

AGREEMENT BETWEEN
THE CITY OF GRAND ISLAND
AND
THE SCHEMMER ASSOCIATES
FOR PROFESSIONAL SERVICES

Grand Island Project: 2014-TS-1
Faidley Avenue & Diers Avenue Intersection and Signal Design
PRELIMINARY AND FINAL DESIGN
Professional Services Provided: Survey, Roadway, Traffic, Right-of-way,
Construction-phase

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AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of June 10, 2014 ("Effective Date") between

The City of Grand Island ("Owner") and

The Schemmer Associates Inc. ("Engineer").

Owner intends to receive preliminary and final design services for survey, roadway and traffic, right-of-way design, title search, property appraisal and acquisition, bid phase and shop drawing review for:

Faidley Avenue & Diers Avenue Intersection and Signal Design, City of Grand Island Project: 2014-TS-1

("Project").

Owner and Engineer 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 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit A.
- B. Owner shall pay Engineer as set forth in Exhibit B.
- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

- A. Engineer shall begin rendering services as of the Effective Date of the Agreement.

3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of direct damages resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices.* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal.* Payment will be credited first to any interest owed to Engineer and then to principal.
- B. *Failure to Pay.* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
 - 1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and
 - 2. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services,

expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

- C. *Disputed Invoices.* If Owner contests an invoice, Owner may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions.* If after the Effective Date of the Agreement any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall pay such invoiced new taxes, fees, and charges; such payment shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer.

5.02 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct any such deficiencies in technical accuracy without additional compensation except to the extent such corrective action is directly attributable to deficiencies in Owner-furnished information.

- C. Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. Engineer and Owner shall comply with applicable Laws and Regulations and Owner-mandated standards that Owner has provided to Engineer in writing. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, and compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition or newer) unless both parties mutually agree to use other General Conditions by specific reference.
- H. Engineer shall not at any time supervise, direct, or have control over Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.
- I. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own employees and its Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner without consultation and advice of Engineer.

6.02 *Design Without Construction Phase Services*

- A. Engineer's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services beyond shop drawing review, answering design questions and attending the pre-construction

meeting, therefore (1) Engineer's services under this Agreement shall be deemed complete no later than the end of the shop drawing review Phase; (2) Owner assumes all responsibility for the application and interpretation of the Contract Documents, contract administration, construction observation and review, and all other necessary Construction Phase engineering and professional services; and (3) Owner waives any claims against the Engineer that may be connected in any way thereto.

6.03 *Use of Documents*

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. A party may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- C. 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 will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a license to use the Documents on the Project, extensions of the Project, and other projects of Owner, subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project or on any other project without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to Engineer's Consultants; (3) Owner shall indemnify and hold harmless Engineer and Engineer's Consultants from all claims,

damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by Engineer; (4) such limited license to Owner shall not create any rights in third parties.

- F. If Engineer at Owner's request verifies or adapts the Documents for extensions of the Project or for any other project, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 *Insurance*

- A. Engineer shall procure and maintain insurance as set forth in Exhibit D, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Owner shall procure and maintain insurance as set forth in Exhibit D, "Insurance." Owner shall cause Engineer and Engineer's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by Owner which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain general liability and other insurance in accordance with the requirements of Paragraph 5.04 of the "Standard General Conditions of the Construction Contract," (No. C-700, 2002 Edition or newer) as prepared by the Engineers Joint Contract Documents Committee and to cause Engineer and Engineer's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit D. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and Engineer's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds or additional insureds thereunder.
- F. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit D. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit D will be supplemented to incorporate these requirements.

6.05 *Suspension and Termination*

- A. Suspension.

By Owner: Owner may suspend the Project upon seven days written notice to Engineer.

By Engineer: If Engineer's services are substantially delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement.

B. Termination. The obligation to provide further services under this Agreement may be terminated:

1. For cause,

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By Engineer:

1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or

2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination.* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer 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.

D. Payments Upon Termination.

1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

6.06 *Controlling Law*

- A. This Agreement is to be governed by the law of the state in which the Project is located.

6.07 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) 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, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys 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 will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit E or other provisions of this Agreement, or exercising their rights under law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then either or both may invoke the procedures of Exhibit E. If Exhibit E is not included, or if no dispute resolution method is specified in Exhibit E, then the parties may exercise their rights under law.

