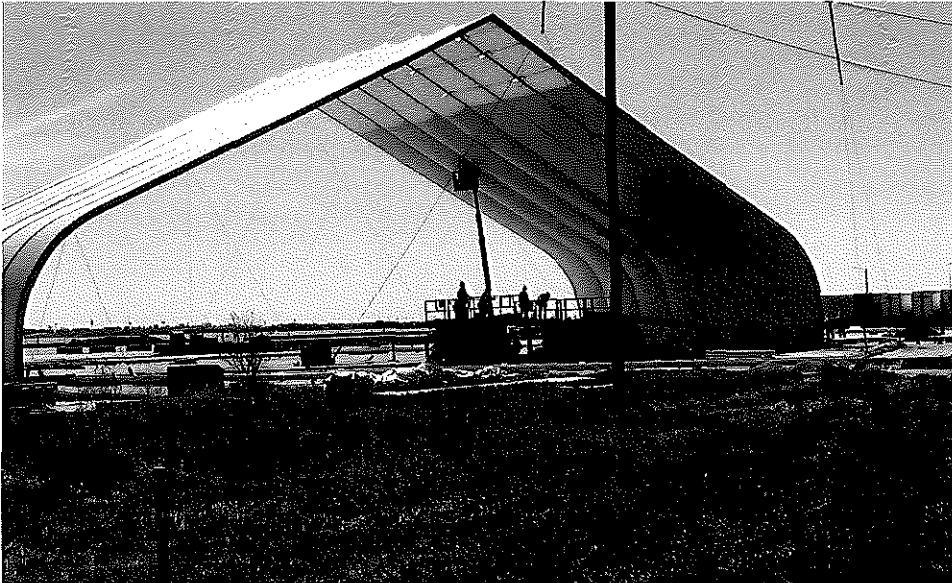
Section 4 // Appendix .....11

City of Lincoln // Construction Management / Inspection Services RFP 20-047

# **Section 1 // Experience and Proposed Staff Management Approach**

# Offutt AFB Relocation to LNK Airport (Horizontal/Vertical Packages)

Lincoln Airport (LNK), Lincoln, Nebraska



In 2019, the United States Air Force (USAF), undertook \$24.5 million dollars of upgrades at the Lincoln Airport to accommodate their mission's needs. The upgrades included the following:

- Upgrades to Hangar 956 (Old Goodyear Hangar) to bring it in compliance with current codes and to create office space/cubicles/break rooms/emergency response rooms in the east dock of Hangar 956. [Vertical Package Work]
- Construction/Erection of a 160-feet-wide by 210-feet-deep temporary Sprung Fabric Hangar to house USAF aircraft during beddown maintenance operations. [Vertical Package Work]
- Three-inch milling of approximately 51 acres of the existing concrete pavement on the west ramp to allow for the construction of a new 3-inch asphalt overlay. Additionally, over 1,800 old concrete tie downs had to be removed prior to the milling operations. [Horizontal Package Work]
- Installation of two large approximately 170-feet-wide aircraft sliding gates to allow the USAF aircraft to move from the airside to the landside, for maintenance, during the beddown. [Horizontal Package Work]

On behalf of the Lincoln Airport Authority, Benesch was responsible for overseeing the construction (daily construction observation services) and completing the Quality Acceptance (QA) material testing. The construction oversight included full time observation for the nearly 15-month long project, as well as completing the construction administration (daily/weekly report, change orders, shop drawings, etc.) associated with the project.

Benesch was 100% responsible for leading the Construction Management, Inspection and Material Testing for this project and served as the primary point-of-contact for the Owner, Contractor and Engineer of Record. Benesch utilized Jacob's Internal Document Management Software (EADocs) to maintain all of the project records.

## Dates of Service

Original Construction: April 2019 - Fall 2020

## Project Cost

### Planning/Design:

- Jacobs - Unknown

### Construction:

- Constructors/Cheever: \$24.5M

### Construction Management:

- Benesch: \$1.25M & Jacobs \$250K

## Client Reference

Bob McNally

Director of Operations

P: 402-458-2402 (office)

P: 402-770-4600

E: rmcnally@lincolnairport.com



Benesch's accredited laboratory was responsible for the following QA (per FAA specifications) material testing:

- P-152 Subgrade/Soil
- P-219 Recycled Concrete Agg. Base
- P-401 Surface Course Asphalt
- P-403 Leveling Course Asphalt
- P-610 Structural Concrete

# Water Reclamation Plant

City of York, Nebraska



City of York replaced the existing wastewater treatment plant located in the southern section of town with a new water reclamation facility located approximately two miles to the south and east of the City. The new facility, designed by HDR, utilizes an activated sludge process that required the construction of a new pump station, headworks, aeration basins, digesters, two miles of force main, site grading, paving, fencing and piping.

Following the planning and design of the new Water Reclamation Facility, the City selected Benesch to lead the Construction Management efforts and serve as the Resident Project Representative (RPR). Benesch was contracted as a sub through HDR and was responsible for 100% the construction administration, inspection and testing requirements for the project.

Specifically, Benesch utilized Submittal Exchange to provide construction administration (RFIs, Shop Drawing reviews, inspection reports, testing reports, progress meeting minutes, construction schedules, etc.). Benesch conducted weekly meetings with the general contractor, pre-installation meetings for numerous disciplines and coordinated regular communications between the Engineer, Contractor and Owner.

There were numerous challenges during the course of the project that were resolved in a professional manner resulting in a project that was successfully completed on time and within budget.

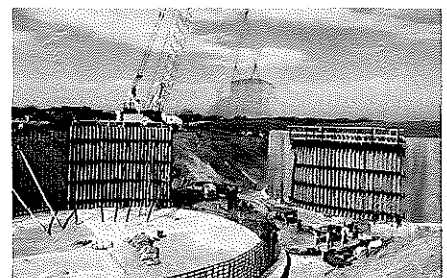
Benesch was 100% responsible for leading the Construction Management, Inspection and Material Testing for this project and served as the primary point of contact for the Owner, Contractor and Engineer of Record. Benesch utilized HDR's Internal Document Management Software to maintain all of the project records.

Dates of Service  
January 2017 - March 2019

Project Cost  
Planning/Design:  
• HDR: Unknown

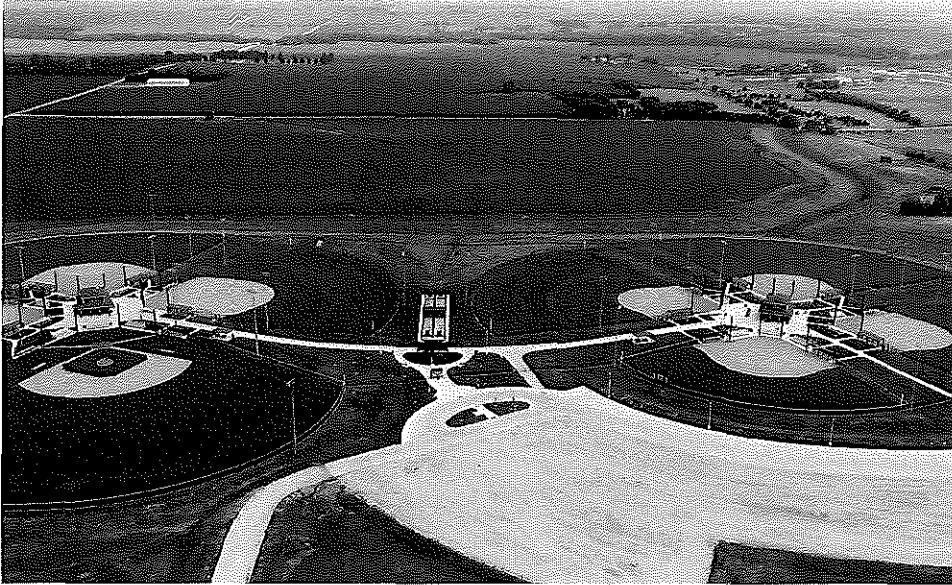
Construction:  
• Hawkins \$20M  
Construction Management:  
• Benesch: \$680K

Client Reference  
Mitch Doht  
(Former Public Works Director)  
City of York  
100 E. 4th Street, PO Box 507  
York, NE 68467  
P: (402) 710-3927  
E: mdoht2@unl.edu



# York Ballpark Complex

York, Nebraska



The City of York teamed with Alfred Benesch & Company to design and build a state-of-the-art baseball/softball facility that, in its first season, hosted more than 1,100 games. Local businesses reported increased revenue from 5% to 20% since its opening in March 2017. As part of its comprehensive design services, Benesch assisted the city in overall planning beyond the two-pinwheel layout for eight ballfields. The entire planning and design process engaged multiple stakeholders and was completed on an expedited schedule of approximately eight weeks.

The York Ballpark Complex consists of eight fields (one championship baseball, one championship softball and six multi-purpose fields), a concession stand, press box and restrooms for each set of fields, team warm up areas and batting cages. Other integrated features are lighting, scoreboards, lights, drainage, maintenance buildings and player/fan amenities including picnic areas, a play structure and parking. Benesch utilized value engineering principles and worked with the Contractor and City of York to reduce the original bid of \$7.7 million to \$7.35 million. Benesch's thorough approach to construction management resulted in a final construction cost of \$7.29 million. Officials with the City of York and York Public Schools expect the complex to be a great resource not just for their own youth, but also for young athletes across the Midwest who will be drawn in by the numerous baseball and softball tournaments held there.

Benesch was 100% responsible for leading the Construction Management, Inspection and Material Testing for this project and was the primary point of contract for the Owner and Contractor. Benesch utilized Submittal Exchange to maintain all of the project records.

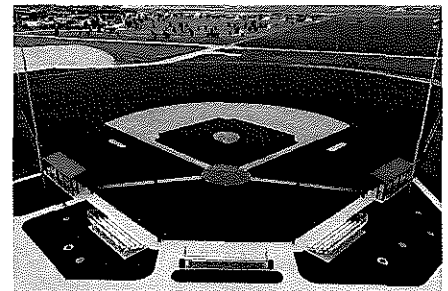
Dates of Service  
September 2015 - March 2017

Project Cost  
Planning/Design:  
• Benesch \$355K

Construction:  
• Nemaha Construction \$7.3M

Construction Management:  
• Benesch: \$413K

Client Reference  
Mitch Doht  
(Former Public Works Director)  
City of York  
100 E. 4th Street, PO Box 507  
York, NE 68467  
P: (402) 710-3927  
E: mdoht2@unl.edu



**Contract Manager**

Anthony Dirks, PE

**Construction Manager**

Scott Gripenstroh

**Materials Testing**Brant Wells  
Matt Roessler**Inspectors**Josh Letts  
Colton Knust, EI  
Michael Lau, EI**Additional Resources (as needed)**Construction  
Management

Environmental

Environmental  
Mitigation

Geotechnical

Hydraulics

Landscape  
Architecture

Planning

Public  
Involvement

Roadway

Structural

Survey

Traffic

Value  
MethodologyWater /  
Wastewater**Subconsultants (as needed)****Structural Steel Inspection****DBI**

Benesch routinely utilizes DBI for any structural steel inspection that may be required, such as welds, bolts, etc.

**Drilling****O'Malley Drilling**

O'Malley routinely provides contract drilling services for Benesch for purposes of exploring subsurface conditions.

**Anthony Dirks, PE**  
Contract Manager

Tony has over 20 years of civil engineering experience and has been involved with construction throughout his career. He spent the first several years of his career immersed in construction as an inspector and then project manager. Recently Tony served as the Project Manager for the York Ballfield and York Wastewater Treatment Facility project.

**Scott (Grip) Gripenstroh**  
Construction Manager

Scott has over 30 years of experience as a Construction Manager. Earlier in his career, Scott was involved primarily with transportation type projects but over the last 10 years has been primarily involved with non-transportation projects. Scott has received the highest honors and recognitions for his services as he was awarded the very first Project Manager of the Year award from NDOT and has been recognized by several contractors and owners as the "Key to Project Success". Grip is known for his attention to detail and proactive approach to construction challenges.

**Brant Wells | Materials Testing** – Brant has over 26 years of experience providing materials testing and construction inspection services. He has a very deep understanding of construction materials and has been involved with numerous projects for the City of Lincoln including the Arena and several smaller projects within the Haymarket area.

**Matt Roessler | Materials Testing** – Matt has over 25 years of experience with material testing and spent much of his career working in a contractor's lab. Matt brought all of that knowledge to Benesch last year and is now managing our material testing laboratory in Lincoln.

**Josh Letts | Inspector** – Josh has over 20 years of experience providing field investigations and construction inspection services. Josh has a very deep understanding of materials and great attention to detail. Josh has worked on

many high-profile projects including serving as the Resident Project Representative for a major project at the OPPD plant near Nebraska City.

**Colton Knust & Michael Lau | Inspectors** – Colton and Michael are both young engineers that have been working in the field since college on a wide variety of projects providing material testing and inspection services. They understand the importance of their documentation and both have met the high standards established by Grip.

**Additional Resources (As Needed)**

Benesch has essentially every expertise available to support Scott and his team as needed. Scott knows where to find the answers, has a great understanding of the authority and responsibilities for each party and knows when the Engineer of Record needs to be engaged.



## INSPECTION &amp; TESTING PERSONNEL QUALIFICATIONS

Name	Years of Experience	Location	Project Management Experience	DOT/Federal Aid Inspection	Bridges/Structures Inspection	Concrete Inspection	Asphalt Inspection	Construction Materials Testing	Survey/Construction Staking	Site Manager	Nuclear Gauge Safety Certification	Railroad Safety Certified	DOT Certified Inspector	DOT Certified Tester	Certified Erosion Control Inspector	Fall Protection	ATSSA Traffic Control Certified
S. Griepenstroh	30+	LNK	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
B. Wells	25+	LNK	X	X		X	X	X			X	X				X	
M. Roessler	25+	LNK	X	X		X	X	X					X	X			
J. Letts, PG	20+	LNK	X	X	X	X		X		X	X	X			X	X	
C. Knust, EI	1	LNK				X											
M. Lau	1	LNK				X		X									
S. Irons, PE	15+	LNK	X	X		X	X			X			X				
S. Youree, PE	15+	LNK	X	X				X			X						
S. Irons, PE	16+	LNK	X	X		X	X			X			X				
T. Larsen, PE	10+	LNK	X	X		X	X										
M. Kreuzberg, PE	8	LNK		X	X	X		X				X					
T. Reinsch, EI	5	LNK		X		X	X	X			X	X					
C. Ridder, EI	4	LNK		X		X	X	X			X						
A. Bernhardson, EI	2	LNK		X		X	X	X									
G. Wesphal, PG	30+	LNK				X		X	X								
S. Herman, GIT	3	LNK		X		X		X			X	X	X	X	X		
J. Egger, LS	20+	LNK							X								
C. Reinke, RLS	20+	LNK				X		X	X								
J. Haas, SIT	25+	LNK							X								
M. Cihal	10+	LNK		X		X	X	X	X		X	X	X	X			
M. Hergenrader	10+	LNK		X													
R. Stalsny	10+	LNK							X				X	X			
N. Finn	5	LNK		X		X		X									
P. Cranford	3	LNK		X		X		X						X			
J. Sherman	3	LNK		X		X		X	X			X	X	X			
A. Fertig	2	LNK				X		X	X			X	X	X	X		
T. Brown, PE	25+	GI	X	X	X			X									
M. Hanover, PE	7	GI				X		X									
C. Peterson, EI	3	GI		X	X	X		X	X			X					
J. Sockel, PE, VMA	20+	OMA	X	X	X	X	X	X	X	X	X	X	X	X	X		X
T. O' Bryan, PE	30+	OMA	X	X	X	X	X	X		X		X	X			X	
A. Barahona, PE	5	OMA	X	X		X	X	X	X	X	X	X	X	X		X	
E. Mullen, PE	10	OMA	X	X	X	X	X	X		X	X	X	X				
M. Higgins, PE	5	OMA	X	X	X	X	X	X		X	X	X	X	X	X	X	X
B. Schmitt, EI	4	OMA		X	X	X	X	X		X	X	X	X	X		X	
A. Kellogg, EI	3	OMA		X		X	X	X	X	X	X						
T. Wynn, EI	3	OMA		X		X	X			X	X						
S. Rue, EI	2	OMA		X		X	X		X	X	X						
K. Means	30+	OMA	X	X		X	X		X	X							
A. Glaffoglione	30+	OMA	X	X		X	X			X							
J. Kuck	20+	OMA		X	X	X	X	X		X	X	X	X	X	X		X
D. Miller	13	OMA		X		X	X	X	X	X	X	X	X	X			X
M. Tislinger	8	OMA		X		X	X	X	X	X	X	X	X	X		X	X
R. Ortiz	8	OMA		X		X	X		X								
J. Zelensky	3	OMA		X		X	X	X	X	X	X						
J. McGill	2	OMA		X		X	X			X							
M. Minino	2	OMA		X		X		X			X			X			
R. Rocha	1	OMA		X		X					X						
Z. Hausauer	1	OMA				X	X	X			X						
G. Najera	1	OMA		X		X		X			X						



City of Lincoln // Construction Management / Inspection Services RFP 20-047

## **Section 2 // Technical Proposal**

## UNDERSTANDING

The City of Lincoln has experienced a vibrant expansion in the downtown area and citywide over the last five years. This expansion has resulted in a large investment of public and private infrastructure improvements including the West Haymarket, Arena, Cycle Track, hotels, historic building redevelopments, parking garage expansions, streetscape along P Street and many others. All of these improvements have required a collaborative partnership between the City, developer, contractor, construction management and inspection team members. We understand that successful working relationships drive the quality, pricing and timelines for these construction projects.

The City of Lincoln is seeking a highly organized and technically sound partner to provide construction management, inspection and material testing services for their projects over the next five years. We understand the selected firm will take over these services on the several projects that are already underway (such as the new fire stations, Lincoln Police Department Maintenance Garage, Eagle Parking Garage, Woods Tennis and Gallery Alley) as well as the other projects that are expected to begin in the future (such as Parking Deck 4, Aging Partners, Library, Pershing, Block 65) and other projects as assigned. The firm should be confident in fully understanding multi-disciplinary (Buildings, HVAC, Plumbing, Electrical, Structures, Civil, etc.) construction plans, contract specifications, change orders and critical path schedule adherence.

## APPROACH, TECHNICAL CONSIDERATIONS AND DETAILED WORKPLAN

The Benesch team will take a comprehensive approach to achieve successful completion of projects listed within the addendum and as well as those yet to be identified by the City. We are big picture thinkers with the ability to look at the smallest details and are very well known for standing firm on contract provisions. Having full-service capabilities in-house, Benesch understands how to perform Construction Management, Inspection and Material Testing services on projects from start to finish.

