

Approve engineering agreement

**VILLAGE OF WATERLOO
RESOLUTION NO. 09-11-23-11**

WHEREAS, the Board of Trustees believe it's in the best interest of the Village to complete a street improvement project; and

WHEREAS, JEO has submitted an agreement to provide engineering services for this project.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WATERLOO, NEBRASKA, AS FOLLOWS:

THAT, the attached engineering agreement with JEO is hereby approved for the 2023 Street Improvement Project.

PASSED THIS 11 DAY OF September, 2023

ATTEST:

Melissa Smith
Melissa Johnson Smith
Clerk



Travis Harlow
Chairperson



**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of September 11, 2023 ("Effective Date") between Village of Waterloo ("Owner") and JEO Consulting Group, Inc. ("Engineer").

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

Waterloo 2023 Improvements (Asphalt Overlay) ("Project").

JEO Project Number: 221790.00

Owner and Engineer further agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

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

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 Owner Responsibilities

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

ARTICLE 3 - COMPENSATION

3.01 Compensation

- A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.
- B. The fee for the Project is: As noted in Exhibit A, Fee Schedule.
- C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

4.01 Exhibits

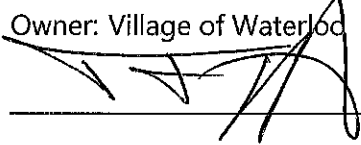
Exhibit A – Scope of Services
Exhibit B – General Conditions

4.02 Total Agreement

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

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

Owner: Village of Waterloo



By: Travis Harlow

Title: Chairman

Date Signed: September 11, 2023

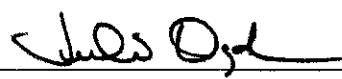
Address for giving notices:

Village of Waterloo

509 South Front Street, PO Box 127

Waterloo, NE 68069

Engineer: JEO Consulting Group, Inc.



By: Julie Ogden, PE

Title: Project Manager

Date Signed: September 5, 2023

Address for giving notices:

JEO Consulting Group, Inc.

1937 N Chestnut Street

Wahoo, NE 68066

SCOPE OF SERVICES

PROJECT DESCRIPTION:

The project includes Design, Bidding, Construction Administration, and RPR services necessary to overlay a variety of streets across the Village. A map of the proposed locations is provided in Attachment 1 to Exhibit A. Locations that require patching will be repaired prior to the overlay. Valley gutters damaged may be identified for replacement but no survey or design is being provided as part of this scope. In addition, the project bid will include locations across the Village to add a microsurfacing or seal coat to previously overlaid streets. No design services will be provided for any microsurfacing or seal coat streets, only quantity tabulations for the purpose of Contractor procurement.

DESIGN PHASE:

- A. Aerial Maps will be used to prepare the plans for the asphaltic overlay and microsurfacing project.
- B. Coordinate a subsurface investigation to perform pavement cores to determine the depth and type(s) of the existing pavement. This will be contracted directly with the Owner. If the subsurface exploration effort yields a result not sustainable with an asphalt overlay, next steps will be negotiated with the village for a change of scope and fee. This may also include a change in project area to fit within the available budget.
- C. Prepare 60% plans, technical specifications, and opinion of probable cost for the project. The 60% plans to include the following:
 - a. Title Sheet
 - b. Abbreviation Sheet
 - c. Project Location Sheet
 - d. Construction/Removal Sheet
 - e. Details Sheets
 - f. Identification of any Village owned utilities in conflict with project improvements.
- D. Conduct an internal 60% QA/QC of the project documents and incorporate necessary revisions.
- E. Meet with the Owner to review the proposed street and storm sewer improvements based on the 60% complete design. **(1 Meeting)**
- F. Revise drawings and technical specifications following receipt of 60% review comments from internal QA/QC and comments from 60% design review by Owner.
- G. Prepare 90% plans, contract/bid documents, and technical specifications for the project improvements.
- H. Conduct an internal 90% QA/QC of the project documents and incorporate necessary revisions.
- I. Create final drawings and specification package and sign and seal by engineer and a coordinating professional all registered in the State of Nebraska.
- J. Provide project management oversight over all facets and phases of the project. Project management shall include the following services:
 - a. Coordination of design disciplines including facilitating communication and transfer of documents between disciplines to minimize errors in the plans and specifications as well as ensure a timely project design.
 - b. Provide timely and coordinated communication to and from the Owner for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.
 - c. Review billed hours by design team and prepare invoice statements for Owner.

BIDDING AND NEGOTIATION PHASE:

- A. Furnish copies of plans, specifications, and contract documents of the project to prospective bidders, material suppliers, and other interested parties upon their request and payment of the purchase cost established for the documents.
- B. E-mail notices to prospective contractors and supply local plan houses with project information.
- C. Respond to inquiries from prospective bidders and prepare any addenda required.
- D. Assist the Owner at the bid opening. **(1 Meeting)**
- E. Tabulate and analyze construction bids and report on them to the Owner, together with advice and assistance to the Owner in award of construction contract.
- F. Prepare and submit necessary information to the Owner for project award approval. Attend Village Board Meeting for award of contract. **(1 Meeting)**
- G. Prepare contract documents for execution by Contractor and the Owner, and approval Owner and Owner's legal and insurance counsel.

