

AGENDA
CITY COUNCIL, YORK, NEBRASKA
Thursday, April 7, 2022
7:00 PM



THE OPEN MEETINGS ACT IS POSTED ON
THE EAST WALL OF THE COUNCIL
CHAMBERS

1. The Open Meetings Act is posted on the East Wall of the Council Chambers
2. Notice of this meeting was published in the York News Times on April 1, 2022
3. Pledge of Allegiance
4. Roll Call
5. Minutes of March 17, 2022 meeting
6. Claims of Elected Officials
 - 6.1. Claim of Tony North for North Printing and Office Supply in the amount of \$1,536.34
 - 6.2. Claim of Gerald Wilkinson in the amount of \$225.00
7. Claims for the period of March 18 through April 7, 2022
8. City Administrator Report
9. Police Department personnel announcement
10. Approve agreements with York County Development Corporation, York Chamber of Commerce and York Sports Authority, to be in effect from March 31, 2022 through September 30, 2022
11. Approve Resolution 2022-8 - One and Six Year Highway Street Improvement Plan
12. Consider approval of Resolution 2022-9 - Designation of City's solar shares to the City, County, York Public Schools and the Holthus Field House
13. First reading of Ordinance No. 2315 - To amend Chapter 36 of the York City code to enact a section to permit the operation of all-terrain vehicles and utility-type vehicles

within the corporate limits of the City as authorized

14. Second reading of Ordinance 2312 - Annexation of property owned by DSW Properties LLC
15. Consider approval of York Street Bond ADA Curb Ramps Construction Services Amendment Consulting Services Agreement
16. Consider approval of York Street Bond Chip Seal Construction Services Amendment Consulting Services Agreement
17. Consider approval for a change order for 2022 Chip Seal Project
18. Approve sale of real estate described as North 1/2 of Irregular Tract 23 in the Northeast 1/4 of the Northeast 1/4, Section 36, Township 11, Range 3, West of the 6th P.M. in York County, Nebraska - Ordinance No. 2323
 - 18.1. Consider suspending the rules for Ordinance No. 2323
 - 18.2. Passage of Ordinance No. 2323
19. Consider approval of Proclamation declaring May 1-7 as Small Business Week
20. Consider approval of Proclamation declaring May 9 -13 as Economic Development Week
21. Adjournment

REGULAR MEETING
CITY COUNCIL – YORK, NEBRASKA
March 17, 2022
7:00 o'clock P.M.

A meeting of the Mayor and City Council of the City of York, Nebraska, was convened in open and public session at 7:00 o'clock pm. at the Council Chambers.

The Mayor announced that the Open Meetings Act is posted on the east wall of the Council Chambers.

Roll Call

Present were: Mayor Redfern. Councilmembers: Pieper, VanEsch, Sheppard, Wagner, North and Wilkinson.
Absent: Lones, Hubbard.

Minutes

Motion to approve minutes of the March 3, 2022 meeting. Ayes with a motion by Jerry Wilkinson and a second by Jennifer Sheppard.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Approve Cash Balances for the month of February 2022

Motion to approve cash balances for the month of February 2022. Ayes with a motion by Scott Van Esch and a second by Tony North.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Departmental Activities Reports for the month of February 2022

Motion to approve department reports for the month of February 2022 Ayes with a motion by Tony North and a second by Jeff Pieper.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Claims of Elected Officials

Motion to approve claim in the amount of \$900.45 for Tony North of North Printing and Office Supply. Ayes with a motion by Jerry Wilkinson and a second by Scott Van Esch.

Hubbard: Absent, Lones: Absent, North: Abstain (With Conflict), Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Claims

Motion to approve claims for March 4 through March 17, 2022. Ayes with a motion by Jerry Wilkinson and a second by Tony North.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

City Administrator Report

Dr. Sue Crawford, City Administrator, and Cheree Folts, Parks & Rec Director, presented information to the Council in regards to the re-opening of the community center. The Fire Marshall approved everything on March 10th and they will begin the transition back into the Community Center. They will be closed for ten days during the transition time. The Community Center will open up again on March 30th. The newest addition, Fun City, will accommodate children toddler age through upper elementary school.

Ordinance 2312 – Annexation Request

Damon Winn, of DSW Properties LLC, spoke regarding the annexation request. He is constructing a new building for a truck repair facility.

The Mayor advised that DSW Properties LLC had filed a petition for annexation and Ordinance No. 2312 was presented for first reading for said annexation. The City Attorney advised that annexation ordinances need to be read on three separate occasions. The ordinance will be on the April 7, 2022 agenda for a second reading.

2021 Annual Report from Fire Chief, Tony Bestwick

Tony Bestwick, Fire Chief, presented to the Council an overview of the department activities for the past year in regards to continuing education, emergency calls received, and possible equipment upgrades in the future.

Consider approval for purchase of new radio console for Fire Department

Motion to approve purchase of radio console for Fire Department with Midland Telecom in the amount of \$24,474.00. Ayes with a motion by Jerry Wilkinson and a second by Matt Wagner.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Consider approval of contract with Nova Fitness for the Police Department

Moved to approve contract with Nova Fitness for the wellness room project for the police department in the amount of \$25,036.00. Ayes with a motion by Jennifer Sheppard and a second by Scott Van Esch.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Bid for the Community Center Playground Surfacing

Motion to approve the bid from Dostals Construction for the Playground Surfacing at the Community Center in the amount of \$51,940.00. Ayes with a motion by Scott Van Esch and a second by Jeff Pieper.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Bid for the Playground Relocation

Moved to approve bid from Dostals Construction Company Inc for the playground relocation in the amount of \$68,238.00. Ayes with a motion by Jeff Pieper and a second by Tony North.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Bid for the Ballpark Complex Playground Surfacing

Moved to approve the bid from Dostals Construction Company Inc. for the Ballpark Complex Playground Surfacing in the amount of \$57,800.00. Ayes with a motion by Scott Van Esch and a second by Jeff Pieper.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Bid for the 2022 Chip Seal Project

Motion to approve bid from TopKote Inc. in the amount of \$537,266.48 for the 2022 Chip Seal Project. Ayes with a motion by Jerry Wilkinson and a second by Jeff Pieper.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Bid for the 2022/23 Curb Ramp Reconstruction Project

Motion to approve bid from TLS Construction for the 2022/23 Curb Ramp Reconstruction in the amount of \$352,298.15. Ayes with a motion by Tony North and a second by Jerry Wilkinson.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Approval of One and Six Year Street Improvement Plan

The Mayor announced that this was the time and place set for a public hearing on the City's One and Six Year Street Improvement Program. The Public Works Director outlined the plan. No one appeared in opposition to the plan. The Mayor closed the public hearing.

Motion to approve the one and six year street improvement plan. Ayes with a motion by Tony North and a second by Jerry Wilkinson.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

CDBG Contract Amendment Request to extend the contract end date

Moved to approve CDBG Contract Amendment Request to extend the contract end date to May 20, 2022, to ensure successful completion of the ongoing downtown revitalization project. Ayes with a motion by Jerry Wilkinson and a second by Scott Van Esch.

Hubbard: Absent, Lones: Absent, North: Yea, Pieper: Yea, Sheppard: Yea, Van Esch: Yea, Wagner: Yea, Wilkinson: Yea

Adjournment

There being no further business to come before the Council, the Mayor adjourned the meeting, that time being 7:39 o'clock p.m.

SORTED BY VENDOR

VENDOR	NAME	NO# INVOICES	TOTAL AMOUNT	1099 G/L ACCT NO#	G/L NAME	G/L AMOUNT
01-00001	CITY OF YORK - WATER DEPT	2	3,801.00	N		
01-00010	GALE	7	551.04	N		
01-00090	THE HOME DEPOT PRO	5	5,360.62	N		
01-00110	MATHESON TRI-GAS	4	315.79	N		
01-00120	JACKSON SERVICES INC	15	801.49	N		
01-00150	MISSIONSQUARE RETIREMENT	2	555.37	N		
01-00200	NEBRASKA MACHINERY CO	1	361.00	N		
01-00210	EAKES OFFICE PLUS	3	1,912.88	N		
01-00230	CORNHUSKER STATE IND.	2	1,294.65	N		
01-00290	NORTH PRINTING & OFFICE S	13	1,536.34	N		
01-00300	BLACK HILLS ENERGY	13	14,706.15	N		
01-00340	BOUND TREE MEDICAL LLC	8	1,308.88	N		
01-00360	CITY OF YORK	4	30,265.61	N		
01-00410	CAROLINA SOFTWARE	1	500.00	N		
01-00540	GLOBAL TECH, INC.	4	3,943.83	N		
01-00570	GENERAL FIRE & SAFETY	1	5,580.80	N		
01-00630	MUNICIPAL SUPPLY OF NE	1	3,022.32	N		
01-00640	NEBRASKA PUBLIC POWER DIS	2	4,840.79	N		
01-00680	NE DEPT. OF AERONAUTICS	1	543.33	N		
01-00740	TK ELEVATOR CORP	1	217.38	N		
01-00780	PRESTO X COMPANY	2	88.00	N		
01-00800	BURST, LLC	40	1,075.19	N		
01-00871	WALLINGFORD SIGN CO, INC.	1	224.00	N		
01-00911	CORNERSTONE INS GROUP	1	50.00	N		
01-00960	GRAINGER	3	298.88	N		
01-01090	BAKER & TAYLOR, INC	7	2,541.70	N		
01-01280	PLATTE VALLEY COMMUNICATI	2	1,062.00	N		

SORTED BY VENDOR

VENDOR	NAME	NO# INVOICES	TOTAL AMOUNT	1099 ACCT NO#	G/L ACCT NO#	G/L NAME	G/L AMOUNT
01-01290	GRAND CENTRAL FOODS, INC.	10	214.66	N			
01-01330	JLC, INCORPORATED	5	542.01	N			
01-01350	PROTEX CENTRAL INC.	2	596.50	N			
01-10880	RASMUSSEN MECHANICAL	1	1,410.09	N			
01-01390	AFLAC	4	698.16	N			
01-01420	NE CHILD SUPPORT PAYMENT	1	104.77	N			
01-01460	PERENNIAL POWER	1	13,492.86	N			
01-01470	SERVI-TECH LABORATORIES	3	210.45	N			
01-01490	NE DEPT OF REVENUE	2	7,275.13	N			
01-01510	HACH CO.	3	1,648.32	N			
01-01560	MELLEN & ASSOC., INC.	1	1,040.00	N			
01-01640	INTERNAL REVENUE SERVICE	4	39,964.20	N			
01-01650	UNION BANK	4	24,734.34	N			
01-01670	FRATERNAL ORDER OF POLICE	2	720.00	N			
01-01750	NEBRASKA PUBLIC HEALTH EN	1	151.00	N			
01-01840	CORNERSTONE BANK	1	95.00	N			
01-02060	NE DEPT OF ENVIRONMENT &	1	7,277.85	N			
01-02090	JM MONOGRAMS, INC.	1	310.90	N			
01-02160	MIDWEST SERVICE & SALES C	1	6,777.00	N			
01-02170	MIDWEST TURF & IRRIGATION	1	197.82	N			
01-02200	JACK'S UNIFORMS & EQUIP	2	309.88	N			
01-02210	KING'S GLASS	1	143.31	N			
01-02230	MCCORMICK HEATING & AC	8	92,024.14	N			
01-02250	MILLER SEED & SUPPLY CO	2	130.96	N			
01-02500	YORK FARM SUPPLY LLC	1	15.50	N			
01-02530	PEPSI COLA OF LINCOLN/ TO	2	798.88	N			
01-02560	CITYSERVICEVALCON LLC	2	30,897.54	N			

SORTED BY VENDOR

VENDOR	NAME	NO# INVOICES	TOTAL AMOUNT	1099 ACCT NO#	G/L NAME	G/L AMOUNT
01-02590	ADOPT A PET	1	2,500.00	N		
01-02650	O'REILLY AUTO PARTS	4	113.31	N		
01-03020	MIKE QUBTY	2	673.69	Y		
01-03240	YORK COUNTY DEVELOPMENT C	2	7,513.00	N		
01-03260	HOMETOWN LEASING	3	307.02	N		
01-03590	PENNER'S TIRE & AUTO	3	1,379.28	N		
01-03930	YORK CHAMBER OF COMMERCE	1	2,083.34	N		
01-0492	TODD KELLY	1	128.65	N		
01-05090	SOUTHEAST LIBRARY SYSTEM	1	25.00	N		
01-05310	SAPP BROTHERS PETROLEUM,	6	8,040.35	N		
01-05690	GENERAL TRAFFIC CONTROLS	1	11,568.00			
01-06230	NEBRASKA FIRE SPRINKLER C	1	1,145.00	N		
01-06410	CASH-WA DISTRIBUTING	2	340.53	N		
01-06510	YORK COUNTY TITLE	1	471.50	N		
01-06530	YORK COUNTY MUTUAL AID DI	1	500.00	N		
01-06630	FASTENAL	2	522.22	N		
01-07860	CONNER ROOFING CO., INC	2	81,135.00	N		
01-07870	CUMMINS CENTRAL POWER, LL	4	982.15	N		
01-08400	CREDIT MANAGEMENT SERVICE	1	248.13	N		
01-09090	WINDSTREAM	4	857.85	N		
01-09220	CENTRAL NEBRASKA REFRIGER	1	214.92	N		
01-0930	JOHN WEMHOFF	1	67.47	N		
01-1	MISCELLANEOUS VENDOR	3	218.06	N		
01-10110	BADGER METER INC	1	185.00	N		
01-10130	STATE FIRE MARSHAL TRAINI	2	200.00	N		
01-10600	PARPART CORPORATION	1	32,000.00	N		
01-10710	YORK COUNTY SPORTS AUTHOR	1	1,000.00	N		
01-10840	TOTAL ADMINISTRATIVE SERV	3	3,613.62	N		

