

City of Seward, NE

Tuesday, August 4, 2015

Regular Session

Item G5

CONSIDERATION OF SUPPLEMENTAL AGREEMENT NO. 2 WITH SCHEMMER ASSOCIATES FOR NEBRASKA DEPARTMENT OF ROADS "SEWARD TRAIL PROJECT" FOR PRELIMINARY ENGINEERING - John Hughes

Consideration of a Resolution approving Supplemental Agreement No. 2 with Schemmer Associates for preliminary engineering services for the Seward Trail project

Administrative Report: The City and Schemmer have been meeting with the Seward County Fair Board over the last six to nine months identifying alternate trail alignments through the Fair Board property. On April 20, the Fair Board agreed to a trail alignment along the east side of their auditorium (west side of N. 14th Street). This new alignment would construct the trail on the pond dam on the south side of the fairgrounds, extending east to N. 14th Street and then extending north to the north edge of the fairgrounds. This new alignment requires topographic survey and additional wetland delineation be performed totaling 2200 feet.

Following review and discussion, a motion to approve the agreement and subsequent resolution would be in order.

Staff Contact:

SUPPLEMENTAL AGREEMENT # 2

CITY OF SEWARD
THE SCHEMMER ASSOCIATES, INC.
PROJECT NO. ENH-80(33)
CONTROL NO. 13225
SEWARD TRAIL

THIS SUPPLEMENTAL AGREEMENT is between the City of Seward ("LPA") and The Schemmer Associates Inc. ("Consultant"), collectively referred to as the "Parties".

WHEREAS, Consultant and LPA entered into an agreement ("Original Agreement") BK1313 and Supplemental Agreement #1 providing for Consultant to provide Preliminary Engineering for LPA's Federal Aid project, and

WHEREAS, it is necessary that design for new trail alignment be added under this Supplemental Agreement, and

WHEREAS, it is necessary to increase Consultant's compensation by this Supplemental Agreement for the additional work necessary to complete the project.

WHEREAS, it is the desire of LPA that the project be constructed under the designation of Project No. ENH-80(33), as evidenced by the Resolution of LPA, attached as EXHIBIT "B" and incorporated herein by this reference, and

NOW THEREFORE, in consideration of these facts and mutual promises, the Parties agree as follows:

SECTION 1. SCOPE OF SERVICES

Consultant will perform the additional work as set out in in Exhibit "B" Consultant Work Order 2, attached and incorporated herein by this reference.

SECTION 2. NOTICE TO PROCEED AND COMPLETION SCHEDULE

The State issued Consultant a written Notice-to-Proceed on July 8, 2015. Any work or services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed is not eligible for reimbursement.

Consultant will complete all work as set out in the Original Agreement, Supplemental Agreement(s) #1, and this Supplemental Agreement by July 30, 2017.

SECTION 3. FEES AND PAYMENTS

For the work required, **SECTION 9 FEES AND PAYMENTS** of the Original Agreement, as amended in supplement(s) #1, is hereby further amended in accordance with Exhibit "B" so that the fixed-fee-for-profit is increased from \$40,743.71 to \$41,854.14, an increase of \$1,110.43. Actual costs are increased from \$327,770.20 to \$340,202.95, an increase of \$12,432.75. The total agreement amount is increased from \$368,513.91 to \$382,057.09, an increase of \$13,543.18 which Consultant must not exceed without the prior written approval of the State.

Project No. ENH-80(33)
Control No. 13225
Seward Trail
Template T-AGR-1S Revised 8-4-14

Page 1 of 3
AGREEMENT # BK1313 Sup # 2

SECTION 4. ENTIRE AGREEMENT

The Original Agreement, any and all other previous supplements thereto, and this Supplemental Agreement, constitute the entire agreement ("The Agreement") between the Parties. The Agreement supersedes any and all other previous communications, representations, or other understandings, either oral or written; all terms and conditions of the Original Agreement and all previous supplements thereto, to the extent not superseded, remain in full force and effect, and are incorporated herein as if set forth in their entirety.

