



CITY OF SEWARD
City Council
Regular Meeting
Agenda

Tuesday, January 16, 2024

7:00 PM

Municipal Building Council Chambers

NOTICE IS HEREBY GIVEN that a meeting of the City Council of the City of Seward, Nebraska will be held at 7:00 PM on Tuesday, January 16, 2024, in the Council Chambers, 142 N 7th Street, Seward, Nebraska in which the meeting will be open to the public. The Mayor and City Council reserve the right to adjourn into Closed Session as per Section 84-1410 of the Nebraska Revised Statutes. An Agenda for such meeting, kept continually current, is available at the Office of the City Clerk, 537 Main Street, Seward, Nebraska, during normal business hours. Individuals requiring physical or sensory accommodations, who desire to attend or participate, please contact the City Clerk's Office at 402.643.2928 no later than 3:30 PM on the Friday preceding the Council Meeting.

City financial claims and related invoices will be available for Council member review, audit and voluntary signatures at the meeting location beginning 30 minutes prior to the scheduled meeting time.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

DISCLOSURE OF OPEN MEETINGS ACT & OTHER NOTIFICATIONS

This is an Open Meeting of the Seward Nebraska Governing Body. The City of Seward abides by the Nebraska Open Meetings Act in conducting business. A copy of the Nebraska Open Meetings Act is displayed on the north wall of this meeting room facility as required. Disclosure of meeting recording processes is posted in the Meeting Room. A participant sign-in sheet is available for use by any Citizen addressing the Council. Presenters shall approach the podium, state their name & address for the Clerk's record and are asked to limit remarks to five minutes. All remarks shall be directed to the Mayor who shall determine by whom any appropriate response shall be made. The City of Seward reserves the right to adjust the order of items on this Agenda if necessary and may elect to take action on any of the items listed.

ROLL CALL

CONSENT AGENDA

1. City Codes Director Report

CURRENT YEAR: November 2023

Permits	Quantity	Permit Fee	Valuation
NEW CONST.	3	\$ 6,555.61	\$ 774,344.83
REMODEL/ADDIT.	6	\$ 546.70	\$ 99,255.02
ACCESSORY	8	\$ 673.90	\$ 31,533.29
RELOCATE	3	\$ 247.00	\$ 55,293.60
ELECTRIC			
PLUMBING	20	\$ 1,715.00	\$ -
MECHANICAL	13	\$ 1,725.00	\$ -
SEWER TAP	3	\$ 750.00	\$ -
TEMP. WATER	3	\$ 360.00	\$ -
WATER TAP	3	\$ 2,514.00	\$ -
TEMP. ELEC.	3	\$ 200.00	\$ -
ELECTRIC SER.	3	\$ 800.00	\$ -
TOTALS	68	\$ 16,087.21	\$ 960,426.74

LAST YEAR: November 2022

Permits	Qty.	Permit Fee	Valuation
NEW CONST.	2	\$ 3,994.70	\$ 1,005,000.00
REMODEL/ADDIT.	4	\$ 587.45	\$ 104,840.89
ACCESSORY	3	\$ 75.00	\$ 850.00
RELOCATE	7	\$ 646.00	\$ 92,228.43
ELECTRIC			
PLUMBING	5	\$ 215.00	\$ -
MECHANICAL	10	\$ 1,959.00	\$ -
SEWER TAP	1	\$ 250.00	\$ -
WATER TAP	1	\$ 838.00	\$ -
TEMP. ELEC.	1	\$ 50.00	\$ -
ELECTRIC SER.	1	\$ 200.00	\$ -
TOTALS	35	\$ 8,815.15	\$ 1,202,919.32

YEAR TO DATE January to December 2023

Permits	Quantity	Permit Fee	Valuation
NEW CONST.	25	\$ 54,942.03	\$24,701,118.86
REMODEL/ADDIT.	181	\$ 22,413.94	\$ 5,954,523.53
ACCESSORY	151	\$ 16,595.68	\$ 753,641.59
RELOCATE	423	\$ 25,884.00	\$ 8,496,489.12
ELECTRIC			
PLUMBING	159	\$ 16,220.00	\$ -
MECHANICAL	132	\$ 24,313.00	\$ -
SEWER TAP	24	\$ 6,000.00	\$ -
TEMP. WATER	7	\$ 840.00	\$ -
WATER TAP	24	\$ 24,433.00	\$ -
TEMP. ELEC.	21	\$ 1,100.00	\$ -
ELECTRIC SER.	24	\$ 5,100.00	\$ -
TOTALS	1171	\$ 197,841.65	\$39,905,773.10

YEAR TO DATE January to December 2022

Permits	Qty.	Permit Fee	Valuation
NEW CONST.	22	\$ 57,790.24	\$11,692,757.90
REMODEL/ADDIT.	146	\$ 89,592.83	\$57,463,937.61
ACCESSORY	170	\$ 21,672.81	\$ 2,969,441.16
RELOCATE	1195	\$ 67,850.50	\$18,741,309.58
ELECTRIC			
PLUMBING	142	\$ 15,687.00	\$ -
MECHANICAL	84	\$ 13,093.00	\$ -
SEWER TAP	18	\$ 5,000.00	\$ -
WATER TAP	18	\$ 19,708.25	\$ -
TEMP. ELEC.	12	\$ 1,050.00	\$ -
ELECTRIC SER.	20	\$ 8,030.00	\$ -
TOTALS	1827	\$ 299,474.63	\$90,867,446.25

OPEN Property Maintenance Code Violation Report

					Updated 1-11-2024
Property Address	Violation Type	Deadline	Owner Information	Delivery Type	Status
2024					
1340 Fairlane	Snow Removal	1/11/2024	Barbara Osborne 903 406th Rd Beaver Crossing, NE 68313	In Person	1-10-24 CSO Arena made contact with the tenant. They will get it taken care of today.
339 E Bek	Snow Removal	1/11/2024	Gerald Gerler 1332 Rainbow Ave Seward, NE	Letter	On 1-10-24 COS Arena left a red tag on the door of the residence. His is waiting to hear back.
2023					
824 Hillcrest	Trash	12/6/2023	Patrick Meyer	Phone Call	CSO Arena made contact with the property owner. He stated there was some miscommunication between him and the trash company. CSO Arena updated on 12-6-2023 the trash has been removed.
1603 Eastridge Ave	Bed bug Infestation	1/8/2024	James Wallace	Certified letter	Infestation was reported by a realator who hired Orkin and they confirmed the infestation. Property is up for sale. James resides in Lincoln currently.
416 North 1st	Trash	11/29/2023	Sandy Nuttman		CSO made contact with the tenant and informed him has had until the end of the day to get the trash in a receptical. The tenant said he would get the trash in a receptical and have it removed on Saturday. As of 11-29-2023 in the morning, the trash was not in a receptical. CSO Arena will make contract again.
1130 N 6th Ave	Leaves, Grass, Weeds		George Knisley		CSO Arena inspected the property. He stated it the grass/weeds were maintained, and the amount of leaves were not abnormal. No contact was made to the homeowner.
546 North Ave	Landscaping height in sight triangle	11/6/2023	Samantha Fitzpatrick	Phone Call	CSO Arena made contact with the landowner. She stated she has contacted Andrew Schluter to address the issue. As of 11-6-2023 the issue as been resolved.
149 N 1st	Grass/Weeds	9/19/2023	Steve Butler/Tison Dixon		
429 S Columbia	Weeds	7/8/2023	Christopher Yates 8630 Oakmont Dr Lincoln, NE 68526	Certified letter, Posted notice on property	Certified Letter mailed to last known address. City has mowed previously and invoice went uncollected and turned over to collections. CSO Arena will post 5 day mowing nuisance letter.