Our project team begins each assignment with a thorough review of all contract documents and agreements to understand all technical aspects of construction, referenced plans and bid documents, contract/project commitments, material requirements, contractor submittal requirements, key milestones/completion dates and other elements affecting the construction schedule such as utility relocations. This

review is focused on identifying the challenges and/or risks associated with each project.

Upon completion of reviews, a project team kickoff meeting would be organized prior to the start of construction to determine appropriate levels of oversight to mitigate the risks, establish clear lines of communication, project correspondence expectations, report formatting, document submittal platforms and other protocols necessary for a smooth transition from award of contract through completion of construction. Once construction starts, clear and concise communication will harness buyoff from all parties involved on each unique project. This includes digesting all point of views from all team members and issuing a resolution that fosters a coherent single solution for open discussions.

Our open discussion approach ensures a unified team, resulting in a proactive project delivery and allows the Construction Manager to work freely with the City and contractors to address challenging technical situations during construction. These situations could include missing contract commitments, ensuring a project is built per plans, review and negotiating contract change orders with the City and contractors while maintaining the project schedule and corroborating field changes to establish alternate construction means and materials to preserve allocated project budgets.

We know attention to detail, good communication, complete documentation result in quality and complete services for Construction Management assignments. Our project team is led by a Construction Manager with over 30 years' experience in the construction of a wide range of projects. Scott has a great understanding of how to efficiently mitigate risks during construction by putting the right Inspector on the Project at the right times to handle the daily on-site responsibilities. The team proposed for this contract is supported by numerous additional local staff capable of inspection, testing, surveying, geotechnical, structural and design as necessary. We plan to utilize an administrative project assistant to help with routine paperwork/data entry, minimize costs and and to allow our Inspection and Material Testing personnel to focus on what they do best.

In summary, we are committed to providing the proper amount of qualified, knowledgeable staff to ensure quality projects are constructed and the City's interests are protected. We clearly understand the roles, responsibilities and authorities of each party involved and will manage the projects accordingly. We look forward to serving the City of Lincoln with this opportunity.

City of Lincoln // Construction Management / Inspection Services RFP 20-047

## **Section 3 // Project Schedule**

## TIMELINESS

Benesch is well known for being timely to client and/or project demands and there is not anyone better than Scott Griepenstroh. His responsiveness is well documented in the project records and Mitch Doht and Bob McNally would provide such testimony.

## CURRENT PROJECTS

**Scott Griepenstroh** is primarily working on the Offutt AFB relocation improvements at the Lincoln Airport which is scheduled to be complete this fall. He is also overseeing the close out of a few other projects. If selected for this contract, Scott would be committed to this contract at whatever level required by the City of Lincoln.

**Brant Wells and Matt Roessler** are responsible for the oversight of all material testing services being performed in the field and/or Benesch laboratory. They have a team of approximately eight technicians that perform work on multiple projects each day and have capacity to take on any additional assignments that would result from this contract.

**Josh Letts, Colton Knust and Michael Lau** are responsible for providing construction inspection services on a wide range of projects. Some of their most recent assignments include Alvo Road Water Main for Lincoln Transportation and Utilities (LTU), Downtown Water Main in York and an upcoming Southwood Neighborhood Rehabilitation for LTU. None of these individuals have long-term project commitments and are available to take on any inspection assignments that would result from this contract. In addition to these individuals, the Lincoln office has many other staff available to perform inspections as needed.

**Other Lincoln Staff** are providing construction phase services (Construction Management, Inspection and/or Material Testing) for many other construction projects, such as:

- Lincoln South Beltway – Benesch has embedded four staff with NDOT to provide inspection and material testing services for the construction of the Beltway. They are committed to this project for the next two or more years. These staff are not to be immediately involved with projects that would result from this contract but could be considered when their current assignment is complete.
- Miscellaneous City of Lincoln Projects – Benesch periodically has staff providing construction phase services for street improvements, water main replacements, or

other City projects. We do not currently have any long-term construction commitments with the City of Lincoln.

- Miscellaneous Civil Site Projects – Benesch recently completed construction phase services for the new Monolith Plant as well as the geothermal well field and future parking garage project at the State Capitol. We do not currently have any long-term commitments on these types of projects.

As noted in other sections of this proposal, Benesch has tremendous depth in construction phase resources and is in position to commit the necessary resources to the City of Lincoln for this contract.

## TRANSITION SCHEDULE

Part of being responsive includes being flexible and able to adapt. We have experience working for numerous clients and utilizing different processes and systems for project execution and documentation. Our team acknowledges that the City of Lincoln has several active projects, and we intend to work closely with the City and the current construction manager to develop a transition plan. Our initial thoughts for transition would be as follows:

- **Future Construction Projects** – Transition Immediately. Schedule a meeting with the City of Lincoln and others as necessary to transition the project to Benesch. Communication should include the current status, anticipated schedule, and discussion of next steps.
- **Active Construction Projects** – We recommend reviewing each project individually.
  - » If the remaining effort is less than a couple of months (or some timeframe agreeable to the City), it likely makes more sense for the current Construction Manager to finish the project.
  - » If the remaining effort is anticipated to take more than a couple of months, Benesch would propose to take over the responsibilities immediately. A meeting would be scheduled with City of Lincoln and the current Construction Manager to discuss the current projects status, provide an overview of the project documentation and an outline of the anticipated remaining efforts.

Scott has experience taking over projects that are already underway and can get up to speed as quick as anyone. His attention to detail and desire for complete ownership of the project allow him to ask all of the right questions and quickly absorb the material. We would expect the active projects could all be transitioned within a few weeks.

City of Lincoln // Construction Management / Inspection Services RFP 20-047

## **Section 4 // Appendix**

# Anthony Dirks, PE

## Contract Manager

Mr. Dirks is Division Manager for the Lincoln, Nebraska office where he is responsible for management of all types of public works for city, county and state agencies. In his current position, he focuses on QA/QC, cost control, program management, project management and contract administration. Prior to joining Benesch, he spent 13 years with the Nebraska Department of Transportation (NDOT) and three years with another engineering firm. Mr. Dirks's project assignments and responsibilities have allowed him to become well versed in FHWA, NDOT and local expectations, regulations, policies and procedures.

Mr. Dirks spent approximately four years in the field performing essentially all functions relating to preliminary survey, construction inspection, construction staking, construction engineering, project management and contract administration for roadway and bridge projects. Six years were devoted to design services for transportation projects: alignment design, geometric layout, hydrologic and hydraulic analysis, storm sewer design, phasing design, MSE wall layouts, trail design, pedestrian accessibility design, public meeting facilitation, quantity calculations, creation of special provisions and other bid letting documents.

As the NDOT Urban Engineer for four years, Mr. Dirks worked with local federal aid projects being administered by the Local Public Agencies. Within this position, he was responsible for providing NDOT and FHWA oversight to maintain project eligibility as well as guidance for project scheduling and delivery. Tony worked through all phases of project development, incorporated programming, consultant procurement, preliminary design, environmental documentation, public involvement, final design, right-of-way acquisition, bid letting, construction and construction engineering.

Lincoln South Beltway, Nebraska Department of Transportation

**Project Manager:** Tony led the multi-disciplinary consultant team for the final design of this new freeway along the southern edge of Lincoln that will connect Nebraska Hwy 2 with US 77. Coordination was vital between all disciplines and amongst all agencies. The project includes two system interchanges, three service interchanges, eight miles of new freeway alignment, 11 miles of county road/city street alignments and 21 bridges.

York Water Reclamation Facility, City of York, NE

**Project Manager/Principal-in-Charge:** This project consisted of construction of new facilities for treating wastewater for the City of York utilizing the activated sludge process. The project included construction of seven structures, an Operations Building, Reed Beds, conveyance pipelines and modifications to the existing treatment plant. The design was developed by HDR, Inc. The City of York contracted Benesch to provide Resident Project Representative (RPR) and Material Testing/Inspection services. Tony was responsible for providing the required resources for the project.

York Ball Field Complex - City of York, NE

**Project Manager:** Benesch was selected to lead planning and design efforts for the complex that includes eight fields arranged into two pinwheels. Each pinwheel includes one championship-caliber field along with three other universal fields, a concession stand and press box. Other amenities for the park include a maintenance facility, batting facility, playground and sidewalks. Tony was project manager from planning through design and construction.

### Education

BS, Civil Engineering

University of Nebraska-Lincoln

Years of Experience: 21

Years with Benesch: 7

Available Capacity to Perform this Work: 25%

### Registrations and Certifications

Professional Engineer: NE and SD

### Professional Affiliations

ACEC Nebraska

Lincoln Engineers Club

### Awards and Recognitions

2011 NDOT Manager of the Year

# Scott Griepenstroh

## Construction Manager

Mr. Griepenstroh's career includes 22 years with the Nebraska Department of Transportation and 4 years with the City of Grand Island. Mr. Griepenstroh has extensive experience in the managing the construction of public infrastructure projects including transportation, recreation, buildings and public utility projects. His initiative, resourcefulness and leadership has resulted in a variety of successfully constructed projects.

### York Ball Field Complex - City of York, NE

Construction Manager: In the spring of 2015, the City of York selected Benesch to lead planning and design efforts for the complex that includes eight fields arranged into two pinwheels. Each pinwheel will include one championship-caliber field along with 3 other more universal fields, a concession stand and press box. Other amenities for the park include a maintenance facility, batting facility, playground and sidewalks. The project was completed early in 2017. Scott Griepenstroh led the team of field technicians to provide construction management, inspection and material testing on behalf of the City.

### York Water Reclamation Facility, City of York, NE

Resident Project Representative: (Spring 2017-Spring 2019). This project consisted of construction of new facilities for treating wastewater for the City of York utilizing the activated sludge process. The project included construction of seven structures, an Operations Building, Reed Beds, conveyance pipelines and modifications to the existing treatment plant. The design was developed by HDR, Inc. The City of York contracted Benesch to provide Resident Project Representative (RPR) and Material Testing/Inspection services. Scott Griepenstroh served as Benesch's primary representative. Scott's responsibilities as Benesch's primary representative included the following.

- Develop and Train Resident Project Representative staff
- Coordinate Material Testing and Inspection Services
- Manage RPR and Material Testing/Inspection Budget
- Ensure compliance with contract plans and specifications
- Conduct weekly RPR/General Contractor Meetings
- Coordinate communication amongst the Design Team, the Contractor and the Owner
- Direct pre-installation meetings for numerous contracted disciplines
- Shop Drawing Management
- Pay Request Reviews

### Offutt Air Force Base, 55th Wing Temporary Beddown / LNK Airport Horizontal and Vertical Improvements – Lincoln Airport Authority

Construction Manager: (Spring 2019-present). The Lincoln Airport Authority contracted Benesch to perform oversight of construction improvements at the Lincoln Airport necessary for the Offutt Air Force Base to operate at the Lincoln Airport for a period of 18 to 24 months during the repair of the Offutt Runway. Major elements include repair of the West Aircraft Parking Apron (concrete milling and asphalt resurfacing), fencing and security barrier installations, aircraft and vehicle pavement marking, existing hangar improvements (environmental mitigation, architectural and MEP improvements, construction of office spaces), and construction of temporary facilities (160' x 210' aircraft hangar, modular trailer complex, restroom facilities).

Scott Griepenstroh serves in a major role through coordinating construction observation and quality assurance services, and by facilitating communication amongst the contractor, design engineer, LNK Airport officials, Air Force staff, and the Benesch team. Scott has also aided with development and review of numerous significant and urgent design changes that were requested by the Air Force.

### Education

AAS, Soil and Water Management  
University of Nebraska, School of  
Technical Agriculture

Years of Experience: 31

Years with Benesch: 5

Available Capacity to Perform this  
Work: 100%

### Registrations and Certifications

Responsible Charge for Local Public  
Agencies in Nebraska

ATSSA Level II – Traffic Control  
Supervisor

Numerous certifications related to  
Highway Construction Inspection in  
Nebraska (America Concrete Institute,  
earthwork inspection, asphaltic  
concrete pavement construction,  
erosion and sediment control,  
Sitemanager, etc.)

### Recognition

2013, 2009, 2005, 2002, 1999  
and 1996: Awarded best concrete  
pavement construction project

2010: NDOT Manager of the Year and  
Governor's Manager of the Year

# Brant Wells

## Materials Testing

Brant Wells is responsible for organization and scheduling of field testing and drilling services, monitoring intra-lab quality control and training technicians in the application of standard test procedures. Wells inspection services and oversight of other technicians testing construction materials including soil mechanics for earth dam, foundation, and embankment work as well as bituminous and concrete mixes. He also supervises asphalt paving construction, Portland cement concrete paving, concrete structures, earthwork, base construction and asphalt plant control.

City of Lincoln West Haymarket Redevelopment Project - Pinnacle Bank Arena, Three Parking Garages, Railroad Relocation

Project Inspector: Benesch and Mr. Wells are involved with the City of Lincoln, Nebraska's West Haymarket Redevelopment project. The project includes the construction of a new 17,000-seat arena, one square block ice center, three multi-level parking garages, a hotel and retail facilities, a new district energy corporation electrical facility and a new Amtrak station—all within an existing BNSF Railway's yard area. The total combined cost for the project is over \$350 million. The project involves removing 16 BNSF yard tracks, a BNSF business track and the existing Amtrak trackage. Additionally, portions of BNSF's three mainline tracks need to be relocated. All 45 plus phases of trackage relocation, new construction and removal work needs to be performed without interruption to over 75 BNSF, 100-car-plustrain movements per day.

Public Building Commission Parking Garage, Lincoln, Nebraska

Project Inspector: for this parking garage northeast of 9th and "K" Streets. Provided inspection, observation, and testing during installation of augercast piles. Other responsibilities included geotechnical investigation and compaction testing of granular and cohesive fill and backfill.

Lincoln Electric System, Lincoln, Nebraska

Project Inspector: for the LES Substation near 14th and Avery Streets. Provided inspection, observation, and testing during installation of drilled shafts. Other responsibilities included compaction testing of granular and cohesive fill and backfill.

BNSF Railway - Hobson Yard Projects, Lincoln, Nebraska

Project Inspector: This contract entailed several Design/Build projects within the Hobson Yard in Lincoln, Nebraska. The projects were undertaken to provide additional fueling capacity for unit train operations. One project added two 8,600 feet tracks to the yard. Responsibilities included track and drainage design, addressing environmental issues, coordination with BNSF, utility companies and the contractor.

Antelope Valley Flood Control Big "T" Roadway, City of Lincoln

Project Inspector: Provided inspection and observation during installation of driven HP piles of various sizes and capacities.

Antelope Valley Flood Control "Y" Bridge, City of Lincoln

Project Inspector: Provided geotechnical investigation, holiday testing of reinforcing steel, coordination of portland cement concrete testing, cast-in-place concrete inspection and compaction testing of granular and cohesive fill and backfill.

### Education

BS, Geology/Biology,  
University of Nebraska  
On-Going

Years of Experience: 26

Years with Benesch: 26

Available Capacity to Perform this  
Work: 50%

Registrations and Certifications  
Nuclear Gauge Safety Training  
Certification, Troxler Electronic  
Laboratories, Inc.

ACI Concrete Field Testing Technician  
– Grade I

Nebraska Dept. of Transportation:  
Certified Concrete Plant Technician /  
Plant Inspector – Level II

NDOT Asphalt/Field I & II

NDOT Certified Concrete Plant  
Technician Level II



# Matt Roessler

## Materials Testing

Mr. Roessler is a Senior Field Lab Technician and Manager of the Benesch AASHTO Accredited Materials Testing Laboratory in Lincoln. With over 24 years of experience, his skill set includes quality assurance and quality control. Mr. Roessler oversees several technicians providing laboratory analysis of construction materials. He is the Quality Manager for all testing performed in the Benesch Materials Laboratories.

### Materials Testing Laboratory

**Quality Manager:** Matt provides quality oversight to Benesch's full-service in-house geotechnical and materials testing lab. The lab sits adjacent to Benesch's offices in downtown Lincoln. Recently American Association of State Highway and Transportation Officials (AASHTO) accredited, the lab provides Benesch with the availability for efficient field investigation, lab testing, analyses and geotechnical reporting. The AASHTO accreditation includes many benefits, including the conformance to specific national and international standards. We hold confidence in the testing our laboratory provides with experience locally and for other states and national. As a member of an elite group of testing laboratories, we are dedicated to quality testing, continuous improvement and improved standards. The Benesch lab also remains up-to-date on trends and issues in the industry.

American Association of State Highway and Transportation Officials (AASHTO) Accreditation  
The Materials Testing Lab in Benesch's Lincoln-based geotechnical group is AASHTO Accredited. Previously A2LA accredited, the Materials Testing Lab's AASHTO Accreditation brings augmented opportunity on project pursuits requiring this prestigious certification.

Lincoln is AASHTO Accredited for testing of hot mix asphalt, concrete, soils and aggregate. Benesch has worked on City, County, State, Federal, FAA and private projects around the country and our technicians have well over 100 years of combined years of experience. In 2019, the Benesch performed over 10,000 tests in our Lincoln Laboratory!

Years of Experience: 24  
Years with Benesch: 1

Available Capacity to Perform this Work: 50%

Registrations and Certifications  
Certified Quality Technician  
Nebraska, Colorado, Wyoming

Certified Asphalt Design - National  
Center for Asphalt Technology

# Joshua Letts

## Project Inspector

Joshua Letts is an Engineering Geologist specializing in geotechnical projects involving soils mechanics and foundations. His responsibilities include conducting and supervising subsurface investigations, geologic reconnaissance and in-situ testing and sampling. He assists in the evaluation of soils and engineering studies related to structure foundations, laboratory and data analyses of soils and report preparation. Mr. Letts is experienced in the logging of test holes in accordance with the Unified Soil Classification System, using the Munsel Color Guide and operating different styles and models of drill rigs, including Mobile Drill Models B-50 and B-53 and MR Model 24.

Antelope Creek Valley Flood Control Project, Lincoln, Nebraska

**Project Inspector:** Josh was responsible for overseeing and reporting daily construction activities during construction.

- Antelope Valley Big "T" Roadway. Provided inspection and observation during installation of driven HP piles of various sizes and capacities and issuing inspection reports. Also operated and collected driving data using a Model PAL-R Pile Driving Analyzer. Other responsibilities included the geotechnical investigation and compaction testing of granular and cohesive fill and backfill.
- Antelope Valley Vine Street Bridge. Provided inspection and observation during installation of driven HP piles, concrete piles and augercast piles of various sizes and capacities and issuing inspection reports. Other responsibilities included the geotechnical investigation and compaction testing of granular and cohesive fill and backfill.
- Antelope Valley "Y" Bridge. Provided inspection and observation during installation of driven HP piles of various sizes and capacities and issuing inspection reports. Other responsibilities included the geotechnical investigation and compaction testing of granular and cohesive fill and backfill.

