




LOWER PLATTE SOUTH natural resources district

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581
P: 402.476.2729 • F: 402.476.6454 | www.lpsnrd.org

Memorandum

Date: December 11, 2024
To: Urban Subcommittee
From: Drew Ratkovec, Projects Coordinator 
Subject: Urban Subcommittee Meeting Minutes – December 2024

The Urban Subcommittee met on December 10, 2024, at the NRD Office, at 5:00 pm. Subcommittee members participating included John Yoakum- committee chair, Gary Aldridge, Deborah Eagan, Luke Peterson, Anthony Schutz, and Ray Stevens. Others participating included NRD staff Mike Sousek, Bryce Jensen, and Drew Ratkovec. Ross Lawrence from JEO Consulting Group was also in attendance. Director Yoakum called the meeting to order at 5:00 pm. There were two (2) items the Subcommittee took action on. A quorum was present for the meeting.

A. Consideration of a Right-of-Entry Access Agreement with the City of Lincoln at Antelope Park North [ACTION]–

Drew Ratkovec, Projects Coordinator provided background information on the upcoming project. Every three years the NRD removes sediment material from the Antelope Valley Project between N and J Streets, which includes the weir structure. Additional access will be needed to operate machinery and stockpile sediment material on city property outside of current easements and agreements with the City of Lincoln. A contractor will then be hired to remove the stockpiled material. It is planned to start this project in the upcoming months. We have completed this several times in the past with minimal issues. Jensen answered questions about current and future access needs for this area as well as disposal of the excavated material. It was noted that legal counsel reviewed the agreement prior to the meeting.

- Work Type: Agreement for Access and Staging
- Funding: N/A
- Payers, Players, & Partners: NRD, City of Lincoln
- Legal Counsel Review: Yes
- Start: Upon Board Approval
- Completion: April 15, 2025

It was moved by Stevens, seconded by Eagan, and approved 5-0 (Peterson not present to vote) by the Subcommittee to recommend that the Board of Directors approve the Right-of-Entry Access Agreement with the City of Lincoln for the Sediment Removal Project in Antelope Park North, Pending Legal Counsel Review.

B. Consideration of an Agreement for Professional Services for the 2025 Biennial Salt Creek Levee SWIF Update [ACTION]–

Bryce Jensen, Land & Flood Control Operations Coordinator presented background information on the proposed Professional Agreement from JEO. The U.S. Army Corps of Engineers (USACE) performs routine inspections along the Salt Creek Levee and provides findings to the LPSNRD. As a local sponsor for the Salt Creek Flood Risk Reduction Project, the district is responsible for resolving any operation and maintenance deficiencies identified during the USACE inspection. In 2016, the LPSNRD developed and submitted a System-Wide Improvement Framework (SWIF) Plan to the USACE to rectify multiple deficiencies while maintaining conditional eligibility in the P.L. 84-99 Rehabilitation Program. LPSNRD actively executes the SWIF plan and every two years is required to submit the request for an additional two years of eligibility in the P.L. 84-99 Rehabilitation Program and update the SWIF plan. In addition, an annual progress report is submitted to the USACE Omaha District that demonstrates system-wide improvement accomplishments.

The proposed scope of work is intended to update the SWIF plan and coordinate submission to the USACE. In more detail, JEO would provide the update to the SWIF plan, an update on current progress, changes in schedule, changes to critical USACE inspection items, changes in funding, permitting process, and interim risk reduction measures. Upon completion, the proposed projects/actions will be reviewed and a select few will be moved from planning to implementation/resolution. This Agreement is based on the hourly rate not-to-exceed fee of \$24,980.00. It was noted that legal counsel reviewed the agreement prior to the meeting.

- Work Type: Professional Services
- Funding: NRD
- Payers, Players, & Partners: NRD, JEO
- Agreement/NRD costs: \$24,980.00
- Legal Counsel Review: Yes
- Deliverables: Reports, Summaries, Updated SWIF Plan and Progress Report, O&M Manual Addendum
- Start: Upon Board Approval
- Completion: May 31, 2025

It was moved by Eagan, seconded by Stevens, and approved 5-1 (Aldridge voting no) by the Subcommittee to recommend the Board of Directors approve the Agreement for Professional Services with JEO for the 2025 Biennial Salt Creek Levee SWIF Update, not to exceed \$24,980.00, Pending Legal Counsel Review.