OPEN Property Maintenance Code Violation Report

437 S 6th Street	Weeds, trash, litter	7/4/2023	Verlin Miller	In Person to tenant/Certified Mail	CSO Arena spoke with the tenants. Mr. Miller spoke with CSO Arena in response to the letter. The property was mowed and cleared of weeds and brush, debris was removed.
406 N 7th St	Weeds	7/4/2023	Wess & Shannon Robotham	Posted/Certified Mail	CSO Arena posted the notice of violations
545 N 6th	Weeds	7/20/2023	Mark Smith	Posted/Certified Mail	Codes Dir. Dworak verified site was mowed.
		7/4/2023			Joe Smith (son) called, Mark is ill so Joe will mow and clear brush this week by Thursday 7-13
					CSO Arena posted the notice of violations
937 Elm St	Weeds and Litter	7/4/2023	Kelvin and Theresa Bick	In Person/Certified Mail	Sherdon called the office needing an extension, CSO Arena will inspect the property Tuesday 7-11 for progress.
					CSO Arena made contact with Kelvin, property owner, and informed him of the violations.
923 Elm St	Weeds and Litter	7/4/2023	Sherdon Bick	Posted/Certified Mail	CSO Arena made contact with the son Kelvin who resides at the residence.
530 N 5th St	Trash, litter, junk, weeds	7/11/2023	Jeremy & Nicole Martin	Phone Call/Posted/Certified Mail	CSO Arena verified site was cleaned and mowed
		7/4/2023			Jeremy called the office and requested an extension until Tuesday 7-11, CSO Arena will verify completion Tuesday
					CSO Arena made contact via phone with Jeremy Martin. He is aware of the situation. He is out of town till the 3rd.
434 S 2nd	Junk in the yard, travel trailers with doors open and windows knocked out	12/7/2023	Stephen Storjohn	Phone conversation with Becky Paulsen	Becky informed city staff that she is working with Steve the weekend of 1-13-24 to clean up the front yard at a minimum and get all the junk out of the ROW.
		8/8/2023		Becky Paulsen visit to our office	Becky Paulsen, County Zoning, Stopped by to let us know Steve reached out to her for help to clean up his property. One car was removed, a second car will be removed week of 12-11. After the car is removed a dumpster will be brought in and they will concentrate on clean up of the right-of-way. Becky has reached out to local organizations for labor help to with the clean up.

OPEN Property Maintenance Code Violation Report

		7/11/2023		Posted/Certified Mail	<p>CSO Arena cited Storjohn. Storjohn missed his court date. He was arrested and released. Hearing date of September 20th was set. 9-11-23 received a phone call from Chief Peters that the County Attorney will not be prosecuting Storjohn any longer.</p> <p>As of October 9, 2023, CSO Arena has sent all documentation regarding the Storjohn Property to City Attorney Hoffschneider for possible prosecution.</p>
		6/20/2023			<p>Staff met with City Attorney Hoffschneider Tuesday 7-11. Wishes to wait to see outcome of the August 8 hearing. CSO Arena and an SPD Officer will issue a nuisance citation every Friday.</p>
					<p>Staff met with the County Attorney to begin prosecution of a nuisance violation and to begin abatement. County Attorney suggested we meet with the City Attorney to start civil proceedings. Meeting Tuesday 7-11.</p>

2. City Treasurer Report
3. Claims & Payables Reports

CLAIMS LIST

1-16-24

COUNCIL MEETING

Abbreviations: BE, Benefits; BU, Building Upkeep; CI, Capital Improvements; DO, Donations; EQ, Equipment; EX, Expense; FA, Fixed Asset; GS, Gas; GU, Ground Upkeep; IT, Technology; IV, Inventory; MA, Maintenance; MC, Miscellaneous; MH, Merchandise; MI, Mileage; ML, Meals; MS, Memberships; OI, Oil; OP, Operations; PO, Postage; PU, Publications; RE, Repairs; RI, Reimbursement; SA, Salaries, SE, Services; SL, Sales; ST, Sales Tax; SU, Supplies; TG, Training; TO, Tools; TR, Transfer; UN, Uniforms; UT, Utilities.

Aclara Technologies LLC	FA	49,849.00
ADE	SU	120.29
AKRS Equipment Inc	SU	298.66
All Copy Products Inc	MA	23.11
Allegiant Utility Service	FA	11.46
ALLO	SE	355.98
Amazon Business	SU	391.00
Anderson Jordan	MC	25.00
Badger Meter	SE	237.72
Baker & Taylor	SU	1,357.48
Baker Becky J	MI	36.68
Bishop Michael	OP	90.00
Bizco Technologies	IT	10,876.83
Blackburn Manufacturing C	SU	783.41
Blue Cross Blue Shield Ne	BE	66,323.62
Blue River Electric LLC	GU	562.50
Bode Adam	OP	90.00
Border States Industries	SU	1,935.00
Brase Joel	OP	90.00
Brunckhorst Kent	OP	90.00
Campbell Cleaning	MC	49.95
Capital Business-Cheyenne	MA	9.95
Cerny Dan	OP	90.00
Chelewski Kent	OP	90.00
Cihal Alan F	OP	90.00
City Seward Electric Fund	UT	40,375.93
City Seward Library Petty	PO	223.91
City Seward Merchant Serv	SE	2,585.16
City Seward Payroll Accou	SA	196,579.35
City Seward Perpetual Fd	SL	300.00
Core Robert	OP	90.00
Cornhusker State Industri	EQ	2,864.00
Cuttin It Close Lawncare	MC	75.00
Dworak Tim	OP	90.00
Ehlers Electronics	SU	8.60
Einspahr Kent	MC	50.51
Electro-Test & Maintenanc	MA	29,970.44
Farmers Coop Seward	DF	4,279.21
Fastenal Company	SU	814.63

Fisher Zachary G	OP	90.00
Galls LLC	UN	1,361.09
Gehring Construction	CI	124,844.25
General Excavating	CI	379,320.35
Gleason Logan	OP	90.00
Great Plains Communicatio	SE	490.00
H&S Plumb Heat & Air Inc	BU	99.50
Haas Jarod	MC	1,125.00
Hach Company	SU	314.28
Hans Jared	OP	90.00
Hansen Dan	OP	90.00
Harrison Chris	OP	90.00
Hauder Alex	OP	90.00
Herald Cody	OP	90.00
Herpolsheimer'S Inc	RE	29.26
Hireright LLC	SE	53.05
Hochstein Jared	OP	90.00
Husker Electric Supply Co	SU	141.95
Int'l Assoc Chiefs of Pol	MS	190.00
Int'l Assoc Property & Ev	MS	65.00
Janicek Gary M	OP	90.00
JEO Consulting Group	SE	250.00
Jones Automotive	EQ	483.68
Kahler Daniel S	OP	90.00
Klein'S Blue River Power	RE	67.85
Koll Brandon	OP	90.00
Last Mile Network Consult	IT	90.00
LCL Truck Equipment Inc	FA	13,935.00
Lintt Braydon	OP	90.00
Lintt Mark	OP	90.00
Mailand's Clothing	UN	49.00
Mcmaster-Carr	OP	192.76
Meier Mindy	MC	15.00
Memorial Health-Drug	SE	35.00
Meyer Automotive	RE	509.73
Mid-American Benefits Inc	BE	312.12
Midwest Auto Parts	RE	359.22
Midwest Laboratories Inc	OP	1,589.65
Midwest Turf & Irrigation	RE	73.18
Miers Robert M	OP	90.00
Municipal Supply Omaha	RE	364.99
Nebraska Dept Env/Energy	MS	150.00
Nebraska Pub Pow-Desmoine	UT	469,931.12
Nebraska Revenue	MC	521.41
Nebraska Treasurer	OP	40.26
Norris Public Power Distr	MC	10.00
Nunn Chris	OP	50.00
Oborny Tanner	OP	90.00
Olsson	SE	290.77
One Call Concepts Inc	SE	72.52

One Source Background Che	SE	19.00
Oneby Michael	OP	90.00
O'Reilly Automotive Inc	SU	151.92
Pac 'N' Save Discount Foo	SU	371.04
Pavers Inc	CI	1,192.63
Pecka Brook	OP	90.00
Pedersen Brent	OP	90.00
Policky Brandon A	OP	90.00
Pollak Douglas W	OP	90.00
Principal Financial Group	BE	2,620.95
Quill Corp	SU	559.95
Rathjen Shad	OP	90.00
Riddle Robert	MC	10.00
Riverside Portables LLC	SE	240.00
Ruether Larry L	OP	90.00
Rumery Lawn & Landscape	GU	2,620.28
Sampson Construction Co	BU	1,791.02
Schemmer Architects Engin	CI	142,481.81
Sestak David	OP	90.00
Seward County Clerk/Reg D	PU	22.50
Seward County Ema	SU	15.00
Seward County Independent	PU	600.31
Seward County Treasurer	SE	30,465.69
Seward Lumber & Home Cent	BU	557.36
Seward Public Schools	MC	44.14
Seward Wind LLC	UT	44,085.96
Spangler Patrick	MC	75.00
Sparqdata Solutions	MS	4,100.00
St Louis Michelle	OP	90.00
Suhr & Lichty Insurance A	MS	1,358.00
Terracon Inc	BU	5,200.00
Total Tool Supply Inc	SU	138.86
Tractor Supply	SU	1,136.37
Transunion Risk	MC	75.00
Truck Center Companies	RE	17.63
Ty's Outdoor Power & Serv	RE	176.30
U S Postal Service	MS	4,698.00
Verizon Wireless	SE	249.21
Vessco Inc	OP	842.12
Visa - Pinnacle Bank		1,001.26
Amazon	SU	72.73
DEMCO	SU	718.83
Menard's	SU	78.51
Sam's Club	SU	107.90
Techsoup	SE	6.00
Walmart	SU	1.30
Zoom	MS	15.99
Vlasin Lawn Service	MC	10.00
Voehl Cindy	MI	13.10
Voss Jason	MC	1,200.00