Public Building Commission Parking Garage, City of Lincoln, Nebraska

**Project Inspector:** Josh provided inspection, observation and testing during installation of augercast piles for this parking garage northeast of 9th and "K" Streets in Lincoln, Nebraska. Other responsibilities included geotechnical investigation and compaction testing of granular and cohesive fill and backfill.

Magellan Midstream Partners Pipeline Relocation

**Resident Engineer / Construction Manager:** Josh was responsible for overseeing and reporting daily construction activities during construction of the relocated Magellan Midstream Partners, L.P., (Magellan) pipeline within the BNSF Hobson Yard, Lincoln, NE. Responsible for coordinating Magellan pipeline's installation operations with BNSF sewer, water, electric, gas and communications utilities crossed by the installation. Involved inspecting fuel line installation including coordinating daily safety briefings, verifying burial depth, compaction testing, overseeing contractors' compliance with BNSF requirements, inventorying materials installed and reporting of daily construction activities.

Omaha Public Power District CCR Landfill Expansion and Landfill Capping

**Resident Project Representative:** Josh was responsible for overseeing and reporting daily construction activities during the simultaneous construction of the expansion of the Omaha Public Power District (OPPD) Coal Combustion Residuals (CCR) landfill, and the capping of and adjacent CCR landfill cell at OPPD's Nebraska City Station, Nebraska City, NE. Responsible for being the liaison between the design engineer, the OPPD's Project Engineer, and the two general contractors, tracking construction quantities and reviewing the contractors' pay applications. Involved quality assurance inspections of structural fill, compacted clay liner, HDPE liner, leachate collection system, and also overseeing contractors' compliance with OPPD's requirements, reporting of daily construction activities.

### Education

BA, Geology  
Cornell College,  
Mt. Vernon, Iowa

Years of Experience: 22

Years with Benesch: 22

Available Capacity to Perform this  
Work: 100%

### Registrations and Certifications

#### Railroad Safety Training

- BNSF Railway
- Union Pacific Railroad

Nuclear Gauge Safety Training  
Certification, Troxler Electronic  
Laboratories, Inc.

ACI Concrete Field Testing Technician  
– Grade I

# Colton Knust, EI

## Project Inspector

Colton is an engineer specializing in inspection services. Colton gained experience working on a variety of construction projects specifically in the areas of grading inspection, concrete testing, construction staking and water main replacement.

State Capitol Geothermal Well Project, Lincoln, NE

**Inspector:** Colton provided grading inspection for the State Capitol Geothermal Well Project near 17th & K Streets. The project included challenging site conditions with all of the utilities, wells field, future foundation locations for the parking garage and traffic control.

Monolith Olive Creek Plant, Hallam, NE

**Inspector, Material Testing and Construction Staking:** Colton provided grading inspection, concrete testing and construction staking for the new Monolith plant construction near Hallam, Nebraska.

Lincoln Avenue Water Main, City of York, NE

**Inspector:** Colton provided inspection services for the water main replacement project through the heart of downtown York. The project included approximately one mile of water main replacement, closed streets, close coordination with downtown business owners for both water services as well as access to the buildings.

Experience Prior to Benesch

Construction Laborer

- Earth leveling work
- Concrete work
- Framing and roofing

Education

BS, Civil Engineering  
University of Nebraska-Lincoln

Years of Experience: 1

Years with Benesch: 1

Available Capacity to Perform this  
Work: 100%

# Michael Lau, EI

## Project Inspector

Michael is a hardworking inspection engineer who is dependable and reliable, effectively completing difficult projects and tasks on schedule. New to the Benesch Team, Michael comes with work experience supporting his role as a construction inspector.

Alvo Road Watermain Construction, City of Lincoln

**Inspector:** Michael provided construction inspection and material testing services for this City of Lincoln project. Michael worked with the contractors to ensure this project was built per plans and specifications. The project included utility coordination, watermain replacement, trench backfill and traffic control. He utilized City of Lincoln Masterworks to record the project activity.

Pavement Maintenance: Crack and Joint Sealing with Remarketing, Fairbury Municipal Airport

**Inspector:** Michael provided construction inspection services for this FAA funded project. Michael worked with the contractors to ensure this project was built per plans and specifications. Michael utilized standardized forms to meet all of the FAA requirements for this project.

Education

BS, Civil Engineering  
University of Nebraska-Lincoln

BS, Economics  
Nebraska Wesleyan University

Years of Experience: 1

Years with Benesch: 1

Available Capacity to Perform this  
Work: 100%

Intern Experience Prior to Benesch

- Completed onsite bridge inspections with certified inspectors
  - » Inspected deck, substructure, superstructure, and abutments
- Inspected removal and construction on roads, bridges, and box culverts
  - » Performed onsite air tests and prepared cylinders for concrete pours
  - » Documented the removal of previous roads and structures
  - » Supervised and tested lifts of imported soil to meet plan specifications
  - » Set pipes and ditch heights to establish hydraulic flow to existing drainage
- Assisted on paving hubs, topographies, hydraulics, blue tops, and ditch work

# REQUEST FOR PROPOSALS

CITY OF LINCOLN  
CONSTRUCTION MANAGEMENT/INSPECTION SERVICES  
RFP 20-047

Issue Date: Friday, July 10, 2020

Closing Date and Time:  
Friday, July 24, 2020 at 12:00 p.m. (CST)



City of Lincoln | Lancaster County Purchasing  
Robert Walla, CPPB  
Purchasing Agent  
440 S. 8<sup>th</sup> Street, Suite 200  
Lincoln, NE 68508  
402-441-8103

## Table of Contents

GLOSSARY OF TERMS.....	i
I. PROJECT INFORMATION AND ESSENTIAL QUALIFICATIONS: .....	1
A. PROJECT OVERVIEW .....	1
B. PROJECT/BACKGROUND INFORMATION .....	1
C. RFP DOCUMENTS.....	1
D. AVAILABLE INFORMATION AND/OR IMPORTANT DOCUMENTS .....	1
E. CONTRACT PERIOD.....	1
F. ESSENTIAL QUALIFICATIONS AND EXPERIENCE .....	1
II. PROCUREMENT PROCEDURE .....	3
A. AFFIRMATIVE ACTION .....	3
B. RFP APPROACH.....	3
C. SELECTION COMMITTEE.....	3
D. PROPOSAL PROCEDURE .....	3
E. PROPOSER'S OFFER AND REPRESENTATION.....	3
F. INDEPENDENT PRICE DETERMINATION.....	3
G. PROJECT TIMELINE .....	4
H. PROPOSAL SUBMISSION INFORMATION AND INSTRUCTIONS: .....	4
I. PROTECTION OF PROPRIETARY AND TRADE SECRET INFORMATION .....	4
J. COPYRIGHT AND POSTING WAIVER .....	5
K. RFP CLARIFICATION AND ADDENDA .....	6
L. PRE-PROPOSAL CONFERENCE .....	7
M. PRICES .....	7
N. WRITTEN CLARIFICATIONS .....	7
O. ORAL INTERVIEWS.....	7
P. AWARD AND NEGOTIATIONS.....	8
Q. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS .....	8
R. ETHICS IN GOVERNMENT CONTRACTING .....	8
S. DEVIATIONS FROM THE REQUEST FOR PROPOSAL.....	8
T. ANTI-LOBBYING PROVISION .....	9
U. SITE VISITATION .....	9
V. REFERENCE CHECKS .....	9
W. AWARD NOTIFICATION .....	9
X. DEBRIEFING.....	9
Y. ENTIRE AGREEMENT .....	9
III. PROJECT INFORMATION .....	10
A. PROJECT ENVIRONMENT & REQUIREMENTS .....	10
B. PROPOSED DEVELOPMENT APPROACH .....	Error! Bookmark not defined.
C. TECHNICAL CONSIDERATIONS AND CHALLENGES.....	12
D. PROJECT WORK PLAN, MANAGEMENT AND IMPLEMENTATION .....	12
E. DELIVERABLES AND DUE DATES .....	13
IV. EVALUATION AND SUBMITTAL INFORMATION.....	14
A. SELECTION AND EVALUATION FACTORS .....	14
B. PROPOSAL SUBMISSION AND FORMAT .....	14
V. CONTRACT RESPONSIBILITIES .....	17
A. INSURANCE REQUIREMENTS.....	17

B.	PERFORMANCE BOND.....	17
C.	BID BOND.....	17
D.	EQUAL EMPLOYMENT OPPORTUNITY.....	17
E.	E-VERIFY.....	17
F.	COOPERATION WITH CONTRACTORS.....	17
G.	PERMITS, REGULATIONS, LAWS.....	18
H.	MATERIALS AND WORKMANSHIP.....	18
I.	INDUSTRY STANDARDS.....	18
J.	DATA PRIVACY.....	18
K.	SITE RULES AND REGULATIONS (IF APPLICABLE).....	18
VI.	TERMS AND CONDITIONS.....	19
A.	CONFLICTING TERMS.....	19
B.	CONTRACT DOCUMENTS.....	19
C.	TERMINATION.....	19
D.	SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS.....	19
E.	IMPLIED REQUIREMENTS.....	19
F.	CONTRACT MODIFICATION.....	19
G.	ASSIGNMENT, SALE OR MERGER.....	20
H.	LIQUIDATED DAMAGES.....	20
I.	LAWS.....	20
J.	SEVERABILITY.....	20
K.	LIVING WAGE.....	20
L.	INDEPENDENT CONTRACTOR.....	20
M.	STAFF QUALIFICATIONS.....	20
N.	OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES.....	20
O.	CITY AUDIT ADVISORY BOARD.....	21
VII.	PAYMENT AND INVOICING.....	22
A.	PROHIBITION AGAINST ADVANCE PAYMENT.....	22
B.	TERMS OF PAYMENT.....	22
C.	TAXES AND TAX-EXEMPT CERTIFICATE.....	22
D.	INVOICES.....	22
E.	INSPECTION AND APPROVAL.....	22
	INSURANCE CLAUSE.....	23
	EXHIBIT 1.....	29

## GLOSSARY OF TERMS

*Note: In the event of a conflict of definition of terms between the Glossary of Terms and language contained within the Request for Proposal document (RFP), the RFP language shall take precedence.*

**Acceptance Test Procedure:** Benchmarks and other performance criteria, developed by the Owner or other sources of testing standards, for measuring the effectiveness of products or services and the means used for testing such performance.

**Addendum:** Something to be added or deleted to an existing document; a supplement to the originally published information.

**After Receipt of Order (ARO):** After Receipt of Order begins when the successful Contractor receives either an executed Contract or a Notice to Proceed (NTP) after a contract has been executed by all parties.

**Agencies:** The City of Lincoln – hereinafter referred to as Owner.

**Agent/Representative:** A person authorized to act on behalf of another.

**Amend:** To alter or change by adding, subtracting, or substituting.

**Amendment:** A written correction or alteration to a contract document.

**Appropriation:** Legislative authorization to expend public funds for a specific purpose. Money set apart for a specific use.

**Award:** All purchases, leases, or contracts which are based on competitive proposals will be awarded according to the provisions in the RFP and associated documents in Ebid. The Owner reserves the right to reject any or all proposals, wholly or in part, or to award to multiple proposers in whole or in part. The Owner reserves the right to waive any deviations or errors that are not material, do not invalidate the legitimacy of the proposal, and do not improve the proposer's competitive position. All awards will be made in a manner deemed in the best interest of the Owner.

**Best Value:** A determination made through the evaluation of responses using factors in addition to price to identify the highest ranked, responsible and responsive Proposer who has the best offering for the Owner.

**Bid Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the proposer will not withdraw the bid.

**Bidder:** A proposer who submits an offer in response to a written solicitation.

**Business:** Any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture or any other private legal entity.

**Business Day:** Any weekday, except Owner-recognized holidays.

**Calendar Day:** Every day shown on the calendar including Saturdays, Sundays and holidays.

**Cancellation:** To call off or revoke a purchase order or contract without expectation of conducting or performing it at a later time.

**City/County Ebid System:** The internet-based system used by the City of Lincoln and Lancaster County for soliciting bids, issuing requests for proposals and qualifications, providing access to contracts and communicating with bidders and proposers and for the electronic submission of proposals and bid responses.

**Collusion:** An agreement or cooperation between two or more persons or entities to accomplish a fraudulent, deceitful, or unlawful purpose.

**Commodities:** Any equipment, material, supply or goods; anything movable or tangible that is provided or sold.

**Commodities Description:** Detailed descriptions of the items to be purchased; may include information necessary to obtain the desired quality, type, color, size, shape, or special characteristics necessary to perform the work intended to produce the desired results.



**Competition:** The effort or action of two or more commercial interests to obtain the same business from third parties.

**Confidential Information:** Unless otherwise defined below, "Confidential Information" shall also mean proprietary trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. §84-712.05(3)). In accordance with Nebraska Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific, named competitor(s) who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

**Contract:** An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law; the writing that sets forth such an agreement.

**Contract Administration:** The management of the contract which includes and is not limited to: contract signing, contract amendments and any necessary legal actions.

**Contract Award:** Occurs upon execution of the City of Lincoln document titled "Agreement" by the proper authority.

**Contract Management:** The management of day to day activities at the agency which includes and is not limited to ensuring deliverables are received, specifications are met, handling meetings and making payments to the Contractor.

**Contract Period:** Language outlined in the contract documents that delineates the start and end dates of the contract performance period and may also include information regarding any optional renewals.

**Contractor:** Any individual or entity having a contract to furnish commodities or services.

**Cooperative Purchasing:** The combining of requirements of two or more political entities to obtain advantages of volume purchases, reduction in administrative expenses or other public benefits.

**Copyright:** A property right in an original work of authorship fixed in any tangible medium of expression, giving the holder the exclusive right to reproduce, adapt and distribute the work.

**Cost:** See Price/Cost.

**Customer Service:** The process of ensuring customer satisfaction by providing assistance and advice on those products or services provided by the contractor.

**Default:** The omission or failure to perform a contractual duty.

**Department:** A division of the City of Lincoln, Lancaster County, or City of Lincoln/Lancaster County Public Building Commission responsible for the entire procurement process from initiation to contract administration of the Purchase Order or Contract to be executed.

**Deviation:** Any proposed change(s) or alteration(s) to either the terms and conditions or deliverables within the scope of the written solicitation or contract.

**Essential Qualifications and Experience:** Information provided in Section I. of this RFP that describes the minimum qualifications and/or experience necessary to be deemed eligible for consideration in the evaluation process and/or receive a contract award.

**Evaluation:** The process of examining an offer after opening to determine the proposer's responsibility, responsiveness to requirements, and to ascertain other characteristics of the offer that relate to determination of the successful award.

**Extension:** Continuance of a contract for a specified duration upon the agreement of the parties beyond the original Contract Period. Not to be confused with "Renewal Period".

**Free on Board (F.O.B.) Destination:** The delivery charges are included in the quoted price and prepaid by the contractor. Contractor is responsible for all claims associated with damages during delivery of product.

**Foreign Corporation:** A foreign corporation that was organized and chartered under the laws of another state, government, or country.



**Installation Date:** The date when the Contractor shall perform duties as outlined in the documents of the RFP, proposal and subsequent contract.

**Interested Party:** A person, acting in their personal capacity, or an entity entering into a contract or other agreement creating a legal interest therein.

**Late Proposal:** An offer received after the Opening Date and Time.

**Licensed Software Documentation:** The user manuals and any other materials in any form or medium customarily provided by the Contractor to the users of the Licensed Software which will provide the Owner with sufficient information to operate, diagnose, and maintain the Licensed Software properly, safely, and efficiently.

**Mandatory/Must:** Required, compulsory, or obligatory.

**May:** Discretionary, permitted; used to express possibility.

**Module (see System):** A collection of routines and data structures that perform a specific function of software.

**Must:** See Mandatory/ Must and Shall/Will/Must.

**National Institute for Governmental Purchasing (NIGP):** National Institute of Governmental Purchasing – Source used for assignment of universal commodity codes to goods and services.

**Negotiation Committee:** Committee appointed by the requesting agency that advises and assists the Purchasing office in negotiating a final scope and fee based on offers made in response to written solicitations.

**Non-Responsive:** A classification of the Proposer that occurs when the Request for Proposal (RFP) response fails to conform to the substantive requirements of the solicitation and/or does not provide information material to evaluation and/or award eligibility.

**Notice to Proceed:** A written notice sent to the awarded Contractor stating that work may commence on a certain date, following the complete execution of the contract.

**Not-Responsible:** A classification of the Proposer that occurs when the respondent does not demonstrate the necessary qualifications, experience, capabilities, acceptable past performance, reputation and/or yield favorable information from references to meet the required standards necessary to be eligible for a contract award.

**Opening Date and Time:** Specified date and time for the public opening of received, labeled, and sealed formal proposals.

**Outsourcing:** The contracting out of a business process which an organization may have previously performed internally or has a new need for, to an independent organization from which the **process** is purchased back.

**Owner:** City of Lincoln

**Performance Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the contractor fulfills any and all obligations under the contract.

**Pre-Proposal Conference:** A meeting scheduled for the purpose of clarifying a written solicitation and related expectations.

**Price/Cost:** The cost for performing duties according to the terms of the proposal and subsequent contract as proposed by the Proposer at time of RFP submission. Price may be negotiated following a recommendation of the Selection Committee. Price is an evaluation factor and is not evaluated by the Selection Committee with the other qualification factors. Price is normally submitted in a separate envelope and is completed according to the Cost Proposal Sheet included in the RFP documents.

**Product:** Something that is distributed commercially for use or consumption and that is usually (1) tangible personal property, (2) the result of fabrication or processing, and (3) an item that has passed through a chain of commercial distribution before ultimate use or consumption.

**Program Error:** Code in Licensed Software which produces unintended results or actions, or which produces results or actions other than those described in the specifications. A program error includes, without limitation, any Critical Program Error.

**Program Set:** The group of programs and products, including the Licensed Software specified in the RFP, plus any additional programs and products licensed by the City of Lincoln/Lancaster County/Lancaster County Public Building Commission under the contract for use by the City of Lincoln/Lancaster County/Lancaster County Public Building Commission.

**Project:** The total scheme, program, or method worked out for the accomplishment of an objective, including all documentation, commodities and services to be provided under the contract.

**Proposal:** The offer submitted by a proposer in a response to a written solicitation.

**Proposer:** Company submitting a proposal to an RFP issued by the City/County Purchasing Department.

**Proprietary Information:** Proprietary information is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose (see Neb. Rev. Stat. § 84-712.05(3)). In accordance with Attorney General Opinions 92068 and 97033, proof that information is proprietary requires identification of specific named competitor(s) advantaged by release of the information and the demonstrated advantage the named competitor(s) would gain by the release of information.

**Public Proposal Opening:** The process of unsealing the RFP in Ebid at the time specified in the written solicitation.

**Renewal Period:** Optional contract periods subsequent to the original Contract Period for a specified duration with previously agreed to terms and conditions by all parties involved. Not to be confused with Extension.