The meeting adjourned at 5:16 pm.

cc: Dave Landis
Corey Wasserburger

RIGHT-OF-ENTRY ACCESS AGREEMENT

This Right-of-Entry Access Agreement (Agreement) by and between the **CITY OF LINCOLN**, a political subdivision and municipal corporation of the State of Nebraska (CITY), and **LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT (NRD)**, a political subdivision of the State of Nebraska, provides NRD and its contractor with access to the property shown in Exhibit A (Premises).

WHEREAS, CITY is the owner of real property commonly known as Antelope Park, which includes the weir structure located between N and J Streets, and from Capitol Parkway to South 24th Street, Parcel ID: 1025263005000, as shown Exhibit A and incorporated herein by this reference;

WHEREAS, NRD desires to enter the Premises for the purpose of Sediment Removal Project consisting of removing and hauling sediment from Antelope Creek and stockpiling sediment in locations shown in Exhibits B and C. Stockpiles will be removed by NRD's contractor;

WHEREAS, CITY is the legal owner of such Premises and is willing to permit entry by NRD and its contractor subject to the terms, conditions and protections afforded pursuant to this Agreement; and

NOW, THEREFORE, CITY, in exchange for sufficient consideration as provided herein, hereby consents to permit NRD, its contractor, and their employees, agents, and subcontractors or any other duly authorized representatives or designees to enter upon the Premises for the express purposes and subject to the conditions and obligations described in this Agreement.

1. Premises Description. The Premises owned by CITY, and to which this Agreement shall apply, is situated in Lincoln, Lancaster County, Nebraska. CITY warrants that it is lawfully seized of the Premises and has legal power and authority to convey the temporary easement granted herein, subject to the easements thereon.

2. Term of Agreement. The term of this Agreement will begin upon execution and terminate on April 15, 2025. If any activities are not completed on or before the completion of said term, the term may be extended only by a written agreement between CITY and NRD. Except for the terms and conditions set forth herein, this Agreement will terminate upon completion of the activities, whether occurring before or after the term specified herein, or in any subsequent written agreements. CITY may terminate immediately this Agreement if NRD or its contractor violates any of the covenants, agreements, stipulations, or conditions herein, and such violation or default shall continue for a period of five (5) business days after written notice from CITY to NRD of such violation or default.

3. Right of Entry and Authorized Activities. CITY grants a full and free right and liberty for NRD, its contractor, and their employees, agents, representatives, and subcontractors to access the Premises, as shown on Exhibit A, for the purpose of sediment removal project consisting of removing and hauling sediment from Antelope Creek and stockpiling sediment in locations shown in Exhibits B and C (Authorized Activities). NRD and its contractor shall be authorized to utilize skid steers, excavators, front end loaders, and dump trucks. No other equipment shall be allowed unless agreed to in writing by the Parks and Recreation Director. NRD, its contractor, and their employees, agents, and subcontractors may only use the Premises for the Authorized Activities described herein.

NRD, its contractor, and their employees, agents, and subcontractors may not store equipment, temporary materials, or vehicles on public right-of-way, except for up to three skid steers, a mini excavator, dump trucks, and a frontend loader, unless otherwise agreed in writing. NRD and its contractor shall be responsible for repairing any damage or compensating CITY for any repairs required to the Premises arising out of the activities under this Agreement. It is understood and agreed that NRD, its contractor, and their employees, agents, and subcontractors shall not be liable for trespass arising out of entering onto the Premises for the purposes provided herein. NRD and/or its contractor shall provide CITY three (3) business days advance notice of entering the Premises. CITY's point of contact for coordinating Authorized Activities shall be **Shawn Quinn, 402-441-6051.**

