

From: "Bob Missel" <bob@sampters.com>
To: "Lowell Schroeder" <Lowell@nenedd.org>, "Dodge County Clerk"
<Clerk@dodge.nacone.org>
Subject: RE: 2019 CDBG RLF EM approval letters Fremont & Dodge County
Date: 10/31/2019 4:52:50 PM

Appendix Item # 20a.
Date 11-6-2019

Lowell,

Thanks for all your hard work on this. Does Grant Hansen know this is going forward yet?

Bob

Bob Missel, Chairman

Dodge County Board of Supervisors

<http://www.dodgecounty.ne.gov>

402.317.7832

From: Lowell Schroeder <Lowell@nenedd.org>
Sent: Thursday, October 31, 2019 3:47 PM
To: Dodge County Clerk <Clerk@dodge.nacone.org>
Cc: Bob Missel <bob@sampters.com>
Subject: FW: 2019 CDBG RLF EM approval letters Fremont & Dodge County

Hello

It was great news that the Ames Dike repair project was selected for funded. Steve Charleston from Nebraska Department of Economic Development has been working to expediate all the paperwork which needs to be completed before construction can begin. These grants do not typically move along as fast! So we want to also move quickly so as the Corps of Engineers has a tight timeline to get the project completed before the potential for spring flooding.

You will be receiving the grant contract between the Nebraska Department of Economic Development and Dodge County. It will come in an email from Steve Charleston. I will review to make sure the dollar amounts are correct. You should forward to your County Attorney for review. If you or your Attorney has any questions, they can email or call me to discuss. Upon review, the County Board Chair should sign and date. When you passed the motion/resolution to apply for the grant, that also authorized the Board Chair to sign the grant contract. Then scan and email back to Steve Charleston.

The next thing that needs to be done is to approve the attached NENEDD grant administration contract. Since Dodge County is a member of NENEDD, you can contract with NENEDD directly without procuring for grant administration services. You should have this approval on your November 6 meeting agenda. I have attached a pdf document of the "NENEDD general grant administration Contract". You should also have your Attorney review. The CDBG grant funds will pay for all the NENEDD grant administration services with the grant budget.

Agenda item for your meeting:

Resolution _____ : Approving a Service/Consultant Agreement between the Dodge County and Northeast Nebraska Economic Development District for General Administration of Community Development Block Grant 19-EM-001

I have arranged to have Jeff Christensen from NENEDD attend your November 6 Board Meeting. He will be able to answer your questions regarding the NENEDD general administration contract. I have another meeting scheduled for that day so will not be able to attend. However if you have any questions you can call or email.

Lowell Schroeder | Community Planner

Northeast Nebraska Economic Development District

111 S 1st Street

Norfolk, NE 68701

office 402-379-1150 ext. 102

cell 402-843-6169

www.nenedd.org

RESOLUTION NO. _____

A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF A SERVICE/CONSULTANT AGREEMENT WITH NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT (NENEDD) FOR THE GENERAL ADMINISTRATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (19-EM-001).

WHEREAS, Dodge County wishes to enter into a Service/Consultant Agreement with NNEDD for the general administration of Community Development Block Grant 19-EM-001; and

WHEREAS, Dodge County agrees to reimburse NENEDD a sum of not to exceed \$25,000 to complete the General Administration Scope of Work for said grant.

NOW, THEREFORE, BE IT RESOLVED by the Board Chairperson and County Board of Dodge County, Nebraska, that the County enter into a Service/Consultant Agreement with NNEDD for the general administration of Community Development Block Grant 19-EM-001, that the terms and conditions, as contained in the Agreement with NENEDD, are hereby approved, and that the Board Chairperson is hereby authorized to execute said Agreement.

PASSED AND APPROVED this ____ day of _____, 2019

Dodge County, NEBRASKA,

By _____

Board Chairperson

ATTEST:

County Clerk

**NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT
SERVICE/CONSULTANT AGREEMENT
FOR GENERAL ADMINISTRATION**

THIS AGREEMENT made and entered into by and between Dodge County, Nebraska, hereinafter referred to as the "Community" and the Northeast Nebraska Economic Development District, hereinafter referred to as the Consultant.

WITNESSES THAT:

WHEREAS, the Community and the Consultant are desirous of entering into a contract to formalize their relationship, and

WHEREAS, pursuant to Title I of the Housing and Community Development Act of 1974, as amended through 1981, the State of Nebraska Department of Economic Development (DED) is authorized by the federal Department of Housing and Urban Development (HUD) to provide Community Development Block Grant Program funds (hereinafter referred to as CDBG funds) to units of local government selected to undertake and carry out certain programs and projects under the Nebraska State CDBG Program in compliance with all applicable local, state and federal laws, regulations and policies, and

WHEREAS, the Community has been notified of CDBG funds reservation as a result of CDBG application 19-EM-001 for the purposes set forth herein, and

WHEREAS, the Scope of Work included in this contract is authorized as part of the Community's approved CDBG program, and

WHEREAS, it would be beneficial to the Community to utilize the Consultant as an independent entity to accomplish the Scope of Work set forth herein and such endeavor would tend to best accomplish the objectives of the local CDBG program.