**Request for Proposal (RFP):** A written solicitation for obtaining competitive offers utilizing qualifications and costs.

**Responsible Proposer:** A Proposer who has the capability in all respects to perform fully and lawfully all requirements with integrity and reliability to assure good faith performance.

**Responsive Proposer:** A Proposer who has submitted an RFP response which conforms to all requirements of the solicitation document.

**Selection Committee:** Committee(s) appointed by the requesting agency that advises and assists the procuring office in the evaluation of proposals (offers made in response to written solicitations).

**Shall/Will/Must:** An order/command; mandatory.

**Should:** Expected; suggested, but not necessarily mandatory.

**Software License:** Legal instrument with or without printed material that governs the use or redistribution of licensed software.

**Sole Source – Commodity:** When an item is available from only one source due to the unique nature of the requirement, its supplier, or market conditions.

**Sole Source – Services:** A service of such a unique nature that the contractor selected is clearly and justifiably the only practical source to provide the service. Determination that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or sole availability at the location required.

**Specifications:** The detailed statement, especially of the measurements, quality, materials, and functional characteristics or other items to be provided under a contract.

**Termination:** Occurs when either party, pursuant to a power created by agreement or law, puts an end to the contract prior to the stated expiration date. All obligations which are still executory on both sides are discharged but any right based on prior breach or performance survives.

**Third Party:** Any person or entity, including but not limited to fiduciaries, shareholders, owner, officers, managers, employees, legally disinterested persons, and sub-contractors or agents and their employees. It shall not include any entity or person who is an interested party to the contract or agreement.

**Trade Secret:** Information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that (a) derives independent economic value, actual or potential,

from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (see Neb. Rev. Stat. §87-502(4)).

**Trademark:** A word, phrase, logo, or other graphic symbol used by a manufacturer or distributor to distinguish its product from those of others, registered with the U.S. Patent and Trademark Office.

**Upgrade:** Any change that improves or alters the basic function of a product or service.

**Vendor:** An individual or entity lawfully conducting business in the State of Nebraska, or licensed to do so, who seeks to provide goods or services under the terms of a written solicitation.

**Will:** See Shall/Will/Must

**Work Day:** See Business Day.

## **I. PROJECT INFORMATION AND ESSENTIAL QUALIFICATIONS:**

### **A. PROJECT OVERVIEW:**

The City of Lincoln hereinafter called Owner is requesting proposals from qualified proposers to submit responses for Construction Management/Inspection Services.

The Owner intends to select a Contractor based on the evaluation criteria outlined herein which will accomplish the objectives of the project while incorporating innovative and cost-effective methods.

The successful contractor(s) will be responsible for remaining on established schedules for all services rendered to meet the proposed schedule for the project deliverable(s).

### **B. PROJECT/BACKGROUND INFORMATION:**

The City of Lincoln is seeking an experienced individual or firm to provide Construction Management/Inspection services for a wide variety of on-going and future city construction projects. The City will expect the Construction Manager to inspect and/or review all work at the site of each construction project and maintain a positive relationship with the City, Design Professionals, and Contractors on each project. The primary responsibilities of the position are to ensure that work is in full compliance with the plans and specifications and to keep the Owner and Design Professionals informed on all technical aspects of construction in a timely and efficient manner.

### **C. RFP DOCUMENTS**

Proposers are to promptly notify the Purchasing Department Staff, prior to the close of the RFP, of any ambiguity, inconsistency or error discovered upon examination of the RFP documents, including, but not limited to the information outlined herein and any information provided in Ebid.

### **D. AVAILABLE INFORMATION AND/OR IMPORTANT DOCUMENTS**

No additional documents or links being provided.

### **E. CONTRACT PERIOD**

The contract shall be for a period of one (1) year from the date of contract execution with the option for three (3), one (1) year renewals if mutually agreeable between both parties.

### **F. ESSENTIAL QUALIFICATIONS AND EXPERIENCE:**

The Owner is seeking a contractor with the following minimum qualifications to be deemed responsible and eligible for evaluation. If your company does not meet and/or exceed ALL the essential qualifications listed, your company is advised to not proceed with preparing and submitting an RFP response to this solicitation.

Confirmation that your company has read, understands and meets the minimum qualifications is to be included in your Proposal submission – see “EXHIBIT 1”. Complete the form and include in the proper areas of the RFP response as requested in the submission instructions outlined in Section IV. Failure to include “EXHIBIT 1” in your proposal submission PDF may result in your company being deemed as “Not Responsible” and disqualified from consideration. Meeting the minimum essential qualifications and experience are required elements to be deemed responsible.

1. Five (5) years of successful experience that the Company submitting has been providing the construction management services described herein. This experience must be from the company and not through arrangements with sub-contractors or individuals working at former positions.

2. Proposer has the capability to perform the primary functions of this service -- i.e. management or maintenance aspects]; and
3. Proposer holds applicable certifications or licenses which are issued by a professional association for work described herein.

This RFP invites qualified proposers to submit responses for accomplishment of the items of work described in **Section III. PROJECT INFORMATION.**

The scope of general and required services identified in this RFP are intended to serve as a general description of anticipated objectives and tasks.

The Owner will rely on the proposer's competence and experience to work with all Owner departments and divisions in meeting all necessary tasks, providing ongoing quality services and communicating successfully to provide the most effective and efficient products and/or services.

## **II. PROCUREMENT PROCEDURE**

### **A. AFFIRMATIVE ACTION**

The City of Lincoln-Lancaster County Purchasing Division provides equal opportunity for all proposers and encourages minority businesses and women's business enterprises to participate in our bidding process.

### **B. RFP APPROACH**

The RFP process is designed to be a competitive negotiation platform, where price is not a determinative factor; also, the Owner has the flexibility to negotiate with a select proposer to arrive at a mutually agreeable relationship.

The Owner reserves the right to accept or reject any or all offers, parts of offers; request rebids; waive irregularities and technicalities in offers; such as shall best serve the requirements and interests of the Owner.

### **C. SELECTION COMMITTEE**

A Selection Committee will be assigned the task of reviewing the proposals received.

1. The Selection Committee may request documentation from Proposer(s) of any information provided in their proposal response or require the Proposer to clarify or expand qualification statements.
2. The Selection Committee may also require a site visit and/or verbal interview(s) with a Proposer or select group of Proposers to clarify and expand upon the proposal response.

### **D. PROPOSAL PROCEDURE**

A Proposer must complete both steps directly below to create an RFP submission.

- 1) Proposers shall submit their response and all other documents as a PDF file by responding electronically using the City/County Ebid. No written documents will be accepted other than through the Ebid system.

Proposal responses submitted by a Proposer other than a corporation must include the name and address of each member. A response by a corporation must be signed in the name of such corporation by a duly authorized official thereof. Any person signing a proposal for a company, corporation, or other organization must show evidence of his/her authority to bind such company, corporation, or organization.

**Ebid Proposals received after the date and time established for receiving offers will be rejected.**

### **E. PROPOSER'S OFFER AND REPRESENTATION**

The signed proposal shall be considered an offer on the part of the proposer. Such offer shall be deemed accepted upon issuance by the Owner(s) of purchase orders or other contract documents appropriate to the work.

No offer shall be withdrawn for a period of one hundred and twenty (120) calendar days after the time/date established for receiving proposals, and each proposer agrees in submitting an offer.

Each proposer by signing and submitting an offer, represents that he/she has read and understands the proposal documents, and the offer has been made in accordance therewith.

Each offer represents the proposer is familiar with the local conditions under which the work will take place and has correlated observations with the RFP requirements.

### **F. INDEPENDENT PRICE DETERMINATION**

By signing and submitting this RFP, the proposer certifies that the proposal offered has been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, with any other Proposer/Competitor; unless otherwise required by law,

the proposal which has been submitted in this offer has not been knowingly disclosed by the Proposer prior to RFP opening directly or indirectly to any other competitor; no attempt has been made, or will be made, by the Proposer to induce any person or proposer to submit, or not to submit, a response for the purpose of restricting competition.

**G. PROJECT TIMELINE**

The tentative project schedule is listed directly below and is subject to change:

ACTIVITY ITEM	DATE (TIME IF APPLICABLE) (All dates in 2020)
Request for Proposal Issued	July 10, 2020
Pre-Proposal Meeting	NA
Last day to submit questions for clarification	July 17, 2020
<b>Proposal Submittal Deadline</b>	<b>July 24, 2020</b>
Evaluation period	7/27-7/31
Short-list Notification (If applicable)	Wk of 8/3
Interviews (If applicable)	Wk of 8/10
Final Selection	8/14
Scope of services, negotiations and fee	Wk of 8/17
Projected Notice to Proceed – Contract Execution	September 1, 2020

**H. PROPOSAL SUBMISSION INFORMATION AND INSTRUCTIONS:**

The RFP response shall conform to all instructions, conditions and requirements outlined in the RFP and related documents. Prospective proposers shall carefully examine all documents, attachments and requirements associated with this RFP and be responsive to each requirement in the format prescribed. Proposals that do not conform may be deemed non-responsive.

Proposals must be submitted via an electronic Ebid response no later than 12:00 Noon on July 24, 2020 or if extended, then shall be no later than the closing date and time listed in Ebid. **No exceptions to this deadline will be given.**

Proposer shall submit their proposal as a PDF in the Response Attachment section of the Ebid response. PDF must be titled RFP 20-047 – Construction Management Services

Proposer must be registered on the City/County's Ebid site to respond to the above RFP.

1. To register, go to the City of Lincoln website [www.lincoln.ne.gov](http://www.lincoln.ne.gov)
2. Type "bid" in the search box, click on the "Supplier Registration" and follow the instructions to complete the registration.

**ALTERNATE PROPOSALS**

No Alternate Proposals will be accepted for this project.

**I. PROTECTION OF PROPRIETARY AND TRADE SECRET INFORMATION**

Data contained in any proposal or bid (hereinafter "Submission") and all documentation provided therein, become the property of the City of Lincoln. Upon receipt of any Submission by the City of Lincoln and/or Lancaster County, all data and documentation becomes a public record and is subject to disclosure by the City of Lincoln and/or Lancaster County to any party initiating a public records request under Nebraska Revised Statutes § 84-712 et seq. In response to a public records request, the City of Lincoln and/or Lancaster County may include the entire proposal or response. The City of Lincoln and/or Lancaster County has no duty to protect proprietary or commercial information and/or trade secrets.

If the Proposer/Bidder wishes to have any information withheld from a public records request, such information must fall within the definition of "proprietary or commercial information" contained within Nebraska Public Records Statutes as defined by Nebraska Revised Statute § 84-712.05(3) and/or must be considered "trade secrets" as defined by Nebraska Revised Statutes §§ 87-501 to 87-507.

Any and all information the Proposer/Bidder wishes the City of Lincoln and/or Lancaster County to withhold from public disclosure must be submitted in a sealed package which:

1. Is separate from the remainder of the Submission;
2. Is clearly marked "*proprietary or commercial information*" and/or "*trade secrets*" on the outside of the package;
3. Individually identifies each separate page as confidential; and
4. Contains supporting documentation specifically enumerating why the information in such documents are marked and qualify as proprietary or commercial information/trade secrets. Under Nebraska law, in order for such information to be protected, the information, if released, would give competitors an advantage **and** serve no public purpose.

**FAILURE TO STRICTLY COMPLY WITH THESE INSTRUCTIONS WILL RESULT IN DISCLOSURE OF INFORMATION DECLARED BY THE BIDDER/PROPOSER TO BE PROPRIETARY OR COMMERCIAL INFORMATION AND/OR TRADE SECRETS. NO NOTICE OF FAILURE TO COMPLY WILL BE PROVIDED.**

If the instructions above for designating proprietary or commercial information and/or trade secrets are strictly followed, the City of Lincoln and/or Lancaster County will provide the bidder/proposer with reasonable notice that a public records request has been made that may include the information designated as proprietary and commercial or a trade secret. It is the sole responsibility of the Proposer/Bidder to take actions necessary to protect the information claimed as proprietary or commercial, or a trade secret.

Proposers/Bidders may not mark their entire Submission as *proprietary or commercial information and/or trade secrets*. Proposer's/Bidder's cost proposals may not be marked as proprietary or commercial information/trade secrets and are deemed to be a public record in the State of Nebraska. Failure of the Proposer/Bidder to follow the instructions for submitting proprietary or commercial information/trade secrets may result in the material being viewed by other proposers/bidders and/or the public.

"Proprietary or commercial information" is defined as trade secrets, academic and scientific research work which is in progress and unpublished, and other information which if released would give advantage to business competitors and serve no public purpose. (see Neb. Rev. Stat. § 84-712.05(3)).

"Trade Secrets" is defined as information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that:

Derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(See Neb. Rev. Stat. § 87-502 (4)(a)(b))

In accordance with the Nebraska Attorney General Opinions 92068 and 97033, Proposers/Bidders submitting information as proprietary or commercial information/trade secrets may be required to prove specific competitor(s) by name who would be advantaged by release of the information and the specific advantage the competitor(s) would receive.

## **J. COPYRIGHT AND POSTING WAIVER**

Any individual or entity awarded a contract, or who submits a proposal or response to this RFP, specifically waives any copyright or other protection the contract, proposal, or response to the RFP may have; and, it shall be implied that they have the ability and authority to enter into such waiver. This reservation and waiver is a prerequisite for submitting a proposal or response to this RFP and award of a contract. Failure to agree to the reservation and waiver will result in the proposal or response to the RFP being found non-responsive and rejected.



To facilitate public postings, except for proprietary information, the City of Lincoln/Lancaster County reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, or otherwise use any contract, proposal, or response to this RFP for any purpose, and to authorize others to use the documents.

Any entity awarded a contract or submitting a proposal or response to the RFP agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the City of Lincoln/Lancaster County and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the City of Lincoln/Lancaster County, arising out of, resulting from, or attributable to the posting of the contract or the proposals and responses to the RFP, awards, and other documents.

## **K. RFP CLARIFICATION AND ADDENDA**

### ***Clarification and Question Procedures***

Proposers shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of RFP and related bid documents.

Proposers desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing office to the attention of the contact name listed below at least seven (7) calendar days prior to date and time for response receipt.

All inquiries requesting clarification, interpretations and/or deviations regarding the Request for Proposal or other related documents shall be submitted in writing, via email, during the clarification period to the contact name listed below at the City/County Purchasing office:

Name:	Robert Walla, CPPB
Department:	City/County Purchasing
Email	<a href="mailto:rwalla@lincoln.ne.gov">rwalla@lincoln.ne.gov</a>

These inquiries and/or responses shall be distributed to prospective proposers electronically as an addendum via Ebid.

All inquiries regarding the submission of the proposal through Ebid or providing written instructions of the submittals may be made via email or phone to the City/County Bid Line in the Purchasing Office:

**Bid Line Phone Number: 402-441-8103**

Interpretations, corrections and changes made to the RFP or Ebid documents will be issued electronically via addenda in Ebid. It is the Proposer's responsibility to review all Addendums issued prior to bid response.

Oral interpretations/changes to the RFP and related documents made in any other manner than written form, will not be binding on the Owner; Proposers shall not rely upon oral interpretations.

### ***Addenda procedure:***

Addenda are instruments issued by the Owner prior to the date for receipt of offers which modify or interpret the Request for Proposal and related documents by addition, deletion, clarification or correction.

No addendum will be issued less than two (2) calendar days prior to the date and time for receipt of offers, except an addendum withdrawing the RFP, or addendum including postponement.

Proposers shall verify addendum receipt electronically in Ebid prior to RFP closing or RFP may be rejected.

**L. PRE-PROPOSAL CONFERENCE**

There will not be a pre-proposal conference for this RFP.

**M. PRICES**

Price is not a consideration

**N. WRITTEN CLARIFICATIONS**

Formal request(s) for written clarification may be made to one or more Proposers during the written evaluation period which are specific to an individual Proposer.

Written clarifications are intended to occur prior to any oral interviews being held and will outline the specific elements of the RFP response. The purpose of obtaining written clarification is to assist the Selection Committee members in determining if the RFP response submitted meets the RFP requirements and if the Proposer will move forward in the evaluation process. If deemed necessary, written clarification requests may also occur after Oral Interviews.

Such requests shall be provided to the Proposer through a written request for clarifications, sent via email, and will detail the specific items of the RFP response requiring clarification.

Failure of a Proposer to submit the written clarification response with all the information requested by the date provided in the written request, may result in the Proposer being deemed non-responsive and exclude the Proposer from receiving further consideration of their RFP response.

**O. ORAL INTERVIEWS**

The Owner may determine after the completion of the Written Evaluation and any necessary written clarifications that oral interviews/presentations and/or demonstrations are required to determine the successful Contractor.

In the event interviews are conducted, all proposers may not be granted an opportunity to interview/present and/or give demonstrations; the Owner reserves the right, in its discretion, to select only the top scoring proposers to present/give oral interviews. The scores from the oral interviews/presentations and/or demonstrations will be added to the scores from the written evaluation.

1. The Owner will contact those short-listed proposers to schedule interviews.
2. Interviews will include a formal presentation and a question and answer session based upon subject matter provided by the Owner in advance of the interview.

The presentation process will allow the proposers to demonstrate their proposal offering, explaining and/or clarifying any unusual or significant elements related to their proposals. Proposer's key personnel, identified in their proposal, may be requested to participate in the structured interview to ascertain their understanding of the requirements of this proposal, their authority and reporting relationships within their company, and their management style and philosophy. A written copy or summary of the presentation, and demonstrative information (such as briefing charts, et cetera) may be offered by the proposer, but the owner reserves the right to refuse or not consider the offered materials. Proposers shall not be allowed to replace their written proposal information by altering or amending the proposals in the interview process.

Once the oral interviews/presentations and/or demonstrations have been completed the Owner reserves the right to make an award without any further discussion with the proposers regarding the proposals received.

Any cost incidental to the oral interviews/presentations and/or demonstrations shall be borne entirely by the proposer and will not be compensated by the Owner.

The Owner will contact the awarded contractor, by email, after all the interviews have been completed and the Owner has had sufficient time and information to discuss and rank the proposers.

**P. AWARD AND NEGOTIATIONS**

The resulting contract from this RFP will be awarded to the Proposer who has been deemed responsible, responsive to the requirements outlined herein, received the highest-ranking scores, and whose services and/or products have been determined by the Selection Committee to be the most advantageous to the Owner.

Such determination that identified the highest ranked proposer offering shall be based on the selection committee's resulting scores from the evaluation criteria set forth in **Section IV.** and, proposers' performance in any oral interviews conducted.

The Owner reserves the right to make an award based on the "written evaluation" without holding oral interviews. Whereby, the scores from the "written evaluation" shall be the final ranking of the best qualified proposer.

The Owner reserves the right to seek additional information from Proposers through various methods such as, but not limited to, multiple rounds of Oral Interviews, demonstrations, written clarification, information, and research at various stages of the process for the Selection Committee to make a final decision. All awards will be made in a manner deemed in the best interest of the Owners.