4. Agreement Not to Interfere. NRD and its contractor agree to perform all Authorized Activities under this Agreement in the least obstructive manner possible and to coordinate any use by CITY on the Premises. NRD and its contractor agree not to interfere with the use of CITY, not to damage or tamper with any tangible or intangible property of CITY, nor undertake any action which would endanger human health or the environment. In the event such interference, damage, or tampering occurs, NRD shall promptly notify CITY within three (3) days of the occurrence by contacting **Shawn Quinn, 402-441-6051.**

Similarly, CITY, its officers, agents, subcontractors, and employees shall not interfere in any material way with the Authorized Activities conducted by NRD, shall not damage or tamper with any equipment used for such activities, nor undertake any actions regarding the use of the Premises which would endanger human health or the environment. In the event such interference, damage, or tampering occurs, CITY shall promptly notify NRD within three (3) days of the occurrence by contacting **Bryce Jensen, 402-476-2729.**

5. Compliance with the Law. NRD and its contractor agree to conduct all activities in compliance with applicable federal, state, and local laws, rules and regulations, including

obtaining any necessary permits, approvals, or notifications.

6. Completion of Authorized Activities. After completion of the work, NRD and its contractor shall restore the Premises as nearly as possible to its original condition, with the exception of the work performed pursuant to this Agreement. NRD and/or its contractor shall cleanup the Premises at the conclusion of the Authorized Activities. Upon completion of the Authorized Activities, all equipment, vehicles, and unused material utilized shall be removed by NRD or its contractor, its employees, agents, subcontractors or other duly authorized representatives or designees, except as provided herein.

7. Indemnification. To the fullest extent permitted by law, NRD and its contractor shall release, waive, indemnify, defend and hold harmless CITY, its officers, agents, subcontractors, and employees from and against claims, damages, losses and expenses, including but not limited to, attorneys fees, arising out of or resulting from the performance of this Agreement that results in any claim for damage, including without limitation, any bodily injury, sickness, disease, death, or damage to tangible or intangible property, including any loss of use resulting therefrom that is caused in whole or in part by the acts or omission of NRD, its contractor, and their employees, agents, subcontractors or other duly authorized representatives or designees. CITY and NRD do not waive their governmental immunity by entering into this Agreement and fully retain all immunities and defenses provided by law with regard to any activities authorized by this Agreement. This section survives termination of this Agreement. CITY shall require NRD, its contractor, or any subcontractors thereof to carry workers compensation insurance and employers liability insurance, general liability insurance naming CITY as an additional insured, and automobile liability insurance, all as specified in City's Insurance Clause requirements and provide a certificate of insurance of the same prior to entry on the Premises.

8. Governing Law. This Agreement will be governed and interpreted by the laws of the State of Nebraska.

9. Integration, Amendment, Assignment. This Agreement represents the entire understanding between CITY and NRD and all prior negotiations, understandings or representations are hereby expressly excluded from this Agreement, with the exception of the Mutual Access Agreement, Instrument number 2018050580, December 28, 2018, Access Easement, Instrument number 2011043717, October 7, 2011, Antelope Creek Operating Agreement, May 15, 2002, between the parties, which shall also govern the parties. This Agreement may be amended or modified only in writing and signed by the authorized representatives of both CITY and NRD. This Agreement may not be assigned without the prior written consent of the other party.

10. Severability. If any provision of this Agreement is held to be invalid for any reason, the remaining provisions shall continue to be valid.

11. Date of Execution. This Agreement is executed as of the date fully signed below.

12. Capacity. The undersigned representative for CITY does hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind CITY, its employees, agents, or other duly authorized representatives or designees, and its tenant in possession, to this Agreement. The undersigned representative for NRD, does hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind NRD, its contractor, employees, agents, subcontractors, or other duly authorized representatives or designees to this Agreement.

IN WITNESS WHEREOF, CITY and NRD do hereby execute this Agreement.