SORTED BY VENDOR

VENDOR	NAME	NO# INVOICES	TOTAL AMOUNT	1099 ACCT NO#	G/L ACCT NO#	G/L NAME	G/L AMOUNT
01-11010	VERIZON	1	976.67	N			
01-11030	CHRISTY PAYNE	1	52.00	N			
01-11190	MEAD LUMBER & RENTAL	4	1,177.11	N			
01-11220	PAUL DAVIS RESTORATION &	2	155.00	N			
01-11590	HENDERSON STATE BANK	4	98,133.50	N			
01-11670	STEVE HOLMES	1	626.11	Y			
01-11870	BSN SPORTS LLC	1	63.90	N			
01-12480	WESTERN EDGE	2	24.00	N			
01-13960	DANKO EMERGENCYEQUIPMENT	1	7,748.53	N			
01-14410	LINCOLN WINWATERWORKS	2	4,624.65	N			
01-14420	911 CUSTOM	1	660.11	N			
01-14470	FARMERS COOPERATIVE	3	88.00	N			
01-14740	BRIAN QUICK	1	180.15	N			
01-14820	CHRIS MULINIX	1	320.25	N			
01-14880	ALFRED BENESCH & CO	2	2,377.45	N			
01-15670	HOA SOLUTIONS INC	1	630.00	N			
01-15880	CHARLIE'S U-SAVE RX	1	239.89	N			
01-16030	NOVA FITNESS EQUIP CO	2	13,743.20	N			
01-16050	DAWSON ELECTRIC INC	1	887.99	N			
01-16450	GERALD WILKINSON	1	225.00	Y			
01-16650	NE DEPT OF REVENUE	1	100.00	N			
01-16710	ONE CALL CONCEPTS INC	1	72.82	N			
01-16900	AQUA-CHEM INC	2	3,643.20	N			
01-17020	CONSOLIDATED MANAGEMENTC	4	300.21	N			
01-17390	BEN QUICK	1	75.00	Y			
01-17470	COAST TO COAST	1	295.89	N			
01-18410	REGIONAL CARE INC	1	32,066.25	N			

SORTED BY VENDOR

VENDOR	NAME	NO# INVOICES	TOTAL AMOUNT	1099 G/L ACCT NO#	G/L NAME	G/L AMOUNT
01-19590	COLONIAL LIFE	5	811.56	N		
01-19600	AMERITAS	3	651.60	N		
01-20170	AMAZON	5	1.83	N		
01-20310	KERFORD LIMESTONE CO	2	3,373.76	N		
01-21320	CULLIGAN	1	15.00	N		
01-21880	HINZ REPAIR	1	88.28	N		
01-22050	HEAVY METAL SUPPLY CO	2	238.69	N		
01-22100	SLACK AUTO SUPPLY LLC	11	672.02	N		
01-22700	SPECTRUM BUSINESS	2	1,377.79	N		
01-23860	SCHLUETER REPAIR & SPECIA	1	1,532.80	Y		
01-24120	FIRESPRING	1	140.00	N		
01-24290	O'HARE PHOTOGRAPHY LLC	1	480.00	N		
01-25100	NEBRASKA RURAL RADIO ASSO	1	100.00	Y		
01-25370	BRANDON LAMBERT	1	92.20	N		
01-25530	SAM'S CLUB MC/SYNCE	1	3,640.29	N		
01-25620	YOUNG PROFESSIONALS	1	30.00	N		
01-25650	CARDMEMBER SERVICE	1	9,117.81	N		
01-25730	MUNSTER TINT & VINYL LLC	1	250.00	N		
01-26010	SOARIN GROUP	1	790.50	N		
01-26330	QUICK MED CLAIMS	2	13,004.88	N		
01-26480	CONNER PSYCHOLOGICALSERV	1	385.00	N		
01-26510	QUADIENT LEASING	1	630.00	N		
01-27010	ICON IMPROVEMENTS LLC	2	97,761.40	N		
01-27210	MIDWEST AUTO PARTS INC.	6	1,147.15	N		
01-27490	SUE CRAWFORD	1	87.39	N		
01-27690	CRYSTAL COX	3	60.00	Y		
01-27730	BEN FRANCISCO	1	75.00	Y		

SORTED BY VENDOR

VENDOR	NAME	NO# INVOICES	TOTAL AMOUNT	1099 ACCT	G/L NO#	G/L NAME	G/L AMOUNT
01-28030	JACOB STUTZMAN	1	225.00		Y		
01-28220	CENTRAL STATES TELECOM IN	1	50.00		N		
01-28230	STANDARD INS CO	1	2,868.30		N		
01-28280	SOUTHERN SOURCE INDUSTRIE	1	2,235.80		N		
01-28380	FREEDOM REPAIR & MOTOR SPO	8	4,293.37		N		
01-28510	LEE ENT ADVERTISING	4	749.25		N		
01-28540	AMAZON BUSINESS	8	410.13		N		
01-28630	SIMS U SHARE	1	179.95		N		
01-28640	KRVN-AM	1	110.40		N		
*** REPORT TOTALS ***		398	793,737.43				
		PAYROLL	140,702.31				
		TOTAL	934,439.74				

SELECTION CRITERIA

VENDOR SET: 01 CITY OF YORK
VENDOR: ALL
BANK: ALL
VENDOR CLASS(ES): ALL CLASSES

TRANSACTION SELECTION

REPORTING: PAID ITEMS

	=====PAYMENT DATES=====	=====ITEM DATES=====	=====POSTING DATES=====
PAID ITEMS DATES	: 3/18/2022 THRU 4/07/2022	0/00/0000 THRU 99/99/9999	0/00/0000 THRU 99/99/9999

PRINT OPTIONS

REPORT SEQUENCE: VENDOR #
G/L EXPENSE DISTRIBUTION: NO
CHECK RANGE: 000000 THRU 999999

AGREEMENT BETWEEN THE CITY OF YORK AND THE YORK COUNTY
DEVELOPMENT CORPORATION

THIS AGREEMENT IS ENTERED INTO by and between the City of York, Nebraska (hereinafter referred to as "City") and York County Development Corporation, a nonprofit corporation, (hereinafter referred to as "YCDC").

WHEREAS, YCDC is an entity that promotes economic development and provides services to businesses in the City of York; and

WHEREAS, the City does not have sufficient staff to provide the economic development and services that are provided by YCDC; and

WHEREAS, the City has provided financial support to YCDC for many years to assist the YCDC in building a strong vibrant business community in the York area.

NOW, THEREFORE, THE CITY AND YCDC AGREE AS FOLLOWS:

YCDC will continue to provide economic development and business related services to benefit the residents and businesses in the City of York.

The City will contribute toward the undertaking of the efforts by the YCDC as described above annually through the budget process.

This agreement will be in force and effect beginning on March 31, 2022 and terminate on September 30, 2022.

The agreement will automatically renew and for a period of one year each year, unless it is terminated by either party, and upon renewal, the City will continue to contribute such funds to YCDC in exchange for continued services to the City by YCDC as agreed by the parties.

Dated this _____ day of _____, 2022.

City of York, Nebraska,

By: _____
Barry Redfern, Mayor

York County Development Corporation,

By: _____
Lisa R. Hurley, Executive Director

AGREEMENT BETWEEN THE CITY OF YORK AND THE YORK CHAMBER OF
COMMERCE

THIS AGREEMENT IS ENTERED INTO by and between the City of York, Nebraska (hereinafter referred to as "City") and the York Chamber of Commerce, a nonprofit corporation, (hereinafter referred to as "Chamber").

WHEREAS, the Chamber is an entity that promotes economic development and provides services to businesses in the City of York; and

WHEREAS, the City does not have sufficient staff to provide the economic development and services that are provided by the Chamber; and

WHEREAS, the City has provided financial support to the Chamber for many years to assist the Chamber in building a strong vibrant business community in the York area.

NOW, THEREFORE, THE CITY AND THE CHAMBER AGREE AS FOLLOWS:

The Chamber will continue to provide economic development and business related services to benefit the residents and businesses in the City of York.

The City will contribute toward the undertaking of the efforts by the Chamber as described above annually through the budget process.

This agreement will be in force and effect beginning on March 31, 2022 and terminate on September 30, 2022.

The agreement will automatically renew for a period of one year each year, unless it is terminated by either party, and upon renewal, the City will continue to contribute such funds to the Chamber in exchange for continued services to the City by the Chamber as agreed by the parties.

Dated this _____ day of _____, 2022.

City of York, Nebraska,

By: _____
Barry Redfern, Mayor

The Chamber of Commerce,

By: _____
Madonna Mogul, Director

AGREEMENT BETWEEN THE CITY OF YORK COUNTY SPORTS AUTHORITY

THIS AGREEMENT IS ENTERED INTO by and between the City of York, Nebraska (hereinafter referred to as "City") and York County Sports Authority, a nonprofit corporation, (hereinafter referred to as the "Authority").

WHEREAS, the Authority is an entity that provides fields for soccer games and practices in the City and also holds tournaments that bring visitors to the City, and the Authority maintains the fields without assistance from City staff;

WHEREAS, the City has provided financial support to the Authority for many years to assist in the maintenance and ongoing operation of the Authority; and

WHEREAS, the parties wish to enter into an agreement to provide for annual payments to be made by the City to the Authority to insure ongoing funding of the Authority and continued maintenance of the soccer fields by the Authority to benefit the City residents.

NOW, THEREFORE, THE CITY AND THE AUTHORITY AGREE AS FOLLOWS:

The Authority will continue to provide and maintain fields at the York County Sports Complex for soccer games, practices and tournaments.

The Authority will contact the City Water Superintendent and obtain authorization before watering the fields. The Authority further agrees to maintain backflow protection and water metering for all water use, as required by the York City Code.

The City will contribute the sum of \$12,000 to support the ongoing operation of the Authority.

This agreement will begin on March 31, 2022 and terminate on September 30, 2022. The agreement will automatically renew each year for a period of one year, unless it is terminated by either party, and upon renewal, the City will continue to contribute such funds to the Authority in exchange for continued services to the City by the Authority as agreed by the parties.

Dated this _____ day of _____, 2022.

City of York, Nebraska,

By: _____
Barry Redfern, Mayor

York County Sports Authority,

By: _____

Resolution No. 2022-8

Be it resolved by the Mayor and City Council of the City of York, Nebraska:

That the One-and-Six Year Highway and Street Improvement Program of the City of York, Nebraska, is hereby adopted after due and legal publication of Notice of Public Hearing thereon as directed by the State Highway Commission and public hearing thereon and that this Resolution and documents attached thereto shall serve a certification of matters herein to said Commission as required by law, the passage hereof being prior to the anniversary date of original filing.

Dated this 7th day of April, 2022.

Barry Redfern, Mayor

Attest:

Amanda Ring, City Clerk

Resolution 2022-9

WHEREAS, the City of York and Nebraska Public Power District (NPPD) have a long-standing relationship with NPPD providing electricity to the City of York through a lease agreement with the city;

WHEREAS, NPPD has contracted with a private firm to develop solar electricity capacity in the City of York;

WHEREAS, the NPPD agreement allows the City of York to allocate solar shares that result from the solar project;

WHEREAS, the limit on the number of shares prevents them from being disbursed widely to residents or businesses;

WHEREAS, the number of solar shares provides sufficient electricity to fully power the City of York accounts; York County accounts in the city; York Public School accounts; and the Holthus Field House account for York College;

THEREFORE, the City of York allocates its solar shares to the following entities in the amounts of their current usage: The City of York; York County; York Public Schools and the Holthus Field House in York College.

Dated this 7th day of April, 2022.

Barry Redfern, Mayor

Attest:

Amanda Ring, City Clerk

ORDINANCE NO. 2315

AN ORDINANCE TO AMEND CHAPTER 36 OF THE YORK CITY CODE TO ENACT A SECTION TO PERMIT THE OPERATION OF ALL-TERRAIN VEHICLES AND UTILITY-TYPE VEHICLES WITHIN THE CORPORATE LIMITS OF THE CITY AS AUTHORIZED BY NEB. REV. STAT. §60-6,356(3); TO IMPOSE THE PENALTY PROVIDED BY STATE LAW FOR THE VIOLATION OF THIS SECTION; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE FOR THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF YORK, NEBRASKA:

Section 1. Chapter 36 of the City Code of the City of York, Nebraska is hereby amended to enact a section to permit the operation of all-terrain vehicles and utility-type vehicles within the corporate limits of the City as provided herein.

Section 2. Chapter 36 of the City Code is amended to enact the following section:

Section 36-293. All-terrain vehicles and utility-type vehicles authorized to be operated within the corporate limits of the City.

