

Exhibit “ ”

**DISPUTE RESOLUTION PROCEDURES – NON-BINDING**  
**ENGINEERING SERVICES CONTRACTS**

Project No.  
Control No.  
(Location)

These procedures are non-mandatory steps that Consultant may use to attempt to resolve disputes it has with NDOR arising from work covered under the original and subsequent agreements. When Consultant invokes these dispute resolution procedures, NDOR and Consultant agree to make a reasonable effort to resolve the dispute using these procedures.

These procedures are designed to assist all parties in identifying, managing, and attempting to resolve conflicts that may arise.

There are several guiding principles to be considered:

- Engage relevant representatives early, actively and continually in collaborative problem solving for work covered under the original and any supplemental agreements.
- Attempt to resolve disagreements at the earliest stage possible and at the appropriate organizational level.
- Seek resolution first by focusing on how to meet interests and needs in the context of existing laws and regulations in order to resolve the disputed issues.

The following are several potential benefits to be gained from these principles:

- Minimizes or avoids unnecessary delays in developing transportation projects.
- Encourages collaborative decision making and coordination among all parties.
- Attempts to resolve disputes early in the process.
- Builds trust and respect among all parties.

The relationship between the Consultant and NDOR staff should always be on the professional level. All parties to a contract should have a thorough understanding of the dispute resolution process. Each party should make every attempt to fully understand the dispute and express honest statements of fact prior to initiating dispute resolution processes.

Prior to initiating dispute resolution processes, the following activities should occur:

**STAGE ONE – INFORMAL ACTION**

The Consultant will first attempt to resolve any contract dispute by discussing the dispute directly with NDOR's Consultant Coordinator and when necessary, NDOR's Agreements Engineer.

**STAGE TWO -- REVIEW BY NDOR'S DEPUTY'S REPRESENTATIVE**

1. Consultant may invoke this non-binding Stage Two procedure in an attempt to resolve a dispute it has with any NDOR interpretation of the requirements of the contract, so long as the rules set forth herein are met or followed:
2. The Stage Two process will be invoked by submitting to NDOR's Agreement Engineer, with a copy to NDOR's Consultant Coordinator, a written statement setting out his/her understanding of the:
  - a. Facts of the dispute,
  - b. Listing and discussion of all applicable contract provisions or law, and
  - c. Argument of the party in support of that party's position.

3. The Director-State Engineer will designate an NDOR employee, who has not previously been involved in the dispute, to serve as his/her representative to consider the merits of the dispute. The NDOR Agreements Engineer shall notify Consultant and NDOR's Consultant Coordinator of the name and contact information of the Director's Designated Representative. The Director's Representative shall not meet with either party's representative or otherwise independently investigate the dispute while serving as the Director's Representative.
4. The NDOR Consultant Coordinator will have 7 days after receiving the Consultant's written statement, to submit a written response to the Director's Representative, with a copy to Consultant, including his/her understanding of the:
  - a. Facts of the dispute,
  - b. Listing and discussion of all applicable contract provisions or law, and
  - c. Argument of the party in support of that party's position.
5. Consultant and NDOR's Consultant Coordinator will participate in a face-to-face meeting with the Director's Representative, within 7 days of the receipt of NDOR's written statements to discuss the submittals and to respond to the other party's facts and arguments concerning the dispute.
6. As soon as reasonably practical, Director's Representative will provide a written recommendation setting out his/her:
  - a. Findings of fact,
  - b. Interpretation of the applicable contract and legal provisions, and
  - c. A proposed resolution of the dispute.
7. The Deputy Director who supervises the Division charged with enforcing the Consultant Contract shall review the findings and conclusions of the Director's Representative and may accept or reject the conclusions in whole, or modify the recommendations of the Director's Representative as deemed appropriate, and notify Consultant of the official NDOR proposed resolution, if any, concerning this dispute.
8. The following statements apply to this non-binding dispute resolution process:
  - a. This process is non-mandatory. The process is in addition to, and does not replace any other legal or equitable remedy or defense Consultant or State may have.
  - b. Because this process is non-mandatory, this process is not intended to delay or impact in any way the calculation of any applicable statute of limitations related to any claim of Consultant under this contract.
  - c. This process may only be used by the Consultant for an actual contract dispute between the State and Consultant. This process may not be used to determine a hypothetical question.
  - d. This process is non-binding, shall not be treated by State or Consultant as a contested case as that phrase is defined in Neb. Rev. Stat. Section 84-901 et seq., and is not intended to provide either party with an independent right of appeal.
  - e. Failure to follow this process shall not constitute a breach and shall not provide a separate basis for relief under this contract.
  - f. Consultant's decision to invoke this process shall not limit, in any way, Consultant's right to simultaneously pursue any legal remedy.
9. If Consultant does not agree with the findings and conclusions of the Deputy Director, Consultant may avail itself of any additional remedy, including the filing of a contract claim under Nebraska law.