Wake Elizabeth	FA	975.00
Wake Max	FA	975.00
Watson Wendell B	OP	90.00
Wesco Distribution Inc	SU	301.00
Windstream Nebraska Inc	SE	1,826.92
Wolf Nicholas	MI	30.13
	CLAIMS TOTAL	\$1,664,109.83

4. Police Department Report



City of Seward
Police Department
Chief Brian W. Peters

Monthly Statistics
_____ 20 _____

Service Calls	
Accidents	
Arrests	
Citations	
Warnings	
Parking Tickets	

Does not include red tag warnings, yellow tag warnings or verbal warnings

5. Annual Certification of Fire Department List

Annual Certification for the Volunteer Emergency Responders Incentive Act

To be completed by a confirmed and approved Certification Administrator for certification years 2019 and after.
Include only those volunteer members who have earned 50 or more points during the calendar year (see instructions).

Identify the Nebraska County, City, Village, or Rural or Suburban Fire Protection District the Volunteer Department Serves
Seward County, Seward NE Calendar Year
2023

Identify the Volunteer Department for Which This Certification is Being Provided
Seward Volunteer Fire and Rescue

Checking this box verifies that all volunteer members included on this annual certification were not paid an hourly wage for their volunteer responder duties.

Legal Name of Qualified Volunteer Member	Address	Last Four Digits of Social Security Number	Points Earned this Calendar Year
Mark Suhr			61
James Kimsey			70
Lisa Kimsey			72
Daniel Brumm			68
Tami S. Svehla			75
Connie R. Languein			81
Landon Dirks			73
Kelby Nitz			51
Kent Auman			72
Jeff Neihardt			56
Travis Pollak			58
Tyler Dickinson			78
Bryan Niebrugge			59
Taylor Mifflin			90
Thomas Suhr			55
Zach Pilfold			59
Jensen Schulz			66
Jose Costillo			59

I hereby certify and declare under penalties of law that the individuals listed above (and on attached lists, if necessary) have met the minimum requirements (50 points or more) for the listed calendar year and have qualified as active members of the volunteer emergency responder unit, rescue squad unit, or firefighter unit identified above, and were not paid an hourly wage for their emergency responder duties.

sign here



Signature of Confirmed and Approved Certification Administrator

Connie Languein

Printed Name

clanguein@yahoo.com

Email Address

01/14/2024

Date

402-643-1995

Daytime Phone

Submit this certification to the Volunteer Emergency Responders
web page at revenue.nebraska.gov or mail to:
Nebraska Department of Revenue, PO Box 94609, Lincoln, NE 68509-4609.

6. Draft Minutes of January 2, 2024, City Council Meeting

January 2, 2024

The Seward City Council met at 7:00 p.m. on Tuesday, January 2, 2024, with Mayor Joshua Eickmeier presiding and City Clerk Derek Bargmann recording the proceedings. Upon roll call, the following Councilmembers were present: Megan Kahler, Karl Miller, John Singleton, Matt Stryson, Tatum Tonniges, Rich Wergin, Jonathon Wilken. Councilmembers Absent: Jessica Kolterman. Other officials present: City Administrator Greg Butcher, City Attorney's representative Conner Madsen, Executive Director of Wellness Center Joel Brase, Golf Shop Manager Cody Herald, and Chief of Police Brian Peters.

Notice of the meeting was given in advance thereof, and Mayor Eickmeier announced that a copy of the Open Meetings Act and tonight's agenda is posted in the meeting room and is accessible to members of the public. Mayor Eickmeier led those in attendance in the Pledge of Allegiance.

CONSENT AGENDA CONSIDERATION ITEMS

The following Consent Agenda items were approved in one single motion made by Councilmember Wergin, seconded by Councilmember Singleton.

1. Claims & Payables Report (totaling \$520,349.40)
2. Seward County Chamber & Development Partnership Report
3. Draft Minutes of December 19, 2023, City Council Meeting.
4. Mayor Appointment to Boards and Commissions:
 - a. Re-appoint Maureen Freitas, Renee Larsen, Janet Odvody, and Cheryl Zumpfe to the Aging Services Commission for a 4-Year Term

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

ADMINISTRATIVE ITEMS

1. CONSIDERATION OF AN ORDINANCE TO REVISE CITY CODE CHAPTER 78-1.1A, PLACING ITEMS ON THE CITY COUNCIL AGENDA

City Administrator Butcher described the proposed change to City Code as an update to the placement of items on a Council agenda. As it is currently written, Code allows for a citizen or councilmember to make a request for an agenda item. With the proposed update, a citizen or councilmember will need to obtain the Mayor's approval to place an item on an agenda or the approval of four councilmembers. Administration feels this change will ensure the agenda is not abused and that the most pertinent matters as directed by the Mayor and Council are addressed. The Personnel, Finance & Audit Committee recommended the change to City Code as presented.

Councilmember Kahler introduced Ordinance No. 2024-1. Councilmember Wergin moved, seconded by Councilmember Tonniges, to dispense with the statutory rule.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

Councilmember Stryson moved, seconded by Councilmember Tonniges that the minutes of the proceedings of the Mayor and Council of the City of Seward, Seward County, Nebraska in the matter of passing: **Ordinance No. 2024-1, AN ORDINANCE OF THE CITY OF SEWARD, NEBRASKA, AMENDING CHAPTER 78 OF THE SEWARD MUNICIPAL CODE RELATING TO CITY COUNCIL AGENDAS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING AN EFFECTIVE DATE.**

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

2. CONSIDERATION OF AN ORDINANCE TO AMEND CITY CODE CHAPTER 85, PART II: APPOINTED OFFICIALS

Mr. Butcher noted that the Council has traditionally appointed upon hire and then re-appointed all department heads at the election of the Mayor. The proposed change will align Code to Statute in the appointment and re-appointment of certain employees as specified in Statute. The adjustment would de-politicize the employment of some department heads as they will now be hired as regular employees rather than appointed or re-appointed. The Personnel, Finance & Audit Committee recommended the change to City Code as presented.

Councilmember Stryson introduced Ordinance No. 2024-2. Councilmember Wilken moved, seconded by Councilmember Kahler, to dispense with the statutory rule.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

January 2, 2024

Councilmember Wergin moved, seconded by Councilmember Stryson that the minutes of the proceedings of the Mayor and Council of the City of Seward, Seward County, Nebraska in the matter of passing: **Ordinance No. 2024-2, AN ORDINANCE OF THE CITY OF SEWARD, NEBRASKA, AMENDING CHAPTER 85, PART 2 OF THE SEWARD MUNICIPAL CODE RELATING TO APPOINTED OFFICIALS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM; AND PROVIDING AN EFFECTIVE DATE.**

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

Councilmember Miller moved, seconded by Councilmember Singleton that all ordinances be added to the permanent record.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

3. CONSIDERATION OF AN INDEPENDENT CONTRACTOR AGREEMENT WITH NAIM TERZIU (D/B/A CALABRIA) TO UTILIZE A PORTION OF THE SEWARD COMMUNITY GOLF COURSE CLUBHOUSE FOR A RESTAURANT FOR AN INITIAL TERM OF SIX MONTHS

Executive Director Brase described the proposal arrangement, which would allow the City to keep control of the liquor license and associated profits while allowing Calabria to operate a restaurant within the facility. He noted that Calabria currently has a similar arrangement with the golf course in Crete, thus they understand the market and seasonality. Mayor Eickmeier indicated a restaurant has long been desired by golf course members and is excited for the possibility it will provide the community. It is expected that liquor revenue will increase with the addition of the restaurant which will allow the course to be more self-sustaining. The initial term will be for six months, with the option to extend further if the partnership is successful. The opening date is proposed as March 1, 2024.