NOW, THEREFORE, in consideration of the mutual promises, covenants and provisions contained herein and the mutual benefits to be derived there from, the parties hereto agree as follows:

1. Services to be Provided by the Parties

- a. The Consultant shall complete in a satisfactory and proper manner as determined by the Community the work activities described in the Scope of Work (Attachment #1 to the contract).
- b. The Community will provide such assistance and guidance as may be required to support the objectives set forth in the Scope of Work and will provide compensation for services as set forth in Section 3 below.

2. Time of Performance

The effective date of this contract shall be the date on the written notice of approval from DED. The termination date of the contract shall be the date of the Certificate of Completion letter from DED.

3. Consideration

The Community shall reimburse the Consultant for all allowable expenses agreed upon by the parties to complete the Scope of Work. In no event shall the total amount reimbursed by the Community exceed the sum of \$25,000. Reimbursement under this contract shall be based on monthly billings, supported by appropriate documentation and billed at the rate of \$60/hour. It is expressly understood that claims for

reimbursement shall not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of this agreement.

Should the project scope be expanded, additional fees shall be negotiated for the additional basic services needed. The additional services shall be provided as authorized by the Community with compensation as a negotiated lump sum fee determined at the time of authorization.

It is also understood that this contract is funded in whole or in part with CDBG funds through the State of Nebraska Community Development Block Grant Program as administered by DED and is subject to those regulations and restrictions normally associated with federally funded programs and any other requirements that the state may prescribe.

4. Record Maintenance, Record Retention & Access to Records

The Consultant agrees to maintain such records and follow such procedures as outlined in the grant contract. In general such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultant as outlined in the grant contract.

The Community, DED and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Consultant involving transactions to this local program and contract.

5. Relationship

The relationship of the Consultant to the Community shall be that of an independent Consultant rendering professional services. The consultant shall have no authority to execute contracts or to make commitments on behalf of the Community and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the Community and the Consultant.

6. Suspension, Termination and Close Out

If the Consultant fails to comply with the terms and conditions of this contract the Community may pursue such remedies as are legally available including, but not limited to the suspension or termination of this contract in the manner specified herein:

- a. **Suspension:** If the Consultant fails to comply with the terms and conditions of this contract, or whenever the Consultant is unable to substantiate full compliance with the provisions of this contract, the Community may suspend the contract pending corrective actions or investigate effective not less than 7 days following written notification to the Consultant or its authorized representative. The suspension will remain in full force and effect until the Consultant has taken corrective action to the satisfaction of the Community and is able to substantiate its full compliance with these terms and conditions of this contract. No obligations incurred by the Consultant or its authorized representatives during the period of suspension will be allowable under the contract except;
 - 1) Reasonable, proper and otherwise allowable costs which the Consultant could not avoid during the period of suspension.
 - 2) If upon investigation, the Consultant is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed.

- 3) In the event all or any portion of work prepared or partially prepared by the Consultant be suspended, abandoned, or otherwise terminated the Community shall pay the Consultant for work performed to the satisfaction of the Community, in accordance with the percentage of the work completed.
- b. **Termination for Cause:** If the Consultant fails to comply with the terms and conditions of this contract and any of the following conditions exist:
- 1) The lack of compliance with the provisions of this contract are of such scope and nature that the Community deems continuation of the contract to be substantially detrimental to the interests of the Community.
 - 2) The consultant has failed to take satisfactory action as directed by the Community or its authorized representative within the time specified by same.
 - 3) The consultant has failed within the time specified by the Community or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract;

then, the Community may terminate this contract in whole or in part, and thereupon shall notify the Consultant of the termination, the reasons therefore, and the effective date provided such effective date shall not be prior to notification of the Consultant. After this effective date, no charges incurred under any terminated portions are allowable.

- c. **Termination for Other Grounds:** This contract may also be terminated in whole or in part:
- 1) By the Community, with the consent of the Consultant, or by the Consultant with the consent of the Community, in which case the two parties shall devise by mutual agreement, the conditions of termination in part, that portion to be terminated.
 - 2) If the funds allocated by the Community via this contract are from anticipated sources of revenue, and if the anticipated sources of revenue do not become available for use in purchasing said services.
 - 3) In the event the Community fails to pay the Consultant promptly or within 60 days after invoices are rendered, the Community agrees that the Consultant shall have the right to consider said default a breach of this agreement and the duties of the Consultant under this agreement terminated. In such an event, the Community shall then promptly pay the Consultant for all services performed and all allowable expenses incurred.
 - 4) The Community may terminate this contract at any time giving at least 10 days' notice in writing to the Consultant. If the contract is terminated for convenience of the Community as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.