LOWER PLATTE SOUTH NRD (NRD)

DATED: _____

BY: _____

TITLE: _____

CITY OF LINCOLN, NEBRASKA (CITY)

DATED: _____

BY: _____

Maggie Stuckey-Ross, Director
Lincoln Parks and Recreation Department

*[OR SEE ELECTRONIC SIGNATURE
PAGE BELOW]*



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1:4,514



Disclaimer: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email assessor@lancaster.ne.gov and you will be directed to the appropriate department.



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1: 1,128



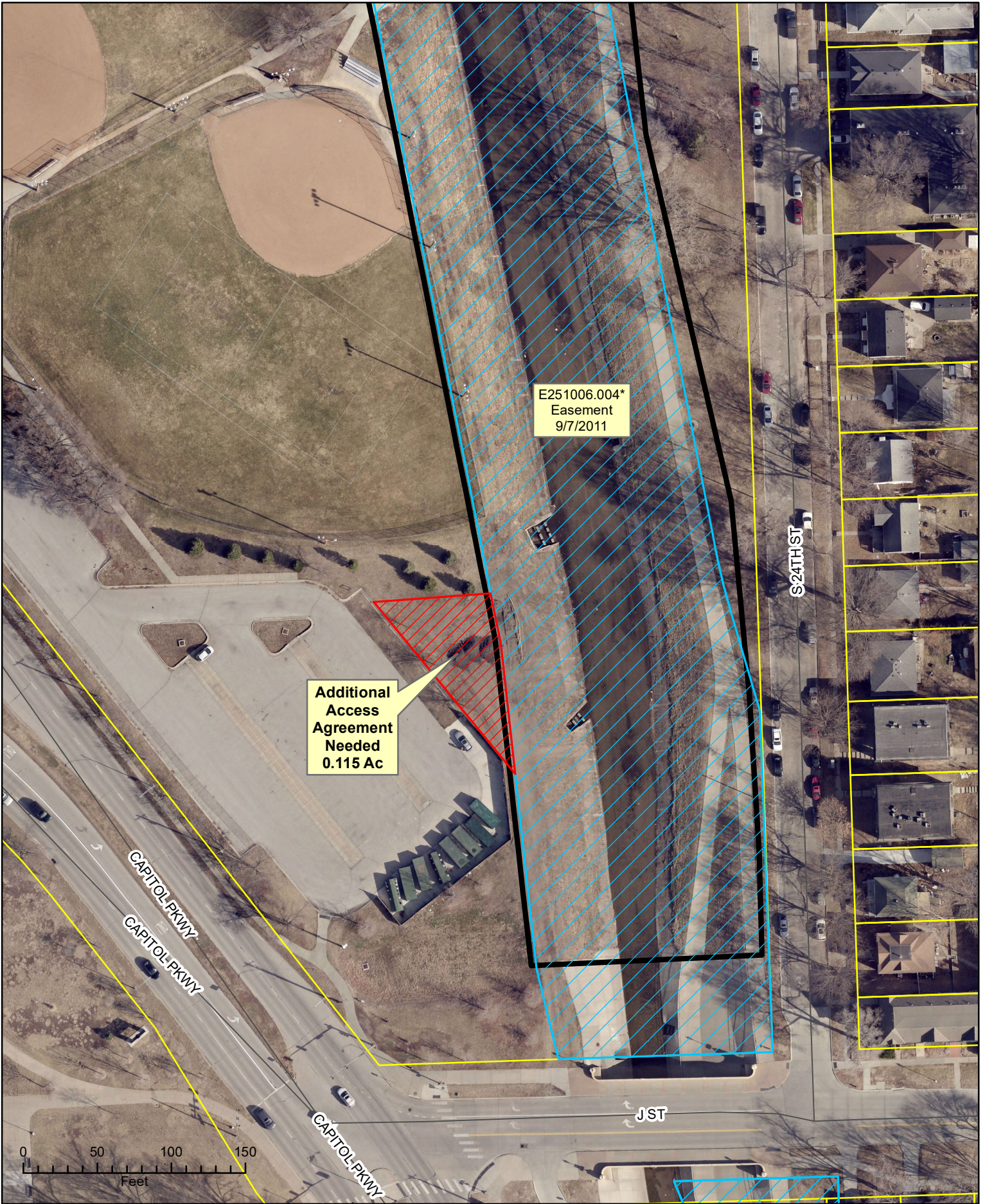
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Printed: 12/2/2024