SECTION 5. CONSULTANT CERTIFICATION AND REAFFIRMATION

The undersigned duly authorized representative of Consultant, by signing this Supplemental Agreement, hereby reaffirms, under penalty of law, the truth of the certifications set out in the Original Agreement and all Supplements thereto, including this Supplement. Further, Consultant has a duty to inform LPA of any material changes in the accuracy of all assertions set out in the Original Agreement and all Supplements thereto.

SECTION 6. CERTIFICATION OF LPA

By signing this Supplemental Agreement, I do hereby certify that, to the best of my knowledge, Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this agreement involving participation of Federal-Aid highway funds and is subject to applicable LPA and federal laws, both criminal and civil.

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

EXECUTED by Consultant this _____ day of _____, 2015.

THE SCHEMMER ASSOCIATES, INC.
Steve D. Kathol, P.E.

Principal

STATE OF NEBRASKA)
)ss.
DOUGLASCOUNTY)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2015.

Notary Public

EXECUTED by LPA this _____ day of _____, 2015.

CITY OF SEWARD
Joshua Eickmeier

Mayor

Subscribed and sworn to before me this _____ day of _____, 2015.

Clerk

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Form of Agreement Approved for
Federal Funding Eligibility:

Date

AGRS-1S

Project No. ENH-80(33)
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AGREEMENT # BK1313 Sup # 2

Consultant Work Order (Local Projects)

Project No.: ENH-80(33)		Control No.: 13225
Consultant (Name and Representative): Schemmer Associates, Doug Holle		Agreement No.: BK 1313
LPA (Name and Representative): City of Seward, Melvin Aldrich		Work Order No.: 2
		Constr. Change Order No.: (If applicable)
<p>All parties agree the following described work needs to be performed by the consultant as part of the referenced project. All parties concur and hereby give notice to proceed based on the following: justification to modify contract, scope of services, deliverables, schedule, and estimated total fee. All other terms of existing agreements between the parties are still in effect. It is understood by all parties that the work described herein will become part of a future supplement to the agreement indicated above.</p> <p>Justification to modify agreement: (Include scope of services, deliverables, and schedule) See attached</p>		
Work Title	Summary of Fee	
	A. Total Direct Labor Cost	= 3,162.38
	B. Overhead (Factor * x A)	= 5,445.59
	C. A + B	= 8,607.95
	D. Profit/Fee (Factor ** x C)	= 1,110.43
*Overhead Factor:	172.20%	E. Direct Non-Labor Cost = 324.80
**Profit/Fee Factor:	12.90%	F. Subconsultant Services = 3,500.00
Total Fee Notes: see attached for hour breakdown	TOTAL FEE: C + D + E + F	= \$13,543.18
	<input type="checkbox"/> ESTIMATED TOTAL FEE:	
	<input type="checkbox"/> FINAL TOTAL FEE:	

Work Order Authorization – May be granted by email and attached to this document.

Consultant: <u>Schemmer</u>		
<u>Doug Holle</u> <small>Name</small>	<u>[Signature]</u> <small>Signature</small>	<u>4-28-15</u> <small>Date</small>
LPA: <u>City of Seward</u>		
<u>Melvin Aldrich</u> <small>Name</small>	<u>[Signature]</u> <small>Signature</small>	<u>5-12-15</u> <small>Date</small>
LPS PC (for Preliminary Engineering) and State Rep. (for Construction Engineering):		
<u>Judy Borer</u> <small>Name</small>	<u>[Signature]</u> <small>Signature</small>	<u>7-8-15</u> <small>Date</small>
LPS Unit Head Review (for PE Phase):		
<u>Jeff Sala</u> <small>Name</small>	<u>[Signature]</u> <small>Signature</small>	<u>7/8/15</u> <small>Date</small>
LPS Engineer or Construction Engineer (Construction Phase):		
<u>Larry H. Nege</u> <small>Name</small>	<u>[Signature]</u> <small>Signature</small>	<u>7/8/15</u> <small>Date</small>
FHWA: (FHWA Approval on Full Oversight Projects Only)		
_____ <small>Name</small>	_____ <small>Signature</small>	_____ <small>Date</small>

Notice to Proceed will be granted by email by:
LPS PC for Preliminary Engineering & CD PC for Construction Engineering.