7. Changes, Amendments, Modifications

The Community may, from time to time, require changes or modifications in the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation therefore, which are mutually agreed upon by the Community and the Consultant shall be incorporated in written amendments to this contract.

8. Personnel

The Consultant represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees or have any contractual relationship to the Community.

All services required hereunder will be performed by the Consultant or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

None of the work or services covered by this contract shall be subcontracted without prior written approval of the Community. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

9. Assignability

The Consultant shall not assign any interest on this contract, and shall not transfer any interest on this contract (whether by assignment or notation), without prior written consent of the Community thereto; provided, however, that claims for money by the Consultant from the Community under this contract may be assigned to a bank, trust company, or other financial institutions without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Community.

10. Reports and Information

The Consultant, at such times and in such forms as the Community may require, shall furnish the Community such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

11. Findings Confidential

All of the reports, information, data, etc., prepared or assembled by the Consultant under this contract are confidential and the Consultant agrees that they shall not be made available to any individual or organization without prior written approval of the Community.

12. Copyright

No reports, maps, or other documents produced in whole or in part under this contract shall be subject of an application for copyright by or on behalf of the Consultant.

13. Compliance With Local Laws

The Consultant shall comply with all applicable laws, ordinances and codes of the state and local governments and the Consultant shall save the Community harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract and from failure to comply with any condition or term of this contract.

14. Title VI of the Civil Rights Act of 1964

The law provides that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving federal financial assistance.

15. Section 109 of the Housing and Community Development Act of 1974

The law provides that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied benefits of or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

16. Section 3 Compliance in the Provision of Training, Employment and Business Opportunities

- a. The work to be performed under this contract is on a project assisted under a program providing federal financial assistance from the Department of Housing and Urban Development through the State of Nebraska's Community Development Block Grant Program as administered by DED and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- b. The parties to this contract will comply with the provision of said Section 3. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these provisions.
- c. The Consultant will send to each labor organization or representative or workers with which he/she has collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his/her commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- d. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for, or receipt of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its consultants and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

17. Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et.seq.)

The law provides that no person will be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance.

18. Section 504 of the Rehabilitation Act of 1973, As Amended (29 U.S.C. 794)

The law provides that no otherwise qualified individual will, solely by reason of his other handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds.

19. Executive Order 11246, As Amended

The Community, Consultant and subcontractors, if any, will comply with Executive Order 11246 as amended and will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin.

20. Conflict of Interest (2CFR200.318)

No officer, employee or agent of the Consultant who will participate in the selection, the award, or the administration of this grant may obtain a personal or financial interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. It is further required that this stipulation be included in all subcontracts to this contract. Upon written request, exception may be granted upon a case by case basis when it is determined that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. These exceptions are granted by DED.

21. Audits and Inspections

The Community, DED, the State Auditor and HUD or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of the CDBG project and this contract, by whatever legal and reasonable means are deemed expedient by the Community, DED, the State Auditor and HUD.

22. Hold Harmless

The Consultant agrees to indemnify and hold harmless the Community, its appointed and elective officers and employees, from and against all loss and expense, including attorney's fees and costs by reason of any and all claims and demands upon the Community, its elected or appointed officers and employees from damages sustained by any person or persons, arising out of or in consequence of the Consultant's and its agents' negligent performance of work associated with this agreement. The Consultant shall not be liable for property and bodily injury as may result from the negligence of any construction contractor or construction subcontractor.

23. Verification of Work Eligibility Status for New Employees.

The Consultant is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. In this context, "new employees" means employees hired on or after the effective date of this contract. A "federal immigration verification system" means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as 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.

This contractual obligation to verify work eligibility status for new employees physically performing services within the State of Nebraska also applies to any and all subcontractors utilized by the Consultant in performing this contract. The Consultant will be responsible to the Department for enforcing this requirement with Consultant's subcontractors.

A failure by the Consultant to adhere to these requirements is violative of the statutory requirements in Neb. Rev. Stat. §4-114 and as such will be deemed a substantial breach of this contract which could result in the Department declaring Consultant to be in default on the contract.

24. Verification of Lawful Presence for Public Benefits Eligibility (as required of applicants benefited by this contract).

The Department of Economic Development is prohibited by state law (Neb. Rev. Stat. §4-108) from providing public benefits to a person not lawfully present in the United States.