1: 1,128

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- Antelope Cr FPP (Project ROW)
- Parcels
- LPSNRD Easements
- Additional Access Needed



- Antelope Cr FPP (Project ROW)
- Parcels
- LPSNRD Easements
- Additional Access Needed



**AGREEMENT
BETWEEN CLIENT AND JEO CONSULTING GROUP, INC.
FOR
PROFESSIONAL SERVICES**

B.

THIS IS AN AGREEMENT effective as of the date signed by Client ("Effective Date") between Lower Platte South Natural Resources District ("Client") and JEO Consulting Group, Inc. ("JEO").

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

2025 Biennial Salt Creek Levee SWIF Update ("Project").

JEO Project Number: 241967.00

Client and JEO further agree as follows:

ARTICLE 1 - SERVICES OF JEO

1.01 Scope

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

ARTICLE 2 - CLIENT'S RESPONSIBILITIES

2.01 Client Responsibilities

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

ARTICLE 3 - COMPENSATION

3.01 Compensation

- A. Client shall pay JEO as set forth in Exhibit A and per the terms in Exhibit B.
- B. The hourly not-to-exceed fee for the Project is: \$24,980
- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to JEO. The current hourly rate schedule can be provided upon request.

ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

4.01 Exhibits

Exhibit A – Scope of Services
Exhibit B – General Conditions

4.02 Total Agreement

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

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

Client: Lower Platte South NRD

JEO Consulting Group, Inc.



By: _____

By: Ross Lawrence

Title: _____

Title: Project Manager

Date Signed: _____

Date Signed: 2024.12.04

Address for giving notices:

Address for giving notices:

Lower Platte South NRD

JEO Consulting Group, Inc.

3125 Portia Street

1937 North Chestnut Street

P.O. Box 83581

Wahoo, NE 68066

Lincoln, NE 68501

Scope of Services
2025 Biennial Salt Creek Levee SWIF Update
JEO Project No. 241967.00

Project Background:

The Lower Platte South Natural Resources District (LPSNRD) is the local sponsor of the Salt Creek Flood Risk Reduction Project (FRRP) in Lincoln, NE, originally constructed by the U.S. Army Corps of Engineers (USACE). The USACE performs routine inspections and provides findings to the levee sponsor. It is the levee sponsor's responsibility to resolve any operation and maintenance deficiencies identified during the inspections. Critical deficiencies and their rectification are coordinated more closely with the USACE and certain inspection items determine the levee sponsor's continued eligibility in the Public Law (P.L.) 84-99 Rehabilitation Program. These inspection items are identified in the "Interim Policy for Determining Eligibility Status of Flood Risk Management Projects for the Rehabilitation Program Pursuant to P.L. 84-99" (2014). Rectification of multiple deficiencies while maintaining conditional eligibility in the P.L. 84-99 Rehabilitation Program can be coordinated with the USACE through a System-Wide Improvement Framework (SWIF) Plan. The LPSNRD developed and submitted a SWIF Plan in December 2016, which was subsequently accepted by the USACE with an anniversary date of 31 May. The LPSNRD is actively executing the SWIF plan and rectifying deficiencies.

Implementation of the SWIF Plan includes requirements for annual progress coordination with the USACE Omaha District. The LPSNRD is required to submit annual progress reports to the Omaha District Commander that demonstrates system-wide improvement accomplishments. Every two years, the LPSNRD is required to submit a request for an additional two years of eligibility in the P.L. 84-99 Rehabilitation Program and update the SWIF Plan, in addition to the annual progress report.

The following summarizes the previous effort and submittals to the USACE.