All-terrain vehicles and utility-type vehicles as defined in Neb. Rev. Stat. §60-6,355 may be operated within the corporate limits of the City as authorized by Neb. Rev. Stat. §60-6,356. Any operator of an all-terrain vehicle or a utility-type vehicle shall comply with all conditions and requirements for the operation of such vehicle as provided in Neb. Rev. Stat. §60-6,356 and Neb. Rev. Stats. §§60-6,355 through 60-6,361 R.R.S. as amended.

Section 3. In addition to the conditions and requirements provided by state law, the following conditions and requirements shall apply to the operation of an all-terrain vehicle and utility-type vehicle in the corporate limits of the City:

- A. Such vehicles may only be operated on streets with speed limits of 25 miles per hour or less.
- B. Any person who operates an all-terrain vehicle or utility-type vehicle shall first obtain a permit from the York Police Department. The Department shall inspect the vehicle to insure its compliance with all requirements imposed by state statute and this section. A permit for the operation of the vehicle shall be issued by the Police Department upon payment of a twenty five dollar and no/100 (\$25.00) fee and upon determination that the vehicle complies with all legal requirements. The permit shall be good for one year, and it shall be

unlawful to operate such vehicle without a valid permit in effect.

- C. Every all-terrain vehicle and utility-type vehicle shall be equipped with a brake light that is in good working condition.

Section 4. Any person who violates this section shall be punished as provided Neb. Rev. Stat. §60-6,362, and shall be guilty of a Class III misdemeanor, as provided by that section.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 6. This ordinance shall be in full force and effect from and after its passage, approval and publication pursuant to law.

PASSED AND APPROVED by the York City Council this ____ day of _____, 2022.

Barry Redfern, Mayor

ATTEST:

Amanda Ring, City Clerk

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ORDINANCE NO.2312

AN ORDINANCE TO PROVIDE FOR THE ANNEXATION OF LAND AND TO PROVIDE AN EFFECTIVE DATE FOR THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF YORK, NEBRASKA:

Section 1. Annexation Ordinance.

Pursuant to Neb. Rev. Stat. §16-117 (Reissue 2012), a Petition has been filed by the owner of property contiguous or adjacent to the City to request that said property be included within the corporate limits of the City of York. The Petition recites that DSW Properties, LLC, is the owner of real estate described below which is urban or suburban in character:

A tract of land comprising a part of Irregular Tract No. 6 in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Twelve (12), Township Ten (10) North, Range Three (3) West of the 6th P.M., in York County, Nebraska, described as follows:

Commencing at the NE corner of said SE $\frac{1}{4}$; and assuming the North line of said NE $\frac{1}{4}$ SE $\frac{1}{4}$ to have a bearing of S89°53'31"E; thence N89°55'46"W, and on the North line of said SE $\frac{1}{4}$, 341.14 feet to the point of beginning, said point being a 3/4" rebar w/cap (the NE corner of I.T.#6); thence S06°53'52"W, and on the East line of said I.T.#6, 342.36 feet to a 3/4" rebar w/cap; thence S04°01'04"E, and on the East line of said I.T.#6, 406.22 feet to a 3/4" rebar w/cap; thence S01°39'46"W, and on the East line of said I.T.#6, 65.80 feet to a 5/8" rebar w/cap; thence on a curve to the left, and on the East line of said I.T.#6, said curve having a radius of 100.00 feet, a chord bearing of S33°26'55"W, an arc distance of 111.93 feet to a 5/8" rebar w/cap; thence S87°57'26"W, and on the South line of said I.T.#6, 334.80 feet to a 5/8" rebar w/cap; thence N00°58'01"W, and on the West line of said I.T.#6, 613.29 feet to a 5/8" rebar w/cap; thence N44°14'44"E, 184.61 feet to a 3/4" rebar w/cap; thence N54°18'55"W, 267.57 feet to a 3/4" rebar w/cap on the North line of said SE $\frac{1}{4}$; thence S89°55'46"E, and on the North line of said SE $\frac{1}{4}$, 72.14 feet to the point of beginning.

Section 2. After notice pursuant to law the City Council adopts this Ordinance to approve the Petition and the annexation of the real estate described above, and the Council hereby authorizes the annexation of such real estate to the corporate limits of the City of York, Nebraska, which property is contiguous or adjacent to the corporate limits of

the City and which is urban or suburban in character.

Section 3. This Ordinance shall be in full force and effect from its passage, approval and publication as required by law.

PASSED AND APPROVED by the York City Council this _____ day of April, 2022.

Barry Redfern, Mayor

ATTEST:

Amanda Ring, York City Clerk

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CONSULTING SERVICES AGREEMENT

CLIENT	City of York	Project Name	Construction Services Amendment for Curb
Address	100 East 4 th Street	Ramps	
	PO Box 276		
	York, NE 68467	Related to York Street Bond Project	
Telephone	402.363.2600	Project Location	Variou Locations
		York, NE	
Client Contact	James Paul	Consultant PM	Terry Brown
Client Job No.		Consultant Job No.	112221.02

This AGREEMENT is made by and between City of York, hereinafter called "CLIENT," and Alfred Benesch & Company, hereinafter called "CONSULTANT", for professional consulting services as specified herein. CONSULTANT agrees to provide CLIENT with requested consulting services more specifically described as follows d(or shown in Attachment A):

Attachment A

Scope of Services

Fee Estimates

Attachment B: 2022 Employment Classification and Rate Schedule

The GENERAL CONDITIONS and the following Attachments are hereby made a part of the AGREEMENT:

Attachment A: Scope of Services and Fee Estimate

Attachment B: Schedule of Unit Rates

Attachment C: _____

or

Exhibit A: Work Authorizations specifying Method of Payment, Scope, and Fee

By signing this AGREEMENT, CLIENT acknowledges that it has read and fully understands this AGREEMENT and all attachments thereto. CLIENT further agrees to pay CONSULTANT for services described herein upon receipt of invoice by CLIENT for the CONSULTANT's estimated fee as described below:

BY LUMP SUM: \$_____.

BY TIME AND MATERIALS: \$not to exceed 48,504.

BY OTHER PAYMENT METHOD (See Attachment A): \$_____.

AS SHOWN ON SERIALLY NUMBERED WORK AUTHORIZATIONS USING EXHIBIT A

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT:

CLIENT

ALFRED BENESCH & COMPANY

BY: _____
AUTHORIZED REPRESENTATIVE

BY: Anthony Dirks
AUTHORIZED REPRESENTATIVE

PRINT NAME: _____

PRINT NAME: Anthony Dirks, P.E.

TITLE: _____

TITLE: Senior Vice President

DATE: _____, 2022

DATE: March 25, 2022

BENESCH OFFICE: Lincoln

ADDRESS: 825 M Street, Suite 100

Lincoln, NE 68508

PLEASE SIGN AND RETURN ONE COPY TO ALFRED BENESCH & COMPANY (ADDRESS ABOVE).



STANDARD TERMS AND CONDITIONS

SECTION 1 – Services by Consultant

1.1 General

Consultant shall provide services under this Agreement only upon request of the Client, and only to the extent defined and required by the Client. These services may include the use of outside services, outside testing laboratories, and special equipment.

Attachments to this Agreement are as identified on the signature page to this Agreement or using serially numbered Work Authorizations, and with these GENERAL CONDITIONS, are all as attached hereto, and made a part of this Agreement.

1.2 Scope of Services and Fees

The services to be performed by Consultant and the associated fee are attached hereto and made a part of this Agreement or by using serially numbered Work Authorizations, all as identified on the signature page to this Agreement, and shall be performed by the Consultant in accordance with the Client's requirements. The Scope of Services and Fee Estimate (Attachment A) is valid for sixty (60) days, after which Consultant reserves the right to revise the Scope or Fee Estimate.

It is mutually understood that Consultant's fee is not a firm contractual amount, except the total fee by the Consultant shall not be exceeded unless authorized in writing by the Client. The intent of the Scope of Services is to identify the services to be provided by Consultant. However, it is specifically understood that by written notice to Consultant, Client can decrease or, with concurrence of Consultant, increase the Scope of Services.

SECTION 2 – Payments to Consultant

2.1 Method of Payment

Payment for Consultant's personnel services and direct expenses shall be based on the Method of Payment which is identified on the signature page to this Agreement or serially numbered Work Authorizations, attached hereto, and made a part of this Agreement.

2.2 Payment for Personnel Services

2.2.1 Payment

Payment for the services rendered by Consultant's personnel shall be based on the hours of chargeable time and in accordance with Consultant's Schedule of Unit Rates, which is identified on the signature page to this Agreement and attached hereto, and made a part of this Agreement.

2.2.2 Chargeable Time

Chargeable time for Consultant's personnel is that portion of their time devoted to providing services requested by Client. Chargeable time for field personnel located away from Consultant's office for more than one week is a minimum of eight hours per day and five days per calendar week, except for federally declared legal holidays or during an employee's sick leave or vacation time. Travel time from

Consultant's office to an assigned work site, and return to Consultant's office, is chargeable time; or if more economical for Client, Consultant shall lodge its personnel overnight near the work site in lieu of traveling back to Consultant's office at the end of each work day.

2.2.3 Overtime Rates

The basis for payment to Consultant for each hour worked in excess of forty (40) hours in any calendar week shall be the applicable hourly rate as specified in the Schedule of Unit Rates.

2.3 Payment for Direct Expenses

2.3.1 Payment

For Direct Expenses incurred by Consultant, payment to Consultant by the Client shall be in accordance with Consultant's Schedule of Unit Rates.

2.3.2 Direct Expenses

For the purposes of this Agreement, Direct Expenses to be contracted and managed by Consultant and payable by Client to Consultant shall include: Outside Services including the services and reimbursable expenses for firms other than Consultant which are necessary for the work the Consultant is directed to perform; Laboratory Tests and related reports necessary for the work the Consultant is directed to perform, either by the Consultant or by an outside service for the Consultant; Special Equipment expenses including the costs of the Consultant locating, acquiring, leasing, or renting any equipment or facilities not currently owned, leased, or rented by Consultant at the time of the request for services which are necessary to enable Consultant to provide the services requested; vehicles furnished by Consultant for Consultant's authorized travels and for Consultant's field personnel; Per Diem expense or actual costs of maintaining Consultant's field personnel on or near the Project site, for each day of field assignment away from Consultant's office; and Other Direct Expenses associated with all services provided hereunder and identified in the Schedule of Unit Rates.

2.4 Payment Conditions

2.4.1 Consultant shall submit monthly invoices for all personnel services and direct expenses under this Agreement and a final invoice upon completion of services.

2.4.2 Invoices are due and payable upon receipt by Client. Interest at a rate of 1.5% per month, or the maximum allowed by law, will be charged on all past due amounts starting thirty (30) days after date of invoice. Payments will first be credited to interest and then to principal.

2.4.3 In the event of a disputed or contested invoice, Client must provide written notice to Consultant within ten (10) days of the date of any invoice, otherwise the invoice will be considered to be correct. In the event Client timely submits in writing a dispute on a particular invoice, only that portion so contested will be withheld from payment and the Client will pay the undisputed portion. No interest will accrue on any reasonably contested portion of the invoice until mutually resolved.

2.4.4 If Client fails to make payment in full to Consultant within sixty (60) days after the date of the undisputed invoice, Consultant may, after giving seven (7) days' written notice to Client, suspend services under this Agreement until paid in full, including interest. Consultant shall have no liability to Client for delays or damages caused by such suspension of services. Client agrees to pay all costs of collection, including reasonable attorney's fees, incurred by Consultant as a result of Client's failure to make payments in accordance with this Agreement. No final plans, documents or reports will be released for any purpose until Consultant has been paid in full.

2.4.5 The billing rates specified in the Schedule of Unit Rates for subsequent years shall be adjusted annually in accordance with Consultant's costs of doing business, subject to Client's review and concurrence.

SECTION 3 - Term of Agreement

3.1 Term

Consultant's obligations to perform under this Agreement shall extend from the date of execution until terminated by either party.

3.2 Abandonment of Work

Client shall have the absolute right to abandon any work requested hereunder or to change the general scope of the work at any time, and such action on its part shall in no event be deemed a breach of contract.

3.3 Termination of Agreement

3.3.1 Termination with Cause

The obligation to provide further services under this Agreement may be terminated with cause by either party by written notice stating the basis for the termination and providing 7 days to cure. The termination will be effective seven (7) days after delivery of written notice thereof if the basis for the termination has not been cured. In the event of termination by Consultant caused by failure of the Client to perform in accordance with the terms of this Agreement, Client shall pay for all services performed prior to the effective date of the termination, including all project termination expenses, collection fees and legal expenses. Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this Agreement to the Client upon receipt of final payment. In the event of termination by the Client caused by failure by Consultant to perform in accordance with the terms of this Agreement, Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination and provide information and documents developed under the terms of this Agreement to the Client. Upon receipt of all other information and documents, Client shall pay Consultant for services performed prior to the effective date of the termination.

3.3.2 Termination without Cause

Either party may, at its sole discretion, terminate this Agreement without cause at any time. In the event of such

termination, the terminating party will promptly notify and confirm the termination in writing to the other party. The termination will be effective seven (7) days after delivery of written notice thereof. Upon termination, Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this Agreement to the Client upon receipt of final payment.