Notice to Proceed Date:
7-8-15

Distribution: Consultant, LPA – RC, State Rep., FHWA, LPS PC, NDOR Agreements Engineer, Highway Funds Manager, CD PC
DR Form 250, March 2014

Work Order #2 Justification
ENH-80(33), CN 13225

The City of Seward and Schemmer have been meeting with the Seward County Fair Board over the last six to nine months identifying alternate trail alignments through their property. On Monday, April 20th, the fair board did agree to a trail alignment along the east side of their auditorium (west side of N. 14th Street. This new alignment would construct the trail on the pond dam on the south side of the fairgrounds, extending east to N. 14th Street and then extending north to north edge of the fairgrounds. This new alignment requires topographic survey and additional wetland delineation be performed totaling 2200 feet.

The hatched area in the attached figure identifies the additional survey area required.

Hour Estimate Form
Work Order #2-Additional Survey and Wetland Delineation
 Seward Trail
 City of Seward

April 28, 2015

NDOR Project No. ENH-80(3); C.M. 1325

ITEM NO.	TASK DESCRIPTION	PRIN	PROJ MGR	SEN PROJ ENGR	REG DESIGN ENGR	ENGR/ SEN TECH	ENGR TECH	ENR SURVEYOR	SEN REG SURVEYOR	PARTY CHIEF SURVEYOR	ASSOC SURVEYOR	NEPA SPECIALIST	ADMIN ASST	TOTAL PER TASK
I.	Project Management													
I.1	Contract Administration/ Scheduling & Coordination of Design Professionals		2											2
II.	FIELD SURVEY													
II.a	Topographic Map Survey							5	24		24			54
II.b	Historical and Visual Corrid													12
II.c	Examining Utilities						16		6		6			16
II.d	Drafting Base File													32
II.e	Research and Draft Existing Right-of-way and property lines						16		16					32
		0	2	0	0	0	32	22	50		30	0	0	118
TOTALS														

**Exhibit C
Seward Trail
City of Seward**

NDOR Project No. ENH-80(33); C.N. 13225
Work Order #2-Additional Survey and Wetland Delineation