The successful Proposer shall receive information from the Owner and/or meet with Owner's Representative(s) to negotiate an initial detailed work plan, finalize the scope of services and the Cost Proposal.

If the Owner is unable to arrive at an agreement with the top ranked proposer, the Owner retains the sole right to move on to negotiations with the second (then third, etc.) ranked proposer. Contract to be executed will be based on a Cost Proposal/Fee Schedule with a "not to exceed total" for total expenditures agreed upon in negotiations.

**Q. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS**

Proposer shall respond to the Attribute in Ebid regarding Sole Proprietorship and complete all documentation as required by the State of Nebraska as instructed.

**R. ETHICS IN GOVERNMENT CONTRACTING**

The Owner reserves the right to reject proposals, overturn an award notification and/or terminate a contract if it is discovered that a Proposer commits or has committed ethical violations, such as but not limited to, the following offenses:

1. Offering or giving, directly or indirectly, a bribe, fee, commission, compensation, gift, gratuity, or anything of value to any person or entity in an attempt to influence the procurement process.
2. Utilize the services of lobbyists, attorneys, political activists, or consultants to influence or subvert the procurement process.
3. Being considered for, presently being, or becoming debarred, suspended, ineligible, or excluded from contracting with any local, state or federal entity.
4. Submitting a proposal on behalf of another party or entity.
5. Collusion with any person or entity to influence the procurement process, submit sham proposals, preclude bidding, fix pricing or costs, create an unfair competitive advantage, subvert the RFP or prejudice the Owner.

**S. DEVIATIONS FROM THE REQUEST FOR PROPOSAL**

Proposer must include any deviations from the RFP and the proposed replacement language on company letterhead and attach to the section as required in the Submittal portion outlined herein. Failure to include deviations will be interpreted to infer that Proposer agrees to all terms as outlined in the Specifications and RFP documents with no deviations.

The Owner reserves the right to accept or reject the deviations according to the best interests of the Owner.

Deviations that are not acceptable to the Owner and are not negotiable by the Proposer may result in the Proposer being deemed "Non-responsive" and rejection of the RFP response.

**T. ANTI-LOYBBYING PROVISION**

During the period between the advertised date and the contract award, proposers, including their agents and representatives, shall not directly discuss or promote their proposal with any City/County Elected Official or Owner Staff except in the course of Owner-sponsored inquiries, briefings, interviews, or presentations sent or provided directly to the City/County Purchasing Department

**U. SITE VISITATION**

Proposers shall inform themselves of the conditions under which work is to be performed, including: site of work, the structures or obstacles which may be encountered and all other relevant matters concerning work performance. The Proposer will not be allowed any extra compensation by or for any condition which he/she might fully have informed themselves of prior to submitting the offer.

If the project is in a designated non-public area, Proposers are not allowed to visit the sites except for a Pre-Proposal Meeting or upon written approval by the City/County Purchasing Department.

**V. REFERENCE CHECKS**

By submitting a proposal in response to this RFP, the proposer grants to the Owner the right to perform reference and/or credit checks to verify characteristics, such as but not limited to experience, skills, reputation, judgement and/or the capacity to perform the contractual obligations resulting from this RFP. The Owner shall use the submittals requested in Section IV. of this RFP (Summary of Proposer's Experience) as references. Further, the Owner reserves the right to request additional information related to experience and financial documents if deemed necessary to ascertain the Proposer's ability to meet the requirements outlined herein and in other related RFP documents.

Unsatisfactory information obtained from any references and/or credit checks performed may be grounds to reject a proposal, withdraw an Intent to Award or rescind the award of a contract. A proposer may not use work performed for their own company as a reference to substantiate performance.

**W. AWARD NOTIFICATION**

Notification will be sent via email to proposers who were included on correspondence and/or registered under the code used. The successful Contractor will receive a notification, via email, advising the details of their award along with preliminary instructions. All non-successful proposers, who received correspondence on this RFP, will receive email correspondence notifying they did not receive an award.

**X. DEBRIEFING**

The Owner does not provide verbal or written debriefing sessions regarding any part of the RFP solicitation process.

**Y. ENTIRE AGREEMENT**

The resulting contract awarded shall constitute the complete and entire agreement between the Owner and the successful Contractor and supersedes any prior representations, understandings, communications, commitments, agreements or Proposals, oral or written that are not incorporated as a part of the Contract. See "Sample Contract" in the Attachment section of Ebid.

### III. PROJECT INFORMATION

Proposers are to review this section, prepare and submit a "Technical Proposal" outlining detailed responses to items **A. through C.** listed below. Submittals within **TAB 2** of the Proposal response shall correspond with this information.

#### A. PROJECT ENVIRONMENT & REQUIREMENTS

##### 1. SCOPE OF WORK

The City of Lincoln is seeking an experienced individual or firm to provide Construction Management/Inspection services for a wide variety of on-going and future city construction projects. The City will expect the Construction Manager to inspect and/or review all work at the site of each construction project and maintain a positive relationship with the City, Design Professionals, and Contractors on each project. The primary responsibilities of the position are to ensure that work is in full compliance with the plans and specifications and to keep the Owner and Design Professionals informed on all technical aspects of construction in a timely and efficient manner, and close out the project according to contract requirements.

##### 2. PROJECT REQUIREMENTS

Contractor shall be a representative of, and advise/consult with, the City throughout the term of each project or until services on that specific project are terminated. The amount of consultation and representation will vary by project according to the scope developed for each project prior to project start. All work performed by the selected vendor must be approved by a City of Lincoln employee prior to implementation of assigned tasks.

Exercise diligence in discovering and promptly reporting to the City any defects or deficiencies in the work.

Enforce program schedules and schedule milestones and review any progress schedules submitted by design teams and contractors through final completion or as instructed by City.

Should any schedules conflict, the Construction Manager shall immediately notify the City and follow up with a written report to the City.

Conduct meetings as needed, with the project team for each project to review and resolve the following: old problems, new problems, potential problems, critical items, schedule progress, contractor performance, work schedule for the upcoming week, current action items, and budget and adequacy of Contractors' activities with respect to other City requirements.

The Construction Manager/Inspector shall advise the City of the date and time of such meetings prior to the meetings.

Recommend payment by the City based on a report of observations of construction and evaluation of the of the Contractors' applications for payment.

Recommend the rejection of work or additional terms which do not conform to the contract documents.

Anytime the Construction Manager finds conflicts, discrepancies, or omissions on the plans or in the field, or that the plans are inadequate or not in harmony with field conditions, or cannot be built, he/she shall immediately notify the City for remedial action or clarification.

Such recommendation shall be in writing and forwarded to the City for review and approval or disapproval.

Forward any requests for additional inspection or testing of the contractors' work in accordance with the provisions of the contract documents to the City.

Conduct inspections to verify compliance with the various completion deadlines called for under the contract documents.

Upon completion of all work required by the contract documents, the Construction Manager shall develop a Certificate of Final Completion, in form and substance satisfactory to the City, which shall constitute a representation by the Construction Manager to the City that all of the work has been completed.

Final Completion Certificate is not valid without a City of Lincoln employee signature.

Receive, review, approve or disapprove, any records, written warranties, manuals, or related documents required by the contract documents and assembled by the Contractors and shall inform the City that final payment is due and issue final payment requests upon the Contractors compliance with all of the contract requirements.

Final payment shall not be approved without a City of Lincoln employee signature.

Coordinate with the Contractors to arrange for delivery, storage, protection, and security for all materials, systems, and equipment that may be purchased by the City and provided to the Contractors outside of the construction contract.

Coordinate the activities of all parties involved in individual projects.

Respond to Contractors' requests for information and coordinate required responses from the appropriate design status meetings.

Coordinate the commissioning and opening of all projects completed.

Communicate with the City and all other relevant parties via telephone, cellular telephone, and e-mail.

3. **BUSINESS REQUIREMENTS**

Promptly submit to the City a detailed written report of all projects prior to the 5<sup>th</sup> day of the month for the previous month activities.

Assist departments by recommending qualified designers, contractors, testing and inspection firms, and all other necessary subcontractors.

Have detailed knowledge of City of Lincoln contract documents and City of Lincoln Purchasing guidelines as outlined in the City Code, City Charter and Procurement Manuals.

Provide detailed information to the City of Lincoln Purchasing Department for any and all change order amendments, contract extensions, and any changes in contract terms and conditions.

Awarded Vendor shall not approve contract amendments or changes to contract terms without prior written approval of the department, and/or the City of Lincoln Purchasing Department.

## **B. TECHNICAL CONSIDERATIONS AND CHALLENGES**

### **TECHNICAL REQUIREMENTS**

Determine in detail if the work is proceeding in accordance with all requirements of the contract documents; ensure compliance with the plans, specifications, and budget; and ensure compliance with all applicable laws, statutes, ordinances, codes, rules, regulations, orders, and decrees.

Review and forward to the appropriate parties the Contractors' submittals, such as shop drawings, product data and samples, for appropriate action in determining compliance with the requirements of the contract documents.

The Construction Manager's actions shall not cause a delay in the work.

Work with the Contractors and the Design Professionals to ensure that a complete record set of all Contractors' submittals are maintained.

Assist in the initial evaluation of Change Orders (if needed) by ensuring signed and stamped drawings and sketches are prepared for items of extra work or change of scope and by preparing an independent estimate for each request or directed change in the work.

The Construction Manager may not conduct negotiations with the Contractors and develop change orders to submit to the City for approval without written approval by the City.

The Construction Manager shall not agree or sign off on additional fees or charges associated with contract terms without the written consent of the City Purchasing Department.

Construction Manager shall follow the most current policies and procedures initiated and approved by the City for all change orders.

Construction Manager shall ensure that all documents associated with the contract are updated.

In the event that documents should expire prior to full completion, Construction Manager shall follow the City of Lincoln Purchasing Department process for updating such documents.

Conduct budget and variance reporting, which shall consist of showing anticipated cost, by month and cumulatively, for each cost element.

The Construction Manager shall report each month on the monthly and cumulative costs incurred and claimed as compared to the budget.

Schedule and participate in project status meetings.

## **C. PROJECT WORK PLAN, MANAGEMENT AND IMPLEMENTATION**

### **PROVIDE POST IMPLEMENTATION SUPPORT**

Contractor must keep project on schedule according to the dates in the contract. Contractor must notify General Contractor and the City immediately upon seeing that a project is, or will be, falling behind schedule and take action to ensure timely completion and amount of Liquidated Damages to be withheld from final payment.

Receive, review, approve or disapprove, any records, written warranties, manuals, or related documents required by the contract documents and assembled by the Contractors and shall issue final payment requests upon the Contractors compliance with all of the contract requirements.

Upon final completion, the Construction Manager shall coordinate with the Contractors and Design Professionals to ensure that the design professionals provide a set of Mylar reproducible record drawings and CAD disks in a format acceptable to the City.

Drawings must show all changes in the work during the construction phase and the complete project as built.

Drawings and CAD disks shall be deemed to be the property of the City.



#### IV. EVALUATION AND SUBMITTAL INFORMATION

##### A. SELECTION AND EVALUATION FACTORS:

Proposals that do not meet the minimum requirements as outlined herein and related Ebid attachments may be deemed non-responsive and may not be evaluated by the Selection Committee.

1. Proposals deemed to meet the requirements shall be evaluated by a Selection Committee and will be scored for each of the following areas:
  - a. Experience, Proposed Staff Management Approach and Subcontractors;
  - b. Technical Proposal;
  - c. Quality, Organization and Completeness of Proposal Response;
  - d. Project Schedule
  - e. Oral Interviews (if necessary)
2. The selection criteria for the "written evaluation" is listed directly above in a. through d. and shall be the basis for an award or the determination for the proposers to be short-listed for personal interview.
3. If interviews are conducted, the scores from the "written evaluation" and "oral interviews" shall be added together for a cumulative total and final ranking of the best qualified proposer.
4. If interviews are not conducted, the scores from the "written evaluation" shall be the final ranking of the best qualified proposer.

##### B. PROPOSAL SUBMISSION AND FORMAT:

Proposer shall **submit** a proposal in a quality manner that is clear and concise. **Proposal responses that do not contain each of the categories and items as listed below may be deemed to be non-responsive.**

Contents of the response shall be placed in separate sections, properly organized in order by category as listed with each individual section tabbed and labeled as indicated. Proposals shall be limited to 10 pages of content (excluding tabs, cover, title pages and appendices). Minimum 10pt Arial or Calibri font style and size, 8 ½ x 11 paper, single spaced.

Proposers attempting to submit portions of the response containing Proprietary Information and/or Trade Secrets must strictly comply with the instructions as outlined in Section II. under Protection of Proprietary Information and Trade Secrets.

The information being requested in each of the respective categories listed below (1 through 6) shall be used as the primary basis in the determination of the Proposer's ranking in the "Written Evaluation."

1. Include the following documents within the Proposal Response - **(No TAB - Place these documents between the Front Cover and TAB 1 of the Proposal).**
  - a. EXHIBIT 1;
  - b. Letter of Interest;
  - c. A summary of the following information about your company:
    - i. Company name, address and telephone number;
    - ii. Years established and former names of your company;
    - iii. Types of services your company is particularly qualified to perform;
    - iv. Average number of staff employed; and
  - d. All deviations, modifications, additional or other changes, including but not limited to, the RFP document, Insurance Requirements, Ebid attachments (i.e. sample "Contract Agreement") and Addendums, shall be declared on company letterhead with reference to the affected document(s) and section(s). Any such deviations, modifications placed elsewhere and not described in this section

shall be null and void. Further, deviations may result in the Proposer's submission being deemed as non-responsive. The review process for approval of any type of deviation shall occur prior to the evaluation process.

**2. EXPERIENCE, PROPOSED STAFF MANAGEMENT APPROACH AND SUBCONTRACTORS – (TAB 1 OF PROPOSAL RESPONSE) (400 Points)**

This section shall consist of the following information about each sub-category listed:

**a. Summary of Proposer's Experience**

The proposer shall provide an organized summary listing their previous contracts similar to this RFP in size, scope, and complexity. The Owner will use three (3) narrative contract descriptions submitted by the proposer during its evaluation of the proposal and shall also use information from the organized summary of experience to perform any necessary reference checks. The Owner reserves the right to request additional information and/or clarification to assist in making assessments in either capacity.

The proposer shall address each of the following:

- i. Provide detailed narrative descriptions to highlight the similarities between the proposer's past performance/experience and this RFP. These descriptions should include:
  - a) The time period of the contract;
  - b) Current contracts and estimated costs of each;
  - c) The proposer's responsibilities;
  - d) Company name (including the name of a contact person, a current telephone number, and e-mail address); and
  - e) Each contract should identify whether the work was performed as the prime Contractor or as a Subcontractor.
  - f) Any other specialized qualifications which your company might possess which would be of benefit to the City related to the core requirements as listed.
- ii. Contractor and Subcontractor(s) experience should be listed separately. Narrative descriptions submitted for Subcontractors should be specifically identified as Subcontractor projects.
- iii. If the work was performed as a Subcontractor, the narrative description should identify the same information as requested for the Contractors above. In addition, Subcontractors should identify what share of contract costs, project responsibilities, and time period were performed as a Subcontractor.

**b. Summary of Proposer's Proposed Staff Management Approach and Subcontractors**

- i. The proposer shall present a detailed description of its proposed approach to the management of the project.
- ii. The proposer shall provide information to substantiate that they have sufficient professional staff to meet proposed schedule. Proposer shall identify the specific professionals who will work on the Owner's project if their company is awarded the contract resulting from this RFP. The names and titles of the team proposed for assignment to the Owner's project should be identified in full, with a description of the team leadership, interface and support functions and reporting relationships. The primary work assigned to each person should also be identified.

- iii. The Proposer shall provide resumes for all key personnel proposed to work on the project. The Owner will consider the resumes as a key indicator of the Proposer's understanding of the skill mixes required to carry out the requirements of the RFP in addition to assessing the experience of specific individuals.
- iv. Resumes should not be longer than one (1) double-sided page. Resumes should include, at a minimum, individual's name, experience and length of service with the company, academic background and degrees, professional certifications, understanding of the process. Provide the qualifications of these individuals, including a summary of their experience with related work and their available capacity to perform this work.  
  
Any changes in proposed personnel shall only be implemented after written approval from the Owner.
- v. Respective resumes for all key personnel to be used may be placed in the Appendix – TAB 4 of the Proposal Response. Resumes are not part of the total page count as listed in Section B.

**Subcontractors:**

If the Proposer intends to subcontract any part of its performance hereunder, the Proposer shall provide:

- i. name, address and email address of the Subcontractor(s);
- ii. list of specific tasks that will be performed by each Subcontractor(s)
- iii. percentage of performance hours intended for each Subcontract; and
- iv. total percentage of Subcontractor(s) performance hours.

- 3. **TECHNICAL PROPOSAL – (TAB 2 OF PROPOSAL RESPONSE) (350 Points)**  
The technical proposal section submission shall include each of the items listed below. See information regarding these categories in Section III. – PROJECT INFORMATION.
  - a. Understanding of the project environment and requirements;
  - b. Narrative describing proposed development approach;
  - c. Technical considerations and any potential challenges; and
  - d. Detailed project work plan, management and implementation to demonstrate assurance and competency in successful completion.
- 4. **PROJECT SCHEDULE – (TAB 3 OF PROPOSAL RESPONSE) (200 Points)**
  - a. Submit information that describes performance record for timeliness.
  - b. Outline the current projects which are being conducted from the location of the Proposer's office responding.
  - c. Submit a schedule for transition of the projects from the current Contractor to a new Contractor.
- 5. **APPENDIX – (TAB 4 OF PROPOSAL RESPONSE)**
  - a. Resumes to be submitted for qualifications of proposed key staff.
- 6. **Completeness and Organization of Proposal (50 Points)**

## **V. CONTRACT RESPONSIBILITIES**

### **A. INSURANCE REQUIREMENTS:**

Prior to the execution of the contract resulting from this RFP, the successful Proposer will be required to provide proof of insurance that is compliant with the "INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS." See the **INSURANCE CLAUSE** attached herein.

**Important:** If a firm has any deviations to the above-mentioned Insurance Clause, such deviations must be declared within the RFP response and through the format outlined in Section (IV)(B)(1)(d). Further, if a firm is seeking self-insurance, it shall be stated through the same procedure. During the review process, the Owner may require submission of financial information for analysis of self-insurance eligibility. The firm shall be responsive to a request for financial documents, which are sufficient in content, to perform an analysis on the firm's ability to provide self-insurance coverage for the resulting contract. Either type of request submitted is subject to review and approval by the City's Law department.

**Proposers are strongly encouraged to send the insurance requirements and endorsement information to their insurance agent prior to RFP closing date and time to expedite the contract execution process.**

### **B. PERFORMANCE BOND**

No Performance Bond is required for this project.