3.4 Payment for Work Upon Abandonment or Agreement Termination

If Client abandons requested work or terminates this Agreement, Consultant shall be paid on the basis of work completed to the date of abandonment or effective date of termination. Consultant shall perform no activities other than reasonable wrap-up activities after receipt of notice of abandonment or termination. Payment for the work shall be as established under Section II.

SECTION 4 - General Considerations

4.1 Assignment and Responsibility for Personnel

4.1.1 The assignment of personnel and all phases of the undertaking of the services which Consultant shall provide hereunder shall be subject to the oversight and general guidance of Client.

4.1.2 While upon the premises of Client or property under its control, all employees, agents, and subconsultants of Consultant shall be subject to Client's rules and regulations respecting its property and the conduct of its employees thereon.

4.1.3 However, it is understood and agreed that in the performance of the work and obligations hereunder, Consultant shall be and remain an independent Consultant and that the employees, agents or subconsultants of Consultant shall not be considered employees of or subject to the direction and control of Client. Consultant shall be responsible for the supervision and performance of all subconsultants which are to perform hereunder.

4.2 Insurance

4.2.1 Consultant shall furnish Client a certificate of insurance upon request showing amounts and types of insurance carried by Consultant, which certificate shall contain a commitment by the Insurance Company that during the time any work is being performed by Consultant under this Agreement it will give Client notice of cancellation or non-renewal of the insurance coverage shown on such certificates in accordance with policy provisions.

4.2.2 Any construction contracts relative to Consultant's Services shall require that the Client and Consultant be included as additional insureds on the contractor's and contractor's subcontractors' commercial general liability and commercial automobile liability insurance policies and that the coverage afforded Client and Consultant is primary to any insurance maintained by Client or Consultant and that Client and Consultant's insurance is non-contributory with any coverage afforded by contractor and subcontractors. Client will also require contractor and all subcontractors to purchase and maintain workers' compensation and employer's liability insurance. Consultant will name the Client as additional insured on

Consultant's commercial general liability insurance.

4.3 Successors and Assigns

4.3.1 Client and Consultant each binds itself and its partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this Agreement.

4.3.2 Neither Consultant nor Client shall assign or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other party, except as stated in paragraph 4.3.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Consultant from employing such independent consultants, associates, and subconsultants as it may deem appropriate to assist in the performance of services hereunder.

4.3.3 Nothing herein shall be construed to give any rights or benefits hereunder to any one other than Client and Consultant except as otherwise provided herein.

4.4 Compliance with Law

4.4.1 Consultant shall exercise the professional standard of care to comply with, and cause its subconsultants to comply with, applicable Federal, state, and local laws, orders, rules, and regulations in effect at the time services are rendered, and relating to the performance of the services Consultant is to perform under this Agreement. If the Scope of Services requires Consultant to prepare an application for a permit, Consultant does not represent or warrant that said permit or approval will be issued by any governmental body.

4.4.2 Neither the Consultant nor the Consultant's agents or employees shall discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin.

4.5 Ownership and Reuse of Documents

4.5.1 All drawings, specifications, test reports, and other materials and work products which have been prepared or furnished by Client prior to this Agreement shall remain Client's property. Consultant shall be permitted to rely on Client furnished documents and Client shall make available to Consultant copies of these materials as necessary for the Consultant to perform the services requested hereunder.

4.5.2 All drawings, specifications, test reports, and other materials and work products, including computer aided drawings, designs, and other data filed on electronic media which will be prepared or furnished by Consultant (and Consultant's independent professional associates and subconsultants) under this Agreement, are instruments of service in respect to the Project and Consultant shall retain

an ownership and property interest therein whether or not the Project is completed. Client may make and retain copies for information and reference in connection with the use and the occupancy of the Project by Client and others; however, such documents are not intended or represented to be suitable for reuse by Client or others acting on behalf of Client on extensions of the Project or on any other project. Further, Consultant makes no warranty as to the compatibility of computer data files with computer software and software releases other than that used by Consultant in performing services herein, and to the condition or availability of the computer data after an acceptance period of thirty (30) days from delivery to Client. Any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Consultant or to Consultant's independent professional associates or subconsultants, and Client shall indemnify and hold harmless Consultant and Consultant's independent professional associates and subconsultants from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle Consultant to further compensation at rates to be agreed upon by Client and Consultant.

4.6 Consultant's Personnel at Project Site

4.6.1 The presence or duties of the Consultant personnel at a Project site, whether as onsite representatives or otherwise, do not make the Consultant or its personnel in any way responsible for those duties that belong to the Client and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the project documents and any health or safety precautions required by such construction work. The Consultant and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor or other entity or any other persons at the site except Consultant's own personnel.

4.6.2 To the extent Consultant's Scope of Work includes construction observation, the Consultant shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. Consultant neither guarantees the performance of the contractor(s) nor assumes responsibility for contractor(s)' failure to perform their work in accordance with the project documents.

4.7 Opinions of Cost, Financial Considerations, and Schedules

In providing opinions of cost, financial analyses, economic

feasibility projections, and schedules for the Project, the Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. Consultant's opinions of probable Total Project Costs and Construction Costs provided for herein as appropriate are made on the basis of Consultant's experience and qualifications and represent Consultant's judgments as an experienced and qualified professional consultant familiar with the construction industry. Consultant makes no warranty that the Client's actual Total Project or Construction Costs, financial aspects, economic feasibility, or schedules will not vary from the Consultant's opinions, analyses, projections, or estimates. If Client wishes greater assurance as to any element of the Total Project or Construction cost, feasibility, or schedule, Client will employ an independent cost estimator, contractor, or other appropriate advisor.

4.8 Discovery of Unanticipated Pollutant and Hazardous Substance Risks

4.8.1 If Consultant, while performing the services, discovers pollutants and/or hazardous substances that pose unanticipated risks, it is hereby agreed that the scope of services, schedule, and the estimated cost of Consultant's services will be reconsidered and that this Agreement shall immediately become subject to renegotiation or termination.

4.8.2 In the event that the Agreement is terminated because of the discovery of pollutants and/or hazardous substances posing unanticipated risks, it is agreed that Consultant shall be paid for its total charges for labor performed and reimbursable charges incurred to the date of termination of this Agreement, including, if necessary, any additional labor or reimbursable charges incurred in demobilizing.

4.8.3 Client also agrees that the discovery of unanticipated pollutants and/or hazardous substances may make it necessary for Consultant to take immediate measures to protect health and safety. Consultant agrees to notify Client as soon as practically possible should unanticipated pollutants and/or hazardous substances be suspected or encountered. Client authorizes Consultant to take measures that in Consultant's sole judgment are justified to preserve and protect the health and safety of Consultant's personnel and the public. Client agrees to compensate Consultant for the additional cost of taking such additional precautionary measures to protect employees' and the public's health and safety. This section is not intended to impose upon Consultant any duties or obligations other than those imposed by law.

SECTION 5 - Professional Responsibility

5.1 Performance of Services

Consultant shall perform its services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care"). Consultant expressly disclaims all express or implied warranties and guarantees with respect to the performance of professional services, and it is agreed that the quality of

such services shall be judged solely as to whether the services were performed consistent with the Standard of Care. Consultant owes Client only that level of performance defined in this Section 5.1, and nothing herein shall be construed as creating a fiduciary relationship.

If at any time prior to construction Client believes Consultant's services are deficient due to not meeting the Standard of Care, Client must immediately inform Consultant in writing and shall afford Consultant the opportunity to correct such deficiency. If, upon review by Consultant it is determined the deficiency is attributable to Consultant, the deficiency shall be corrected at no additional cost to Client.

5.2 Limitation of Liability

Client and Consultant agree to allocate certain of the risks so that, to the fullest extent permitted by law, Consultant's total liability to Client is limited to the amount paid under the contract or \$50,000 whichever is greater, this being the Client's sole and exclusive remedy for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's fees) arising out of this Agreement from any cause or causes. Such causes include, but are not limited to, Consultant's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty.

5.3 No Special or Consequential Damages

Client and Consultant agree that to the fullest extent permitted by law neither party shall be liable to the other for any special, indirect, or consequential damages whatsoever, whether caused by either party's negligence, errors, omissions, strict liability, breach of contract, breach of warranty, or other cause or causes.

5.4 Indemnification

To the fullest extent permitted by law, Client and Consultant mutually agree to indemnify and hold each other harmless from and against any and all claims, damages, losses and expenses, defense costs including reasonable attorneys' fees, and court or arbitration costs and other liabilities arising from their own negligent acts, errors or omissions in performance of their services under this Agreement, but only to the extent caused that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

5.5 No Third Party Beneficiaries

Client and Consultant expressly agree that Agreement does not confer upon any third party any rights as beneficiary to this Agreement. Consultant accepts no responsibility for damages, if any, suffered by any third party as the result of a third party's use of the work product, including reliance, decisions, or any other action taken based upon it.

Client agrees that Consultant's services and work products are for the exclusive present use of Client. Client agrees that Consultant's compliance with any request by Client to address or otherwise release any portion of the work product to a third party shall not modify, rescind, waive, or otherwise alter provisions of this Agreement nor does it create or confer any third party beneficiary rights on any

third party.

SECTION 6 - Miscellaneous Provisions

6.1 Notices

Any notice to either party herein shall be in writing and shall be served either personally or by registered or certified mail addressed to the signing party shown on the signature page.

6.2 Joint Preparation

For purposes of contract interpretation and for the purpose of resolving any ambiguity in this Agreement, the parties agree that this Agreement was prepared jointly by them and/or their respective attorneys.

6.3 Headings

Headings used in this Agreement are for the convenience of reference only and shall not affect the construction of this Agreement

6.4 Severability

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

6.5 Dispute Resolution

If negotiation in good faith fails to resolve a dispute within thirty (30) days of written notice of the dispute by either party, then the parties agree that each dispute, claim or controversy arising from or related to this Agreement or the relationships which result from this AGREEMENT shall be subject to mediation as a condition precedent to initiating legal or equitable actions by either party. Unless the parties agree otherwise, the mediation shall be in accordance with the Commercial Mediation Procedures of the American Arbitration Association then currently in effect. A request for mediation shall be filed in writing with the American Arbitration Association and the other party. No legal or equitable action may be instituted for a period of ninety (90) days from the filing of the request for mediation unless a longer period of time is provided by agreement of the parties. Cost of mediation shall be shared equally between the parties and shall be held in a location mutually agreed upon by the parties. The parties shall memorialize any agreement resulting from the mediation in a mediated settlement agreement, which agreement shall be enforceable as a settlement in any court having jurisdiction thereof.

During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. Any dispute not resolved through mediation shall be subject to litigation in a court of competent jurisdiction in the state in which the project is located.

6.6 Equal Opportunity

Consultant will, in the performance of this Agreement, comply with federal, state, and local laws, and all

regulations and orders issued under any applicable law related to equal employment opportunity, non-discrimination, or employment generally.

Consultant certifies that it will not knowingly employ or contract with a non-legal resident of the United States to perform work under this Agreement, and verifies or attempts to verify employee eligibility of its employees through participation in the U.S. Department of Homeland Security and Social Security Administration's E-Verify system.

6.7 Governing Law

This Agreement is to be governed by the laws of the jurisdiction in which the project is located. For locations outside of the United States, this Agreement shall be governed by the laws of the State of Illinois.

6.8 Entire Agreement

This Agreement, along with those documents specified, attached, or hereby cited together, and serially numbered Work Authorizations if used, constitute the entire Agreement between the parties hereto and no changes, modifications, extensions, terminations, or waivers of this agreement, or other documents, or any of the provisions herein, or therein contained, shall be valid unless made in writing and signed by duly authorized representatives of both parties.

SUPPLEMENTAL CONDITIONS FOR SURVEY, ENVIRONMENTAL OR GEOTECHNICAL SERVICES

Supplemental Condition is incorporated herein when the applicable box is checked.

S.1 Location of Underground Utilities

It shall be the Client's responsibility to locate and physically mark all underground utilities and structures which lie within the work area prior to the start of subsurface investigations. If the Client elects not to assume this responsibility, Client shall notify Consultant and shall compensate Consultant for all costs associated with locating and physically marking said underground utilities and structures over and above the estimated project fee. Client shall indemnify and hold Consultant harmless from any damages and delays resulting from unmarked or improperly marked underground utilities and structures. For reasons of safety, Consultant will not begin work until this has been accomplished.

S.2 Subsurface Investigations

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics might vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of the Consultant.

S.3 Disposition of Samples and Equipment

S.3.1 Disposition of Samples

No samples and/or materials will be kept by Consultant

longer than thirty (30) days after submission of the final report unless agreed otherwise.

S.3.2 Hazardous or Potentially Hazardous Samples and Materials

In the event that samples and/or materials contain or are suspected to contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state, or local statutes, regulations, or ordinances, Consultant will, after completion of testing, return such samples and materials to Client, or have the samples and materials disposed of in accordance with Client's directions and all applicable laws. Client agrees to pay all costs associated with the storage, transportation, and disposal of samples and materials. Client recognizes and agrees that Consultant at no time assumes title to said samples and materials, and shall have no responsibility as a handler, generator, operator, transporter, or disposer of said samples and materials.

