

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MARCH 17, 2020 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
PROFESSIONAL SERVICES AGREEMENT – SUPPLEMENT NO. 1 – APPLEWOOD CREEK TRAIL	◆ RESOLUTION ORDINANCE RECEIVE/FILE	PAT DOWSE CITY ENGINEER

**SYNOPSIS**

A resolution has been prepared to approve Supplement No. 1 to the original agreement between Alfred Benesch & Co. and the City for environmental services related to the Applewood Creek Trail Project in an additional amount not to exceed \$62.84.

**FISCAL IMPACT**

The FY19/20 Biennial Budget provides funding for this project.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Supplement No. 1 is to be incorporated into the original Professional Services Agreement for the Applewood Creek Trail Project, TAP-77(61) CN 22757 to correct a minor error in the project workbook of the original agreement. The supplement increases the indirect labor and expenses by \$62.84 to a total not to exceed cost of \$59,349.68.

**RESOLUTION NO.**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF SUPPLEMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ALFRED BENESCH & COMPANY FOR THE PROVISION OF ENVIRONMENTAL SERVICES FOR THE APPLEWOOD CREEK TRAIL PROJECT.

WHEREAS, City of La Vista is developing a transportation project for which it intends to obtain Federal funds; and

WHEREAS, City of La Vista as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations policies and guidelines applicable to the funding of the Federal-aid project; and

WHEREAS, City of La Vista and Alfred Benesch & Company, wish to enter into a Professional Services Agreement to provide environmental services for the Federal-aid project;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of La Vista that Douglas Kindig, Mayor of the City of La Vista City Council, is hereby authorized to sign the attached environmental services agreement between City of La Vista, Nebraska and Alfred Benesch & Company.

PASSED AND APPROVED THIS 17TH DAY OF MARCH 2020.

CITY OF LA VISTA

ATTEST:

\_\_\_\_\_  
Douglas Kindig, Mayor

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

Agreement No.	BK1916
Effective (NTP) Date	08/30/2019
Supplement Amount	\$62.84
Total Agreement Amount	C+FF \$59,349.68

# PROFESSIONAL SERVICES AGREEMENT

## SUPPLEMENT NO. 1

CITY OF LA VISTA, NEBRASKA  
ALFRED BENESCH & COMPANY, INC.  
PROJECT NO. TAP-77(61)  
CONTROL NO. 22757  
APPLEWOOD CREEK TRAIL

**THIS SUPPLEMENTAL AGREEMENT** is between the CITY OF LA VISTA, NEBRASKA ("LPA") and ALFRED BENESCH & COMPANY, INC. ("Consultant"), collectively referred to as the "Parties".

**WHEREAS**, Consultant and LPA entered into an agreement ("Original Agreement") executed by LPA on May 28, 2019 for Consultant to provide Environmental Services for LPA's project, and

**WHEREAS**, it is necessary that Environmental Services be added under this Supplemental Agreement to correct an error in workbook in original agreement, and

**WHEREAS**, the indirect labor cost and direct expenses have increased by \$62.84, and

**WHEREAS**, it is necessary to increase Consultant's compensation by this Supplemental Agreement for the additional work necessary to complete the services under this Agreement, and

**WHEREAS**, LPA desires that this project be developed and constructed under the designation of Project No. TAP-77(61) and formally authorizes the signing of this Agreement, as evidenced by the Resolution of LPA dated \_\_\_\_\_ day of \_\_\_\_\_, 2020, attached as Exhibit "A" and incorporated herein by this reference.

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

### **SECTION 1. SCOPE OF SERVICES**

Consultant will perform the additional work as set out in Exhibit "B", Scope of Services, amended to show entire corrected agreement amount, attached and incorporated herein by this reference.