CONSTRUCTION ADMINISTRATION PHASE:

- A. Schedule and conduct a pre-construction meeting for the project. **(1 Meeting)**
- B. Provide interpretation of the plans and specifications, when necessary.
- C. Review Contractor's progress payment requests and provide to Owner for review and approval. Prepare change orders as required during project to adjust quantities for actual work completed and/or changes in project work.
- D. Review Contractor's final payment estimate and provide to Owner for review and approval.
- E. Make up to two (2) site visits for the improvements.
- F. Consult with and advise Owner during construction.
- G. Review materials testing results. Asphaltic Materials Testing to be part of the construction contract. Concrete Testing and Soil Compaction Materials Testing by the Owner.
- H. Conduct a final inspection of project with the Contractor and Owner.
- I. Recommend to the Owner the acceptance of the project and complete the necessary certificates.
 - a. These recommendations will be based on the Engineer's observation of construction utilizing professional judgment and accepted tests to determine that the Contractor has completed their contracts in substantial compliance with the plans, specifications, and contract documents.
 - b. Final acceptance documentation may be the final pay application.
- J. Post Construction Phase Services. To be prepaid at the conclusion of project acceptance and executed over the following 11-months.
 - a. 11-month on site review with Owner and Contractor.
 - b. Prepare As-Built plans for Village records.

RESIDENT PROJECT REPRESENTATIVE (RPR) & CONSTRUCTION STAKING:

- A. JEO will furnish up to 150 hrs (15 hrs/week for 10 weeks) of part-time Resident Project Representative (RPR) to spot check construction progress and quality of the work. Owner has indicated their staff can provide the day to day observation of the project.
- B. The duties and responsibilities of the RPR are generally described as follows:
 - a. Review of contractors work for general compliance with the plans and specifications.

Exhibit A – 2023 Street Improvements, Asphalt Overlay (JEO #221790)

- b. Complete Construction Observation Reports when on site.
- c. Review of materials delivered to the site for specification compliance.
- d. Assist the Engineer in interpretation of the plans and specifications to the contractor.
- e. Review and coordinate materials testing by assigned testing firm.
- f. Compile records for use in preparing record drawings.

ADDITIONAL SERVICES, NOT INCLUDED (BUT CAN BE NEGOTIATED UPON REQUEST):

- A. Environmental reviews and/or permitting, such as bird survey's or wetland delineations.
- B. Permits of any kind, which may include, but not be limited to:
 - SWPPP
 - Floodplain Permit
 - US Army Corps of Engineers Section 404 or 408 Permits
- C. Contracting for any geotechnical investigation, geotechnical report, and/or other material testing services.
- D. Design of any public or private utility relocations or improvements, including but not limited to storm, sanitary, or water.
- E. Preparation of easement agreements and/or exhibits and/or payment to property owners.
- F. Payment of any review and/or permitting fees.
- G. Meetings not outlined in the scope of services.
- H. Updates to existing or proposed utility or infrastructure maps or as-built systems.
- I. Sprinkler/irrigation systems design or relocation. Any work necessary will be the Contractor's responsibility.
- J. Assessments, district creation, bonding, or other related financial focused tasks.

VILLAGE TO PROVIDE THE FOLLOWING INFORMATION OR SERVICES:

- A. Assist with utility conflict resolution and provide additional utility record information, as needed.
- B. Allow access to the project site as needed.
- C. Provide responses to questions in a timely manner.
- D. Provide property ownership legal descriptions if requested.
- E. Prepare and execute documents for obtaining any necessary easements.
- F. Provide daily oversight of construction work.

FEE SCHEDULE:

	<u>FIXED FEE</u>	
A.	Design Phase	\$59,900.00
B.	Bidding and Negotiations Phase	<u>\$ 4,250.00</u>
	<i>Subtotal Lump Sum</i>	<i>\$64,150.00</i>
	<u>HOURLY 'NOT TO EXCEED'</u>	
A.	Construction Administration Phase	\$11,750.00
B.	Resident Project Representative (RPR)	<u>\$19,200.00</u>
	<i>Subtotal Hourly NTE</i>	<i>\$30,950.00</i>
	Total Estimated Project Fee	\$95,100.00

Exhibit A – 2023 Street Improvements, Asphalt Overlay (JEO #221790)

ESTIMATED TIME FRAME:

- | | | |
|----|-----------------------------------|--|
| A. | Design Phase | September 18, 2023 |
| B. | Bidding and Negotiations | January 2024 |
| C. | Construction Administration Phase | Summer/Fall 2024 (est. 10 weeks of work) |

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

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

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

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

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

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the owner has requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

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

If the owner fails to make any payment due to JEO for services

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

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

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

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

8. ELECTRONIC FILES: Copies of Documents that may be relied upon by the owner are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text, data, graphics, or of other types that are furnished by JEO to the owner are only for convenience of the owner. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

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

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or

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computer hardware differing from those used by JEO at the beginning of the project.

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

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

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

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

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

11. INSURANCE: JEO shall procure and maintain the following insurance during the performance of services under this agreement:

- a. Workers' Compensation: Statutory
- b. Employer's Liability
 - i. Each Accident: \$500,000
 - ii. Disease, Policy Limit: \$500,000
 - iii. Disease, Each Employee: \$500,000
- c. General Liability
 - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
 - ii. General Aggregate: \$2,000,000
- d. Auto Liability
 - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or

damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.

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

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

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

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

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

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

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

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

15. PRECEDENCE: These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order,

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requisition, notice to proceed, or like document regarding JEO's services.

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

17. NON-DISCRIMINATION CLAUSE: Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev.

Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

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