### **C. BID BOND**

No Bid Bond will be required for this project.

### **D. EQUAL EMPLOYMENT OPPORTUNITY**

In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

### **E. E-VERIFY**

In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise 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 pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to [www.uscis.gov/everify](http://www.uscis.gov/everify). **E-VERIFY.**

### **F. COOPERATION WITH CONTRACTORS**

Contractor may be required to work with or in proximity to other contractors or individuals that may be working on same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals and shall not commit or permit any act which may interfere with the performance of work by any other Contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this contract.

**G. PERMITS, REGULATIONS, LAWS**

The Contractor must comply with all current Local, State and Federal requirements necessary to perform all duties and requirements of the resulting contract. The Contractor shall be responsible for obtaining and paying for all royalties, licenses, permits and approvals necessary for the execution of the contract. The Contractor guarantees that it has the full legal right to the materials, supplies, equipment, software and other items used in performing all aspects associated with the contract.

**H. MATERIALS AND WORKMANSHIP**

The Contractor shall perform all work and furnish all supplies and materials, machinery, equipment, facilities, and means, necessary to complete all the work required by the resulting Contract, within the time specified, in accordance with the provisions as specified.

The Contractor shall be responsible for all work put in under the RFP Specifications and shall make good, repair and/or replace, at the Contractor's own expense, as may be necessary any defective work, material etc. if in the opinion of the department and/or Purchasing said issue is due to imperfection in material, design, workmanship or Contractor fault.

**I. INDUSTRY STANDARDS**

If not otherwise provided, materials or work outlined for the resulting contract shall be furnished and performed in accordance with best established practice and standards recognized by the contracted industry and comply with all codes and regulations which shall apply.

**J. DATA PRIVACY**

Proposer agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

The Proposer agrees to hold the Owner harmless from any claims resulting from the Proposer's unlawful disclosure or use of private or confidential information.

Proposer agrees to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and implementing regulations pertaining to confidentiality of health information.

If applicable to the work requested a sample "Business Associate Agreement" will be included, which will be part of the contract and incorporated by this reference.

**K. SITE RULES AND REGULATIONS (IF APPLICABLE)**

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on Owner's premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the Owner, they must make arrangements with the Owner to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the Owner on the basis of lack of access, unless the Owner fails to provide access as agreed to in writing between the Owner and the Contractor.

## **VI. TERMS AND CONDITIONS**

### **A. CONFLICTING TERMS**

To the extent other terms and conditions attached hereto conflict with the terms and conditions stated herein, the resulting contract agreement shall control.

### **B. CONTRACT DOCUMENTS**

The Contract Documents comprise the Contract and consist of all items contained in the Ebid and documents submitted by the firm during the RFP process. Proposers shall disclose any and all disputes with the City's standard Contract. Disputes with the terms of the standard Contract, or requests for amendments to the standard Contract may be a basis for disqualifying proposals.

### **C. TERMINATION**

This Contract may be terminated by the following:

1. Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
2. Termination for Cause. The Owner may terminate the Contract for cause if the Contractor:
  - a. Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
  - b. Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
  - c. Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the Owner will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.

### **D. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS**

In the event funding is not available to continue with services as written, the Owner(s) reserve the right to cancel the contract for convenience with no financial obligation to the Contractor, Subcontractors or other stakeholders besides the amount due for services rendered prior to notice of cancellation.

The Owner(s) may terminate the resulting contract in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the Owner(s). In the event of unavailability of funds to pay any amounts due under the resulting Contract, the Owner(s) shall immediately notify the Contractor and the resulting contract shall terminate without penalty or expense to the Owner(s). Upon termination, the Owner(s) shall pay Contractor for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by the resulting Contract.

### **E. IMPLIED REQUIREMENTS**

All products and services not specifically mentioned in this contract, but which are necessary to provide the functional capabilities described by the RFP documents, shall be included.

### **F. CONTRACT MODIFICATION**

The resulting contract shall be modified only by the written agreement and approval of the parties through a contract amendment. No alteration variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties through a contract amendment. Every amendment shall specify the date on which its provisions shall be effective.

**G. ASSIGNMENT, SALE OR MERGER**

The contract established resulting from this RFP process shall not be transferred to/or assigned without prior written consent of the Owner and must be handled through the Owner's document approval process.

The Contractor retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Contractor's business. Contractor agrees to cooperate with the Owner in executing amendments to the contract to all for the transaction. If a third party or entity is involved in the transaction, the Contractor will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform the obligations of the contract.

**H. LIQUIDATED DAMAGES**

No liquidated damages are associated with this project.

**I. LAWS**

The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

**J. SEVERABILITY**

If any provision of the resulting contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected, and each provision of the resulting contract shall be enforced to the fullest extent permitted by law.

**K. LIVING WAGE**

The Contractors agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per Section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July. This provision is only applicable to City of Lincoln projects.

**L. INDEPENDENT CONTRACTOR**

It is the express intent of the parties that the contract awarded shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the Owner and employees of the Owner shall not be deemed to be employees of the Contractor. The Contractor and the Owner shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the Owner's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

**M. STAFF QUALIFICATIONS**

The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be the employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

Failure of the Contractor to provide qualified staffing at the level required by the awarded contract may result in termination of the contract or damages.

**N. OWNERSHIP OF INFORMATION AND DATA / DELIVERABLES**

All data, forms, procedures, software, manuals, system descriptions and work flows developed or accumulated by the Contractor under the contract resulting from this RFP shall be owned by the using department. The Contractor may not release any materials without the written approval of the using department.

**O. CITY AUDIT ADVISORY BOARD**

All parties of any City agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/purchase order, as allowed by law. This provision is only applicable to City of Lincoln Projects.



## **VII. PAYMENT AND INVOICING**

### **A. PROHIBITION AGAINST ADVANCE PAYMENT**

Owner will not pay for services or equipment in advance of receipt and approval of such product or service throughout the term of the contract unless specifically listed in the final contract document.

### **B. TERMS OF PAYMENT**

The payment schedule for the project is tied to specific dates and deliverables as outlined in the awarded contract. Invoices may be submitted by the Contractor on specific dates based on the completion and acceptance of related deliverables. No invoice will be approved unless the associated deliverables have been approved by the Owner's designee. A percentage of the total contract cost may then be invoiced based on the schedule.

### **C. TAXES AND TAX-EXEMPT CERTIFICATE**

The Owner is generally exempt from any taxes imposed by the State or Federal Government. A Tax Exemption Certificate will be provided as applicable.

The exception to this statement is the Water Division of the City of Lincoln. All service and supplies are taxable per Reg. 066.14A and no exemption certificate will be issued.

### **D. INVOICES**

Contractor's invoice(s) for payment of services and products must be sent to the appropriate department according to contract terms with all applicable information included to ensure proper billing and final payment. Invoices shall include the following:

1. Contractor's information:
  - a. Company Name;
  - b. Address; and
  - c. Phone number for billing inquiries.
2. Owner's information:
  - a. Name of requesting department;
  - b. Contact name;
  - c. Address;
  - d. Phone number; and
  - e. Specific list of duties performed and rates charged.

Failure to provide invoices in this manner may result in late payment to the Contractor with no repercussion to the Owner.

### **E. INSPECTION AND APPROVAL**

This section does not apply to this project.

**INDEMNIFICATION AND INSURANCE REQUIREMENTS  
FOR ALL WEST HAYMARKET JOINT  
PUBLIC AGENCY CONTRACTS**

**1. INDEMNIFICATION** (See MOU096 for INDEMNIFICATION)

## 2. INSURANCE GENERAL PROVISIONS

- A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- B. **Occurrence Basis Coverage.** All insurance, except professional liability insurance, shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.
- C. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best® Rating of no less than A:VII unless specific approval has been granted by the City Attorney.
- D. **Certificates Showing Coverage.** Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency  
c/o City Attorney  
City of Lincoln, Nebraska  
555 South 10th Street  
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

- E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

- F. **Other Requirements.** Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2. will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

### 3. INSURANCE REQUIREMENTS

- A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' compensation, disability benefit, or other employee benefit acts;
- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

**B. Worker's Compensation Insurance and Employer's Liability Insurance.** The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
<b>Worker's Comp.</b>			
	State	Statutory	
	Applicable Federal	Statutory	
<b>Employer's Liability</b>			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

**C. Commercial General Liability Insurance.**

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.

Coverage	Min Amt	Notes
General	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	\$ 100,000	any one fire
Medical Damage Limit	\$ 10,000	any one person

- (2) The required Commercial General Liability Insurance shall also include coverage for the following:
- Bodily injury and property damage.
  - Fire legal liability
  - Coverage for all premises and operations.
  - Personal and advertising injury.
  - Operations by independent contractors.
  - X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
  - Any fellow employee exclusions shall be deleted.
  - Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
  - Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
  - Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
  - Contractual liability coverage.
- (3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.
- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
  - Endorsement to provide the general aggregate per project endorsement.
  - Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
  - Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
  - Separation of insureds.
  - Additional insured endorsement in favor of and acceptable to the JPA.
- (4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

**D. Vehicle liability insurance coverage.**

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor of and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

**E. Umbrella/Excess Insurance.** At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

**F. Railroad Protective Liability.** If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$5,000,000 per occurrence, \$10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

**G. Special Provision.** At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

#### **4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.**

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

#### **5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.**

- A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

#### **6. PROPERTY INSURANCE/ BUILDER'S RISK.**

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.
- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.





ALFRBEN-01

MDONOVAN

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/20/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> <b>Ames &amp; Gough</b> <b>859 Willard Street</b> <b>Suite 320</b> <b>Quincy, MA 02169</b>	<b>CONTACT NAME:</b> <b>PHONE (A/C, No, Ext): (617) 328-6555</b>		<b>FAX (A/C, No): (617) 328-6888</b>
	<b>E-MAIL ADDRESS: boston@amesgough.com</b>		
<b>INSURED</b>  <b>Alfred Benesch &amp; Company</b> <b>825 M Street, Suite 100</b> <b>Lincoln, NE 68508</b>	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A : Travelers Indemnity Co. of America A++, XV</b>		<b>25666</b>
	<b>INSURER B : Travelers Property Casualty Company of America</b>		<b>25674</b>
	<b>INSURER C : Phoenix Insurance Company A++, XV</b>		<b>25623</b>
	<b>INSURER D : Berkshire Hathaway Specialty Insurance Company</b>		<b>22276</b>
	<b>INSURER E :</b>		
<b>INSURER F :</b>			

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:	<b>X</b>	<b>X</b>	<b>630-0D870755</b>	<b>5/31/2020</b>	<b>5/31/2021</b>	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b> \$
<b>B</b>	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	<b>X</b>	<b>X</b>	<b>BA-0N614884</b>	<b>5/31/2020</b>	<b>5/31/2021</b>	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
<b>B</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ <b>0</b>	<b>X</b>	<b>X</b>	<b>ZUP-15P01416</b>	<b>5/31/2020</b>	<b>5/31/2021</b>	EACH OCCURRENCE \$ <b>1,000,000</b> AGGREGATE \$ <b>1,000,000</b> \$
<b>C</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y / <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below	<b>N/A</b>	<b>X</b>	<b>UB-5K723986</b>	<b>5/31/2020</b>	<b>5/31/2021</b>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ <b>1,000,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>
<b>D</b>	<b>Professional Liab</b>			<b>47-EPP-305297-03</b>	<b>5/31/2020</b>	<b>5/31/2021</b>	<b>Per Claim</b> <b>1,000,000</b>
<b>D</b>				<b>47-EPP-305297-03</b>	<b>5/31/2020</b>	<b>5/31/2021</b>	<b>Aggregate</b> <b>2,000,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)


If AI box is checked, GL Endt Form# CGD604, Auto Endt Form# CAT474 to the extent provided therein applies and all coverages are in accordance with the policy terms and conditions.

RE: Construction Management and Inspection Services - West Haymarket Joint Public Agency

City of Lincoln, and West Haymarket Joint Public Agency shall be included as additional insured with respects to General and Auto Liability where required by written contract. General and Auto Liability is Primary and Non-Contributory as required per written contract. A Waiver of Subrogation and a 30 Day Notice of Cancellation is provided in accordance with the policy terms and conditions.

## CERTIFICATE HOLDER

## CANCELLATION

<b>West Haymarket Joint Public Agency</b> <b>C/O City Attorney</b> <b>City of Lincoln, Nebraska</b> <b>555 So. 10th Street</b> <b>Lincoln, NE 68508</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	<b>AUTHORIZED REPRESENTATIVE</b> 

POLICY NUMBER: 630-0D870755

COMMERCIAL GENERAL LIABILITY  
ISSUE DATE: 05/31/2020

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name of Person or Organization:**

CITY OF LINCOLN AND/OR LANCASTER  
CONTINUED CG T8 03

**Location And Description of Completed Operations:**

**Section II – Who Is An Insured** is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

POLICY NUMBER: 630-0D870755

COMMERCIAL GENERAL LIABILITY  
GENERAL PURPOSE ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY  
ADDITIONAL INSURED - CONTINUED

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING: COMMERCIAL  
GENERAL LIABILITY COVERAGE PART

AMENDING SCHEDULE OF CG D3 73 11 05 "ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS - COMPLETED OPERATIONS", NAME OF PERSON OR ORGANIZATION TO  
INCLUDE:

CITY OF LINCOLN AND/OR LANCASTER COUNTY AND/OR CITY OF LINCOLN/LANCASTER  
COUNTY PUBLIC BUILDING COMMISSION  
555 SOUTH 10TH STREET LINCOLN, NE 68508

PROJECT DESCRIPTION: CONTRACT PROJECTS FOR THE CITY OF LINCOLN AND/OR  
LANCASTER COUNTY AND/OR CITY OF LINCOLN/LANCASTER COUNTY PUBLIC BUILDING  
COMMISSION

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE – CONTRACTORS**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM**

### **PROVISIONS**

1. The following is added to Paragraph **c.** in **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

This includes any person or organization who you are required under a written contract or agreement, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Regardless of the provisions of paragraph **a.** and paragraph **d.** of this part **5. Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is a named insured when a written contract or agreement with you, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

POLICY NUMBER: UB-5K723986-20-43-G

## **WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

### **SCHEDULE**

#### **DESIGNATED PERSON:**

#### **DESIGNATED ORGANIZATION:**

ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED  
BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS  
WAIVER.

Any person or organization for which the employer has agreed by written contract, executed prior to loss, may execute a waiver of subrogation. However, for purposes of work performed by the employer in Missouri, this waiver of subrogation does not apply to any construction group of classifications as designated by the waiver of right to recover from others (subrogation) rule in our manual.

**RESOLUTION NO.**

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public  
2 Agency:

3 That the attached Memorandum of Understanding between the West Haymarket Joint  
4 Public Agency and the Lincoln-Lancaster County Health Department, for purposes of  
5 administering COVID-19 vaccines at the Pinnacle Bank Arena, is hereby approved and the  
6 Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby  
7 authorized to execute said Agreement on behalf of the West Haymarket Joint Public Agency.

Adopted this \_\_\_\_\_ day of February, 2021.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

West Haymarket Joint Public Agency  
Board of Representatives

\_\_\_\_\_  
Legal Counsel for  
West Haymarket Joint Public Agency

\_\_\_\_\_  
Leirion Gaylor Baird

\_\_\_\_\_  
Tim Clare

\_\_\_\_\_  
Tammy Ward

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is made this \_\_\_\_ day of February, 2021 by and between the Lincoln-Lancaster County Health Department, a department of the City of Lincoln, Nebraska, a municipal corporation, ("Health Department") and the West Haymarket Joint Public Agency, a Nebraska political subdivision ("JPA").

WHEREAS, the COVID-19 pandemic has infected over 26,000 people and taken the lives of over 180 people in Lancaster County as of January 26, 2021; and

WHEREAS, vaccines have been developed to help with the public health crisis created by the pandemic; and

WHEREAS, the Health Department is in need of facilities to help distribute one or more of the available vaccines; and

WHEREAS, the JPA is willing to provide space in Pinnacle Bank Arena ( sometimes referred to as "PBA"), owned by the JPA; and

WHEREAS, this MOU will set forth certain terms and conditions for use of PBA by the Health Department for use in a vaccination program.

NOW, THEREFORE, in mutual consideration of the terms and conditions set forth herein, the Parties hereto agree to the following:

1. **Use of Pinnacle Bank Arena for Vaccinations.** The JPA hereby agrees and consents to the Health Department establishing and operating a vaccination program in or on the premises of Pinnacle Bank Arena during the current COVID-19 pandemic.
2. **Scheduling of Vaccination Clinics.** The Health Department shall coordinate dates for use of PBA for vaccinations with ASM Global, the authorized operator and manager of PBA.
3. **Use of Facilities, Equipment, and Staff; Costs.** The JPA shall provide all reasonable assistance necessary to the Health Department to facilitate the vaccination clinics. The Health Department shall pay for the reasonable costs of staff brought in exclusively to assist in the vaccination clinics and all other out of pocket expenses incurred by the JPA above and beyond normal operating costs during the pandemic, not to exceed \$50,000.00 without consent of the Health Department. Eligible costs shall include those costs reasonably incurred prior to this MOU. Use of equipment including, but not limited to, chairs, tables, and directional signs that are already available on the premises and do not cost extra to operate shall not be a cost to the Health Department. The Health Department shall be responsible for providing all medical equipment, vaccines, and necessary clinical supplies and materials to provide vaccinations.
4. **Parking.** The JPA shall arrange for safe and sufficient parking for all staff, volunteers, and patients attending vaccine clinics.
5. **Food and Beverages.** The JPA may arrange for food and beverages for medical staff, volunteers, and patients receiving vaccinations. If the JPA or ASM Global are requested to provide such food and beverages, the Health Department shall pay the reasonable costs thereof.