6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters an undisclosed Constituent of Concern, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer.* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, partners, employees, or Consultants. The indemnification provision of the preceding sentence is subject to and limited by the provisions agreed to by Owner and Engineer in Exhibit F, "Allocation of Risks," if any.
- B. *Indemnification by Owner.* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer, Engineer's officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the Owner with respect to this Agreement or to the Project.
- C. *Environmental Indemnification.* In addition to the indemnity provided under Paragraph 6.10.B of this Agreement, and to the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (i) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
- D. *Percentage Share of Negligence.* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

- E. *Mutual Waiver.* To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

6.11 *Miscellaneous Provisions*

- A. *Notices.* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival.* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability.* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, 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.
- D. *Waiver.* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims.* To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above or in the exhibits; in the following provisions; or in the "Standard General Conditions of the Construction Contract," prepared by the Engineers Joint Contract Documents Committee (No. C-700, 2002 Edition):
 1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A, Part 2, of this Agreement.
 2. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Exhibit A of this Agreement.
 3. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants, cost of land or

rights-of-way, or compensation for damages to properties, or Owner's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

4. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §§1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
5. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates, consultants, subcontractors, or vendors.
6. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
7. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
8. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
9. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
10. *Resident Project Representative* – The authorized representative of Engineer, if any, assigned to assist Engineer at the Site during the Construction Phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any.
11. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

12. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included*

- A. Exhibit A, “Engineer’s Services,” consisting of 1 pages.
- B. Exhibit B, “Consultant Estimate of Hours and Expenses,” consisting of 4 pages.
- C. Exhibit C, “Payments to Engineer for Services and Reimbursable Expenses,” consisting of 2 pages.
- D. Exhibit D, “Insurance,” consisting of 2 pages.
- E. Exhibit E, “Dispute Resolution,” consisting of 1 pages.
- F. Exhibit F, “Allocation of Risks,” consisting of 1 pages.
- G. Exhibit G, “Residency Verification” consisting of 1 pages.

8.02 *Total Agreement*

- A. This Agreement (consisting of pages 1 to 14 inclusive, together with the exhibits identified 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, the Effective Date of which is indicated on page 1.

Owner:

Engineer:

City of Grand Island

The Schemmer Associates

By: Jay Vavricek

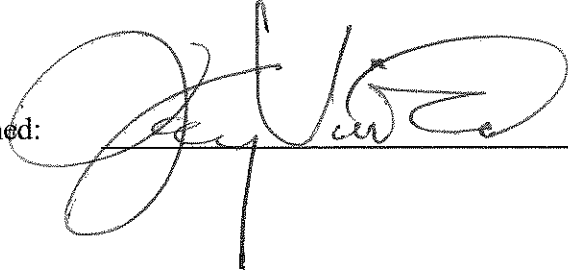
By: Douglas G. Holle

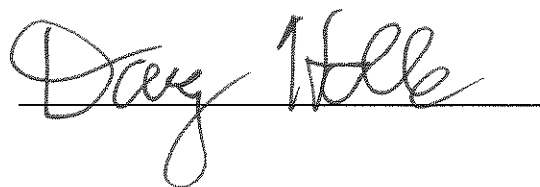
Title: Mayor

Title: Principal

Date: 6/10/2014

Date: 5-2-14

Signed: 

Signed: 

Address for giving notices:

Address for giving notices:

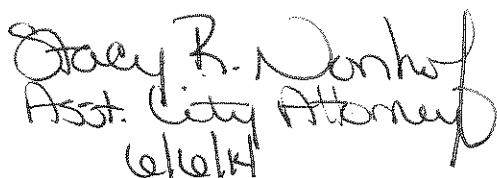
PO Box 1968

134 S. 13th Street

Grand Island NE 68802

Suite 1100

Lincoln, NE 68508-1931


Tracy R. Donhof
Asst. City Attorney
6/10/14

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
 2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
 3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond Engineer's control.
 4. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
 5. Furnishing services of Engineer's Consultants for other than Basic Services.
 6. Providing construction surveys and staking to enable Contractor to perform its work.
 7. Providing Construction Phase services beyond the original date for final completion of the Work.
 8. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

This is **EXHIBIT A**, consisting of 7 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated March, 2014.

Engineer's Services

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. Engineer shall provide Additional Services as set forth below.