### **SECTION 2. NOTICE TO PROCEED AND COMPLETION**

- 2.1 LPA issued Consultant a written Notice-to-Proceed on August 30, 2019. Any work or services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed is not eligible for reimbursement.
- 2.2 Consultant will complete all work stipulated in the Original Agreement, and this Supplemental Agreement by December 31, 2021.



**SECTION 3. FEES AND PAYMENTS**

Section 2. in Exhibit “B” of the Original Agreement is hereby amended in accordance with Exhibit “B” and as shown below.

Previous Amount*	This Supplement Amount	Amended Agreement Amount	
\$ 17,600.50	\$ 0	\$17,600.50	For actual direct labor costs
\$ 35,596.20	\$ 62.84	\$35,659.04	For indirect labor costs & direct expenses
\$ 6,090.14	\$ 0	\$6,090.14	For a fixed fee for profit
\$ 59,286.84	\$62.84	\$59,349.68	Total agreement amount

\*includes all prior supplements

**SECTION 4. CONFIDENTIAL INFORMATION**

Documents submitted to LPA, including invoices, supporting documentation, and other information are subject to disclosure by LPA under the Nebraska Public Records Act found at Neb.Rev.Stat. § 84-712 et.seq. Accordingly, Consultant shall redact or not submit to LPA information that is confidential, including, but not limited to, financial information such as social security numbers, tax ID numbers, or bank account numbers. Consultant understands that LPA does not have sufficient resources to review and redact confidential information submitted by Consultant. If such confidential information is submitted, Consultant shall have no right of action of any kind against LPA for the disclosure of such information.

**SECTION 5. CONSULTANT CERTIFICATION AND REAFFIRMATION**

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

**SECTION 6. CERTIFICATION BY LPA**

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

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

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

**SECTION 7. ENTIRE AGREEMENT**

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



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

**EXECUTED** by Consultant this 28 day of February, 2020.

ALFRED BENESCH & COMPANY  
Jeffery A. Sockel

  
\_\_\_\_\_  
Senior Vice President

STATE OF NEBRASKA     )  
  )ss  
DOUGLAS COUNTY        )

**SUBSCRIBED AND SWORN** to before me this 28 day of February, 2020.



  
\_\_\_\_\_  
Notary Public

**EXECUTED** by LPA this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF LA VISTA  
Douglas Kindig

\_\_\_\_\_  
Mayor

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Clerk

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

\_\_\_\_\_

\_\_\_\_\_  
Date

## Staffing Plan

## Environmental Services

<b>Project Name:</b>	Applewood Trail
<b>Consultant:</b>	Alfred Benesch & Company
<b>Consultant PM:</b>	Craig Mielke, 402-333-5792, cmielke@benesch.com
<b>LPA RC/PL:</b>	John Kottman, (402) 331 8927, jkottmann@cityoflavista.org
<b>NDOR PC/RC:</b>	
<b>Date:</b>	March 1, 2019

Project Number: TAP-77(61)  
Control Number: 22757

CONSULTANT

#	Code	Classification	#	Code	Classification
1	PR	Principal	6	DES	Designer/Technician
2	PM	Project Manager	7	ADM	Administrative
3	SENV	Sr. Environmental Scientist	8	PI	Public Involvement Specialist
4	ENV	Environmental Scientist	9	UD3	User Defined 3
5	ENG	Engineer	10	UD4	User Defined 4

Overhead Rate <sup>[1]</sup>	166.17%
Fee for Profit Rate <sup>[2]</sup>	13.00%
FCCM (if applicable)	0.48%

### BLENDING RATES TABLE

Template: T-WB-V1b Consult CAT EX LPA projects (rev GDW 7-14-17)