6. **Term.** This MOU shall run for a period of eight months from execution herein unless terminated earlier or extended by mutual agreement of the Parties.
7. **Insurance.** The Parties hereto acknowledge and understand that some risk is inherent in any medical procedure involving use of public facilities not designed for mass vaccination programs. The JPA shall maintain all current coverages at current levels. The Health Department, through the City of Lincoln, shall provide such insurance as is necessary to protect its interests. In the event the Health Department secures any additional insurance for itself or the City, the JPA shall be added as additional insured to the extent possible under such policy or policies.
8. **Employees.** The JPA and the Health Department shall each be responsible for identifying their respective employees needed to assist in the vaccination clinics and provide the necessary training, personal protective equipment, and training for their employees for purposes of operating a vaccination clinic.
9. **Volunteers.** The Health Department shall be solely responsible for checking the backgrounds, licensing, and credentialing of volunteers participating in the vaccination clinics. The Health Department acknowledges that some volunteers may be employed by hospitals, pharmacies, or other medical businesses and that some volunteers may be compensated by their full or part-time employer while participating in the vaccination clinics. Regardless of whether a volunteer is being paid to participate in the vaccination clinics, the Health Department shall take all reasonable steps to ensure that all volunteers shall be appropriately credentialed and free from any adverse history, criminal or otherwise, that may endanger the safety of the patients, staff, or volunteers at or during vaccination clinics at PBA.
10. **Construction of this Memorandum of Understanding.** The Parties hereto agree and acknowledge that the vaccination program anticipated herein is fluid and subject to change. Minor changes to this MOU may be negotiated between ASM Global and the Health Department in order to better facilitate the vaccination program. Significant changes shall be brought to the attention of counsel for the JPA and amendments will be prepared and executed to the extent necessary.
11. **Termination.** Termination may occur for any of the following reasons:
  - a. This Agreement may be terminated by the Health Department or JPA if the other party fails to adequately perform any material obligation required by this Agreement ("Default"). Termination rights under this section may be exercised only if the defaulting party fails to cure a Default within ten (10) calendar days after receiving written notice from the non-defaulting party specifying the nature of the Default.
  - b. The Health Department or JPA may terminate this Agreement, in whole or part, for any reason for convenience upon at least ten (10) calendar days' written notice to the other Party. In the event the Health Department terminates for convenience, the JPA shall be reimbursed for all reasonable costs permitted under this Agreement and allowed by the Health Department up to and including the date of termination.
  - c. The Health Department may terminate this Agreement in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the Health Department. In the event of unavailability of funds to pay any amounts due under this Agreement, the Health Department shall immediately notify the JPA, and this Agreement shall terminate without penalty or expense to the Health Department. Upon termination, the Health Department shall pay the JPA



for any approved and documented services completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

- d. If the Agreement is terminated by the Health Department as provided in (b) or (c) above, the JPA shall be paid for all services performed, and reimbursable expenses incurred, not to exceed the maximum amounts payable under the compensation section above, up until the date of termination. Consultant hereby expressly waives any and all claims for damages or compensation arising under this Agreement except as set forth in this section in the event of termination.
- e. The Health Department reserves the right to withhold payment for services rendered that is not in compliance with this Agreement.

12. **Nebraska Law.** This MOU will be construed pursuant to the laws of the State of Nebraska and the Lincoln Municipal Code.

Lincoln-Lancaster County Health Department, a  
department of the City of Lincoln, Nebraska

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Health Director

WEST HAYMARKET JOINT PUBLIC AGENCY, a  
Nebraska political subdivision

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Chair of the Board of Representatives

Acknowledged by:

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Tom Lorenz, ASM Global  
Manager of Pinnacle Bank Arena

**RESOLUTION NO.**

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public  
2 Agency:

3 That the attached Agreement between the West Haymarket Joint Public Agency and IMG  
4 College, LLC for marketing of advertising and sponsorship rights at Pinnacle Bank Arena for a  
5 term of July 1, 2021 through June 30, 2029 is hereby approved and the Chairperson of the West  
6 Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said  
7 Agreement on behalf of the West Haymarket Joint Public Agency.

Adopted this \_\_\_\_\_ day of February, 2021.

Introduced by:

\_\_\_\_\_

Approved as to Form & Legality:

West Haymarket Joint Public Agency  
Board of Representatives

\_\_\_\_\_  
Legal Counsel for  
West Haymarket Joint Public Agency

\_\_\_\_\_  
Leirion Gaylor Baird

\_\_\_\_\_  
Tim Clare

\_\_\_\_\_  
Tammy Ward

## **AMENDED AND RESTATED MARKETING SERVICES AGREEMENT**

THIS AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the West Haymarket Joint Public Agency, a Nebraska political subdivision (hereinafter referred to as "JPA"), and IMG College, LLC, a Delaware limited liability company, a division of Learfield IMG College, (hereinafter referred to as "LIMGC").

### **RECITALS**

The JPA and LIMGC previously entered into that certain Marketing Services Agreement dated as of December 6, 2012 (the "Original Agreement") pursuant to which the JPA has engaged LIMGC to render professional assistance by providing marketing services for the Pinnacle Bank Arena (hereinafter referred to as "Marketing Services");

The JPA and LIMGC now desire to amend and restate the Original Agreement as more specifically set forth herein pursuant to which LIMGC will continue to perform the Marketing Services in accordance with this Agreement and the JPA shall provide support and administrative services under this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the above Recitals and the mutual obligations of the parties hereto, the parties do agree as follows:

### **I. ADMINISTRATOR OF AGREEMENT**

The Project Manager for the JPA relating to PBA is the Finance Director for the City of Lincoln and shall be the JPA's representative for the purpose of administering this Agreement and shall have authority on behalf of the JPA to give approvals under this Agreement. The representative of LIMGC will be Aaron Babcock, General Manager for Pinnacle Bank Arena, and he will supervise all services and be in charge of LIMGC's performance of the Marketing Services as set forth in this Agreement. In the event that any exhibits and/or attachments hereto are in conflict with this Agreement, the terms of this Agreement shall control. The City of Lincoln is the contracted agent for the JPA to operate PBA and contracts out operations and management of PBA to a third party, currently ASM Global (hereinafter "Operations Manager").

### **II. SCOPE OF SERVICES**

(1) **Term.** The term of this Agreement ("Term") will be eight (8) years, beginning July 1, 2021, and ending June 30, 2029. Each twelve (12) month period from July 1 through June 30 during the Term shall be considered a "License Agreement Year".

(2) **Services.** LIMGC agrees to undertake, perform, and complete in an expeditious, satisfactory, and professional manner the services under this Agreement on behalf of the JPA.

(3) **Rights Granted.** In consideration for the payments set forth in Section IV., the JPA hereby grants to LIMGC the exclusive worldwide rights to all advertising and sponsorship opportunities available inside and on the outside of PBA, hereinafter referred to as “the Rights.” Rights include, but are not limited to, the following:

(a) Permanent and temporary signage in and around PBA. Permanent and temporary signage includes, but is not limited to:

- i. IPTV;
- ii. video walls;
- iii. center-hung scoreboard signage;
- iv. digital fascia signage;
- v. backlit fascia and vomitory signage;
- vi. concourse signs;
- vii. landmark sponsor identification signage;
- viii. sponsor zone signage;
- ix. drink-cup-holder signage;
- x. concourse displays, temporary signage, and special event displays;
- xi. tunnel covers (if any);
- xii. concession signage;
- xiii. restroom signage;
- xiv. outdoor marquee (if constructed);
- xv. second-level ribbon board (if constructed);
- xvi. festival space signage and promotional opportunities (e.g., product displays, sampling, couponing, product distribution, etc.);

(b) Permanent and temporary signage in and on the VIP Parking Garage attached to PBA and any other parking lots and parking garages as may be approved by the JPA.

(c) Digital-distribution platform rights for all inventory throughout all official PBA digital-distribution platforms (website, WiFi, social media, etc.), including but not limited to:

- i. PBA website ([www.pinnaclebankarena.com](http://www.pinnaclebankarena.com));
- ii. Social-Media Presence;
- iii. Mobile Application;
- iv. Tablet Application;
- v. WAP site;
- vi. Mobile Texting.
- vii. All advertising/sponsorship opportunities related to PBA’s WiFi/DAS system.
- viii. At-event impact including, but not limited to:
  - promotions;
  - product displays;
  - sampling, couponing, and product distribution.

- ix. Additional sponsorship opportunities including, but not limited to:
  - message center and public address announcements;
  - sponsor identifications in ticket promotions, brochures, and advertising media;
  - plastic souvenir cups and concession containers;
  - brand vending opportunities;
  - ticket mailer inserts;
  - email blasts;
  - ticket envelopes;
  - media backdrop;
  - official (advertising, category exclusive) sponsorships;
  - royalty-free use of PBA marks and logos.
- x. Hospitality events as defined below. All food and beverages for any hospitality event must be purchased through JPA or its management contractor;
- xi. Such other spaces as may be agreed upon by the JPA and LIMGC.

(d) The Parties hereto agree during the Term of this Agreement, neither the JPA nor anyone acting on its behalf will enter into any agreements with any third party granting such person or entity the Rights granted to LIMGC herein or any rights or licenses similar thereto without the consent of LIMGC which shall not be unreasonably withheld for opportunities as described herein. JPA further agrees any and all sponsorship, advertising, and promotional opportunities related to the rights will be granted only in connection with a corporate sponsorship agreement through LIMGC, with the exception of any such opportunities separately negotiated through the JPA or its management contractor as part of locally and/or nationally-sponsored events that take place at PBA.

(e) The Rights granted herein include future modifications, expansions, refinements, and technological improvements of currently existing rights and future advertising/sponsorship opportunities that may be developed during the Term of this Agreement.

(f) LIMGC acknowledges that the University of Nebraska ("NU") is a member of the JPA and maintains certain advertising and sponsorship rights during NU related events. Such rights are deemed superior to the Rights granted LIMGC herein to the extent of any conflict between this Agreement and any agreement between the JPA and NU related to advertising or sponsorship opportunities for events sponsored, promoted, or produced by NU.

### III. TERMS RELATED TO OPERATIONS

(1) **Donor-Related Sponsorship Opportunities.** LIMGC acknowledges that areas outside PBA, including the south plaza, northeast elevated plaza, and festival space may be named for donors with no participation by, or payment to, LIMGC.

(2) **Approval of PBA Signage.** In an effort to ensure PBA maintains the look and feel of a first-class facility, the Chair of the PBA Board of Representatives, or his or her designee shall have the right to approve the appearance and location of all permanent or temporary signage.

(3) **Trade.** If requested and approved in advance by the Treasurer of the JPA, LIMGC may secure budget reducing trade under this agreement. All such trades shall be detailed in reports and other documents necessary for JPA financial records.

(4) **Tickets.** JPA grants to LIMGC the right to purchase tickets for PBA events prior to their public sale subject to event promoter restrictions. JPA and its agents and Operations Manager shall work to provide LIMGC with complimentary tickets for sponsors and/or clients when possible. However, LIMGC acknowledges that JPA and its agents and Operations Manager do not receive complimentary tickets from event promoters on a regular basis and, if such tickets are available, such tickets may be used for other purposes. JPA, through the Operations Manager, will use best efforts to provide LIMGC initial access to event marketing to discuss potential advertising and/or sponsorship opportunities.

(5) **Hospitality.** LIMGC shall have the right to create hospitality areas before, during, and after PBA events, as approved by JPA or the Operations Manager. All food and beverages for any hospitality event must be purchased through the JPA or Operations Manager. LIMGC acknowledges that the JPA and/or the Operations Manager (i) lease PBA and spaces inside PBA to companies or individuals for conferences or events; and (ii) create additional events in and around PBA and parking facilities owned by the JPA and the City of Lincoln. Revenues derived from such hospitality events, conferences, meetings, and other events generated by the JPA or the Operations Manager shall belong exclusively to the JPA for funding PBA operations, subject to rights of the Operations Manager to fees and expenses. During LIMGC sponsored hospitality events, JPA, through its Operations Manager, agrees to operate the PBA video boards and LED rings and ribbon boards at no cost to LIMGC. JPA will grant LIMGC access to spaces in PBA for meetings and sponsor functions and LIMGC shall coordinate such activities with the Operations Manager. LIMGC shall pay no rent for such meetings and sponsor functions, but shall be responsible for all costs therein, including but not limited to food, beverages, security, and clean-up.

(6) **Currently-Pitched Opportunities.** JPA agrees that all advertising and sponsorship opportunities pitched or presented prior to execution of this Agreement shall be assigned to LIMGC and all revenue generated by any resulting agreements shall be included in the GCCR;

(7) **Food Vendors.** LIMGC acknowledges and agrees that the JPA and Operations Manager are not obligated to sell any food and/or beverage products at PBA and LIMGC shall not commit any food and/or beverage vending or supplier rights to any third party, unless the JPA or Operations Manager approves of such sale. The JPA and

Operations Manager shall encourage all PBA food and beverage vendors or suppliers to pursue PBA sponsorship opportunities with LIMGC. Food or beverage vendors that do not agree to become PBA sponsors may not receive any exclusivity with respect to vending and/or advertising rights.

(8) **Best Efforts.** The JPA and its Manager agree to use their best efforts to prevent event promoters from removing or covering signage purchased by PBA partners, sponsors, or advertisers.

(9) **Prohibited Advertising Categories.** LIMGC may sell advertising and sponsorships in all categories, except those (i) prohibited by existing agreements detailed in Exhibit A attached hereto, or as otherwise identified by the JPA or its Operations Manager, which shall not to be exercised unreasonably; (ii) that, in the JPA's sole and final discretion, are inappropriate for any public facility, or prohibited by applicable law, which discretion shall not to be exercised unreasonably; and (iii) encompassing any issues potentially sensitive to the JPA and/or the City of Lincoln. LIMGC agrees to consult with the JPA Project Manager and Legal Counsel on any matter relating to such issues prior to accepting advertising or sponsorships that may conflict with this section.

(10) **Signage Production.** LIMGC shall pay for new PBA signage not currently contemplated in the PBA budget. A list of signage found in the PBA budget can be found in attached Exhibit B. LIMGC shall not pay for new video equipment, except for local fulfillment obligations, installed in PBA during the term of this Agreement.

(11) **Video Board Operation and Production.** JPA or its Operations Manager shall be responsible for all expenses related to video board operations, maintenance, repairs, and insurance during PBA events.

(12) **Office Space.** JPA and/or its Operations Manager shall provide, at no cost to LIMGC, suitable office space in PBA to accommodate three (3) LIMGC employees whose exclusive work shall be in the fulfillment and compliance of this Agreement. JPA will provide utilities, reasonable janitorial and maintenance services, internet access, and telephone services at no cost to LIMGC.

(13) **Minimum Events and Attendance.** Beginning in the 2021-2022 License Agreement Year and for each License Agreement Year thereafter for the term of this Agreement, LIMGC and JPA agree that PBA will host a minimum of 75 PBA events, as defined herein, having a total attendance of at least Five Hundred Thousand (500,000) persons. "PBA Event" shall mean and include every public event, presentation, or performance that occurs at or inside PBA, whether or not (i) tickets are issued or offered for sale for admission to any such event presentation, or performance; (ii) admission is actually charged; or (iii) the PBA Event is produced by or for the JPA, directly or indirectly, pursuant to permission, license, or lease by the JPA. Should the JPA fail to meet both of these minimums in any license year, LIMGC shall receive a pro-rata reduction of its Guaranteed Rights Fee for the subsequent License Year (*i.e.*, If total attendance in the 2021/22 License Agreement Year only reaches 490,000, 2% less than the 500,000 on which IMG's Guaranteed Rights Fee is based, then IMG's Guaranteed Rights Fee for the 2022/23 License Agreement Year will be \$980,000, which is 2% less than the \$1,000,000 Guaranteed Rights Fee listed above for the 2022/23 License Agreement Year). In the event the JPA misses both minimums in the final year of this Agreement, then LIMGC shall receive a pro-rata reduction of its Guaranteed Rights Fee for the final License Agreement Year.

(14) **Good Faith Resolution of Disputes.** In fulfilling the terms of this Agreement, the Parties hereto covenant and agree to work cooperatively and in good faith to address any issues or problems that may arise. Nothing herein shall be construed to limit dispute resolution to discussions between the Parties.

(15) **Material Impairment.**

(a) If, during the term of this Agreement, the JPA, or any of its employees, agents, or representatives engages or fails to engage in any activity that materially damages LIMGC's advertising and/or sponsorship commitments or ability to exploit the rights, except as may be permitted in this Agreement, then LIMGC's Guaranteed Rights Fee for the following License Agreement Year shall be reduced by an amount equal to the actual damages incurred by LIMGC as a result of such activity. In the event such activity or failure to act occurs in the final License Agreement Year of this Agreement, then LIMGC's Guaranteed Rights Fee for such year shall be reduced by an amount equal to the actual damages incurred by LIMGC as a result of such activity;

(b) In the event of a major disaster or national emergency (e.g., acts of God, acts of terrorism, acts of state or the United States in either its sovereign or contractual capacity, fires, floods, pandemics/epidemics, strikes and unusually severe weather, etc.) which materially impairs LIMGC's ability to exploit the Rights or collect revenue, LIMGC's Guaranteed Rights Fee for the following License Agreement Year shall be adjusted equitably to reflect the impact of such interruption, cancellation, or impairment. In the event that such a disaster or national emergency occurs in the final License Agreement Year of this Agreement, then LIMGC's Guaranteed Rights Fee for such year shall be adjusted equitably to reflect the impact of such interruption, cancellation, or impairment;

(c) If LIMGC provides JPA written notice that any person or entity is engaging in actions materially impairing LIMGC's ability to exploit the Rights, the JPA shall be responsible for undertaking efforts to bar such person or entity from further engaging in such actions. If the JPA has full legal authority and ability to undertake all efforts necessary to eliminate the material impairment of the Rights, but fails to do so, then LIMGC's Guaranteed Rights Fee for the following License Agreement Year shall be adjusted equitably and proportionately to reflect the impact of such impairment. In the event such actions occur in the final License Agreement Year of this Agreement, then LIMGC's Guaranteed Rights Fee for such year shall be adjusted equitably to reflect the impact of such interruption, cancellation, or impairment;

(d) If the Inventory offering described in Art. II, Section (3) herein are materially changed or adversely impacted by the JPA or by subsequent agreements, then LIMGC's Guaranteed Rights Fee for the following License Agreement Year shall be adjusted equitably and proportionately to reflect the impact of such impairment. In the event such actions occur in the final License Agreement Year of this



Agreement, the Revenue Sharing Threshold shall be increased by an amount equal to the impact of such interruption, cancellation, or impairment. The JPA and LIMGC may mutually agree to include additional categories or take other steps to mitigate any impairment herein;

(e) In the event the JPA causes or consents to the University of Nebraska moving its men's and women's basketball games to another venue permanently, then LIMGC's Guaranteed Rights Fee for the following License Agreement Year shall be adjusted equitably and proportionately to reflect the impact of such impairment. In the event such actions occur in the final License Agreement Year of this Agreement, then LIMGC's Guaranteed Rights Fee for such year shall be adjusted equitably to reflect the impact of such interruption, cancellation, or impairment.

(17) **Offensive Material.** Neither Party hereto shall knowingly allow or permit any PBA Events, advertising, sponsorships, or other actions or activities that will or would shock, insult, or recklessly or intentionally offend a majority of the people of the City of Lincoln.

(18) **Additional Pinnacle Bank Inventory Opportunities.** Pinnacle Bank shall have the first right of refusal to match PBA-related naming opportunities. Should Pinnacle Bank agree to additional inventory, such inventory shall be included in the GCCR.