S.3.3 Contaminated Equipment

All laboratory and field equipment contaminated in Consultant's performance of services will be cleaned at Client's expense. Contaminated consumables will be disposed of and replaced at Client's expense. Equipment (including tools) which cannot be reasonably decontaminated shall become the property and responsibility of Client. At Client's expense, such equipment shall be delivered to Client, or disposed of in the same manner specified in S.3.2 above. Client agrees to pay Consultant the fair market value of any such equipment which cannot reasonably be decontaminated and is delivered to Client pursuant to this Agreement.

ATTACHMENT A

Scope of Services

Amendment No. 1 Construction Services – 2022/2023 York Curb Ramp Reconstruction

Benesch Project Number 112221.02

TASK 1. Construction Phase Services

General Construction Project Management, Staking, Inspection, Material Testing and Closeout Services

a. Project Management Tasks

- i. Project Files
 - Set up, utilize, and maintain appropriate project files related to the project with an electronic file system. Included in the files will be all project correspondence, change orders, meeting minutes, contracts, plans and specifications, traffic control plans (if applicable), RFIs, material certifications, test reports, inspector's Daily Reports and project schedule.
- ii. Shop Drawing Submittal Review
 - Responsible for logging in, reviewing, commenting, and approving Contractor submitted Shop Drawings related to the project.
- iii. Schedule and conduct a pre-construction meeting.
- iv. Contractor Payments
 - Unless otherwise scheduled by the City's Project Manager or Contractor, monitor by infrequent site visits that the work associated with a payment request by the Contractor is accurate and complete. The generation of progress payments to the Contractor will be completed by the Contractor for approval by Benesch.
- v. Construction Contract Change Orders and Work Change Directives
 - Prepare Contract Change Orders (modifications) and Work Change Directives associated with the project for the City Project Manager's approval.
- vi. Correspondence
 - Provide the following correspondence for the City's records:
 - Weekly project-based construction testing results and status reports of construction progress by Monday morning the following week.
 - Contractor progress estimates.
 - Change Orders (Contract Modifications).

b. Project Inspection & Observation Tasks

Benesch or their sub-consultant will observe and verify construction compliance with contract documents for critical items such as embankment, bedding, backfill, concrete box culvert construction, subgrade prep and paving with visual inspection and/or material testing before the work is "covered up". Limited observation will be provided during non-critical activities such as excavation, removals, reinforcing steel placement, forming, etc. This list is not inclusive of all tasks or inspections that will be completed by Benesch or their sub-consultant. Benesch will work closely with the city to adjust inspection hours as necessary to accommodate the Contractor's schedule and progress.

- i. Document pre-construction conditions of the project site with photos for comparison and any dispute resolution during and/or after construction.

- ii. Document all inspections in the field by photos, measurements, computations and/or observations as logged within the Inspector's Daily Reports (IDRs).
- iii. Prepare and keep detailed notes, records of quantities of pay items used in the work, test results, certifications, or basis of acceptance of these materials, and a record of the contractor's operations.
- iv. Inform Contractor at the pre-construction meeting that water shutdowns will be coordinated by the Inspector.
- v. Coordinate with the Contractor to discuss work performed when not on-site for proper documentation and inclusion in the IDRs.
- vi. Provide random/periodic review compliance of traffic control and ADA signing maintenance throughout the duration of the project, if necessary. Specifically, at the beginning, phase changes, storm events and end of the project. Benesch will report any known deficiencies but is not responsible for part/full time inspection unless approved by written request of the City Project Manager.
- vii. Verify that materials sources incorporated into the project are on the latest version of the city and/or NDOR Approved Products List.
- viii. Participate in Contractor led progress meetings every two weeks using agreed on agenda format.
- ix. Consult with the City Project Manager regarding project changes, utility conflicts, change authorizations and change orders.
- x. Observe plan profiles are constructed accurately and conduct consultation with City Project Manager regarding deviations.
- xi. Randomly observe pavement sawing and removals throughout construction.
- xii. Observe backfilling of concrete placement, and ADA ramp installation.
- xiii. Observe reinforcing steel placement prior to each concrete pour.
- xiv. Observe concrete placement, erosion control installation and seeding placement.
- xv. Inform and verify field modifications with the City's Project Manager prior to authorization of work.

c. Material Testing Tasks

Benesch or their sub-consultant will provide, perform, or otherwise coordinate material sampling and testing services in accordance with the City of Grand Island standard procedures. The following list identifies the testing assumed to be required along with the frequency expected and included in this scope of work. Additional testing may be provided in addition to or in place of those tests listed below. Benesch will notify and gain prior approval from the City if additional testing is required that may exceed the fee identified for these services.

- i. Grading Operations – Excavation and embankment construction will be tested to verify compliance with compaction requirements for each lift of material.
 - a. Assumes Testing Frequency of 1-Test/12-inch lift/10,000 square foot.
 - b. Assumes 8 tests for the length of the project.
 - c. This material testing is completed by the hour by a field engineer/technician.
- ii. Utility Operations – The installation of water, storm sewer and culvert pipes will be tested to verify compliance with compaction requirements prior to subgrade preparations.
 - a. Assumes Testing base on field observation.
 - b. This material testing is completed by the hour by a field engineer/technician.
- iii. Concrete Sampling - This will include taking concrete truck tickets, completing concrete air tests, fabricating concrete cylinders, delivery of concrete cylinders to the laboratory and compression testing.
 - a. Assumes Testing will be done twice at random sampling.
 - b. Concrete testis on the project at 8 Cylinders.
 - c. This material testing is completed by a per cylinder test method by a field engineer/technician.

d. Project Closeout Tasks

Upon notice of completion by the Contractor, Benesch will field measure and prepare final summaries for all applicable items of work. The City's Project Manager will review the project records prior to the submission of a final pay estimate for the project. Benesch will also prepare and submit the Final Pay Estimate and records associated with the project. The final records will be printed and an electronic format of all the project records. Tasks to be completed during the project closeout include:

- i. Document "punch list" items and follow-up on resolution of nonconforming work prior to authorizing final payment.
- ii. Prepare necessary correspondence to the Contractor related to punch list and project completion.
- iii. Conduct project walk through with the city and the Contractor to determine and document substantial completion.
- iv. Benesch will prepare the record drawings and will coordinate with the Construction Contractor for additional information or clarifications needed to complete the documents. These documents will have handwritten changes and clarifications in red pen. These documents will not be signed and sealed by an Engineer. An electronic AutoCAD base file will be provided with the plan submittal.
- v. Provide timely project closeout documentation upon final acceptance of the project.
- vi. Deliverables
 - Meeting minutes.
 - Inspector Daily Reports (IDR).
 - Project photo log.
 - Project material testing results.
 - Pressure testing and bacteriological testing records provided by the City and Contractor.
 - Documentation of punch list items and resolution with associated correspondence.
 - Declaration of substantial and final completion.
 - Record drawings.
 - All project documentation listed in this section and an electronic format of all project files.
- vii. Complete a project debriefing with City.

e. *Excluded Services*

- i. Additional Design services.
- ii. Daily Inspection and Enforcement of traffic control plans and maintenance.
- iii. Utility coordination for the Contractor.
- iv. Administration of NPDES (SWPPP) permit adherence.
- v. Undertaking any of the responsibilities of the Contractor.
- vi. Giving direction to the Contractor by dictating means, methods, techniques, sequence or procedures of construction.

SCHEDULE

Benesch shall provide the services stated above in accordance with a schedule set forth below:

Benesch will complete construction management and inspection services as listed in subsection one (1) above. The inspection duration for this contract shall be based on 82 Working Days, (40 days 2022 and 42 days in 2023) and Assumes Monday thru Friday Construction Days at 6 Hours/Day including field inspection, testing, bookwork/reports and travel and based on the Construction Contractor estimated schedule. Project close-out documents shall be completed within sixty (60) calendar days of final acceptance of the project by all parties.

Fee Estimate
Construction Phase Services
2022/2023 York ADA Curb Ramp Project - York, NE

Task No.	Description	Estimated Quantity	Unit Price	Amount	
2	Construction Phase Services				
	a. Project Management				
	Senior Project Manager	12.0 hr.	\$ 214.00 /hr.	\$ 2,568.00	
	b. Project Inspection & Observation				
	Field Inspection (82 days @ 6 hrs/day)	492.0 hr.	\$ 67.00 hr	\$ 32,964.00	
	Special Inspections (Designer 2)	40 hr	\$ 102.00 hr	\$ 4,080.00	
	Vehicle	82 dy	\$ 65.00 dy	\$ 5,330.00	
	c. Materials Laboratory Testing				
	Soil Density and Moisture Content (Designer 2)	2.0 hr.	\$ 102.00 ea.	\$ 204.00	
	Standard Proctor Tes (Design 2)	4.0 hr.	\$ 102.00 ea.	\$ 408.00	
	Compaction Test (Designer 2)	8.0 hr.	\$ 102.00 hr	\$ 816.00	
	Concrete Testing (Designer 2)	8.0 hr.	\$ 102.00 hr	\$ 816.00	
	Concrete Compression Test (includes cylinder)	6.0 cyl	\$ 28.00 ea.	\$ 168.00	
	Vehicle	4.0 dy	\$ 65.00 dy	\$ 260.00	
	d. Project Closeout				
	Senior Project Manager	1.0 hr.	\$ 214.00 /hr.	\$ 214.00	
	Field Inspector	4.0 hr.	\$ 67.00 /hr.	\$ 268.00	
	Designer 2	4.0 hr.	\$ 102.00 hr	\$ 408.00	
		Construction Services Not to Exceed :	575		\$ 48,504



2022 EMPLOYMENT CLASSIFICATION AND RATE SCHEDULE

<u>CLASSIFICATION</u>	<u>BILLABLE RATE</u>	<u>CLASSIFICATION</u>	<u>BILLABLE RATE</u>
Project Manager I	\$164.00	Resident Project Manager I	\$147.00
Project Manager II	\$186.00	Resident Project Manager II	\$164.00
Senior Project Manager	\$214.00	Senior Resident Project Manager	\$186.00
Project Principal	\$265.00		
		Construction Representative I	\$90.00
Project Engineer I	\$118.00	Construction Representative II	\$102.00
Project Engineer II	\$133.00	Construction Representative III	\$118.00
Senior Project Engineer	\$164.00		
		Inspector I	\$78.00
Designer I	\$90.00	Inspector II	\$90.00
Designer II	\$102.00	Sr Inspector	\$102.00
Project Scientist I	\$102.00	Construction Technical Rep I	\$90.00
Project Scientist II	\$118.00	Construction Technical Rep II	\$102.00
Project Scientist III	\$133.00	Construction Technical Rep III	\$118.00
Senior Project Scientist	\$147.00	Senior Construction Technical Rep	\$133.00
		Construction Technical Rep Manager	\$147.00
Scientist I	\$78.00		
Scientist II	\$90.00	Intern	\$67.00
		Field/Lab Technician I	\$67.00
Geologist I	\$90.00	Field/Lab Technician II	\$74.00
Geologist II	\$96.00	Field/Lab Technician III	\$80.00
Senior Geologist	\$106.00	Senior Field/Lab Technician	\$90.00
		Field/Lab Technician Manager	\$96.00
Technologist I	\$78.00		
Technologist II	\$102.00	Instrument Operator	\$78.00
Senior Technologist	\$133.00	Party Chief	\$90.00
		Surveyor (RLS)	\$118.00
Technical Specialist I	\$102.00	Senior Surveyor (RLS)	\$133.00
Technical Specialist II	\$133.00		
Senior Technical Specialist	\$164.00	Marketing Assistant	\$78.00
		Marketing Coordinator	\$90.00
Office Assistant	\$67.00	Marketing Manager	\$147.00
Project Assistant I	\$67.00		
Project Assistant II	\$78.00		
Division Administrative Assistant I	\$67.00		
Division Administrative Assistant II	\$78.00		



CONSULTING SERVICES AGREEMENT

CLIENT	City of York	Project Name	Construction Services Amendment for Chip
Address	100 East 4 th Street	Seal	
	PO Box 276		
	York, NE 68467	Related to York Street Bond Project	
Telephone	402.363.2600	Project Location	Variou Locations
			York, NE
Client Contact	James Paul	Consultant PM	Terry Brown
Client Job No.		Consultant Job No.	112221.03

This AGREEMENT is made by and between City of York, hereinafter called "CLIENT," and Alfred Benesch & Company, hereinafter called "CONSULTANT", for professional consulting services as specified herein. CONSULTANT agrees to provide CLIENT with requested consulting services more specifically described as follows d(or shown in Attachment A):

Attachment A

Scope of Services

Fee Estimates

Attachment B: 2022 Employment Classification and Rate Schedule

The GENERAL CONDITIONS and the following Attachments are hereby made a part of the AGREEMENT:

Attachment A: Scope of Services and Fee Estimate

Attachment B: Schedule of Unit Rates

Attachment C: _____

or

Exhibit A: Work Authorizations specifying Method of Payment, Scope, and Fee

By signing this AGREEMENT, CLIENT acknowledges that it has read and fully understands this AGREEMENT and all attachments thereto. CLIENT further agrees to pay CONSULTANT for services described herein upon receipt of invoice by CLIENT for the CONSULTANT's estimated fee as described below:

BY LUMP SUM: \$_____.