PART 1 – SCOPE OF SERVICES

FAIDLEY AVENUE & DIERS AVENUE INTERSECTION AND SIGNAL DESIGN (Project Description)

TASK 1. Project Management

a. Project Management

The Consultant Project Manager will serve as point of contact, maintain project schedule and budget, and be responsible for coordinating work of subconsultants. Provide regular progress reports with invoices.

b. Coordination with Others

The Consultant will coordinate their design with agencies and/or Consultants that are involved with this project or adjacent projects. Coordination includes one-on-one meetings with the agencies or Consultants. This task does not include coordination with utilities. See Task 4 for coordination with utilities.

TASK 2. General Project Meetings

a. Kick-Off Meeting

Once notice to proceed has been received, the Consultant will schedule and attend a kick-off meeting with City staff and utilities. The City's Project Manager will supply a list of invitees and the Consultant shall be responsible for notification to attendees.

b. Progress Meetings

The Consultant will schedule and attend all progress meetings. This scope estimates two (2) progress meetings.

c. Plan-in-Hand

The Consultant will schedule and attend a plan-in-hand meeting. This meeting is to be held following the review period of the first submittal.

TASK 3. Survey

a. Topographical Survey

The Consultant will perform the necessary topographic ground survey including the existing centerline, intersecting streets, alleys and drives, the tying of located land monuments to the existing centerline, cross-sections and profiles necessary for the hydraulic design and the design of the new right-of-way needed to construct the project. A topographic survey will be performed using electronic 'Total Station' technology in MicroStation/GEOPAK format. Copies of field book records and electronic records will be submitted to the City at the completion of final design. Natural topographic features and man-made features, will be recorded by coordinates to the nearest one-tenth (0.1) of a foot. All such topographic features, which are pertinent to the design or are necessary to properly show the effect of the proposed work upon the adjoining property and/or improvements, will be recorded. The topographical survey will include an exact and detailed tree count, noting the size, type and location (station and offset will be noted on the plans).

The limits of the survey are to be approximately 60 feet on each side of the existing centerline of Diers Avenue and Faidley Avenue. The survey limits along Faidley Avenue will extend from the west leg of Hwy 281 to 150 feet west of Diers Avenue. The survey limits along Diers avenue will extend approximately 150 north and south of Faidley Avenue.

b. Base Map Preparation

Consultant will create the base map using the topographic survey data.

c. Horizontal Control

The Consultant shall provide a list of horizontal control points with coordinates, descriptions, station and offset. Horizontal control will be referenced to the state plan coordintes using known land survey monuments.

d. Vertical Control

Vertical control will be completed by differential level circuit referenced to NAVD 88.

e. Locate Section Corners

The Consultant will survey section corners and lot corners in order to assemble the geometry to create the right-of-way drawings.

f. Bench Level Run

Bench levels will be run by direct leveling methods, (no "side shots" will be permitted). Levels will close within an allowable error of five-hundredths (0.05) of a foot times the square root of the length of the level loop in miles. The Consultant will run a closed level circuit, establishing intermediate benchmarks along the project and on intersecting streets beyond the limits of the project. This level circuit will be tied into the benchmarks provided by the City in NAVD 88.

g. Utility Locates

Utilities will be drawn from surveying above ground features, including markings by utility companies resulting from the locate request. Information supplied by utility companies will be used to complete the placement of existing utilities on the plans. Locations from utility plans will be transferred into the topographic survey. Where available, above-ground features will be used to improve accuracy. The Consultant will add a disclaimer to the drawings with respect to the undetermined location of underground utilities.

TASK 4. Utility Coordination

a. Utility Location/Verification

The Consultant will review the utility locations shown on the plans, and verify these locations during field inspections. After survey is complete, plans will be printed and distributed to the Utility Companies for verification of ownership, type, size, location, and cased or uncased.

The Consultant will request that the Utility Companies return to the Consultant marked up plans with utility verification. The Consultant will incorporate the information into the topography. All utilities identified in the topographic survey and verified by the individual utility will be incorporated into the plans.

Identification and verification by the Utility Companies of major utility conflicts such as fiber optic lines, gas pipelines, crude oil pipelines, high-pressure waterlines, transmission lines, etc., will be accomplished at the earliest possible time. The Consultant and the City's Project Manager will discuss major conflicts and attempt to avoid them. If avoidance is not possible, the Consultant will then request the Utility Company to verify the conflict and provide a preliminary estimate of reimbursable costs associated with the utility relocation.

b. Utility Plan Submittal

At each City review submittal, the plans will be distributed by the Consultant to public and private utilities for comment.

c. Utility Review Meetings/Coordination

Any utility review meeting should be scheduled to coincide with a regular project progress meeting or City review meeting. The Consultant shall include time for coordination via the phone and one-on-one meetings with affected utilities, depending on the complexity of the project.