FEE SUMMARY SCHEDULE

April 28, 2015

Direct Salary Costs

PROJECT TASK & PERSONNEL CLASSIFICATION	ESTIMATED HOURS	RATE	ESTIMATED LABOR CHARGE	TASK COST
I. Project Management				
PRINCIPAL	0	\$58.62	\$0.00	\$346.31
PROJECT MANAGER	2	\$56.34	\$112.69	
SENIOR PROJECT ENGINEER	0	\$54.06	\$0.00	
REGISTERED DESIGN ENGINEER	0	\$41.79	\$0.00	
ENGINEER/ SENIOR TECHNICIAN	0	\$25.25	\$0.00	
ENGINEERING TECHNICIAN	0	\$23.06	\$0.00	
REGISTERED SURVEYOR	0	\$38.63	\$0.00	
PARTY CHIEF SURVEYOR	0	\$28.60	\$0.00	
ASSOCIATE SURVEYOR	0	\$20.13	\$0.00	
NEPA SPECIALIST	0	\$43.67	\$0.00	
ADMINISTRATIVE ASSISTANT	0	\$19.70	\$0.00	
II. Field Survey				
PRINCIPAL	0	\$58.62	\$0.00	\$9,372.07
PROJECT MANAGER	0	\$56.34	\$0.00	
SENIOR PROJECT ENGINEER	0	\$54.06	\$0.00	
REGISTERED DESIGN ENGINEER	0	\$41.79	\$0.00	
ENGINEER/ SENIOR TECHNICIAN	0	\$25.25	\$0.00	
ENGINEERING TECHNICIAN	32	\$23.06	\$737.91	
REGISTERED SURVEYOR	22	\$38.63	\$849.86	
PARTY CHIEF SURVEYOR	30	\$28.60	\$858.00	
ASSOCIATE SURVEYOR	30	\$20.13	\$603.90	
NEPA SPECIALIST	0	\$43.67	\$0.00	
ADMINISTRATIVE ASSISTANT	0	\$19.70	\$0.00	
	116		\$3,162.36	
Subtotal Direct Salary Costs			\$3,162.36	
Overhead Costs		172.2%	\$5,445.59	
Subtotal Labor Charges + Overhead			\$8,607.95	
Fixed Fee		12.90%	\$1,110.43	
Subtotal Labor Charges + Overhead + Fixed Fee			\$9,718.38	
DIRECT NON-SALARY COSTS:				
Printing - full-size	No.	Rate (\$)		
Mileage	\$	0.555	\$	-
Survey Mileage	560	0.580	\$	324.80
Misc. Dozer for Geotech Drilling	\$	-	\$	-
Geotech (Field Drilling Subcontractor)	\$	-	\$	-
Geotech (Lab Reimbursable)	\$	-	\$	-
Lodging	\$	-	\$	-
Title Search	\$	-	\$	-
Wetland Delineation (EA)	1	3,500.00	\$	3,500.00
Per Diem	\$	-	\$	-
Hazardous Material Research (EA)	\$	-	\$	-
Sub-Total Direct Non-Salary Costs			\$	3,824.80
TOTAL ESTIMATED FEE			\$	13,543.18



EXHIBIT "B"
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The Schiemmer Associates
 Seward Trail Wetland Delineation
 Cost Estimate

	Senior Technical Review/ Senior PM	Project Manager	Senior Scientist	Mid-level Scientist	Junior Scientist	CADD/GIS	Administrative Assistant	TOTAL	Comments
<i>Phase 1 - Wetland Delineation</i>									
Mobilization					2				
Desktop Analysis					2				
Field Work		1			16				
Draft Report	1	1			14				
Final Report	1	1			4				
<i>Task Total Hours</i>	2	3	0	0	38	0	0	43	
Total Phase 1	2	3	0	0	38	0	0	43	

TOTAL COST SUMMARY
The Schemmer Associates
Seward Trail Wetland Delineation
Cost Estimate

	Labor Hours	Labor Cost	Subcontractor	ODC's	Travel	TOTAL
Phase 1 - Wetland Delineation	43	\$3,294.01	\$0.00	\$205.98	\$0.00	\$3,500.00
TOTALS	43	\$3,294.01	\$0.00	\$205.98	\$0.00	\$3,500.00

Soula, Jeffrey

From: Holle, Doug <dholle@schemmer.com>
Sent: Wednesday, July 01, 2015 11:57 AM
To: Soula, Jeffrey
Cc: Borer, Judy; Aldrich, Melvin; Legg, Larry
Subject: RE: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2
Attachments: additional wetland delineation hour breakdown.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Jeff,

Attached is the breakdown of hours for the additional wetland delineation. I previously emailed you a figure showing what's been surveyed and what needs surveyed.

Dan Bigbee from EA Engineering Science and Technology (our wetland delineation sub-consultant) spoke with Mary Shroer about the questions you and her had regarding the original wetland delineation. EA will pick up a couple more sample points when they go back to the site for this additional delineation. The deliverable will be a completed delineation report based on the new alignment. We'd like to get this approved to get the project moving again. Please let me know if you have further questions.