Councilmember Singleton moved, seconded by Councilmember Miller, that an independent contractor agreement with Naim Terziu (d/b/a Calabria) to utilize a portion of the Seward Community Golf Course Clubhouse for a restaurant be approved as presented.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

4. UPDATE ON THE WELLNESS CENTER

A. CONSIDERATION OF A LEASE WITH SEWARD CHANGING THE GAME, INC. FOR LEASE OF PROPERTY TO CONSTRUCT THE WELLNESS CENTER

Mr. Butcher indicated the lease agreement was a formality which would allow the City to construct and operate a wellness center facility on land owned by the non-profit organization, Seward Changing the Game, Inc. This arrangement will comply with the terms of the awarded Shovel-Ready grant from the State of Nebraska. The City can purchase or receive the property as a donation at the conclusion of the grant.

Councilmember Wergin moved, seconded by Councilmember Miller, that a lease agreement with Seward Changing the Game, Inc. for construction and operation of the Seward Wellness Center be approved as presented.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

B. CONSIDERATION OF AUTHORIZATION FOR THE CITY OF SEWARD TO APPLY TO THE NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT FOR APPLICATION TO THE COMMUNITY AND CIVIC CENTER FINANCING FUND (CCCCFF) PROGRAM

Councilmember Miller moved, seconded by Councilmember Tonniges, to authorize the City of Seward to move forward with the application to the CCCCFF program in the amount of \$562,000.00 requested.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.
Nay: None. Absent: Kolterman. Motion carried.

5. CONSIDERATION OF A REQUEST FROM CITY ADMINISTRATION FOR THE APPROVAL OF SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES AT THE LIED SENIOR CENTER FOR THE EMPLOYEE ANNUAL AWARDS BANQUET, HELD ON JANUARY 19, 2024

January 2, 2024

Councilmember Miller moved, seconded by Councilmember Wergin, to approve the sale and consumption of alcoholic beverages at the Lied Senior Center for the awards banquet to be held on January 19, 2024.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Kolterman. Motion carried.

CITY ADMINISTRATOR’S REPORT

Councilmember Wergin moved, seconded by Councilmember Tonniges, that the City Administrator’s report of January 2, 2024, be accepted.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Kolterman. Motion carried.

STRATEGY SESSION

1. STRATEGY SESSION WITH CITY ATTORNEY’S REPRESENTATIVE REGARDING LITIGATION STRATEGY

Councilmember Miller moved, seconded by Councilmember Singleton, that the Council enter a closed session with the Mayor, City Administrator, City Attorney’s representative, Police Chief Peters, and the City Clerk for the protection of the public interest and to discuss litigation strategy with the City Attorney’s representative for a period not to exceed 30 minutes.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Kolterman. Motion carried.

Mayor Eickmeier stated the Council has voted to go into closed session at 7:35 p.m. for the protection of the public interest and to discuss litigation strategy with the City Attorney’s representative.

At 7:45 p.m., the closed session ended, and the following Councilmembers reconvened to regular session: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken. Mayor Eickmeier announced that no formal action was taken during the executive session.

2. STRATEGY SESSION WITH CITY ATTORNEY’S REPRESENTATIVE REGARDING REAL ESTATE INTERESTS AT THE SEWARD RAIL CAMPUS

Councilmember Miller moved, seconded by Councilmember Wergin, that the Council enter a closed session with the Mayor, City Administrator, City Attorney’s representative, and the City Clerk for the protection of the public interest and to discuss current real estate interests at the Seward Rail Campus and to provide the City Attorney with negotiating guidance for a period not to exceed 30 minutes.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Kolterman. Motion carried.

Mayor Eickmeier stated the Council has voted to go into closed session at 7:46 p.m. for the protection of the public interest and to discuss real estate interests and to provide the City Attorney with negotiating guidance.

At 8:02 p.m., the closed session ended, and the following Councilmembers reconvened to regular session: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken. Mayor Eickmeier announced that no formal action was taken during the executive session.

MOTION TO ADJOURN

Councilmember Singleton moved, seconded by Councilmember Wergin, that the January 2, 2024, City Council Meeting be adjourned.

Aye: Kahler, Miller, Singleton, Stryson, Tonniges, Wergin, Wilken.

Nay: None. Absent: Kolterman. Motion carried.

Adjourned approximately 8:02 p.m.

January 2, 2024

Joshua Eickmeier, Mayor

Derek Bargmann
City Clerk

ADMINISTRATIVE ITEMS

1. Consideration of a Resolution Designating City Items as Surplus - City Clerk Bargmann

RESOLUTION NO. 2024-1

WHEREAS, the City of Seward, Nebraska has the authority to sell personal property owned by the City;
and

WHEREAS, as outlined under Section 44-1.26 of the City Code, in order for the City to sell property having a value of \$5,000 or more, the City Council shall declare said property as surplus property and approve its disposal; and

WHEREAS, as outlined under Section 44-1.26 of the City Code, in order for the City to sell property having a value of \$5,000 or less, a listing of said property shall be posted; and

WHEREAS, the Governing Body determines that the City Administrator should act and that items should be sold and disposed of by the City of Seward; and

WHEREAS, the City of Seward, Nebraska has the following described property:

City of Seward - Surplus Property Items:

2006 White Ford F150 Pickup (68,134 miles)
2002 White Chevy Silverado C250 Pickup 4X4 with utility box (100,900 miles)
1976 Ditch Witch Vibrator Plow
John Deere F935 Lawn Mower (606 hours)
Recliner Chair (Mauve)
Piano

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SEWARD, NEBRASKA THAT:

That the above described property be sold or destroyed by the City of Seward in accordance with the procedures set forth in Section 44-1.26 of the Seward City Code.

The Mayor declared the resolution adopted. Dated this 16th day of January 2024.

THE CITY OF SEWARD, NEBRASKA

ATTEST:

Joshua Eickmeier, Mayor

Derek Bargmann
City Clerk

(SEAL)

2. Consideration of a Master Professional Services Agreement with Purpose Associates to Provide Design Services for Improvements to the City of Seward Water Treatment Plant - City Engineer Oneby

STANDARD FORM OF MASTER AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT between the **City of Seward, Nebraska** (“Owner”) and **Purpose Associates** (“Engineer”).

From time to time Owner intends to engage Engineer to provide professional services. This Agreement sets forth the general terms and conditions which shall govern the relationships and performance of Owner and Engineer, if and only if one or more Task Orders are agreed to under this Agreement. Each engagement will be documented by a Task Order.

Owner and Engineer in consideration of their mutual covenants as set forth herein agree as follows:

ARTICLE 1 – SERVICE OF ENGINEER

1.01 Scope

A. The services to be provided by Engineer will include such of the Basic and Additional Services set forth in Exhibit A, “Schedule of Engineer’s Services,” as authorized by Owner as provided herein. Services for each Specific Project will be detailed in a duly executed Task Order. Each Task Order will indicate the specific tasks and functions to be performed and deliverables to be provided.

B. The general format of a Task Order is shown in Attachment 1 to Exhibit A.

C. This Agreement is not a commitment by Owner to Engineer to issue any Task Orders.

D. Engineer shall not be obligated to perform any prospective Task Order unless and until Owner and Engineer agree as to the particulars of the Specific Project, Engineer’s services, Engineer’s compensation, and all other appropriate matters.

1.02 Task Order Procedure

A. Owner and Engineer shall agree on the scope, time for performance, and basis of compensation for each Task Order.

B. Engineer will commence performance as set forth in the Task Order.

ARTICLE 2 – OWNER’S RESPONSIBILITIES

2.01 General

A. Owner shall have the responsibilities set forth herein, in Exhibit B, “Schedule of Owner’s Responsibilities,” and in each Task Order.

ARTICLE 3 – TERM; TIMES FOR RENDERING SERVICES; SUSPENSION

3.01 Term

A. This Agreement shall be effective and applicable to Task Orders issued hereunder for **four (4)** years from the Effective Date of the Agreement.

3.02 Times for Rendering Services

A. The times for performing services or providing deliverables will be stated in each Task Order. If no times are so stated, Engineer will perform services and provide deliverables within a reasonable time.

B. For purposes of this Agreement the term “day” means a calendar day of 24 hours.

C. The time for a party’s performance will be extended to the extent performance was delayed by causes beyond the control and without the fault of the party seeking the extension. That party shall promptly notify the other party in writing when it is being delayed.

3.03 Suspension

A. If Owner fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase under a Task Order, or if Engineer’s services are delayed through no fault of Engineer, Engineer may, after giving seven days written notice to Owner, suspend services under the Task Order.