TASK 5. Traffic

a. Traffic Data Collection

The Consultant will obtain updated (after Faidley Avenue extension project constructed and traffic conditions have stabilized) eight-hour traffic turning movement volumes and pedestrian volumes from the City for the following intersections:

- *Faidley Avenue & Diers Avenue*
- *Faidley Avenue & US-281*

b. Traffic Analysis (25 Year Projection)

Using the existing traffic volumes obtained from the City, the Consultant will evaluate signal warrants for the construction year at the following intersection:

- *Faidley Avenue & Diers Avenue*

The Consultant will analyze and design appropriate improvements to all legs of intersections along the project. The analysis will include turn lane locations and lengths, U-turn movements for passenger vehicles, sidewalk ramp locations and turning movement radii based on the design vehicle.

Upon completion of the traffic analysis the Consultant will prepare a report, to be reviewed by the City's Project Manager, that contains graphics as needed to reflect the recommendations, geometrics, and design alternatives studied.

c. Traffic Signal / Street Lighting

Based on the results of the intersection analysis or as directed by the City's Project Manager, the Consultant will prepare signal plans for the intersection of Faidley Avenue & Diers Avenue.

Modifications to the existing street lighting network will be incorporated into the design plans as directed by the City's Project Manager. No lighting calculations will be performed as part of this scope of services.

d. *Pavement Marking & Signing*

The Consultant shall prepare plan sheets showing pavement marking and signage layouts. No temporary signage and pavement markings are anticipated.

TASK 6. 50% Submittal

a. *Site Inspections (Estimated 1 Visit)*

b. *Prepare Alternatives*

Consultant will evaluate possible alternatives for addressing truck turning paths affecting the northeast quadrant of the intersection. Two alternatives will be evaluated including modifying the median along the north leg of the intersection and modifying the curb radius in the northeast quadrant of the intersection. No modifications to the number of through lanes and turn lanes are anticipated. The final alternative decision shall be made prior to and shown in the first submittal.

c. *Preliminary Designs*

The Consultant shall prepare project base files and plan sheets in accordance with the NDOR drafting standards. Plan sheets to be included in the first submittal include the following:

- Cover Sheet
- General Notes Sheets
- Horizontal/Vertical Control Sheets
- Construction/Removal/Geometric Sheets
- Right-of-Way Sheets
 - Existing right-of-way and ownerships identified
- Traffic Signalization Sheets
- Roadway Lighting Sheets
- Pavement Marking and Signing Sheets

d. *Cost Estimates*

The Consultant shall prepare an updated total project cost estimate. This shall include Preliminary Engineering, ROW acquisition, Public Utility Relocations, Construction, and Construction Engineering on the appropriate forms.

TASK 7. Right-of-Way

a. *Right-of-Way Plans*

The Consultant will determine the easements (temporary and permanent) and right-of-way required to construct the project. Temporary construction easements will be acquired in cut and fill areas outside the proposed right-of-way acquisition. Temporary construction easements will be acquired to construct driveways or make improvements to personal property beyond the existing or proposed right of way. The survey and title researches provided by the consultant will be used to determine the existing right-of-way and to design the easements and additional right-of-way needed to construct the project.

It is estimated there will be 4 tracts associated with this project. 0 tracts are estimated to need revisions due to property owner negotiations.

b. Legal Descriptions

The Consultant will prepare legal descriptions for the temporary and permanent easements and new right-of-way to be acquired.

c. Stake Right-of-Way

Not included in scope

TASK 8. Quality Assurance / Quality Control (QA / QC)

The consultant will give a copy of their QA / QC plan to the City's Project Manager at the start of the project. The consultant will submit in writing that this plan has been used during the project at each submittal with the name of the person responsible for performing the QA / QC aspects.

TASK 9. Permit Applications / Agreements

The Consultant shall prepare and submit on behalf of the City of Grand Island the following permits, agreements, certifications, and forms. The Consultant shall copy the City's project manager on all applications being submitted.

- NDOR Use of Right of Way Permit

TASK 10. PS&E Submittals

a. 90% Submittal

The Consultant shall submit a 90% package to the City's Project Manager for final review. The package will include the plan set, special provisions, and a total project cost estimate. The cost estimate shall include, but not be limited to Preliminary Engineering, ROW acquisition, Public Utility Relocations, Construction, and Construction Engineering.

b. Final Submittal

Upon incorporating review comments into the plan set and special provisions, the Consultant shall prepare and submit all drawings, special provisions, and an updated total project cost estimate to the City's Project Manager for the final review.