Thanks,

Doug

SCHEMMER
ARCHITECTS ENGINEERS PLANNERS

Doug Holle
Transportation Group Manager

402.488.2500 Phone | 402.431.6206 Direct
SCHEMMER.COM

From: Soula, Jeffrey [mailto:jeffrey.soula@nebraska.gov]
Sent: Friday, June 12, 2015 3:59 PM
To: Holle, Doug
Cc: Borer, Judy; Aldrich, Melvin; Legg, Larry
Subject: RE: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

Doug,

We are going to need a breakdown of what exactly will be provided for the wetland delineation. A quick review of the report that was submitted seemed to show that it was missing a lot of the data/sample points which would be needed in order to verify the wetlands. We will need a breakdown of the hours and deliverables. Unless I misread your email below, we also cannot provide additional funds for work that is already complete but was underestimated (out of scope).

1

Would you have a copy of the current trail alignment as well showing what has been surveyed and what will be surveyed? From what I remember, the alignment to the north was in question at one time due to the ROW issues and was wondering if the full alignment had been worked out.

Thanks,
Jeffrey Soula, PE
Urban Engineer
NDOR Local Projects
Office: 402-479-3562
Cell: 402-432-8454

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From: Holle, Doug [<mailto:dholle@schemmer.com>]
Sent: Friday, June 12, 2015 2:36 PM
To: Soula, Jeffrey
Subject: RE: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

Jeff, any update on this? I did talk with Mel Aldrich yesterday and he was going to give you a call as well. The fair board has been asking for updated plans in front of their building but we can't do anything on that until we get the survey.

Thanks,

Doug

From: Holle, Doug
Sent: Friday, June 05, 2015 3:16 PM
To: Soula, Jeffrey; Aldrich, Melvin
Cc: john.hughes@cityofsewardne.com; Legg, Larry; Borer, Judy; McKinsty, Deana
Subject: RE: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

Jeff,

Thanks for your review. Regarding the wetland delineation, the work has been done but I have not submitted the report as of yet. The original estimate for the wetland delineation (\$3080.00) was underestimated a little bit for a 5-mile trail with 1 mile of it being through trees. The additional wetland delineation fee of \$3500 is composed of the additional work that was original underestimated along with the additional 2200 feet that still needs delineated due to the new alignment of the trail. I'll email the wetland delineation to you with a link to download the report since it is rather large.

Regarding the survey, the primary reason the survey has taken longer was the amount of time it took to survey 1 mile through the trees. Although the hours for survey took longer than expected, I feel from an overall budget standpoint we are still in line. I've also attached the latest progress report which shows where we stand on the preliminary design.

Please review the additional info and let me know if you have any more questions.

Thanks Jeff.

Doug

2

From: Soula, Jeffrey [<mailto:jeffrey.soula@nebraska.gov>]
Sent: Friday, June 05, 2015 2:47 PM
To: Aldrich, Melvin; Holle, Doug
Cc: john.hughes@cityofsewardne.com; Legg, Larry; Borer, Judy; McKinstry, Deana
Subject: FW: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

I have reviewed the CWO with our surveyor and the additional hours for the survey work are reasonable. I will need justification and a cost breakdown for the wetland delineation. No delineation has taken place yet that I can tell and there is no breakdown of what the previously scoped amount covers or why additional funds will be needed.

The bigger issue that we will need to discuss is that it appears you are nearly out of hours for functional design and survey (1400 hours billed out of approx. 1500 available) and we do not even have a 30% plan set or the alignment of the north end of the trail determined. We need to discuss why the survey hours are over, if the reason is justifiable, and what will be needed to finish the survey and functional trail design. We cannot sign off on this CWO until this is resolved. If it can be justified by email, that will be the easiest, but we can do a meeting as well. Please let Judy or I know.