B. If Engineer’s services under a Task Order are unreasonably delayed or suspended in whole or in part

by Owner, or if Engineer's services under a Task Order are extended by a Contractor's actions or inactions for more than 90 days through no fault of Engineer, Engineer shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect incremental costs incurred by Engineer in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under the Task Order has been revised.

ARTICLE 4 – PAYMENTS TO ENGINEER

4.01 Payment for Services and Reimbursable Expenses of Engineer

A. Owner shall pay Engineer as set forth herein and in each Task Order.

4.02 Other Payment Provisions

A. *Preparation of Invoices.* Invoices for each Task Order will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to Owner by Engineer monthly, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C, "Payment to Engineer for Services and Reimbursable Expenses," and each Task Order.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoices, the amounts due Engineer will be increased at the rate of 1.0 percent per month (or the maximum rate of interest permitted by law, if less) from said 30th day. In addition, Engineer may, after giving seven days written notice to Owner, suspend services under any Task Order issued under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payment will be credited first to interest and then to principal.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. Payments Upon Termination.

1. In the event of any termination under paragraph 6.06, Engineer will be entitled to invoice Owner and will be paid in accordance with each Task Order for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by Engineer for cause, Engineer, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice Owner and shall be paid 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 each Task Order.

E. *Records of Engineer's Costs.* Records of Engineer's costs pertinent to Engineer's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify Engineer's charges and upon Owner's timely request, copies of such records will be made available to Owner at cost.

F. *Legislative Actions.* In the event of legislative actions after the effective date of a Task Order by any level of government that impose taxes, fees, or costs on Engineer's services or other costs in connection with that Task Order or compensation therefore, such new taxes, fees, or costs shall be invoiced to and paid by Owner as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or cost be imposed, they shall be in addition to Engineer's estimated total compensation. Owner shall provide a tax exempt certificate.

ARTICLE 5 – OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

A. Engineer's opinions of probable Construction Cost (if any) 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 industry. However, since Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over a Contractor's 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. If Owner wishes greater assurance as to probable Construction Cost, Owner shall employ an independent cost estimator as provided in Exhibit B.

5.02 Opinions of Total Project Costs

A. Engineer assumes no responsibility for the accuracy of opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 Standard and Parameters 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 Engineer's 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. Engineer shall be responsible for the technical accuracy of its services and documents resulting therefrom, and Owner shall not be responsible for discovering deficiencies therein. Engineer shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in Owner-furnished information.

C. Engineer shall serve as Owner's prime professional under each Task Order. Engineer may employ such Engineer's Consultants as Engineer deems necessary to assist in the performance or furnishing of the services. Engineer shall not be required to employ any Engineer's Consultant unacceptable to Engineer.

D. Engineer and Owner shall comply with applicable Laws or Regulations and Owner-mandated standards. This Agreement is based on these requirements as of the Effective Date of each Task Order. Changes to these requirements after the Effective Date of each Task Order may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

E. 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, reports, data, and information in performing or furnishing services under this Agreement.

F. Owner shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of Engineer.

G. Prior to the commencement of the Construction Phase on a Specific Project, Owner shall notify Engineer of any variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other notice or certification that Engineer will be requested to provide to Owner or third parties in connection with a Specific Project. Owner and Engineer shall reach

agreement on the terms of any such requested notice or certification, and Owner shall authorize such Additional Services as are necessary to enable Engineer to provide the notices or certifications requested.

H. If a Construction Cost limit for a Specific Project is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically as set forth in Exhibit F, "Construction Cost Limit," to this Agreement, and the Task Order.

I. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in Engineer having to certify, guarantee or warrant the existence of conditions whose existence Engineer cannot ascertain within its services for that Specific Project. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to the Engineer in any way contingent upon Engineer signing any such certification.

J. If Engineer provides services during the Construction Phase of a Specific Project, Engineer shall not supervise, direct, or have control over a Contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by a Contractor, for safety precautions and programs incident to a Contractor's work in progress, nor for any failure of a Contractor to comply with Laws and Regulations applicable to a Contractor's furnishing and performing the Work.

K. 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.

L. Engineer shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of a Contractor's agents or employees or any other persons (except Engineer's own employees) at a Site or otherwise furnishing or performing any of a Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by Owner without consultation and advice of Engineer.

M. 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 (Document No. C-700, 2002 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit J, "Special Provisions."

6.02 Authorized Project Representatives

A. Contemporaneous with the execution of each Task Order, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under the Task Order. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to a Specific Project on behalf of each respective party.

6.03 Design without Construction Phase Services

A. It is understood and agreed that if Engineer's Basic Services under a Task Order do not include project observation, or review of a Contractor's performance, or any other Construction Phase services, and that such services will be provided by Owner or others, then Owner assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the Engineer that may be in any way connected thereto. In such a case, Engineer's Basic Services under the applicable Task Order will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A and the Task Order.

6.04 Use of Documents

A. All Documents are instruments of service. Engineer shall retain an ownership and property interest therein (including the right of reuse at the discretion of Engineer) whether or not a Specific Project is completed.

B. Copies of Owner-furnished data that may be relied upon by Engineer are limited to the printed copies (also known as hard copies) that are delivered to Engineer pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by Owner to Engineer are only for convenience of Engineer. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

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

D. 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 errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. Engineer shall not be responsible to maintain documents stored in electronic media format after acceptance by Owner.

E. When transferring documents in electronic media format, Engineer makes no representations as to compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by Engineer at the beginning of a Specific Project.

F. Owner may make and retain copies of Documents for information and reference in connection with use on a Specific Project by Owner. Such Documents are not intended or represented to be suitable for reuse by Owner or others on extensions of the Specific Project for which they were prepared or on any other project. Any such reuse or modification without written verification 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. 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 therefrom.

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

H. Any verification or adaptation of the Documents for extensions of the Specific Project for which they were prepared or for any other project will entitle Engineer to further compensation at rates to be agreed upon by Owner and Engineer.

6.05 Insurance

A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance."

B. Owner shall procure and maintain insurance as set forth in Exhibit G. 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 a Specific Project.

C. Owner shall require Contractors to purchase and maintain general liability and other insurance as specified in the Contract Documents 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 a Specific Project.

D. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of this Agreement.

E. All policies of property insurance 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 any of the insureds or additional insureds thereunder.

F. At any time, Owner may request that Engineer, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, with the concurrence of Engineer, and if commercially available, Engineer shall obtain and shall require Engineer's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be amended to incorporate these requirements.

6.06 Termination

A. The obligation to provide further services under this Agreement or any Task Order 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 of this Agreement or any Task Order hereunder through no fault of the terminating party.

b. By Engineer:

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

2) upon seven days written notice if Engineer's services under a Task Order 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, neither this Agreement nor any Task Order will terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its 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 notice.

2. For convenience,

a. By Owner effective upon the receipt of notice by Engineer.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination of this Agreement or any Task Order 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 materials in orderly files.

6.07 Controlling Law

A. This Agreement is to be governed by the law of the state in which the principal office of the Owner is located, unless the law of the state where the Work is being performed requires that the law of that state be applied.

6.08 Successors, Assigns, and Beneficiaries

A. Owner and Engineer each is hereby bound and the partners, successors, executors, administrators and legal representatives of Owner and Engineer (and to the extent permitted by paragraph 6.08.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. The Owner agrees that the substance of the provisions of this paragraph 6.08.C shall appear in any Contract Documents prepared for any Specific Project under this agreement.

6.09 Dispute Resolution

A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period not to exceed 30 days from the date of notice prior to exercising their rights under Exhibit H, "Dispute Resolution," or other provisions of this Agreement, or under law.

B. If and to the extent that Owner and Engineer have agreed on a method and procedure for resolving disputes between them arising out of or relating to this Agreement, such dispute resolution method and procedure is set forth in Exhibit H. In the absence of such an agreement, the parties may exercise their rights under law.

6.10 Hazardous Environmental Condition

A. Owner represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist on a Site for a Specific Project, unless set forth in the Task Order.

B. Owner shall disclose to the best of its knowledge to Engineer the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site of any Specific Project, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, Engineer shall have the obligation to notify Owner and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that Engineer's scope of services in any Task Order shall not include any services related to a Hazardous Environmental Condition unless specifically agreed to in a Task Order. In the event Engineer or any other party encounters a Hazardous Environmental Condition not specifically identified in the Task Order, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Specific Project affected thereby until Owner: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site of a Specific Project is in full compliance with applicable Laws and Regulations.