TASK 11. Bidding Phase

a. Answer Design Questions

b. Prepare Addenda

TASK 12. Construction Phase

a. Attend Pre-Construction Meeting

- b. *Review Shop Drawings*
- c. *Answer Design Questions*

City Responsibilities

The City of Grand Island will supply the following information:

- Available water and sewer locations, size, and materials
- Copies of available reports
- Bench marks and horizontal control points
- Right-of-entry to private property for surveyors
- Available current and future traffic volumes and reports
- Available 3-year accident data
- Available plats of adjacent properties

GENERAL INFORMATION

1. PLAN FORMAT

Three Half size (11" x 17") white paper bond copies of the plans will be submitted at the 50% submittal and 90% submittal. One half size (11" x 17") white paper bond copy of the plans will be submitted for final plan review. Any material, which does not produce an acceptable reproduction will be returned to the Consultant for rectification. All submittals, except final mylar submittal, shall be bound with post screws or staples.

Final plans will be submitted on 11" x 17" bond and will be accompanied by an electronic copy of the design in autocad and pdf format.

Care will be exercised in drawing all construction details. All notes will be properly spaced and all lettering will be of an engineering style. Clarity must be maintained to allow the plans to be archived on microfilm; the background topography, grid lines etc. on plan and profile sheets will be removed behind the text.

Reports, Studies and Technical Information:

The Consultant shall prepare and submit the following items:

1. Technical memos for all pertinent meetings
2. Meeting minutes from all meetings
3. Traffic Analysis report for all intersections as requested
4. Miscellaneous correspondence and information related to the project
5. Summary of quantities and opinion of probable cost
6. Permit applications
7. Special Provisions for items not covered by the City of Grand Island Standard Specifications

2. RIGHT-OF-WAY SUBMITTALS

Plan submittals and right-of-way documents for the project will include, but not be limited to the following:

1. Summary Sheet
2. Right-of-way Plan Sheets
3. Legal Descriptions
4. Tract Maps

MIDWEST

Right of Way Services, Inc.

www.midwestrow.com

March 12, 2014

Mr. Doug Holle
Manager, Roadway Design
Schemmer Associates, Inc.
1044 N 115th St #300
Omaha, Nebraska 68154

RE: Proposal for Right of Way Services
Traffic Signal Construction
Grand Island, Nebraska

Dear Mr. Holle:

Midwest Right of Way Services, Inc. is pleased to provide this proposal for right of way services for the above-referenced project in Grand Island, Nebraska.

CONSULTANT AND KEY PERSONNEL

Consultant- Midwest Right of Way Services
13425 "A" Street
Omaha, Nebraska 68144
(402) 955-2900
(402) 955-2903 FAX

Key Personnel- Jack Borgmeyer, President

PROJECT UNDERSTANDING

This project involves the acquisition of right of way from four parcels of land located at Faidley Avenue and Highway 281 in Grand Island, Nebraska. The acquisitions may include fee title acquisitions, permanent easements and temporary construction easements, and are required for the construction of a traffic signal improvement project in Grand Island.

PROJECT MANAGEMENT

This task will involve coordination of all project elements so that work is initiated as it should be, appropriate progress is made, and schedules are met. Coordination and scheduling of the title work, appraisals and reviews, and the acquisition and closing process will be the responsibility of the project manager.

Doug Holle
March 12, 2014
Page 2

TITLE SEARCHES

Title searches will be ordered for the property to be acquired in order to determine fee ownership and any liens and encumbrances which will affect the title. Midwest Right of Way Services will contract with Grand Island Abstract and Title Company in Grand Island to provide these services.

APPRAISALS

This task involves preparation of four appraisal reports which will provide values for the land and easements to be acquired. Steve Medill of Capital Appraisal Company in Lincoln, Nebraska will prepare and provide the reports. He is approved by the State of Nebraska Department of Roads to provide appraisal reports for Federal Aid Projects.

ACQUISITION

Midwest Right of Way Services' acquisition agents will make every effort to understand the project's objective before meeting with the property owner. They will prepare all documents, present and explain the offer, answer all acquisition-related questions, and secure signatures from all interested parties. Our acquisition agent will obtain tenant information from property owners and proceed to obtain signed a leasehold contract, if applicable.

