

2016-11

An Agreement for the Provision of Limited Professional Services

ENGINEER: MILLER & ASSOCIATES,
CONSULTING ENGINEERS, P.C.
1111 Central Avenue
Kearney, NE 68847
(hereinafter called ENGINEER)

OWNER: KEITH COUNTY BOARD OF
COMMISSIONERS
Keith County Courthouse
Ogallala, NE 69153
(hereinafter called CLIENT)

DATE: February 17, 2016

PROJECT NO. 150-P33-025

PROJECT NAME/LOCATION: Brule Southwest, STPP-51(57), Keith County, Nebraska

SCOPE/INTENT AND EXTENT OF SERVICES:

Task 1.0 – Bid Plans Update

- 1.1 Update plans to current standards.
- 1.2 Create Aerial/Wetland sheets for plan set.
- 1.3 Add Erosion Control measures to plan set.
- 1.4 Modify plans after NDOR review (2 reviews anticipated).
- 1.5 Contractor time allowance estimate.

Task 2.0 – Storm Water Pollution Prevention Plan (SWPPP)

- 2.1 Submit Notice of Intent to Department of Environmental Quality in accordance with current guidelines. Agency concurrence letters to be provided by NEPA Consultant.
- 2.2 Produces SWPPP manual and distribute 3 copies.
- 2.3 Stormwater inspections and SWPPP updates are outside the scope of this agreement.

FEE ARRANGEMENT: Services will be performed on an hourly basis not to exceed the following maximum costs:

- Task 1** - \$1,500
- Task 2** - \$1,800

Additional Services will be compensated on the basis of scheduled hourly fees agreed upon by the OWNER. For the purposes of this Agreement the ENGINEER and their current hourly fees are:

<u>Employee Classification</u>	<u>Rate</u>
Professional Engineer	\$95.00/hour
Project Manager	\$80.00/hour
Licensed Land Surveyor	\$75.00/hour
Senior Design Technician	\$65.00/hour
Survey Crew	\$85.00/hour
Tech./Resident Project Representative	\$50.00/hour
CAD Draftsperson	\$50.00/hour
Mileage	\$0.45/mile
Reproduction Services	@ Cost

Offered by:

Gary Steele 2-18-16
signature date

Gary L. Steele, P.E.

printed name/title

Miller & Associates
Consulting Engineers, P.C.

Engineer

Accepted by:

C.W. Baltzell 3-16-16
signature date

C.W. Baltzell

printed name/title

Keith County Board of Commissioners

Owner

The Terms and Conditions required on the following page are a part of this Agreement

The firm shall perform the services outlined in this agreement for the stated fee arrangement.

Access To Site:

Unless otherwise stated, the ENGINEER will have access to the site for activities necessary for the performance of the services. The ENGINEER will take precautions to minimize damages due to these activities, but the cost of restoration of any resulting damage has not been included in the fee.

Dispute Resolution:

Any claims or disputes made during design, construction or post-construction between the CLIENT and ENGINEER shall be submitted to non-binding mediation. CLIENT and ENGINEER agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, supplies and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

Billing/Payment:

Invoices for the ENGINEER's services shall be submitted, at the ENGINEER's option, either between completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, the ENGINEER may, without waiving any claim or right against the CLIENT, and without liability whatsoever to the CLIENT, terminate the performance of the service. Retainers shall be credited on the final invoice.

Late Payments:

Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the legal rate) on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after the billing, the CLIENT shall pay all costs of collection, including reasonable attorney's fees.

Indemnification:

The CLIENT shall, to the fullest extent permitted by law, indemnify and hold harmless the ENGINEER, his or her officers, directors, employees, agents and subconsultants from and against all damage, liability and cost, including reasonable attorney's fees and defense costs, arising out of or in any way connected with the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the sole negligence or willful misconduct of the ENGINEER.

Certifications:

Guarantees and Warranties: The ENGINEER shall not be required to execute any document that would result in its certifying, guaranteeing or warranting the existence of conditions whose existence the ENGINEER cannot ascertain.

Limitation of Liability:

In recognition of the relative risks, rewards and benefits of the project to both the client and the ENGINEER, the risks have been allocated such that the CLIENT agrees that, to the fullest extent permitted by law, the ENGINEER's total liability to the CLIENT for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this agreement from any cause or causes, shall not exceed the fee. Such cause may include, but are not limited to, the ENGINEER's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

Termination of Services:

This agreement may be terminated by the CLIENT or the ENGINEER should the other fail to perform its obligations hereunder. In the event of termination, the CLIENT shall pay the ENGINEER for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

Ownership of Documents;

All documents produced by the ENGINEER under this agreement shall remain the property of the ENGINEER and may not be used by the CLIENT for any other endeavor without the written consent of the ENGINEER.