E. 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 of 1990 (CERCLA), which are or may be encountered at or near the Site of a Specific Project in connection with Engineer's activities under this Agreement.

F. If Engineer's services under any Task Order cannot be performed because of a Hazardous Environmental Condition not specifically identified in the Task Order, the existence of the condition shall justify Engineer's terminating that Task Order for cause on 30 days notice.

6.11 Allocation of Risks

A. Indemnification

1. To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, Owner's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of Engineer or Engineer's officers, directors, partners, employees, and Engineer's Consultants in the performance and furnishing of Engineer's services under this Agreement.

2. To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer, Engineer's officers, directors, partners, employees, and Engineer's Consultants from and against any and all costs, losses and damages (included but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of Owner or Owner's officers, directors, partners, employees, and Owner's consultants with respect to this Agreement.

3. To the fullest extent permitted by law, Engineer's total liability to Owner and anyone claiming by, through, or under Owner for any cost, loss, or damages caused in part by the negligence of Engineer and in part by the negligence of Owner or any other negligent entity or individual, shall not exceed the percentage share that Engineer's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

4. In addition to the indemnity provided under paragraph 6.11.A.2 of this Agreement, and to the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, partners, employees, and Engineer's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.11.A.4 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.

5. The indemnification provision of paragraph 6.11.A.1 is subject to and limited by the provisions agreed to by Owner and Engineer in Exhibit I, "Allocation of Risks," if any.

6.12 Notices

A. 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, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

6.13 Applicability of Master Agreement to Task Orders

A. The terms and conditions set forth in this Agreement apply to each Task Order as if set forth in the Task Order, unless specifically modified. In the event of conflicts between this Agreement and a Task Order, the conflicting provisions of the Task Order shall take precedence for that Task Order. The provisions of this Agreement shall be modified only by a written amendment. Such amendments shall be applicable to all Task Orders issued after the effective date of the amendment if not otherwise set forth in the amendment.

6.14 Survival

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

6.15 Severability

A. Any provision or part of this 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 this 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.

6.16 Waiver

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

6.17 Headings

A. The headings used in this Agreement are for general reference only and do not have special significance.

6.18 Non-Exclusive and Non-Limiting Agreement

A. Nothing herein shall establish an exclusive relationship between Owner and Engineer. Owner may enter into similar agreements with other professionals for the same or different types of services contemplated hereunder, and Engineer may enter into similar or different agreements with other owners for the same or different services as contemplated hereunder.

B. The cumulative scope of Engineer's services and Engineer's compensation as agreed to in Task Orders hereunder shall not be limited by this Agreement.

ARTICLE 7 – DEFINITIONS

7.01 Defined Terms

A. Wherever used in this Agreement (including the Exhibits hereto and any Task Order) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*—Services to be performed for or furnished to Owner by Engineer in accordance with a Task Order which are not included in Basic Services for that Task Order.

3. *Agreement*—This “Standard Form of Master Agreement between Owner and Engineer for Professional Services,” including those Exhibits listed in Article 8 hereof.

4. *Application for Payment*—The form acceptable to Engineer which is to be used by a contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. *Asbestos*—Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

6. *Basic Services*—Specified services to be performed for or furnished to Owner by Engineer in accordance with a Task Order.

7. *Bid*—The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. *Bidding Documents*—The advertisement or invitation to Bid, instruction to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. *Change Order*—A document recommended by Engineer, which is signed by a Contractor and Owner to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times.

10. *Construction Agreement*—The written instrument which is evidence of the agreement,

contained in the Contract Documents, between Owner and a Contractor covering the Work.

11. *Construction Contract*—The entire and integrated written agreement between Owner and a Contractor concerning the Work.

12. *Construction Cost*—The cost to Owner of those portions of an entire Specific 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, rights-of-ways, 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 a Specific 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.

13. *Contract Documents*—Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between Owner and a Contractor, Addenda (which pertain to the Contract Documents), a contractor’s Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and Engineer’s written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price*—The moneys payable by Owner to a Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times*—The number of days or the dates stated in a Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by Engineer’s written recommendation of final payment.

16. *Contractor*—An individual or entity with whom Owner enters into a Construction Agreement for a Specific Project.

17. *Correction Period*—The time after Substantial Completion during which a Contractor must correct, at no cost to Owner, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or special provision of the Contract Documents.

18. *Defective*—An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, referenced standard, test, or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment.

19. *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.

20. *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 a Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*—The date indicated in a Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*—The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *Effective Date of the Task Order*—The date indicated in the Task Order on which it becomes effective, but if no such date is indicated, it means the date on which the Task Order is signed and delivered by the last of the two parties to sign and deliver.

24. *Engineer's Consultants*—Individuals or entities having a contract with Engineer to furnish services with respect to a Specific Project as

Engineer's independent professional associates, consultants, subcontractors, or vendors. The term Engineer includes Engineer's Consultants.

25. *Field Order*—A written order issued by Engineer which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

26. *General Conditions*—That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by a Contractor with respect to a Specific Project.

27. *Hazardous Environmental Condition*—The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with a Specific Project.

28. *Hazardous Waste*—The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

29. *Laws and Regulation; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

30. *PCB's*—Polychlorinated biphenyls.

31. *Petroleum*—Petroleum, including crude oil or any fraction thereof which is liquid at 32 degrees Fahrenheit and 14.7 pounds per square inch absolute, such as fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non- Hazardous Waste and crude oils.

32. *Radioactive Materials*—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

33. *Record Drawings*—The Drawings as issued for construction on which Engineer, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which Engineer considers significant based on record documents furnished by Contractor to Engineer and which were annotated by Contractor to show changes made during construction.

34. *Reimbursable Expenses*—The expenses incurred directly by Engineer in connection with the

performing or furnishing of Basic and Additional Services for a Specific Project for which Owner shall pay Engineer as indicated in Exhibit C.

35. *Resident Project Representative*—The authorized representative, if any, of Engineer assigned to assist Engineer at the Site of a Specific Project 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 will be as set forth in each Task Order.

36. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for a Contractor and submitted by a Contractor to Engineer to illustrate some portion of the Work.

38. *Site*—Lands or areas indicated in the Contract Documents for a Specific Project as being furnished by Owner upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for use of a Contractor.

39. *Specifications*—That part of the Contract Documents prepared by Engineer consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work to be performed by a Contractor and certain administrative details applicable thereto.

40. *Specific Project*—An undertaking of Owner as set forth in a Task Order.

41. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

42. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements the General Conditions.

43. *Task Order*—A document executed by Owner and Engineer, including amendments if any, stating the scope of services, Engineer's compensation, times for performance of services and other relevant information for a Specific Project.

44. *Total Project Costs*—The sum of the Construction Cost, allowances for contingencies, the total costs of services of Engineer or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or Owner's cost for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with a Specific Project, or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

45. *Work*—The entire completed construction or the various separately identifiable parts thereof required to be provided by a Contractor under Contract Documents for a Specific Project. Work includes and is the result of a Contractor performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the applicable Contract Documents.

46. *Work Change Directive*—A written directive to a Contractor signed by Owner upon recommendation of the Engineer, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

47. *Written Amendment*—A written amendment of the Contract Documents signed by Owner and a Contractor on or after the Effective Date of a Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

EXHIBIT 8 - EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits

A. Exhibit A, "Schedule of Engineer's Services," consisting of 8 pages.

B. Exhibit B, "Schedule of Owner's Responsibilities," consisting of 2 pages.

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 1 pages.

D. Exhibit D, "Schedule of Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 4 pages.

E. Exhibit E, "Notice of Acceptability of Work," not used.

F. Exhibit F, "Construction Cost Limit," not used

G. Exhibit G, "Insurance," consisting of 2 pages.

H. Exhibit H, "Dispute Resolution," consisting of 1 pages.

I. Exhibit I, "Allocation of Risks," consisting of 2 pages.

J. Exhibit J, "Special Provisions," consisting of 5 pages.

8.02 Total Agreement

A. This Agreement (consisting of pages 1 to 11 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

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

This Agreement will be effective on January 17, 2024 (which is the Effective Date of the Agreement).