Midwest Right of Way Services will perform the services in accordance with the Nebraska Department of Roads Right of Way Manual. Our goal is to acquire the necessary right of way through amicable negotiations. If condemnation is required, Midwest Right of Way Services will deliver the parcel files to Grand Island and be available for consultation or condemnation testimony.

TEAM MEMBERS

Jack Borgmeyer, SR/WA, R/W-RAC, is President of Midwest Right of Way Services, Inc. Borgmeyer is qualified to complete all aspects of the right of way process. His experience includes right of way title searches, land and easement acquisition, relocation, condemnation testimony, and project management. Borgmeyer has over 30 years of experience relating to real estate and right of way.

Stacey A. Kroeger, R/W-RAC, Right of Way Agent, has worked for Midwest Right of Way Services for over ten years. She has performed acquisition negotiations and relocation assistance for the past six years. Her experience includes right of way title searches, acquisition negotiations and relocation assistance for state and local, federally funded projects in Nebraska and Kansas.

Dave Minino, Right of Way Agent, has worked for Midwest Right of Way Services since April of 2012. He has performed acquisition negotiations for airport, roadway, utility and drainage projects. His experience also includes real estate sales, title search and review, as well as the ability to read and interpret engineering plans.

Maria Rodriguez, Right of Way Agent, is qualified in all aspects of land acquisition and relocation assistance. She has performed acquisition and relocation assistance for the last five years in Phoenix, Arizona. Her experience includes right of way title searches, acquisition negotiations and relocation assistance for state, local, and federally funded projects in Arizona.

Denny Bliss, Right of Way Agent, has worked for Midwest Right of Way Services since July of 2011. He has performed acquisition negotiations for airport, roadway, and drainage projects. His experience also includes preparation and review of legal descriptions, review of land title reports, as well as the ability to read, interpret and draw engineering plans. He is also an experienced CADD technician.

Lynda Steigerwalt provides office support and document preparation for Midwest Right of Way's acquisition and relocation agents. She has over seven years of experience in the title insurance and real estate industries.

PAYMENT FOR SERVICES

Midwest Right of Way Services proposes the right of way services detailed above for the following hourly fees:

	<u>Hourly Salary Rates</u>
Project Manager	\$ 95.00
Right of Way Agent/Relocation Agent	\$ 85.00
Mileage at Standard IRS Rate	\$ 0.56 per mile

The maximum fees for each task will be as follows:

<u>Task</u>	<u>Maximum Fee</u>
Project Management 4 parcels @ \$360.00 each	\$ 1,440.00
Acquisition 4 parcels @ \$2,380.00 each	\$ 9,520.00
Title Services 4 parcels @ \$150.00 each	\$ 600.00
Appraisals Steve Medill	\$ 3,800.00
TOTAL MAXIMUM FEES	\$ 15,360.00

If additional work or meetings are requested beyond the scope indicated in this proposal, we will contact you to discuss revising the contract amount before the additional work is started. Condemnation court testimony and consultation will be billed at our standard hourly rate plus expenses, if needed. Invoices will be sent on an approximate monthly basis for services rendered.

Doug Holle
March 12, 2014
Page 4

If the above described items are satisfactory to you, please sign and date the original and duplicate original of this letter in the space provided. Keep one executed copy of this letter for your files and return the duplicate copy to us for our files. Receipt of this letter contract will be considered our formal notice to proceed with the work.

Sincerely,

MIDWEST RIGHT OF WAY SERVICES, INC.



Jack Borgmeyer
President

ACCEPTANCE OF PROPOSAL AND AUTHORIZATION TO PROCEED

Authorized Representative
The Schemmer Associates, Inc.

Date: _____

Project Schedule
Faidley Avenue & Diers Avenue intersection and signal design
May 1, 2014

Milestone	Completion Date
Notice to Proceed	May 19, 2014 (assumed)
Kick-Off Meeting	Week of June 2, 2014
Topographic Survey / Base-map Complete	Week of July 11, 2014
Progress Meeting	Week of August 4, 2014
50% Submittal	Week of August 25, 2014
Plan-in-hand	Week of September 15, 2014
ROW Plan Submittal	Week of October 6, 2014
90% Plan Submittal	Week of October 27, 2014
Updated Traffic Counts/Signal Warrant	February 2015
ROW Acquired	April 2015
Bid Letting	May 2015
Construction	Summer 2015