BY TIME AND MATERIALS: \$not to exceed 36,938.

BY OTHER PAYMENT METHOD (See Attachment A): \$_____.

AS SHOWN ON SERIALLY NUMBERED WORK AUTHORIZATIONS USING EXHIBIT A

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT:

CLIENT

ALFRED BENESCH & COMPANY

BY: _____
AUTHORIZED REPRESENTATIVE

BY: Anthony Dirks
AUTHORIZED REPRESENTATIVE

PRINT NAME: _____

PRINT NAME: Anthony Dirks, P.E.

TITLE: _____

TITLE: Senior Vice President

DATE: _____, 2022

DATE: March 25, 2022

BENESCH OFFICE: Lincoln

ADDRESS: 825 M Street, Suite 100

Lincoln, NE 68508

PLEASE SIGN AND RETURN ONE COPY TO ALFRED BENESCH & COMPANY (ADDRESS ABOVE).



STANDARD TERMS AND CONDITIONS

SECTION 1 – Services by Consultant

1.1 General

Consultant shall provide services under this Agreement only upon request of the Client, and only to the extent defined and required by the Client. These services may include the use of outside services, outside testing laboratories, and special equipment.

Attachments to this Agreement are as identified on the signature page to this Agreement or using serially numbered Work Authorizations, and with these GENERAL CONDITIONS, are all as attached hereto, and made a part of this Agreement.

1.2 Scope of Services and Fees

The services to be performed by Consultant and the associated fee are attached hereto and made a part of this Agreement or by using serially numbered Work Authorizations, all as identified on the signature page to this Agreement, and shall be performed by the Consultant in accordance with the Client's requirements. The Scope of Services and Fee Estimate (Attachment A) is valid for sixty (60) days, after which Consultant reserves the right to revise the Scope or Fee Estimate.

It is mutually understood that Consultant's fee is not a firm contractual amount, except the total fee by the Consultant shall not be exceeded unless authorized in writing by the Client. The intent of the Scope of Services is to identify the services to be provided by Consultant. However, it is specifically understood that by written notice to Consultant, Client can decrease or, with concurrence of Consultant, increase the Scope of Services.

SECTION 2 – Payments to Consultant

2.1 Method of Payment

Payment for Consultant's personnel services and direct expenses shall be based on the Method of Payment which is identified on the signature page to this Agreement or serially numbered Work Authorizations, attached hereto, and made a part of this Agreement.

2.2 Payment for Personnel Services

2.2.1 Payment

Payment for the services rendered by Consultant's personnel shall be based on the hours of chargeable time and in accordance with Consultant's Schedule of Unit Rates, which is identified on the signature page to this Agreement and attached hereto, and made a part of this Agreement.

2.2.2 Chargeable Time

Chargeable time for Consultant's personnel is that portion of their time devoted to providing services requested by Client. Chargeable time for field personnel located away from Consultant's office for more than one week is a minimum of eight hours per day and five days per calendar week, except for federally declared legal holidays or during an employee's sick leave or vacation time. Travel time from

Consultant's office to an assigned work site, and return to Consultant's office, is chargeable time; or if more economical for Client, Consultant shall lodge its personnel overnight near the work site in lieu of traveling back to Consultant's office at the end of each work day.

2.2.3 Overtime Rates

The basis for payment to Consultant for each hour worked in excess of forty (40) hours in any calendar week shall be the applicable hourly rate as specified in the Schedule of Unit Rates.

2.3 Payment for Direct Expenses

2.3.1 Payment

For Direct Expenses incurred by Consultant, payment to Consultant by the Client shall be in accordance with Consultant's Schedule of Unit Rates.

2.3.2 Direct Expenses

For the purposes of this Agreement, Direct Expenses to be contracted and managed by Consultant and payable by Client to Consultant shall include: Outside Services including the services and reimbursable expenses for firms other than Consultant which are necessary for the work the Consultant is directed to perform; Laboratory Tests and related reports necessary for the work the Consultant is directed to perform, either by the Consultant or by an outside service for the Consultant; Special Equipment expenses including the costs of the Consultant locating, acquiring, leasing, or renting any equipment or facilities not currently owned, leased, or rented by Consultant at the time of the request for services which are necessary to enable Consultant to provide the services requested; vehicles furnished by Consultant for Consultant's authorized travels and for Consultant's field personnel; Per Diem expense or actual costs of maintaining Consultant's field personnel on or near the Project site, for each day of field assignment away from Consultant's office; and Other Direct Expenses associated with all services provided hereunder and identified in the Schedule of Unit Rates.

2.4 Payment Conditions

2.4.1 Consultant shall submit monthly invoices for all personnel services and direct expenses under this Agreement and a final invoice upon completion of services.

2.4.2 Invoices are due and payable upon receipt by Client. Interest at a rate of 1.5% per month, or the maximum allowed by law, will be charged on all past due amounts starting thirty (30) days after date of invoice. Payments will first be credited to interest and then to principal.

2.4.3 In the event of a disputed or contested invoice, Client must provide written notice to Consultant within ten (10) days of the date of any invoice, otherwise the invoice will be considered to be correct. In the event Client timely submits in writing a dispute on a particular invoice, only that portion so contested will be withheld from payment and the Client will pay the undisputed portion. No interest will accrue on any reasonably contested portion of the invoice until mutually resolved.

2.4.4 If Client fails to make payment in full to Consultant within sixty (60) days after the date of the undisputed invoice, Consultant may, after giving seven (7) days' written notice to Client, suspend services under this Agreement until paid in full, including interest. Consultant shall have no liability to Client for delays or damages caused by such suspension of services. Client agrees to pay all costs of collection, including reasonable attorney's fees, incurred by Consultant as a result of Client's failure to make payments in accordance with this Agreement. No final plans, documents or reports will be released for any purpose until Consultant has been paid in full.

2.4.5 The billing rates specified in the Schedule of Unit Rates for subsequent years shall be adjusted annually in accordance with Consultant's costs of doing business, subject to Client's review and concurrence.

SECTION 3 - Term of Agreement

3.1 Term

Consultant's obligations to perform under this Agreement shall extend from the date of execution until terminated by either party.

3.2 Abandonment of Work

Client shall have the absolute right to abandon any work requested hereunder or to change the general scope of the work at any time, and such action on its part shall in no event be deemed a breach of contract.

3.3 Termination of Agreement

3.3.1 Termination with Cause

The obligation to provide further services under this Agreement may be terminated with cause by either party by written notice stating the basis for the termination and providing 7 days to cure. The termination will be effective seven (7) days after delivery of written notice thereof if the basis for the termination has not been cured. In the event of termination by Consultant caused by failure of the Client to perform in accordance with the terms of this Agreement, Client shall pay for all services performed prior to the effective date of the termination, including all project termination expenses, collection fees and legal expenses. Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this Agreement to the Client upon receipt of final payment. In the event of termination by the Client caused by failure by Consultant to perform in accordance with the terms of this Agreement, Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination and provide information and documents developed under the terms of this Agreement to the Client. Upon receipt of all other information and documents, Client shall pay Consultant for services performed prior to the effective date of the termination.

3.3.2 Termination without Cause

Either party may, at its sole discretion, terminate this Agreement without cause at any time. In the event of such

termination, the terminating party will promptly notify and confirm the termination in writing to the other party. The termination will be effective seven (7) days after delivery of written notice thereof. Upon termination, Consultant shall prepare a progress report, including information as to all the services performed by Consultant and the status of the services as of the date of the termination, and provide information and documents developed under the terms of this Agreement to the Client upon receipt of final payment.

3.4 Payment for Work Upon Abandonment or Agreement Termination

If Client abandons requested work or terminates this Agreement, Consultant shall be paid on the basis of work completed to the date of abandonment or effective date of termination. Consultant shall perform no activities other than reasonable wrap-up activities after receipt of notice of abandonment or termination. Payment for the work shall be as established under Section II.

SECTION 4 - General Considerations

4.1 Assignment and Responsibility for Personnel

4.1.1 The assignment of personnel and all phases of the undertaking of the services which Consultant shall provide hereunder shall be subject to the oversight and general guidance of Client.

4.1.2 While upon the premises of Client or property under its control, all employees, agents, and subconsultants of Consultant shall be subject to Client's rules and regulations respecting its property and the conduct of its employees thereon.

4.1.3 However, it is understood and agreed that in the performance of the work and obligations hereunder, Consultant shall be and remain an independent Consultant and that the employees, agents or subconsultants of Consultant shall not be considered employees of or subject to the direction and control of Client. Consultant shall be responsible for the supervision and performance of all subconsultants which are to perform hereunder.

4.2 Insurance

4.2.1 Consultant shall furnish Client a certificate of insurance upon request showing amounts and types of insurance carried by Consultant, which certificate shall contain a commitment by the Insurance Company that during the time any work is being performed by Consultant under this Agreement it will give Client notice of cancellation or non-renewal of the insurance coverage shown on such certificates in accordance with policy provisions.

4.2.2 Any construction contracts relative to Consultant's Services shall require that the Client and Consultant be included as additional insureds on the contractor's and contractor's subcontractors' commercial general liability and commercial automobile liability insurance policies and that the coverage afforded Client and Consultant is primary to any insurance maintained by Client or Consultant and that Client and Consultant's insurance is non-contributory with any coverage afforded by contractor and subcontractors. Client will also require contractor and all subcontractors to purchase and maintain workers' compensation and employer's liability insurance. Consultant will name the Client as additional insured on

Consultant's commercial general liability insurance.

4.3 Successors and Assigns

4.3.1 Client and Consultant each binds itself and its partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this Agreement.

4.3.2 Neither Consultant nor Client shall assign or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other party, except as stated in paragraph 4.3.1 and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Consultant from employing such independent consultants, associates, and subconsultants as it may deem appropriate to assist in the performance of services hereunder.

4.3.3 Nothing herein shall be construed to give any rights or benefits hereunder to any one other than Client and Consultant except as otherwise provided herein.

4.4 Compliance with Law

4.4.1 Consultant shall exercise the professional standard of care to comply with, and cause its subconsultants to comply with, applicable Federal, state, and local laws, orders, rules, and regulations in effect at the time services are rendered, and relating to the performance of the services Consultant is to perform under this Agreement. If the Scope of Services requires Consultant to prepare an application for a permit, Consultant does not represent or warrant that said permit or approval will be issued by any governmental body.

4.4.2 Neither the Consultant nor the Consultant's agents or employees shall discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hiring, tenure, terms, conditions, or privileges of employment, because of race, color, religion, sex, or national origin.

4.5 Ownership and Reuse of Documents

4.5.1 All drawings, specifications, test reports, and other materials and work products which have been prepared or furnished by Client prior to this Agreement shall remain Client's property. Consultant shall be permitted to rely on Client furnished documents and Client shall make available to Consultant copies of these materials as necessary for the Consultant to perform the services requested hereunder.

4.5.2 All drawings, specifications, test reports, and other materials and work products, including computer aided drawings, designs, and other data filed on electronic media which will be prepared or furnished by Consultant (and Consultant's independent professional associates and subconsultants) under this Agreement, are instruments of service in respect to the Project and Consultant shall retain

an ownership and property interest therein whether or not the Project is completed. Client may make and retain copies for information and reference in connection with the use and the occupancy of the Project by Client and others; however, such documents are not intended or represented to be suitable for reuse by Client or others acting on behalf of Client on extensions of the Project or on any other project. Further, Consultant makes no warranty as to the compatibility of computer data files with computer software and software releases other than that used by Consultant in performing services herein, and to the condition or availability of the computer data after an acceptance period of thirty (30) days from delivery to Client. Any reuse without written verification or adaptation by Consultant for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Consultant or to Consultant's independent professional associates or subconsultants, and Client shall indemnify and hold harmless Consultant and Consultant's independent professional associates and subconsultants from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle Consultant to further compensation at rates to be agreed upon by Client and Consultant.

4.6 Consultant's Personnel at Project Site

4.6.1 The presence or duties of the Consultant personnel at a Project site, whether as onsite representatives or otherwise, do not make the Consultant or its personnel in any way responsible for those duties that belong to the Client and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the project documents and any health or safety precautions required by such construction work. The Consultant and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor or other entity or any other persons at the site except Consultant's own personnel.

4.6.2 To the extent Consultant's Scope of Work includes construction observation, the Consultant shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. Consultant neither guarantees the performance of the contractor(s) nor assumes responsibility for contractor(s)' failure to perform their work in accordance with the project documents.

4.7 Opinions of Cost, Financial Considerations, and Schedules

In providing opinions of cost, financial analyses, economic

feasibility projections, and schedules for the Project, the Consultant has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions. Consultant's opinions of probable Total Project Costs and Construction Costs provided for herein as appropriate are made on the basis of Consultant's experience and qualifications and represent Consultant's judgments as an experienced and qualified professional consultant familiar with the construction industry. Consultant makes no warranty that the Client's actual Total Project or Construction Costs, financial aspects, economic feasibility, or schedules will not vary from the Consultant's opinions, analyses, projections, or estimates. If Client wishes greater assurance as to any element of the Total Project or Construction cost, feasibility, or schedule, Client will employ an independent cost estimator, contractor, or other appropriate advisor.