Owner:

City of Seward

By: Joshua Eickmeier

Title: Mayor

Signature: _____

Date Signed: _____

Address for giving notices:

537 Main Street

Seward, NE 68434

Engineer:

Purpose Associates

By: Dr. Adib Amini

Title: CEO, Principal Engineer

Signature: _____

Date Signed: January 12, 2024

Address for giving notices:

1333 Buckeye Ave #1043

Ames, Iowa 50010

515-809-2020

Schedule of Engineer's Services

Services to be provided under a Task Order may include the following:

PART I -- BASIC SERVICES

A1.01 Study and Report Phase

A. Upon authorization from Owner, Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for a Specific Project and available data.
2. Advise Owner as to the necessity of Owner's providing data or services of the types described in Exhibit B which are not part of Engineer's Basic Services, and, if requested, assist Owner in obtaining such data and services.
3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of a Specific Project designed or specified by Engineer, including but not limited to mitigating measures identified in the environmental assessment.
4. Identify and evaluate the number of alternate solutions available to Owner listed in the Task Order for a Specific Project, and, after consultation with Owner, recommend to Owner those solutions which in Engineer's judgment meet Owner's requirements for a Specific Project.
5. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. This Report will be accompanied by Engineer's opinion of Total Project Costs for each solution which is so recommended for a Specific Project with each component separately itemized, including the following, which will be separately itemized: opinion of probable Construction Cost, allowances for contingencies and for the estimated total costs of design, professional, and related services provided by Engineer and, on the basis of information furnished by Owner, allowances for other items and services included within the definition of Total Project Costs.
6. Furnish the number of review copies of the Report to Owner within the time period set forth in the Task Order and review it with Owner.
7. Revise the Report in response to Owner's and other parties' comments, as appropriate, and furnish the number of final copies of the revised Report to the Owner within the time period set forth in the Task Order.

B. Engineer's services under the Study and Report Phase will be considered complete on the date when the final copies of the revised Report have been delivered to Owner.

A1.02 Preliminary Design Phase

A. After determination by Owner of the scope, extent, character or design requirements of a Specific Project, including the acceptance with any specific modifications by Owner of Engineer's Report, if any, from a preceding phase or Specific Project, and upon authorization from Owner to provide Preliminary Design Phase Services, Engineer shall:

1. On the basis of the above acceptance, selection, and authorization, prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of a Specific Project.

2. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.

3. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.

4. Based on the information contained in the Preliminary Design Phase documents, submit a current opinion of probable Construction Cost and any adjustments to Total Project Costs known to Engineer, which will be itemized as provided in paragraph A1.01.A.5.

5. Furnish the Preliminary Design Phase documents to and review them with Owner.

6. Submit to Owner the number of final copies of the Preliminary Design Phase documents and revised opinion of probable Construction Cost within the time period set forth in the Task Order.

B. Engineer's services under the Preliminary Design Phase will be considered complete on the date when final copies of the Preliminary Design Phase documents have been delivered to Owner.

A1.03 Final Design Phase

A. After determination by Owner of the scope, extent, character, or design requirements of a Specific Project, including the acceptance of any specific modifications by Owner of a preceding phase or Specific Project, and upon authorization from Owner to provide Final Design Phase Services, Engineer shall:

1. On the basis of the above acceptance, direction, and authorization, prepare final Drawings indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Specifications will be prepared, where appropriate.

2. Provide technical criteria, written descriptions, and design data for Owner's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of a Specific Project and assist Owner in consultations with appropriate authorities.

3. Provide Owner a current opinion of probable Construction Cost and any adjustments to Total Project Costs known to Engineer, itemized as provided in paragraph A1.01.A.5.

4. Prepare and furnish Bidding Documents for review and approval by Owner, its legal counsel, and other advisors, as appropriate, and assist Owner in the preparation of other related documents.

5. Submit the number of final copies of the Bidding Documents and a current opinion of probable Construction Cost to Owner within the time period set forth in the Task Order.

B. In the event that the Work designed or specified by Engineer is to be performed or furnished under more than one prime contract, or if Engineer's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), Owner and Engineer shall, prior to commencement of the Final Design Phase, develop a schedule for performance of Engineer's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to the Task Order whether or not the work under such contracts is to proceed concurrently.

C. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established is identified in the Task Order.

D. Engineer's services under the Final Design Phase will be considered complete on the date when the submittals required by paragraph A1.03.A.5 have been delivered to Owner.

A1.04 *Bidding or Negotiating Phase*

A. Upon authorization from Owner to provide Bidding or Negotiating Phase Services, Engineer shall:

1. Assist Owner in advertising for and obtaining bids or negotiating proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-Bid conferences, if any, and receive and process Contractor deposits or charges for the Bidding Documents.

2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.

3. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.

4. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.

B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors.

A1.05 *Construction Phase*

A. Upon authorization from Owner to provide Construction Phase Services, Engineer shall:

1. *General Administration of Construction Contract.* Consult with Owner and act as Owner's representative as provided in the General Conditions. The extent and limitations of the duties, responsibilities and authority of Engineer as assigned in said General Conditions shall not be modified, except as Engineer may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Engineer, who shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.

2. *Resident Project Representative (RPR).* Provide the services of an RPR at the Site of the Specific Project to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in the Task Order. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," shall be modified for the Task Order. The furnishing of such RPR's services will not extend Engineer's responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.

3. *Selecting Independent Testing Laboratory.* Assist Owner in the selection of an independent testing laboratory to perform the services identified in paragraph B2.01.0.

4. *Pre-Construction Conference.* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.

5. *Baselines and Benchmarks.* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.

6. *Visits to Site and Observation of Construction.* In connection with observations of Work in progress:

a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the

Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work in progress or to involve detailed inspections of the Work in progress beyond the responsibilities specifically assigned to Engineer in the Task Order and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and such observations, Engineer will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

b. The purpose of Engineer's visits to, and representation by the Resident Project Representative, if any, at the Site of the Specific Project, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

7. *Defective Work.* Have authority to disapprove or reject Contractor's work while it is in progress if, on the basis of such observations, Engineer believes that such work will not produce a completed project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents.

8. *Clarifications and Interpretations; Field Orders.* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Engineer may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

9. *Change Orders and Work Change Directives.* Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.

10. *Shop Drawings and Samples.* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. Engineer has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to Engineer.

11. *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.

12. *Inspections and Tests.* Require such special inspections or tests of the Work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.

13. *Disagreements between Owner and Contractor.* Render formal written decisions on all claims of Owner and Contractor relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the Work. In rendering such decisions, Engineer shall be fair

and shall not be liable in connection with any decision rendered in good faith in such capacity.

14. *Applications for Payment.* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, the Work has progressed to the point indicated, the quality of such is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of Engineer contained in paragraph A1.05.A.6.a are expressly subject to the limitations set forth in paragraph A1.05.A.6.b and other express or general limitations in this Agreement and elsewhere.

b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of the Work as it is performed and furnished have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of the Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

15. *Contractor's Completion Documents.*

a. Receive and review maintenance and operating instructions, schedules, and guarantees.

b. Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided under paragraph A1.05.A.10, and the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such Engineer's review will be limited as provided in paragraph A1.05.A. 10.

c. Engineer shall transmit these documents to Owner.

16. *Substantial Completion.* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, conduct an inspection to determine if the Work is Substantially Complete. If after considering any objections of Owner, Engineer considers the Work Substantially Complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.

17. *Final Notice of Acceptability of the Work.* Conduct a final payment inspection to determine if the completed Work of Contractor is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice that the Work is acceptable (subject to the provisions of paragraph A1.05.A. 14.b) to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.

B. *Duration of Construction Phase.* The Construction Phase will commence with the execution of the first Construction Agreement for a Specific Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. If a Specific Project involves more than one prime contract as indicated in the Task Order, Construction Phase services may be rendered at different times in respect to the separate contracts.

C. *Limitation of Responsibilities.* Engineer shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. Engineer shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.06 *Post-Construction Phase*

A. Upon authorization from Owner to begin Commissioning and Post-Construction Phase Services, Engineer shall:

1. Provide assistance in connection with the testing and adjusting of Project equipment or systems.
2. Together with Owner, visit the Specific Project to observe any apparent defects in the Work, assist Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of Defective Work, if present.
3. In company with Owner or Owner's representative, provide an inspection of the Specific Project within one month before the end of the Correction Period to ascertain whether any portion of the Work is subject to correction.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in the Task Order, will terminate at the end of the Correction Period.

A1.07 *Commissioning Phase*

A. Upon authorization from Owner to begin Commissioning Phase Services, Engineer shall:

1. Assist the Owner and Contractor start-up and commissioning of the Project equipment or systems.
2. Assist Owner in training Owner's staff to operate and maintain Project, equipment, and systems.
3. Assist Owner in developing procedures for control of the operation and maintenance of, and record keeping for, equipment and systems for the Specific Project.