Thank you,
Jeffrey Soula, PE
Urban Engineer
NDOR Local Projects
Office: 402-479-3562
Cell: 402-432-8454

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From: Borer, Judy
Sent: Friday, June 05, 2015 1:57 PM
To: Soula, Jeffrey
Subject: FW: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

From: Mel Aldrich [<mailto:Melvin.Aldrich@cityofsewardne.com>]
Sent: Monday, May 18, 2015 2:55 PM
To: Borer, Judy
Subject: RE: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

Judy, I reviewed and signed the CWO last Tue. May 12. I will send it again. Mel

From: Borer, Judy [<mailto:Judy.Borer@nebraska.gov>]
Sent: Monday, May 18, 2015 1:27 PM
To: Mel Aldrich
Cc: Holle, Doug; John Hughes
Subject: FW: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

Mel,

3

Have you had a chance to review the CWO yet? If no revisions are needed, please sign it and send to me by email as soon as possible.

Thank you.

Judy Borer, Project Coordinator
NDOR M&R -- Local Projects Section
Phone 402-479-4435
Email judy.borer@nebraska.gov

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From: Holle, Doug
Sent: Tuesday, April 28, 2015 5:53 PM
To: Mel Aldrich (melvin.aldrich@cityofsewardne.com); Borer, Judy
Cc: john.hughes@cityofsewardne.com
Subject: ENH-80(33), CN 13225, Seward Trail Consultant Work Order #2

Melvin and Judy,

As discussed previously, attached is consultant work order #2 for the additional survey and wetland delineation due to the change in alignment through the Seward County Fairgrounds. We would like to get approval quickly on this so we can get our surveyors on-site to pick up this area so we can get this project moving again. Please review and let me know if you have any questions.

Thanks,

Doug

SCH_≡MMER
ARCHITECTS ENGINEERS PLANNERS

Doug Holle
Transportation Group Manager

402.488.2500 Phone | 402.431.6206 Direct
SCHEMMER.COM

4

The Schemmer Associates
 Seward Trail Wetland Delineation
 Cost Estimate

	Senior Technical Review/ Senior PM	Project Manager	Senior Scientist	Mid-level Scientist	Junior Scientist	CADD/GIS	Administrative Assistant	TOTAL	Comments
Phase 1 - Wetland Delineation:									
Mobilization					2				
Desktop Analysis					2				
Field Work		1			16				
Draft Report	1	1			14				
Final Report	1	1			4				
Task Total Hours	2	3	0	0	38	0	0	43	
Total Phase 1	2	3	0	0	38	0	0	43	

TOTAL COST SUMMARY
The Schemmer Associates
Seward Trail Wetland Delineation
Cost Estimate

	Labor Hours	Labor Cost	Subcontractor	ODC's	Travel	TOTAL
Phase 1 - Wetland Delineation	43	\$3,294.01	\$0.00	\$205.99	\$0.00	\$3,500.00
TOTALS	43	\$3,294.01	\$0.00	\$205.99	\$0.00	\$3,500.00

RESOLUTION NO. 2015-

Whereas: City of Seward and The Schemmer Associates, Inc., have previously executed a Preliminary Engineering Services Agreement (BK1313) for a transportation project for which the Local Public Agency (LPA) would like to obtain Federal funds;

Whereas: City of Seward understands that it must continue to strictly follow all Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of this Federal-aid project; and

Whereas: City of Seward and The Schemmer Associates, Inc. wish to enter into a preliminary engineering services supplemental agreement setting out modifications and/or additional duties and/or funding responsibilities for the Federal-aid project.

Be It Resolved: by the City Council of the City of Seward, Nebraska that:

Joshua Eickmeier, Mayor of the City of Seward, is hereby authorized to sign the attached Preliminary Engineering Services Supplemental Agreement No. 2 between the City of Seward, and The Schemmer Associates, Inc.

NDOR Project Number: ENH-80(33)

NDOR Control Number: 13225

NDOR Project Description: Seward Trail

Adopted this 4th day of August, 2015 at Seward, Nebraska.

THE CITY OF SEWARD, NEBRASKA

ATTEST:

Joshua Eickmeier, Mayor

Bonnie Otte
Assistant Administrator/
Clerk-Treasurer
Budget & HR Director

(SEAL)