Employee Name	Job Title & Certifications	Hourly Salary Rate	% Assigned
<b>Project Manager</b>			
Craig Mielke, PWS	Group Manager	\$54.00	100%
<b>Blended Rate:</b>		<b>\$54.00</b>	
<b>Sr. Environmental Scientist</b>			
Andy Miller, PWS	Project Manager	\$52.00	40%
Craig Mielke, PWS	Group Manager	\$54.00	60%
<b>Blended Rate:</b>		<b>\$53.20</b>	
<b>Environmental Scientist</b>			
Chase Jelden	Project Scientist I	\$25.00	50%
Brian Fettin	Project Scientist III	\$38.50	50%
<b>Blended Rate:</b>		<b>\$31.75</b>	



# Estimate of Hours

# Environmental Services

Project Name: Applewood Trail  
Consultant: Alfred Benesch & Company  
Consultant PM: Craig Mielke, 402-333-5792, cmielke@benesch.com  
LPA RC/PL: John Kottman, (402) 331 8927, jkottmann@cityoflavista.org  
NDOR PC/RC: \_\_\_\_\_  
Date: March 1, 2019

Project Number: TAP-77(61)  
Control Number: 22757  
NDOT NEPA Proj Mgr: Luke Pitts, Caroline Jezierski, or Christina Bavougian  
Wetlands Project Mgr: Roger Yerden

## CONSULTANT

SOS Sec		PERSONNEL CLASSIFICATIONS										Total
		PR	PM	SENV	ENV	ENG	DES	ADM	PI	UD3	UD4	
	<b>General Environmental Services and Coordination</b>											
	a. Review of NEPA documents and commitments											
	b. NEPA exhibits											
	c. Preliminary Waterway Permit Data Sheet											
	d. Wetlands Impacts											
	e. Permits											
	a. Floodplain Permit											
	b. National Pollution Discharge Elimination System											
	c. Activity Checklists											
	d. NEPA Coordination											
	e. Wetland Impact											
	f. Nebraska Department of Environmental Quality											
	g. City/County Health Department											
	h. Potential need for a FAA Form 7460-1											
	<b>1. Categorical Exclusion Document and Resource Reviews</b>		24	28	68							120
	a. Project Description and Purpose & Need			4	8							
	b. CE Determination Form for Federal-Aid Projects			16	40							
	c. Prepare Maps and Figures				8							
	d. Documentation and Revisions			8	12							
	e. CE Quality Control		12									
	f. CE Comment Tracking Table		12									
	<b>2. Farmland</b>											
	a. Farmland Conversion Form											
	<b>3. Section 106 SHPO/THPO</b>				12							12
	a. Section 106 Review Request Letter				12							
	<b>4. Section 4(f) De Minimis or exception</b>				40							40
	a. Section 4(f) Initial Assessment Form				8							
	b. Section 4(f) Documentation				32							
	c. Individual Section 4(f) Evaluation. (Sup. to Agreement).											
	<b>5. Section 6(f) Analysis</b>				2							2
	a. Determine if Section 6(f) are present				2							
	Section 6(f) conversion or coordination (Sup to Agreement)											
	<b>6. Floodplain Review</b>				1							1
	a. Determine if proj. is in a Zone A floodplain				1							
	b. Floodplain permitting (Sup. to Agreement).											
	<b>7. Water Quality Review</b>			2	2							4
	a. Determine if impaired water are in proj area				2							
	b. Coordination with NDEQ			2								
	c. NPDES permit											
	<b>8. T&amp;E Review</b>				10							10
	a. Biological Evaluation (BE) Review Request Letter				6							
	b. Field Review				4							
	<b>9. Hazardous Materials Review</b>			2	38							40
	a. Database review				6							
	b. Site visit				4							
	c. Complete the HMR Visual Reconnaissance Form				4							
	d. Conduct analysis per the Hazardous Materials Review manual				12							
	e. Subsurface investigation. (Sup. to Agreement).											
	f. Prepare a written Hazardous Materials Review Report				12							
	g. Quality Control			2								
	<b>10. Noise Study and Report</b>											
	a. Determine if a noise study is required.											
	b. Conduct noise study											