4.8 Discovery of Unanticipated Pollutant and Hazardous Substance Risks

4.8.1 If Consultant, while performing the services, discovers pollutants and/or hazardous substances that pose unanticipated risks, it is hereby agreed that the scope of services, schedule, and the estimated cost of Consultant's services will be reconsidered and that this Agreement shall immediately become subject to renegotiation or termination.

4.8.2 In the event that the Agreement is terminated because of the discovery of pollutants and/or hazardous substances posing unanticipated risks, it is agreed that Consultant shall be paid for its total charges for labor performed and reimbursable charges incurred to the date of termination of this Agreement, including, if necessary, any additional labor or reimbursable charges incurred in demobilizing.

4.8.3 Client also agrees that the discovery of unanticipated pollutants and/or hazardous substances may make it necessary for Consultant to take immediate measures to protect health and safety. Consultant agrees to notify Client as soon as practically possible should unanticipated pollutants and/or hazardous substances be suspected or encountered. Client authorizes Consultant to take measures that in Consultant's sole judgment are justified to preserve and protect the health and safety of Consultant's personnel and the public. Client agrees to compensate Consultant for the additional cost of taking such additional precautionary measures to protect employees' and the public's health and safety. This section is not intended to impose upon Consultant any duties or obligations other than those imposed by law.

SECTION 5 - Professional Responsibility

5.1 Performance of Services

Consultant shall perform its services consistent with the professional skill and care ordinarily provided by firms practicing in the same or similar locality under the same or similar circumstances (hereinafter the "Standard of Care"). Consultant expressly disclaims all express or implied warranties and guarantees with respect to the performance of professional services, and it is agreed that the quality of

such services shall be judged solely as to whether the services were performed consistent with the Standard of Care. Consultant owes Client only that level of performance defined in this Section 5.1, and nothing herein shall be construed as creating a fiduciary relationship.

If at any time prior to construction Client believes Consultant's services are deficient due to not meeting the Standard of Care, Client must immediately inform Consultant in writing and shall afford Consultant the opportunity to correct such deficiency. If, upon review by Consultant it is determined the deficiency is attributable to Consultant, the deficiency shall be corrected at no additional cost to Client.

5.2 Limitation of Liability

Client and Consultant agree to allocate certain of the risks so that, to the fullest extent permitted by law, Consultant's total liability to Client is limited to the amount paid under the contract or \$50,000 whichever is greater, this being the Client's sole and exclusive remedy for any and all injuries, damages, claims, losses, expenses, or claim expenses (including attorney's fees) arising out of this Agreement from any cause or causes. Such causes include, but are not limited to, Consultant's negligence, errors, omissions, strict liability, breach of contract, or breach of warranty.

5.3 No Special or Consequential Damages

Client and Consultant agree that to the fullest extent permitted by law neither party shall be liable to the other for any special, indirect, or consequential damages whatsoever, whether caused by either party's negligence, errors, omissions, strict liability, breach of contract, breach of warranty, or other cause or causes.

5.4 Indemnification

To the fullest extent permitted by law, Client and Consultant mutually agree to indemnify and hold each other harmless from and against any and all claims, damages, losses and expenses, defense costs including reasonable attorneys' fees, and court or arbitration costs and other liabilities arising from their own negligent acts, errors or omissions in performance of their services under this Agreement, but only to the extent caused that each party is responsible for such damages, liabilities and costs on a comparative basis of fault.

5.5 No Third Party Beneficiaries

Client and Consultant expressly agree that Agreement does not confer upon any third party any rights as beneficiary to this Agreement. Consultant accepts no responsibility for damages, if any, suffered by any third party as the result of a third party's use of the work product, including reliance, decisions, or any other action taken based upon it.

Client agrees that Consultant's services and work products are for the exclusive present use of Client. Client agrees that Consultant's compliance with any request by Client to address or otherwise release any portion of the work product to a third party shall not modify, rescind, waive, or otherwise alter provisions of this Agreement nor does it create or confer any third party beneficiary rights on any

third party.

SECTION 6 - Miscellaneous Provisions

6.1 Notices

Any notice to either party herein shall be in writing and shall be served either personally or by registered or certified mail addressed to the signing party shown on the signature page.

6.2 Joint Preparation

For purposes of contract interpretation and for the purpose of resolving any ambiguity in this Agreement, the parties agree that this Agreement was prepared jointly by them and/or their respective attorneys.

6.3 Headings

Headings used in this Agreement are for the convenience of reference only and shall not affect the construction of this Agreement

6.4 Severability

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

6.5 Dispute Resolution

If negotiation in good faith fails to resolve a dispute within thirty (30) days of written notice of the dispute by either party, then the parties agree that each dispute, claim or controversy arising from or related to this Agreement or the relationships which result from this AGREEMENT shall be subject to mediation as a condition precedent to initiating legal or equitable actions by either party. Unless the parties agree otherwise, the mediation shall be in accordance with the Commercial Mediation Procedures of the American Arbitration Association then currently in effect. A request for mediation shall be filed in writing with the American Arbitration Association and the other party. No legal or equitable action may be instituted for a period of ninety (90) days from the filing of the request for mediation unless a longer period of time is provided by agreement of the parties. Cost of mediation shall be shared equally between the parties and shall be held in a location mutually agreed upon by the parties. The parties shall memorialize any agreement resulting from the mediation in a mediated settlement agreement, which agreement shall be enforceable as a settlement in any court having jurisdiction thereof.

During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder. Any dispute not resolved through mediation shall be subject to litigation in a court of competent jurisdiction in the state in which the project is located.

6.6 Equal Opportunity

Consultant will, in the performance of this Agreement, comply with federal, state, and local laws, and all

regulations and orders issued under any applicable law related to equal employment opportunity, non-discrimination, or employment generally.

Consultant certifies that it will not knowingly employ or contract with a non-legal resident of the United States to perform work under this Agreement, and verifies or attempts to verify employee eligibility of its employees through participation in the U.S. Department of Homeland Security and Social Security Administration's E-Verify system.

6.7 Governing Law

This Agreement is to be governed by the laws of the jurisdiction in which the project is located. For locations outside of the United States, this Agreement shall be governed by the laws of the State of Illinois.

6.8 Entire Agreement

This Agreement, along with those documents specified, attached, or hereby cited together, and serially numbered Work Authorizations if used, constitute the entire Agreement between the parties hereto and no changes, modifications, extensions, terminations, or waivers of this agreement, or other documents, or any of the provisions herein, or therein contained, shall be valid unless made in writing and signed by duly authorized representatives of both parties.

SUPPLEMENTAL CONDITIONS FOR SURVEY, ENVIRONMENTAL OR GEOTECHNICAL SERVICES

Supplemental Condition is incorporated herein when the applicable box is checked.

S.1 Location of Underground Utilities

It shall be the Client's responsibility to locate and physically mark all underground utilities and structures which lie within the work area prior to the start of subsurface investigations. If the Client elects not to assume this responsibility, Client shall notify Consultant and shall compensate Consultant for all costs associated with locating and physically marking said underground utilities and structures over and above the estimated project fee. Client shall indemnify and hold Consultant harmless from any damages and delays resulting from unmarked or improperly marked underground utilities and structures. For reasons of safety, Consultant will not begin work until this has been accomplished.

S.2 Subsurface Investigations

In soils, foundation, groundwater, and other subsurface investigations, the actual characteristics might vary significantly between successive test points and sample intervals and at locations other than where observations, exploration, and investigations have been made. Because of the inherent uncertainties in subsurface evaluations, changed or unanticipated underground conditions may occur that could affect Project cost and/or execution. These conditions and cost/execution effects are not the responsibility of the Consultant.

S.3 Disposition of Samples and Equipment

S.3.1 Disposition of Samples

No samples and/or materials will be kept by Consultant

longer than thirty (30) days after submission of the final report unless agreed otherwise.

S.3.2 Hazardous or Potentially Hazardous Samples and Materials

In the event that samples and/or materials contain or are suspected to contain substances or constituents hazardous or detrimental to health, safety, or the environment as defined by federal, state, or local statutes, regulations, or ordinances, Consultant will, after completion of testing, return such samples and materials to Client, or have the samples and materials disposed of in accordance with Client's directions and all applicable laws. Client agrees to pay all costs associated with the storage, transportation, and disposal of samples and materials. Client recognizes and agrees that Consultant at no time assumes title to said samples and materials, and shall have no responsibility as a handler, generator, operator, transporter, or disposer of said samples and materials.

S.3.3 Contaminated Equipment

All laboratory and field equipment contaminated in Consultant's performance of services will be cleaned at Client's expense. Contaminated consumables will be disposed of and replaced at Client's expense. Equipment (including tools) which cannot be reasonably decontaminated shall become the property and responsibility of Client. At Client's expense, such equipment shall be delivered to Client, or disposed of in the same manner specified in S.3.2 above. Client agrees to pay Consultant the fair market value of any such equipment which cannot reasonably be decontaminated and is delivered to Client pursuant to this Agreement.

ATTACHMENT A

Scope of Services

Amendment No. 1 Construction Services – 2022 Chip Seal Project

Benesch Project Number 112221.03

TASK 1. Construction Phase Services

General Construction Project Management, Staking, Inspection, Material Testing and Closeout Services

a. Project Management Tasks

- i. Project Files
 - Set up, utilize, and maintain appropriate project files related to the project with an electronic file system. Included in the files will be all project correspondence, change orders, meeting minutes, contracts, plans and specifications, traffic control plans (if applicable), RFIs, material certifications, test reports, inspector's Daily Reports and project schedule.
- ii. Shop Drawing Submittal Review
 - Responsible for logging in, reviewing, commenting, and approving Contractor submitted Shop Drawings related to the project.
- iii. Schedule and conduct a pre-construction meeting.
- iv. Contractor Payments
 - Unless otherwise scheduled by the City's Project Manager or Contractor, monitor by infrequent site visits that the work associated with a payment request by the Contractor is accurate and complete. The generation of progress payments to the Contractor will be completed by the Contractor for approval by Benesch.
- v. Construction Contract Change Orders and Work Change Directives
 - Prepare Contract Change Orders (modifications) and Work Change Directives associated with the project for the City Project Manager's approval.
- vi. Correspondence
 - Provide the following correspondence for the City's records:
 - Weekly project-based construction testing results and status reports of construction progress by Monday morning the following week.
 - Contractor progress estimates.
 - Change Orders (Contract Modifications).

b. Project Inspection & Observation Tasks

Benesch or their sub-consultant will observe and verify construction compliance with contract documents for critical items such as embankment, bedding, backfill, concrete box culvert construction, subgrade prep and paving with visual inspection and/or material testing before the work is "covered up". Limited observation will be provided during non-critical activities such as excavation, removals, reinforcing steel placement, forming, etc. This list is not inclusive of all tasks or inspections that will be completed by Benesch or their sub-consultant. Benesch will work closely with the city to adjust inspection hours as necessary to accommodate the Contractor's schedule and progress.

- i. Document pre-construction conditions of the project site with photos for comparison and any dispute resolution during and/or after construction.

- ii. Document all inspections in the field by photos, measurements, computations and/or observations as logged within the Inspector's Daily Reports (IDRs).
- iii. Prepare and keep detailed notes, records of quantities of pay items used in the work, test results, certifications, or basis of acceptance of these materials, and a record of the contractor's operations.
- iv. Inform Contractor at the pre-construction meeting that water shutdowns will be coordinated by the Inspector.
- v. Coordinate with the Contractor to discuss work performed when not on-site for proper documentation and inclusion in the IDRs.
- vi. Provide random/periodic review compliance of traffic control and ADA signing maintenance throughout the duration of the project, if necessary. Specifically, at the beginning, phase changes, storm events and end of the project. Benesch will report any known deficiencies but is not responsible for part/full time inspection unless approved by written request of the City Project Manager.
- vii. Verify that materials sources incorporated into the project are on the latest version of the city and/or NDOR Approved Products List.
- viii. Participate in Contractor led progress meetings as needed using agreed on agenda format.
- ix. Consult with the City Project Manager regarding project changes, property owner notification, change authorizations and change orders.
- x. Observe chip seal applications being constructed accurately and conduct consultation with City Project Manager regarding deviations.
- xi. Randomly observe pavement repair and crack sealing throughout construction.
- xii. QA/QC the traffic control for this moving operation.
- xiii. Provide lane marking designation and observe lane marking construction.
- xiv. Inform and verify field modifications with the City's Project Manager prior to authorization of work.

c. Material Testing Tasks

Benesch or their sub-consultant will provide, perform, or otherwise coordinate material sampling and testing services in accordance with the City of Grand Island standard procedures. The following list identifies the testing assumed to be required along with the frequency expected and included in this scope of work. Additional testing may be provided in addition to or in place of those tests listed below. Benesch will notify and gain prior approval from the City if additional testing is required that may exceed the fee identified for these services.