- 31 May 2017 – SWIF Implementation
- May 2018 – Annual Progress Report
- May 2019 – SWIF Biennial Update (including Progress Report)
- May 2020 – Annual Progress Report
- May 2021 – SWIF Biennial Update (including Progress Report)
- May 2022 – Annual Progress Report
- May 2023 – SWIF Biennial Update (including Progress Report)
- May 2024 – Annual Progress Report
- **31 May 2025 – SWIF Biennial Update Due to USACE (current effort)**

The current effort includes updating the SWIF plan where necessary and should include a SWIF plan summary of changed conditions, update on current progress, changes in schedule, changes to critical USACE inspection items, changes in funding, permitting process and interim risk reduction measures.

Scope of Work:

The proposed scope of work is intended to update the SWIF Plan and coordinate submission to the USACE. Upon completion of the SWIF Plan update, the proposed projects/actions will be reviewed with the LPSNRD and a select few will be moved from planning to implementation/resolution. Details of which are outlined below.

1 – Biennial SWIF Plan Update

Task Objectives: Coordinate efforts between the LPSNRD, JEO, and USACE to develop an updated SWIF Plan.

1.1 – SWIF Team Meetings and Project Management

- Facilitate up to three (3) coordination meetings with the NRD staff to gather pertinent information.
- Perform routine project management tasks and submit progress reports.
- Coordinate and integrate various technical disciplines to facilitate efficient completion of project deliverables.

1.2 – Update SWIF Plan

- Review the most recent available USACE Continuing Eligibility Inspection and reconcile current inspection items with the SWIF Plan.
- Update list of critical U-rated eligibility items.
- For new U-rated items: Develop projects/activities, descriptions, risk ratings, interagency collaboration needs, milestones and associated status/projected dates, conceptual cost estimates, and provide any appropriate status comments. This information will be catalogued in Appendix A.
- For previous/existing U-rated items: Provide general project updates and any appropriate status comments. This information will be catalogued in Appendix A.
- Work with the NRD to identify critical path issues (e.g., projected annual project/activity funding levels, permitting, interagency collaboration, etc.) and update the milestones/schedules accordingly.
- Update SWIF Plan schedule Gantt chart and combine efforts where appropriate.
- Update project/activity location maps.
- Update SWIF Plan document front end text, as necessary.
- Develop a brief summary/table of changes (page and paragraph), and explanation of changes, if necessary, for the NRD as well as USACE coordination.
- Develop a summary progress report to be included in letter format which will accompany the submittal.

1.3 – Implementation/Resolution

- In coordination with the NRD, review the updated SWIF Plan list of critical U-rated eligibility items, proposed action(s) to resolve, and select priority items to address given the available budget.

Exhibit A

- Steps to resolution are anticipated to include:
 - o Data collection; survey, site visits, interagency coordination to obtain record drawings, etc.
 - o Site plan or exhibit preparation to support documentation of existing conditions.
 - o Operation and Maintenance (O&M) Manual Addendum development and submittal to USACE.

Meetings:

- Up to 3 (total) LPSNRD progress and/or agency meetings

Task Deliverables:

- Project invoices and progress reports
- Meeting agendas and summaries
- Meeting support material
- Updated SWIF Plan and cover letter including progress report
- O&M Manual Addendum and/or other data to support item resolution

Key Understandings/Assumptions:

- Meetings will be attended by the Project Manager and/or lead Project Engineer. Additional team members may attend as necessary. Local coordination meetings will be hosted in Lincoln and/or virtually. The number of meetings has been estimated to achieve the overall project goal; as more details of the project are coordinated during execution, any additional needs will be coordinated with the NRD.
- Updates will be related to content only; SWIF Plan format will not change.
- The prior SWIF planning phase included accompanying technical assessments that supported the technical and cost rectification components of each deficiency. The current scope does not include technical assessments or preliminary engineering for new U-rated items or items in the current SWIF Plan that have appreciably changed. Findings from the prior technical assessments will be extrapolated, as necessary, along with engineering judgment to develop conceptual improvements and costs for use in the SWIF update. If additional engineering services are needed to support project planning, they will be coordinated with the NRD.
- Implementation/Resolution tasks outlined are anticipated examples but can be modified at the direction of the NRD to achieve specific goals, given the available budget.
- Geotechnical investigations, design, and construction are not anticipated or included.