SOS Sec		PERSONNEL CLASSIFICATIONS										Total
		PR	PM	SENV	ENV	ENG	DES	ADM	PI	UD3	UD4	
	<b>11. Wetland and Stream Delineation Services</b>			6	74							80
	a. Site Visit				10							
	b. Review Existing Resources/Databases				2							
	c. Farm Service Agency (FSA) Wetland Review, (Sup. to Agreement)											
	d. Delineation Limits				2							
	e. Estimated Delineation Project Size											
	Small Del. (< 1 day of field activities)				20							
	Medium Del. (1-3 days of field activities)											
	Large Del. (> 3 days of field activities)											
	f. Plot Boundaries				8							
	g. Documentation of Findings				24							
	h. Quality Control			6								
	i. Electronic Files and Transmittal Letter or Email				8							
	<b>12. Section 404 Nationwide Permitting Services</b>			12	28							40
	a. Pre-Application Meeting			4								
	b. 404 Nationwide Permit Application Package				24							
	c. Jurisdictional Determination (JD) from the USACE, (Sup. to Agreement)											
	d. Agency Coordination			4								
	e. Final Deliverables			4	4							
	<b>13. Section 404 Individual Permitting Application</b>											
	a. Alternatives Analysis and Sequencing Demonstration											
	<b>14. Mitigation Plan</b>											
	a. Mitigation Documentation											
	b. Mitigation Plan, (Sup. to Agreement)---											
	<b>15. Preparation of Public Involvement Materials</b>		12		12							24
	a. General services related to PI		12		12							
	b. Information Packet											
	c. Official Legal Notice											
	d. Packet Distribution											
	e. Draft responses to comments received from the public											
	f. Summary Memo and Report											
	g. Additional materials for increased Public Involvement, (Sup. to Agreement).											
	<b>16. Environmental Re-evaluation, after ROW Design</b>				30							30
	a. NEPA Re-evaluation after the ROW Cost Estimate				6							
	b. NEPA Re-evaluation after ROW Acquisition				24							
	<b>17. Green Sheet</b>				6							6
	a. Green Sheet				6							
	<b>18. Project Management</b>		44									44
	a. Project Management		20									
	b. Schedule		6									
	c. Plan in Hand		6									
	d. Progress Meetings		12									
	<b>19. Travel Time</b>		5		3							8
	a. Site Visit		5		3							
	b. Other											
	<b>Total Days</b>		12.1	7.1	46.6							65.7
	<b>Total Hours</b>		85	50	326							460

PUBLIC INVOLVEMENT PERFORMED BY SCHEMMER

Subtotal Cat Ex	179
Subtotal Technical Documents	50
Subtotal Wetlands	120



**Direct Expenses****Environmental Services**

Project Name: Applewood Trail  
Consultant: Alfred Benesch & Company  
Consultant PM: Craig Mielke, 402-333-5792, cmielke@benesch.  
LPA RC/PL: John Kottman, (402) 331 8927, jkottmann@cityoflavista.org  
NDOR PC/RC: \_\_\_\_\_  
Date: March 1, 2019

Project Number: TAP-77(61)  
Control Number: 22757

**CONSULTANT**

Subconsultants:			Amount
Historic Resources Group, Inc.			\$5,749.50
Subtotal			\$5,749.50
Printing and Reproduction:	Qty	Unit Cost	Amount
B&W copies	1000	\$0.05	\$50.00
Color copies	400	\$0.50	\$200.00
Postage for targeted mailer	50	\$0.55	\$27.50
Subtotal			\$277.50
Mileage/Travel:	Qty	Unit Cost	Amount
3 site visits (20 miles x 3 trips = 60 miles)	60	\$0.580	\$34.80
2 trips to Lincoln (100 miles x 2 trips = 200 miles)	200	\$0.580	\$116.00
Subtotal			\$150.80
Lodging/Meals:	Qty	Unit Cost	Amount
Subtotal			
Other Miscellaneous Costs:	Qty	Unit Cost	Amount
GPS Rental	1	\$150.00	\$150.00
Subtotal			\$150.00
<b>TOTAL DIRECT EXPENSES</b>			<b>\$6,327.80</b>