**EXHIBIT B
Total Project Fee**

**FAIDLEY AVENUE & DIERS INTERSECTION AND SIGNAL DESIGN
City Project Number**

Task No.	Task Description		Fee Estimate
1	Project Management		\$4,270.00
2	General Project Meetings		\$7,110.00
3	Survey		\$8,190.00
4	Utility Coordination		\$1,520.00
5	Traffic		\$5,040.00
6	50% Submittal		\$8,150.00
7	Right-of-Way		\$2,680.00
8	QA/QC		\$640.00
9	Permit Applications		\$940.00
10	PS&E Submittals		\$5,320.00
11	Bidding Phase		\$1,720.00
12	Construction Phase		\$2,400.00
	Expenses		\$17,711.25
		Total Project Cost	\$65,691.25

**EXHIBIT B
TOTAL EXPENSES
FAIDLEY AVENUE & DIERS INTERSECTION AND SIGNAL DESIGN**

Expenses	Amount		\$ Ea.	Cost
Design				
Travel, mile (car)	1100	MILES	\$ 0.57	\$621.50
Travel, mile (survey vehicle)	350	MILES	\$ 0.57	\$197.75
Environmental Documentation (lump sum)		L.S.		\$0.00
Half Size Plots (each)		EA.		\$0.00
Mylars, Half Size Plots (each)		EA.		\$0.00
Right-of-way Appraisal and Acquisition	1	L.S.	\$ 15,360.00	\$15,360.00
Miscellaneous Expenses(Plots, Copies, Reports, etc.)	1	L.S.	\$ 500.00	\$500.00
Per Diem	8	DAY	\$ 129.00	\$1,032.00
			Sub Total	\$17,711.25
Survey Expenses				
Public Involvement Expenses				\$0.00
			Total	\$17,711.25

PAY RATES

FAIDLEY AVENUE & DIERS INTERSECTION AND SIGNAL DESIGN

Personnel		Total Hr.	Salary \$ Per Hr.	Total Cost
Principal	Principal	6	\$205.00	\$1,230.00
Senior Project Manager	Sr PM	57	\$160.00	\$9,120.00
Project Manager	PM	0	\$125.00	\$0.00
Senior Registered Engineer	Sr Eng	113	\$150.00	\$16,950.00
Registered Engineer	Eng	52	\$120.00	\$6,240.00
Engineer E.I.	EI	0	\$90.00	\$0.00
Senior Design Engineer	Sr Des Eng	0	\$165.00	\$0.00
Design Engineer	Des Eng	0	\$100.00	\$0.00
Design Technician II	TechII	0	\$95.00	\$0.00
Design Technician	Tech	0	\$85.00	\$0.00
CADD Technician	CADD	67	\$70.00	\$4,690.00
Senior Project Representative	SrProjRep	0	\$125.00	\$0.00
Project Representative	LeadProjRep	0	\$85.00	\$0.00
Senior Registered Land Surveyor	Sr RLS	0	\$120.00	\$0.00
Registered Land Surveyor	RLS	25	\$130.00	\$3,250.00
3 Man Survey Crew	3-man Crew	0	\$170.00	\$0.00
2 Man Survey Crew	2-man Crew	37	\$130.00	\$4,810.00
1 Man Survey Crew	1-man Crew	0	\$85.00	\$0.00
Survey Party Chief	SCC	26	\$70.00	\$1,820.00
Survey Instrument Person	SCM	0	\$65.00	\$0.00
Field Technician III	FldTechIII	0	\$80.00	\$0.00
Field Technician I	FldTech	0	\$50.00	\$0.00
Administrative Support	Admin	0	\$65.00	\$0.00
Expenses				\$17,711.25
		383		\$65,821.25

This is **EXHIBIT C**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services**.

Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 Compensation For Basic Services (other than Resident Project Representative and Post-Construction) – Standard Hourly Rates Method of Payment

- A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative and Post-Construction Phase services, if any, as follows:
1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s employees times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultant’s charges, if any.
 2. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates included in Exhibit B.
 3. The total compensation for services under Paragraph C2.01 is estimated to be \$65,691.25
 4. Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner.
 5. The total estimated compensation for Engineer’s services included Paragraph C2.01.B.3 incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer’s Consultant’s charges.
 6. The amounts billed for Engineer’s services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer’s employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer’s Consultant’s charges.
 7. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of January 1) to reflect equitable changes in the compensation payable to Engineer.

C2.02 Compensation For Reimbursable Expenses

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Exhibit B.

- B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A, and, if authorized in advance by Owner, overtime work requiring higher than regular rates. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for computer time and the use of other highly specialized equipment.
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of 1.0.