Exhibit A

Project Fee:

JEO proposes to perform the services described at an hourly not-to-exceed fee as included in the following schedule:

1 – Biennial SWIF Plan Update

1.1 – SWIF Team Meetings and Project Management.....\$3,460

1.2 – Update SWIF Plan.....\$10,920

1.3 – Implementation/Resolution.....\$10,600

Project Total \$24,980

*The Project Fee schedule is an estimate of the fee distribution between tasks. JEO reserves the right to invoice in excess of the individual task amount, provided the total fee does not exceed the project total.

Project Schedule:

Final SWIF Plan must be submitted to USACE on or before May 31, 2025. Project milestones will be provided at regular progress meetings.

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC

GENERAL CONDITIONS

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

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

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

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

Client is responsible for paying the sales tax/fees on services provided, if sales tax/fees are required by the jurisdiction of the project. This amount may not be included in the fee for the project.

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

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the client has

requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

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

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

6. STANDARD OF CARE: The standard of care for all services performed or furnished by JEO under the agreement shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

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

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

8. ELECTRONIC FILES: Copies of Documents that may be relied upon by the client are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text,

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC

GENERAL CONDITIONS

data, graphics, or of other types that are furnished by JEO to the client are only for convenience of the client. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

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

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

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

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

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

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

10. INDEMNIFICATION: To the fullest extent permitted by law, JEO and the client shall indemnify and hold each other harmless and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages, and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent

negligence of JEO and the client, they shall be borne by each party in proportion to its negligence.

11. INSURANCE: JEO shall procure and maintain the following insurance with limits not less than shown during the performance of services under this agreement:

a. Workers' Compensation: Statutory

b. Employer's Liability

i. Each Accident: \$500,000

ii. Disease, Policy Limit: \$500,000

iii. Disease, Each Employee: \$500,000

c. General Liability

i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000

ii. General Aggregate: \$2,000,000

d. Auto Liability

i. Combined Single: \$1,000,000

e. Excess or Umbrella Liability

i. Each Occurrence: \$1,000,000

ii. General Aggregate: \$1,000,000

f. Professional Liability:

i. Each Occurrence: \$1,000,000

ii. General Aggregate: \$2,000,000

g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.

h. For projects with construction services, the client shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.

i. The client shall reimburse JEO for any additional limits or coverages that the client requires for the project.

12. TERMINATION: This agreement may be terminated by either party upon 7 days prior written notice. In the event of termination, JEO shall be compensated by client for all services performed up to and including the termination date. The effective date of termination may be set up to thirty (30) days later than otherwise provided to allow JEO to demobilize personnel and equipment from the site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files.

JEO CONSULTING GROUP INC ■ JEO ARCHITECTURE INC

GENERAL CONDITIONS

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

14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES: The client and JEO each is hereby bound and the partners, successors, executors, administrators and legal representatives of the client and JEO are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, with respect to all covenants, agreements and obligations of this agreement.

a. Neither the client nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.

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

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

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

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

17. NON-DISCRIMINATION CLAUSE: Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

18. E-VERIFY: JEO shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work shall be performed. Engineer shall require the same of each consultant.

19. WAIVER OF CONSEQUENTIAL DAMAGES: Client and JEO expressly waive any and all claims for consequential damages for the Project including, but not limited to, loss of use, profits, business, reputation, financing, rental expenses, loss of income, and overhead.

20. DISPUTE RESOLUTION: In the event of any dispute between the Parties related to the Project, the Parties agree to first negotiate in good faith toward a resolution with participation by representatives of each Party holding sufficient authority to resolve the dispute. If such dispute cannot be resolved within fifteen (15) business days, before any action or litigation is initiated other than as required to secure lien rights, the dispute shall be submitted to mediation using a mediator mutually selected by the Parties. Such mediation shall be completed within forty-five (45) days of either the Party's written demand, with each Party to bear its share of the mediation fees and its own respective costs.