**Project Cost Breakdown****Environmental Services**

Project Name: Applewood Trail  
Consultant: Alfred Benesch & Company  
Consultant PM: Craig Mielke, 402-333-5792, cmielke@benesch.com  
NDOR PC/RC: \_\_\_\_\_  
Date: March 1, 2019

Project Number: TAP-77(61)  
Control Number: 22757

CONSULTANT

DIRECT LABOR COSTS			
Classification	Hours	Rate	Amount
Principal			
Project Manager	85	\$54.00	\$4,590.00
Sr. Environmental Scientist	50	\$53.20	\$2,660.00
Environmental Scientist	326	\$31.75	\$10,350.50
Engineer			
Designer/Technician			
Administrative			
Public Involvement Specialist			
User Defined 3			
User Defined 4			
	461	Subtotal	\$17,600.50

DIRECT EXPENSES	Amount
Subconsultants:	\$5,749.50
Printing And Reproduction:	\$277.50
Mileage/Travel:	\$150.80
Lodging/Meals:	
Other Miscellaneous Costs:	\$150.00
Subtotal	\$6,327.80

TOTAL PROJECT COSTS	Amount
Direct Labor Costs	\$17,600.50
Overhead @ 166.17%	\$29,246.75
Total Labor Costs	\$46,847.25
Fee for Profit Rate @ 13.00%	\$6,090.14
Facility Capital Cost of Money (FCCM) @ 0.480% (direct labor cost x FCCM%)	\$84.48
Direct Expenses	\$6,327.80
TOTAL COST	\$59,349.68



## Directions for Completing Consultant's Fee Proposal

Project Name:	Applewood Trail	Project Number:	TAP-77(61)
Consultant:	Alfred Benesch & Company	Control Number:	22757
Consultant PM:	Craig Mielke, 402-333-5792, cmielke@benesch.com		
LPA RC/PL:	John Kottman, (402) 331 8927, jkottmann@cityoflavista.org		
NDOR PC/RC:			
Date:	March 1, 2019		

Notes & Assumptions
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## Environmental Services

Project Number: \_\_\_\_\_

Control Number: \_\_\_\_\_

Date: \_\_\_\_\_



RESOLUTION

SIGNING OF ENVIRONMENTAL SERVICES AGREEMENT – BK1916

City of La Vista

Resolution No. \_\_\_\_\_

**Whereas:** City of La Vista is developing a transportation project for which it intends to obtain Federal funds;

**Whereas:** City of La Vista as a sub-recipient of Federal-Aid funding is charged with the responsibility of expending said funds in accordance with Federal, State and local laws, rules, regulations, policies and guidelines applicable to the funding of the Federal-aid project;

**Whereas:** City of La Vista and Alfred, Benesch & Company, wish to enter into a Professional Services Agreement to provide environmental services for the Federal-aid project.

**Be It Resolved:** by the City Council of the City of La Vista that:

Douglas Kindig, Mayor of the City of La Vista City Council, is hereby authorized to sign the attached environmental services agreement between City of La Vista, Nebraska and Alfred, Benesch & Company

NDOT Project Number: TAP-77(61)

NDOT Control Number: 22757

NDOT Project Description: Applewood Creek Trail

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020 at \_\_\_\_\_ Nebraska.  
(Month)

The City Council of City of La Vista, Nebraska

_____	_____
_____	_____
_____	_____
_____	_____

Board/Council Member \_\_\_\_\_

Moved the adoption of said resolution

Member \_\_\_\_\_ Seconded the Motion

Roll Call: \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Abstained \_\_\_\_\_ Absent

Resolution adopted, signed and billed as adopted

Attest:

\_\_\_\_\_  
Signature City Clerk