#### IV. FINANCIAL TERMS AND CONDITIONS

(1) **Guaranteed Rights Payments and Revenue Sharing.** With respect to the 2020-2021 License Agreement Year, due to the effects of the COVID-19 pandemic and cancelled events and the significantly reduced gross collected cash revenue ("GCCR"), the parties have agreed that IMG shall retain all GCCR with respect to such License Agreement Year. For each additional License Agreement Year, LIMGC shall pay the JPA: (i) a guaranteed rights fee payment (the "Guaranteed Rights Fee") as set forth below, and (ii) fifty percent (50%) of any GCCR in excess of the Revenue Sharing Thresholds (herein so called) set forth below (the "Revenue Sharing Payment").

<b>License Agreement Year</b>	<b>Guaranteed Rights Fee</b>	<b>Revenue Sharing Threshold</b>
7/1/21-6/30/22	\$1,000,000	\$1,550,000
7/1/22-6/30/23	\$1,000,000	\$1,550,000
7/1/23-6/30/24	\$1,050,000	\$1,650,000
7/1/24-6/30/25	\$1,050,000	\$1,650,000
7/1/25-6/30/26	\$1,100,000	\$1,750,000
7/1/26-6/30/27	\$1,100,000	\$1,750,000
7/1/27-6/30/28	\$1,150,000	\$1,850,000
7/1/28-6/30/29	\$1,150,000	\$1,850,000

Guaranteed Rights Fees will be paid 50% (first half) on or before December 31 of each License Agreement Year and 50% (second half) on or before June 30 of each License Agreement Year.

**(2) Signing Bonus.** LIMGC agrees to pay JPA a signing bonus equal to One Million One Hundred Twenty Four Thousand Two Hundred Ninety Three Dollars (\$1,124,293.00) divided into three (3) payments to be paid as follows: \$600,000.00 on or before July 1, 2021; \$262,146.50 on or before July 1, 2022 and \$262,146.50 on or before July 1, 2023.

**(3) Other Terms and Conditions.** For the purpose of calculating the Revenue Sharing Payment only, GCCR is defined as cash revenue received from the exploitation of all marketing, advertising, and sponsorship rights reduced by the following:

- (a) Agency or Third-Party sales commissions;
- (b) Cost of tickets purchased from JPA or the Operations Manager as part of a sponsorship agreement negotiated by LIMGC;
- (c) Pre-approved hospitality expenses; and
- (d) Pass-throughs to JPA, such as suite sales in the event such revenue could be included in an advertising or sponsorship agreement;
- (e) Any budget-reducing trade, requested and approved by the JPA, secured by LIMGC shall be deducted from the Guaranteed Rights Fee based on the fair market value of the trade, to be mutually agreed upon by the JPA and LIMGC. The budget-reducing trade shall also be included in the GCCR for purposes of calculating the Revenue Sharing Payment.

**(4) Payment.** LIMGC shall pay the Guaranteed Rights Fee to the JPA in two installments each License Agreement Year. The first payment (not less than fifty percent (50%) of the guaranteed payment for the year) shall be paid on or before December 31 of each calendar year. The second payment will be the remaining balance and shall be paid no later than June 30 of the calendar year following the first payment. Any Revenue Sharing Payments shall be paid on or before September 1 of each calendar year for all GCCR for the previous License Agreement Year. The first Revenue Sharing Payment, if due, shall be paid no later than September 1, 2022.

## **V. SERVICES TO BE CONFIDENTIAL**

All services, including reports, opinions, and information to be furnished under this Agreement shall be considered confidential and shall not be divulged, in whole or in part, to any person other than to duly authorized representatives of the parties, without the prior written approval of the other party. The parties understand that the JPA is a governmental entity and may be required to disclose information to the extent required by law or by order of a court or other government entity. Any party may avail itself of any remedy allowed by law to respond or object to the disclosure. For purposes of this Agreement, confidential information shall not include information (i) that, at the time

disclosed, is (or after disclosure becomes) part of the public domain, (ii) known or otherwise available to the parties prior to any disclosure and (iii) a third party discloses after disclosure by a party to this Agreement, if such third party's disclosure does not violate an obligation it has to either party to this Agreement. The provisions in this section shall survive any termination of this Agreement.

## **VI. NON-RAIDING CLAUSE**

LIMGC shall not engage the services of any person or persons presently in the employ of the JPA or the City of Lincoln for work covered by this Agreement without the written consent of the JPA.

## **VII. FAIR EMPLOYMENT**

In connection with the performance of work under this Agreement, LIMGC agrees that it shall not discriminate against any employee or applicant for employment with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status in accordance with the requirements of Lincoln Municipal Code Chapter 11.08 and *Neb. Rev. Stat. § 48-1122*, as amended.

## **VIII. FAIR LABOR STANDARDS**

LIMGC shall maintain Fair Labor Standards in the performance of this Agreement as required by Chapter 73, Nebraska Revised Statutes, as amended.

## **IX. ASSIGNABILITY**

LIMGC shall not assign any interest in this Agreement, delegate any duties or work required under this Agreement, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of the JPA thereto.

The JPA shall not assign any interest in this Agreement, delegate any duties or work required under this Agreement, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of LIMGC thereto.

## **X. USE OF MATERIALS**

LIMGC agrees to make available to the JPA copies of all sales media kits — excluding any and all proprietary information contained therein—produced for the JPA

under the terms of this Agreement. The JPA, then, may freely copy, reproduce, broadcast, or otherwise utilize such materials as it deems appropriate. The JPA shall also retain all such rights for any derivative works based on such materials.

## **XI. COPYRIGHTS, ROYALTIES, & PATENTS**

LIMGC represents the consideration for this Agreement includes LIMGC's payment for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar intangible rights, with the exception of those concerning the City of Lincoln and/or the JPA, in any way involved with or related to this Agreement. Further, LIMGC shall pay all related royalties, license fees, or other similar fees for any such intangible rights, excluding those related to the City of Lincoln and/or the JPA. LIMGC shall defend suits or claims for infringement of any patent, copyright, trademark, or other intangible rights that LIMGC has used, with the exception of those pertaining to the City of Lincoln and/or the JPA, in the course of performing this Agreement.

## **XII. COPYRIGHT; LIMGC'S WARRANTY**

(1) LIMGC represents that all materials, processes, or other protected rights to be used in the Marketing Services have been duly licensed or authorized by the appropriate parties for such use.

(2) LIMGC agrees to furnish the JPA upon demand written documentation of such license or authorization. If unable to do so, LIMGC agrees that the JPA may withhold a reasonable amount from LIMGC's compensation herein to defray any associated costs to secure such license or authorization or defend and indemnify the JPA or its Operations Manager for any infringement claim.

## **XIII. INDEMNIFICATION**

(1) LIMGC's Duty. To the fullest extent permitted by law, LIMGC shall indemnify and hold harmless the JPA, its members, representatives of the members, officers, agents, and employees, as indemnitees, from and against all third-party claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of this Agreement, that result in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom, that is caused in whole or in part by LIMGC or anyone directly or indirectly employed by LIMGC or anyone for whose acts any of them may be liable. This section will not require LIMGC to indemnify or hold harmless the JPA for any losses, claims, damages, and expenses arising out of or resulting from the negligence or intentional misconduct of the JPA.

(2) Consequential Damages. LIMGC shall not be liable for any indirect, incidental, or consequential loss, injury, or damage or liability, including but not limited to loss of profit, business, production, income or revenue, reputation, or any other consequential damages incurred from any cause of action whatsoever.

(3) JPA's Duty. To the fullest extent permitted by law, JPA shall indemnify and hold harmless LIMGC, its members, officers, agents, and employees, as indemnitees, from and against all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of this Agreement, that result in any third-party claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom, that is caused in whole or in part by the JPA or anyone directly or indirectly employed by JPA or anyone for whose acts any of them may be liable. This section will not require JPA to indemnify or hold harmless the LIMGC for any losses, claims, damages, and expenses arising out of or resulting from the negligence or intentional misconduct of LIMGC. The JPA does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement. The provisions of this section survive any termination of this Agreement.

(4) Consequential Damages. The JPA shall not be liable for any indirect, incidental, or consequential loss, injury, or damage or liability, including but not limited to loss of profit, business, production, income or revenue, reputation, or any other consequential damages incurred from any cause of action whatsoever.

#### **XIV. INSURANCE**

LIMGC, prior to beginning the Work, agrees to JPA's Indemnification requirements and shall provide proof of insurance coverage in a form satisfactory to JPA, which shall not withhold approval unreasonably, with the coverages, minimum limits, and endorsements described in the attached INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY, AND PUBLIC BUILDING COMMISSION CONTRACTS and the insurance clause shall be attached as Exhibit C and incorporated herein to this Agreement.

**XV.  
NOTICES**

Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by fax, commercial carrier, or certified mail, postage prepaid, return receipt requested to the following addresses:

West Haymarket Joint Public Agency  
Attention: Finance Director  
555 S. 10th Street, Suite 103  
Lincoln, NE 68508  
(402) 441-7412

IMG College, LLC  
Attn: Cole Gahagan, Pres/CEO  
2400 Dallas Parkway, Suite 500  
Plano, TX 75093

With a copy to:  
IMG College, LLC  
Attention: Legal Department  
2400 Dallas Parkway, Suite 500  
Plano, TX 75093

**XVI.  
INDEPENDENT CONTRACTOR**

The JPA is interested only in the results produced by this Agreement. LIMGC has sole and exclusive charge and control of the manner and means of performance. LIMGC shall perform as an independent contractor and it is expressly understood and agreed that LIMGC is not an employee of the JPA and is not entitled to any benefits to which JPA employees are entitled, including, but not limited to, overtime, retirement benefits, workmen's compensation benefits, sick leave and/or injury leave.

**XVII.  
NEBRASKA LAW**

This Agreement shall be construed and interpreted according to the laws of the State of Nebraska.

**XVIII.  
INTEGRATION**

This Agreement (including **ALL EXHIBITS and/or ATTACHMENTS**) represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Agreement.

**XIX.**  
**AMENDMENT**

This Agreement may be amended or modified only in a writing signed by both the JPA and LIMGC.

**XX.**  
**SEVERABILITY**

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**XXI.**  
**WAIVER OF CONTRACTUAL RIGHT**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

**XXII.**  
**AUDIT AND REVIEW**

LIMGC shall be subject to audit at the JPA's discretion and shall make available to a contract auditor, as defined in Chapter 4.66 of the Lincoln Municipal Code, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law. LIMGC shall also be subject to audits required by the State and shall make copies of all financial and performance related records available to any authorized auditor.

**XXIII.**  
**FEDERAL IMMIGRATION VERIFICATION**

In accordance with Neb. Rev. Stat. §§ 4-108 through 4-114, LIMGC agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 USC 1324 a, otherwise 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 pursuant to the Immigration Reform and Control Act of 1986. LIMGC shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A.

1324b. LIMGC shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to [www.uscis.gov/everify](http://www.uscis.gov/everify).

**XXIV.  
REPRESENTATIONS**

Each party hereby certifies, represents, and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid, and binding obligation of said party.

IN WITNESS WHEREOF, LIMGC and the JPA do hereby execute this Agreement as of the Execution Date set forth above.

Learfield Communications, LLC

West Haymarket Joint Public Agency

By: \_\_\_\_\_  
Cole Gahagan  
President & CEO

By: \_\_\_\_\_  
Mayor Leirion Gaylor Baird  
Board Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



EXHIBIT A  
**Advertising Restrictions in Existing Agreements**

EXHIBIT B  
**Signage**

EXHIBIT C  
**INSURANCE CLAUSE**

## **INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS**

**Insurance coverage on this Contract will be required for the entities selected below**

☒ City of Lincoln    ☐ Lancaster County    ☐ Public Building Commission

**Vendors must provide coverage & documents related to the items with a check mark in Sections 1 – 1.9.**

**This includes proof of coverage and waivers as required below.**

**All Vendors must comply with Sections 2-8.**

**THE REQUIREMENTS HEREIN APPLY TO CONTRACTS TO BE ISSUED BY THE CITY OF LINCOLN,  
LANCASTER COUNTY, AND THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION.  
FOR PURPOSES OF CERTIFICATES, ENDORSEMENTS AND OTHER PROOF REQUIRED HEREIN, ONLY  
INCLUDE THE ENTITY ISSUING THE CONTRACT.**

**FAILURE OF THE APPROPRIATE ENTITY (CITY, COUNTY, OR PUBLIC BUILDING COMMISSION) TO  
OBJECT TO THE FORM OF THE CERTIFICATE OR ENDORSEMENT OR TO DEMAND SUCH PROOF AS  
IS REQUIRED HEREIN SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE INSURANCE  
REQUIREMENTS SET FORTH BELOW.**

### **Insurance; Coverage Information**

The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the City/County/PBC, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Contract are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Contract shall begin until all insurance obligations herein are met to the satisfaction of the City/County/PBC, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the City/County/PBC prior to execution of the Contract and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000 per occurrence or as may be approved by the City or County as appropriate. Said insurance shall be written on an **OCCURRENCE** basis, except for Errors and Omissions or Professional Liability, which shall be on a **CLAIMS-MADE BASIS**, and shall be **PRIMARY, with any insurance coverage maintained by the City/County/PBC being secondary or excess.**

### **Certificates**

The Contractor shall provide certificates of insurance and such other proof, such as endorsements, as may be acceptable to the City or County (as appropriate) evidencing compliance with these requirements. The Contractor shall provide a Certificate of Insurance demonstrating the coverage required herein and the necessary endorsements or other proof and waivers described herein and below before being permitted to begin the work or project pursuant to this Contract.

☐ **1. Commercial General Liability**

The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/ Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the City/County/PBC. The required insurance must include coverage for all projects and operations of Contractor or similar language that meets the approval of the City/County/PBC, which approval shall not be unreasonably withheld.

☐ **1.1 Additional Insured (Requires an Endorsement Form)**

All Contractors shall provide an Additional Insured Endorsement form or other proof showing the City/County/PBC as additional insured for commercial general liability, auto liability and such other coverages as may be required by the City/County/PBC. The form or other proof shall be as is acceptable to the City/County Attorney.

☐ **1.2 Automobile Liability**

The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

☐ **1.3 Garage Keepers / Garage Liability**

The Contractor shall provide garage insurance, if required. Coverage shall include Garage Liability and Garage Keepers on a Direct Primary Basis, including Auto Physical Damage, with limits of not less than \$1,000,000 each accident Bodily Injury and Property Damage combined liability and Actual Cash Value auto physical damage. Coverage symbol(s) 30 and 21 shall be provided, where applicable.

☐ **1.4 Workers' Compensation; Employers' Liability**

The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000 each accident or injury shall be included. The Contractor shall provide the City/County/PBC with an endorsement for waiver of subrogation or other proof of such waiver as may be acceptable to the City or County. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

☐ **1.5 Builder's Risk Insurance**

The Contractor shall purchase and maintain builder's risk property insurance for all sites upon which construction is occurring as provided by Contract and all storage sites where equipment, materials, and supplies of any kind purchased pursuant to the Contract are being held or stored unless the Contractor receives notice that the City/County/PBC has obtained a builder's risk policy for itself. Except to the extent recoverable by Contractor from another subcontractor, deductibles shall be the responsibility of the Contractor. This coverage is required whenever the work under contract involves construction or repair of a building structure or bridge.

☐ **1.5.1 Waiver of Builder's Risk Insurance Carrier's Subrogation Rights**

The Contractor and its subcontractor(s) waive all rights of action and subrogation that the insurance company providing the builder's risk policy may have against each of them and/or the City/County/PBC, Architect, and the officers, agents and employees of any of them, for all claims, damages, injuries and losses, to the extent covered by such property insurance. Such waiver of subrogation shall be effective for such persons even though such persons would otherwise have a duty of indemnification or contribution, contractual or otherwise, and even though such persons did not pay the insurance premium directly or indirectly, and whether or not such persons had an insurable interest in any property damaged. The Contractor or subcontractor shall provide proof of such waiver.

☐ **1.6 Pollution Liability**

Contractors shall provide proof of pollution liability insurance arising out of all operations of the Contractors and subcontractors, due to discharge, dispersal, release, or escape of contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water with bodily injury and property damage limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- 2) Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 3) Defense including loss adjustment costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;
- 4) Definition of pollution conditions shall include asbestos, lead, and mold so that these risks are covered if caused by Contractor/successful candidate's work or operations.
- 5) Coverage is required on an occurrence form.

☐ **1.7 Errors and Omissions; Professional Liability**

Errors and Omissions or Professional Liability insurance, as may be required, covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act, including infringement of intellectual property (except patent and trade secret) of the Contractor. This coverage is required whenever the Contractor or service provider is required to be certified, licensed or registered by a regulatory entity and/or where the provider's judgment in planning and design could result in economic loss to City/County/PBC.

☐ **1.8 Railroad Contractual Liability Insurance**

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or railroad crossing, the Contractor must provide proof acceptable to the City or County that any exception for such work in the Contractor's commercial general liability policy has been removed or deleted.

☐ **1.8.1 Railroad Protective Liability**

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City/County/PBC Purchasing Department prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

☐ **1.9 Cyber Insurance**

The Contractor shall maintain network risk and cyber liability coverage (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

**2. Cancellation Notice**

All Contractors shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation during the term of the Contract and during the period of any required continuing coverages. The Contractor shall provide, prior to expiration of the policies, certificates and endorsement forms evidencing renewal insurance coverages. The parties agree that the failure of City/County/PBC to object to the form of a certificate and/or additional insured endorsement or endorsement forms provided shall not constitute a waiver of this requirement.

**3. Risk of Loss**

Except to the extent covered by the builder's risk insurance, the Contractor shall have the sole responsibility for the proper storage and protection of, and assumes all risk of loss of, any subcontractor's Work and tools, materials, equipment, supplies, facilities, offices and other property at or off the Project site. The Contractor shall be solely responsible for ensuring each subcontractor shall take every reasonable precaution in the protection of all structures, streets, sidewalks, materials and work of other subcontractors. Contractor shall protect its Work from damage by the elements or by other trades working in the area.

**4. Umbrella or Excess Liability**

The Contractor may use an Umbrella, Excess Liability, or similar coverage to supplement the primary insurance stated above in order to meet or exceed the minimum coverage levels required by this Contract.

**5. Minimum Scope of Insurance**

All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

**6. Indemnification**

To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the City/County/PBC, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the Work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or



expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the indemnification by the Contractor shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the City/County/PBC.

**7. Reservation of Rights**

The City/County/PBC reserves the right to require a higher limit of insurance or additional coverages when the City/County/PBC determines that a higher limit or additional coverage is required to protect the City/County/PBC or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.

**8. Sovereign Immunity**

Nothing contained in this clause or other clauses of this Contract shall be construed to waive the Sovereign Immunity of the City/County/PBC.

**9. Further Contact**

For further information or questions concerning coverage or acceptable forms, Contractors may contact the Purchasing Division or the department that issued the bid or the request for proposal.

For general questions regarding Insurance Requirements, please contact Risk Management for the City or County.