- i. Asphalt repair and emulsified oil testing– Repair material and oil will be tested to verify compliance with requirements.
 - a. Assumes Testing up to daily Frequency.
 - b. This material testing is completed by the hour by a field engineer/technician.
- ii. Chip Seal Rate testing – The application rate of chip seal will be verified for compliance with NDOT requirements during the operation.
 - a. Assumes Testing base on field observation.
 - b. This material testing is completed by the hour by a field engineer/technician.
- iii. Gradation of Shale Sampling - This will include taking truck tickets, collection of shale samples to the laboratory and gradation testing.
 - a. Assumes Testing will be done twice at random sampling.
 - b. This material testing is completed by a per hour by a field engineer/technician.
- iv. Lane Marking Testing - This will reflectivity and paint testing.
 - a. Assumes Reflectivity Testing will be done at random sampling.
 - b. This material testing is completed by a per hour by a field engineer/technician

d. Project Closeout Tasks

Upon notice of completion by the Contractor, Benesch will field measure and prepare final summaries for all applicable items of work. The City's Project Manager will review the project records prior to the submission of a final pay estimate for the project. Benesch will also prepare

and submit the Final Pay Estimate and records associated with the project. The final records will be printed and an electronic format of all the project records. Tasks to be completed during the project closeout include:

- i. Document "punch list" items and follow-up on resolution of nonconforming work prior to authorizing final payment.
- ii. Prepare necessary correspondence to the Contractor related to punch list and project completion.
- iii. Conduct project walk through with the city and the Contractor to determine and document substantial completion.
- iv. Benesch will prepare the record drawings and will coordinate with the Construction Contractor for additional information or clarifications needed to complete the documents. These documents will have handwritten changes and clarifications in red pen. These documents will not be signed and sealed by an Engineer. An electronic AutoCAD base file will be provided with the plan submittal.
- v. Provide timely project closeout documentation upon final acceptance of the project.
- vi. Deliverables
 - Meeting minutes.
 - Inspector Daily Reports (IDR).
 - Project photo log.
 - Project material testing results.
 - Pressure testing and bacteriological testing records provided by the City and Contractor.
 - Documentation of punch list items and resolution with associated correspondence.
 - Declaration of substantial and final completion.
 - Record drawings.
 - All project documentation listed in this section and an electronic format of all project files.
- vii. Complete a project debriefing with City.

e. *Excluded Services*

- i. Additional Design services.
- ii. Daily Inspection and Enforcement of traffic control plans and maintenance.
- iii. Utility coordination for the Contractor.
- iv. Administration of NPDES (SWPPP) permit adherence.
- v. Undertaking any of the responsibilities of the Contractor.
- vi. Giving direction to the Contractor by dictating means, methods, techniques, sequence or procedures of construction.

SCHEDULE

Benesch shall provide the services stated above in accordance with a schedule set forth below:

Benesch will complete construction management and inspection services as listed in subsection one (1) above. The inspection duration for this contract shall be based on 30 Working Days. Assumes Monday thru Friday Construction Days at 8 Hours/Day including field inspection, testing, bookwork/reports and travel and based on the Construction Contractor estimated schedule. Project close-out documents shall be completed within sixty (60) calendar days of final acceptance of the project by all parties.

Fee Estimate
Construction Phase Services
2022 York Chip Seal Project - York, NE

Description	Estimated Quantity	Unit Price	Amount
Construction Phase Services			
a. Project Management			
Senior Project Manager	10.0 hr.	\$ 214.00 /hr.	\$ 2,140.00
b. Project Inspection & Observation			
Field Inspection (30 days @ 8 hrs/day)	240.0 hr.	\$ 102.00 hr	\$ 24,480.00
Special Inspections (Senior Construction Tech Rep)	24 hr	\$ 133.00 hr	\$ 3,192.00
Vehicle	30 dy	\$ 65.00 dy	\$ 1,950.00
c. Materials Laboratory Testing			
Asphaltic Repair Testing	8.0 hr.	\$ 96.00 hr	\$ 768.00
Emulsified Asphalt Testing	10.0 hr.	\$ 96.00 hr	\$ 960.00
Gradation of Expanded Shale	8.0 hr.	\$ 90.00 hr	\$ 720.00
Lane Marking reflectivity Testing	8.0 hr.	\$ 102.00 hr	\$ 816.00
Chip Seal Rate Testing	8.0 hr.	\$ 102.00 hr	\$ 816.00
Vehicle	4.0 dy	\$ 65.00 dy	\$ 260.00
d. Project Closeout			
Senior Project Manager	2.0 hr.	\$ 214.00 /hr.	\$ 428.00
Designer 2	4.0 hr.	\$ 102.00 hr	\$ 408.00
Construction Services Not to Exceed :	322		\$ 36,938



2022 EMPLOYMENT CLASSIFICATION AND RATE SCHEDULE

<u>CLASSIFICATION</u>	<u>BILLABLE RATE</u>	<u>CLASSIFICATION</u>	<u>BILLABLE RATE</u>
Project Manager I	\$164.00	Resident Project Manager I	\$147.00
Project Manager II	\$186.00	Resident Project Manager II	\$164.00
Senior Project Manager	\$214.00	Senior Resident Project Manager	\$186.00
Project Principal	\$265.00		
		Construction Representative I	\$90.00
Project Engineer I	\$118.00	Construction Representative II	\$102.00
Project Engineer II	\$133.00	Construction Representative III	\$118.00
Senior Project Engineer	\$164.00		
		Inspector I	\$78.00
Designer I	\$90.00	Inspector II	\$90.00
Designer II	\$102.00	Sr Inspector	\$102.00
Project Scientist I	\$102.00	Construction Technical Rep I	\$90.00
Project Scientist II	\$118.00	Construction Technical Rep II	\$102.00
Project Scientist III	\$133.00	Construction Technical Rep III	\$118.00
Senior Project Scientist	\$147.00	Senior Construction Technical Rep	\$133.00
		Construction Technical Rep Manager	\$147.00
Scientist I	\$78.00		
Scientist II	\$90.00	Intern	\$67.00
		Field/Lab Technician I	\$67.00
Geologist I	\$90.00	Field/Lab Technician II	\$74.00
Geologist II	\$96.00	Field/Lab Technician III	\$80.00
Senior Geologist	\$106.00	Senior Field/Lab Technician	\$90.00
		Field/Lab Technician Manager	\$96.00
Technologist I	\$78.00		
Technologist II	\$102.00	Instrument Operator	\$78.00
Senior Technologist	\$133.00	Party Chief	\$90.00
		Surveyor (RLS)	\$118.00
Technical Specialist I	\$102.00	Senior Surveyor (RLS)	\$133.00
Technical Specialist II	\$133.00		
Senior Technical Specialist	\$164.00	Marketing Assistant	\$78.00
		Marketing Coordinator	\$90.00
Office Assistant	\$67.00	Marketing Manager	\$147.00
Project Assistant I	\$67.00		
Project Assistant II	\$78.00		
Division Administrative Assistant I	\$67.00		
Division Administrative Assistant II	\$78.00		

CHANGE ORDER FORM

Change Order No. : 1

Project: York 2022 Chip Seal Project

Project No.: 112221.03

Client name City of York
York, Nebraska

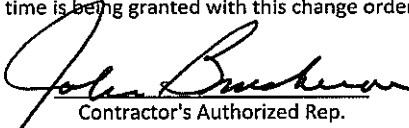
Contractor: TopKote, Inc
43439 South Hwy 50
Yankon, SD 57078

The above named Contractor agrees to make the following change(s) in the plans and specifications for the above referenced project.

- 1) Description and Reason Of Change(s) To Be Made: (See Page 2)
- 2) Settlement for the cost of the above change(s) is to be made as follows: (See Page 3)
- 3) Summary of Costs

	Original Contract Amount:	\$ 537,311.70
	(Strike One Not Applying)	
	Net INCREASE/DECREASE of this Change Order:	\$ 15,000.00
Total Increase/Decrease of All Previous Change Orders & Supplemental Agreements		\$ -
Overall Net Change Of All Change Orders & Supplemental Agreements To Date		\$ 15,000.00
Total New Revised Contract Cost		\$ 552,311.70

- 4) Contract Time:
No additional time is being granted with this change order.

Agreed To By: <u></u> Contractor's Authorized Rep.	<u>President</u> Title	<u>3/30/2022</u> Date
Agreed To By: _____ Sponsor's Authorized Rep.	_____ Title	_____ Date

Note: This Change Order Is NOT Effective Until Approved In Writing
Distribution: City of York, Engineer And Contractor

1) DESCRIPTION AND REASONS OF CHANGE(S) TO BE MADE

1) Additional 20,000 LF of Crack Seal Bituminous Surfacing

2) SETTLEMENT FOR THE COST OF THE ABOVE CHANGE(S) IS TO BE MADE AS FOLLOWS:

Change Above	Item	Description	Unit	Approx. Quant.	Unit Price	Amount
Add	CO1-1	Item 18: Crack Seal Bituminous Surfacing	LF	20000.0	\$ 0.75	\$ 15,000.00
NET CHANGE PER THIS C.O.:						\$ 15,000.00

ORDINANCE NO. 2323

AN ORDINANCE OF THE CITY OF YORK, NEBRASKA TO AUTHORIZE THE SALE AND CONVEYANCE OF CERTAIN REAL ESTATE IN THE CITY OF YORK, NEBRASKA MORE PARTICULARLY DESCRIBED AS HEREIN SET FORTH, AND PROVIDING FOR THE PUBLICATION OF NOTICE OF SUCH CONVEYANCE AND THE TERMS THEREOF; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF YORK, NEBRASKA:

Section 1. Pursuant to Neb. Rev. Stat. §16-202 (Cum. Supp. 2020) the Mayor and City Clerk are hereby directed to execute and deliver a Municipal Deed for the following described real estate owned by the City of York, Nebraska to Bgin Infrastructure LLC, a Delaware corporation, as set forth herein.

Section 2. The real estate to be conveyed is described as follows:

The North Half (N $\frac{1}{2}$) of Irregular Tract No. 23 in the Northeast Quarter of Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Thirty-six (36), Township Eleven (11) North, Range Three (3) West of the 5th P.M., in York County Nebraska.

Section 3. Such real estate shall be conveyed by the City of York to Bgin Infrastructure LLC., in exchange for the purchase price of Twelve Thousand Five Hundred Dollars and no/100 (\$12,500.00) per acre.

Section 4. Notice of such sale and conveyance of real estate and the terms thereof shall be published for three consecutive weeks in the York News-Times as required by law.

Section 5. All ordinances and parts of ordinances in conflict herewith are repealed.

Section 6. This ordinance shall take effect and be in full force and effect from and after its passage, approval, publication, and remonstrance as required bylaw.

PASSED AND APPROVED by the York City Council this 7th day of April, 2022.

Barry Redfern, Mayor

ATTEST:

Amanda Ring, York City Clerk

PROCLAMATION

SMALL BUSINESS WEEK

May 1-7, 2022

WHEREAS, the City of York recognizes and values the dedication and entrepreneurial spirit within our community; and

WHEREAS, small businesses are the backbone of York's economy; and

WHEREAS, small businesses keep our communities, the State of Nebraska, and America's economies growing strong; and

WHEREAS, more than half of Americans either own or work for a small business and strive to create an ideal community to live, work, and play; and

WHEREAS, the President of the United States has proclaimed National Small Business Week every year since 1963 to recognize the critical contributions of America's entrepreneurs and small business owners; and

WHEREAS, the U.S. Small Business Administration takes the opportunity during National Business Week to focus on the impact of outstanding entrepreneurs, small business owners, and others from all 50 states and territories; and

WHEREAS, The City of York supports and joins in this national effort to help America's small businesses grow, create jobs, and ensure that our communities remain as vibrant tomorrow as they are today; and

NOW THEREFORE BE IT RESOLVED, the City of York, hereby recognizes May 1-7, 2022, as "National Small Business Week" and reminds individuals of the importance of this community celebration, which acknowledge and celebrate the achievements made by small businesses, both locally and nationally.

PROCLAMATION

ECONOMIC DEVELOPMENT WEEK

May 9 - May 13, 2022

Whereas, the International Economic Development Council is the largest professional economic development organization dedicated to serving economic developers, and

Whereas, the International Economic Development Council provides leadership and excellence in economic development for communities, members, and partners through conferences, training courses, advisory services and research, in-depth publications, public policy advocacy, and initiatives such as the Accredited Economic Development Organization program, the Certified Economic Developer designation, and the Entrepreneurship Development Professional, and

Whereas, economic developers promote economic well-being and quality of life for their communities by creating, retaining, and expanding jobs that facilitate growth, enhance wealth, and provide a stable tax base, and

Whereas, economic developers stimulate and incubate entrepreneurship in order to help establish the next generation of new businesses, which is the hallmark of the American economy, and

Whereas, economic developers are engaged in a wide variety of settings including rural and urban, local, state, provincial, and federal governments, public-private partnerships, chambers of commerce, universities, and a variety of other institutions, and

Whereas, economic developers attract and retain high-quality jobs, develop vibrant communities, and improve the quality of life in their regions, and

Whereas, economic developers work in the City of York within the State of Nebraska.

NOW THEREFORE BE IT RESOLVED, that the City of York recognizes the week of May 9 through May 13, 2022, as Economic Development Week, and remind individuals of the importance of this community celebration which supports expanding career opportunities and making lives better.