C2.03 Other Provisions Concerning Payment

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.0.
- B. Factors. The external Reimbursable Expenses and Engineer's Consultant's factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. Estimated Compensation Amounts
1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that a compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof. Promptly thereafter Owner and Engineer shall review the matter of services remaining to be performed and compensation for such services. Owner shall either agree to such compensation exceeding said estimated amount or Owner and Engineer shall agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, the Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

This is **EXHIBIT D**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services**.

Insurance

Paragraph 6.04 of the Agreement is amended and supplemented to include the following agreement of the parties.

Engineers Certificate of Liability insurance is attached to this Exhibit D.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/3/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER The Harry A. Koch Co. P.O. Box 45279 Omaha NE 68145-0279	CONTACT NAME: PHONE (A/C, No, Ext): 402-861-7000 E-MAIL ADDRESS:	FAX (A/C, No):													
	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A :Continental Casualty Co.</td> <td>20443</td> </tr> <tr> <td>INSURER B :Hartford Casualty Ins Co</td> <td>29424</td> </tr> <tr> <td>INSURER C :Hartford Insurance Group</td> <td></td> </tr> <tr> <td>INSURER D :Hartford Fire Insurance Co</td> <td>19682</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A :Continental Casualty Co.	20443	INSURER B :Hartford Casualty Ins Co	29424	INSURER C :Hartford Insurance Group		INSURER D :Hartford Fire Insurance Co	19682	INSURER E :		INSURER F :
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INSURED The Schemmer Associates, Inc. 1044 North 115th Street Omaha NE 68154															


COVERAGES **CERTIFICATE NUMBER: 810441472** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC			91UUNNG3103	12/31/2013	12/31/2014	EACH OCCURRENCE	\$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
							MED EXP (Any one person)	\$10,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS - COMP/OP AGG	\$2,000,000
								\$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			91UUNNG3103	12/31/2013	12/31/2014	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$			91XHUAP1679	12/31/2013	12/31/2014	EACH OCCURRENCE	\$5,000,000
							AGGREGATE	\$5,000,000
								\$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A			91WEBN5497	12/31/2013	12/31/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT	\$1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$1,000,000
							E.L. DISEASE - POLICY LIMIT	\$1,000,000
A	Architects/Engineers Professional Liability Claims Made Basis			AEH288365469	12/31/2013	12/31/2014	\$2,000,000 \$2,000,000 \$125,000 Ded.	Ea.Claim Aggregate Ea.Claim

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Project: 2014 Capital Improvements Project.
 City of Grand Island, Nebraska is additional insured for General Liability and Automobile Liability if required by written contract executed prior to loss.
 Waiver of Subrogation applies for General Liability, Automobile Liability and Workers' Compensation if required by written contract executed prior to loss.
 Primary & noncontributory status is governed by the terms & conditions of the insurance policies of all parties to the contract.

CERTIFICATE HOLDER City of Grand Island, Nebraska 100 E. First Street Grand Island NE 68801	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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This is **EXHIBIT E**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services**.

Dispute Resolution

Paragraph 6.08 of the Agreement is amended and supplemented to include the following agreement of the parties:

H6.09 Dispute Resolution

- A. Mediation. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation in accordance with Construction Industry Mediation Rules of the American Arbitration Association currently in effect. If such mediation is unsuccessful in resolving a Dispute, then (a) the parties may mutually agree to a dispute resolution of their choice, or (b) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

This is **EXHIBIT F**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services**.

Allocation of Risks

Paragraph 6.10 of the Agreement is amended and supplemented to include the following agreement of the parties:

I6.10.B *Limitation of Engineer's Liability*

1. *Engineer's Liability Limited to Amount of Engineer's Compensation.* To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants, and any of them, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract, or warranty express or implied of Engineer or Engineer's officers, directors, partners, employees, agents, or Engineer's Consultants, or any of them, shall not exceed the total compensation received by Engineer under this Agreement.

This is **EXHIBIT G**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated June _____, 2013.

RESIDENCY VERIFICATION CLAUSE

The Consultant agrees to comply with the residency verification requirements of Neb. Rev. Stat. §4-108 through §4-114. 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. 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.

If the Consultant is an individual or sole proprietorship, the following applies:

1. The Consultant must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.
2. If the Consultant indicates on such attestation form that he or she is a qualified alien, the Consultant agrees to provide the US Citizenship and Immigration Services documentation required to verify the Consultant's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Consultant understands and agrees that lawful presence in the United States is required and the Consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. Sect.4-108.