Public benefits are statutorily defined broadly (see Neb. Rev. Stat. §4-109), with some exemptions from the verification of lawful presence requirement set forth in Neb. Rev. Stat. §4-110. For the purposes of this contract, the Department has determined the Consultant is, in the performance of Consultant's contractual duties, providing public benefits to individuals or households under the statutory definition of public benefits.

Consequently, pursuant to this contract and Neb. Rev. Stat. §§4-108 through 4-114, the Consultant shall have each applicant for public benefits under this contract complete the United States Citizenship Attestation Form, available on the State of Nebraska Department of Administrative Services website at www.das.state.ne.us. The attestation form is also reproduced on a following page of this contract. See attachment #2.

Such form serves as the applicant's attestation that he or she is a U.S. citizen or a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq. (as such federal statute existed on January 1, 2009, or as it may be subsequently amended). If the applicant attests they are a qualified alien, Consultant shall verify the applicant's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

Consultant shall:

- a. Retain the attestation form, and retain any additional verification documentation required because the applicant attested they were a qualified alien.
- b. Provide such attestation form and other documentation (or copies thereof) to the Department of Economic Development upon the request of such Department.
- c. Maintain aggregate records for the duration of the contract showing: (a) the number of applicants for public benefits under this contract; and, (b) the number of applicants rejected pursuant to the lawful presence requirement (which is the subject matter of the procedural, attestation, and verification requirements set forth in the Nebraska statutes and contractual provisions above).
- d. Provide a summary report to the Department of Economic Development, no later than December 31st each calendar year, reflecting data for such calendar year (or portion of such year when there is not a full, calendar year of activity under this contract), so as to allow the Department to fulfill its annual reporting obligation to the Nebraska Legislature concerning these "lawful presence" requirements. The Department's annual report to the Nebraska Legislature is due January 31st each year.

25. Governing Law

This agreement will be governed by the laws of the State of Nebraska, without regard to that body of law controlling conflicts of law. Any legal proceeding arising out of, or relating to this agreement shall be instituted in any court of general jurisdiction in the State of Nebraska.

WITNESS WHEREOF, the Community and the Consultant have executed this contract agreement as of the date and year last written below.

COMMUNITY

BY _____

TITLE _____

DATE _____

CONSULTANT

BY _____

TITLE Executive Director _____

DATE _____

**ATTACHMENT 1
GENERAL ADMINISTRATION SCOPE OF WORK**

The duties and responsibilities of the Certified Administrator under this scope of work include following:

- a) Ensure that the Grantee meets the requirements of all statutes, state rules, and federal regulations relevant to the project.
- b) Prepare special condition documents as outlined in the grant contract within the time frame stated in the grant contract in order to receive Release of Funds letter.
- c) Conduct an environmental review in accordance with the National Environmental Policy Act of 1969 over the course of the project.
- d) Ensure that the Grantee meets all federal and state requirements when procuring for professional services and construction services. This includes making sure that all required CDBG clauses are included within the contracts.
- e) Ensure that the Grantee has a solid understanding of the financial management requirements associated with the CDBG grant and that the Grantee has an appropriate financial management system in place.
- f) Provide for the accounting of funds and preparation of drawdowns.
- g) Prepare a master filing systems in accordance with state and federal regulations.
- h) Monitor all Davis Bacon labor standards over the course of the project (*if applicable*).
- i) Monitor all job creation requirements over the course of the project (*if applicable*).
- j) Ensure that all acquisition laws are followed over the course of the project (*if applicable*).
- k) Ensure that all relocation laws are followed over the course of the project (*if applicable*).
- l) Prepare and submit all reporting requirement to DED by deadlines.
- m) Prepare and submit all close out reporting requirement to DED by deadlines.
- n) Ensure that any and all monitoring issues are addressed and completed for grant closeout.
- o) NENEDD ensures that the NDO (through the NENEDD/NED, Inc. Management Contract) is responsible for pursuing loan collection if necessary as out lined in section 4.03 of the MOU. (*if applicable*).
- p) NENEDD ensures that the NDO (through the NENEDD/NED, Inc. Management Contract) is responsible for adhering to all CDBG statutory and regulatory requirements (*if applicable*).

ATTACHMENT 2

United States Citizenship Attestation Form

For the purpose of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

I am a citizen of the United States.

— OR —

I am a qualified alien under the federal Immigration and Nationality Act, my immigration status and alien number are as follows: _____, and I agree to provide a copy of my USCIS documentation upon request.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete, and accurate and I understand that this information may be used to verify my lawful presence in the United States.

PRINT NAME	<hr/> (first, middle, last)
SIGNATURE	<hr/>
DATE	<hr/>