B. The Commissioning Phase services may commence during the Construction Phase and, if not otherwise modified in the Task Order, will terminate at the end of the Correction Period.

PART 2 -- ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Authorization in Advance*

A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by Owner as indicated in a Task Order.

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 a Specific Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for a Specific 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 a Specific 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.
3. Services resulting from significant changes in the scope, extent, or character of the portions of a Specific 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 the Task Order or are due to any other causes beyond Engineer's control.
4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in paragraph A1.0I.A.4.
5. Services required as a result of Owner's providing incomplete or incorrect project information with respect to Exhibit B.
6. Providing renderings or models for Owner's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for a Specific Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
8. Furnishing services of Engineer's Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in the Task Order.
10. Services during out-of-town travel required of Engineer other than for visits to the Specific Project Site or Owner's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.
14. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services, except when such assistance is required by Exhibit F.
15. Providing construction surveys and staking to enable a Contractor to perform its work other than as required under paragraph A1.05.A.5, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
16. Providing Construction Phase services beyond the Contract Times set forth in the Task Order.
17. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.
18. Preparing and furnishing to Owner, in the format agreed to, Record Drawings showing appropriate record information based on project annotated record documents received from Contractor.

19. Preparation of operation and maintenance manuals.
20. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration or other dispute resolution process related to a Specific Project.
21. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner under paragraph 6.01.G of the Agreement or a Task Order.
22. Services in connection with Work Change Directives and Change Orders to reflect changes requested by Owner so as to make the compensation commensurate with the extent of the Additional Services rendered.
23. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of any Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for a Specific Project or an excessive number of substitutions.
24. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
25. Additional or extended services during construction made necessary by (a) a significant amount of defective, neglected or delayed Work by a Contractor, or (b) default by a Contractor.
26. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work on a Specific Project by Owner prior to its Substantial Completion.
27. Evaluating an unreasonable claim or an excessive number of claims or requests for information submitted by a Contractor or others in connection with the Work on a Specific Project.
28. Other services performed or furnished by Engineer not otherwise provided for in this Agreement or a Task Order.

A2.02 Additional Services Not Requiring Owner's Authorization in Advance

A. Engineer shall perform or furnish, without requesting or receiving specific advance authorization from Owner, the Additional Services of the types listed below. Engineer shall advise Owner in writing within seven days after beginning any such Additional Services. If Owner does not want Engineer to continue to perform or furnish the services, Owner shall notify Engineer in writing to cease, and Engineer shall comply.

1. Additional or extended services during construction made necessary by (a) emergencies or acts of God endangering the Work, (b) an occurrence of a Hazardous Environmental Condition, (c) Work damaged by fire or other cause during construction, or (d) acceleration of the progress schedule involving services beyond normal working hours.

Task Order

In accordance with paragraph 1.01 of the Master Agreement Between Owner and Engineer for Professional Services dated _____, 20____ ("Agreement"), Owner and Engineer agree as follows:

Specific Project Data

A. Title:

B. Description:

1. Services of Engineer

Exhibit A shall apply to this project in its entirety with the following exceptions and additions:

Exhibit D shall apply to this project in its entirety.

2. Owner's Responsibilities

Exhibit B shall apply to this project in its entirety.

SAMPLE

Approval and Acceptance: Approval and Acceptance of this Task Order, including the attachments listed above, shall incorporate this document as part of the Agreement. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is _____, 20_____.

Owner

Engineer

Signature Date

Signature Date

Name

Name

Title

Title

Designated Representative for Task Order:

Designated Representative for Task Order:

Name

Name

Title

Title

Address

Address

Email Address

E-Mail Address

Phone

Phone

Fax

Fax



Schedule of Owner's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following responsibilities except as stated in a Task Order.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall:

A. Provide Engineer with all criteria and full information as to Owner's requirements for a Specific Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.

B. Furnish to Engineer any other available information pertinent to a Specific Project including reports and data relative to previous designs, or investigation at or adjacent to the Site of a Specific Project.

C. Following Engineer's assessment of initially-available project information and data and upon Engineer's request, furnish or otherwise make available such additional project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. Explorations and tests of subsurface conditions at or contiguous to the Specific Project Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to a Specific Project, the Specific Project Site, and adjacent areas.
6. Data or consultations as required for a Specific Project but not otherwise identified in the Agreement, the Exhibits thereto, or the Task Order.

D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of a Hazardous Environmental Condition of a nature or extent not identified in the Task Order or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services or in the work of any Contractor.

E. Authorize Engineer to provide Additional Services as set forth in the Task Order as required.

F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Task Order.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer for a Specific Project (including obtaining advice of an attorney, insurance counselor, and other

advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of a Specific Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of a Specific Project.

I. Provide, as required for a Specific Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to a Specific Project as Owner requires, a Contractor raises, or Engineer reasonably requests.
3. Such auditing services as Owner requires to ascertain how or for what purpose a Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to a Specific Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.

K. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others for Owner so that Engineer may make the necessary calculations to develop and periodically adjust Engineer's opinion of Total Project Costs.

L. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Specific Project Site, define and set forth in the Task Order the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

M. If more than one prime contract is to be awarded for the Work of a Specific Project designed or specified by Engineer, designate in the Task Order a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer.

N. Attend the pre-Bid conference, Bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work for a Specific Project with appropriate professional interpretation thereof.

P. Provide inspection or monitoring services by an individual or entity other than Engineer (and disclose the identity of such individual or entity to Engineer) as Owner determines necessary to verify:

1. That a Contractor is complying with any Laws and Regulations applicable to a Contractor's performing and furnishing the Work.
2. That a Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

Q. Provide Engineer with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

This is **EXHIBIT C**, consisting of one (1) page, referred to in and part of the Master Agreement between Owner and Engineer for Professional Services dated January 17, 2024.

Payments to Engineer for Services and Reimbursable Expenses

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

ARTICLE 4 – PAYMENTS TO ENGINEER

C4.01 *Method of Payment*

A. Owner shall pay Engineer for services in accordance with one or more of the following methods as identified in each Task Order:

1. Method A: Lump Sum
2. Method B: Standard Hourly Rates

C4.02 *Explanation of Methods*

A. Method A – Lump Sum

1. Owner shall pay Engineer a Lump Sum amount. The Task Order shall state the assumed distribution of the lump sum by phases.

2. The distribution of Engineer's compensation between phases may be altered with Owner's approval, which shall not be unreasonably withheld. Engineer's total compensation shall not exceed the total lump sum amount unless approved in writing by Owner.

3. The Lump Sum will include compensation for Engineer's services and services of Engineer's Consultants, if any. Appropriate amounts will be incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.

4. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the proportion of the total services actually completed during the billing period to the Lump Sum.

B. Method B – Standard Hourly Rates

1. Owner shall pay Engineer an amount equal to the cumulative hours charged to the Specific Project by each of Engineer's employees times their Standard Hourly Rate for all services performed on the Specific Project, plus Reimbursable Expenses and Engineer's Consultant's charges, if any.

2. Standard Hourly Rates include salaries and wages paid to personnel plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.

3. Engineer's current Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit as Attachment 1 to Exhibit C.

4. The total estimated compensation for Engineer's services for the Task Order and the assumed distribution of compensation by phases shall be stated in the Task Order. This total estimated compensation will incorporate all labor at Standard Hourly Rates, Reimbursable Expenses, and Engineer's Consultants' charges, if any.

5. The amounts billed for Engineer's services under each Task Order will be based on the cumulative hours charged to the Specific Project during the billing period by each of Engineer's employees times Standard Hourly Rates, plus Reimbursable Expenses and Engineer's Consultant's charges, if any.

6. The Standard Hourly Rates and Reimbursable Expenses Schedule shall be adjusted annually (as of April 1) to reflect equitable changes in the compensation payable to Engineer.



Attachment 1 to Exhibit C

2024 Fee Schedule

<u>Staff Category</u>	<u>Hourly Billing Rate</u>
Engineer	\$137.00
Project Engineer	\$171.00
Senior Project Engineer	\$185.00
Project Manager	\$200.00
Senior Project Manager	\$247.00
Principal	\$281.00
Engineering Technician I	\$95.00
Engineering Technician II	\$107.00
Engineering Technician III	\$120.00
Engineering Technician IV	\$138.00
Engineering Technician V	\$158.00
Administrative Assistant I	\$70.00
Administrative Assistant II	\$90.00

Hourly billing rates include salary costs, normal employee benefits, overhead, profit, and general office expenses such as telephone, facsimile, photocopy, word processing, postage, and basic supplies.

Listed rates are effective through December 31, 2024.

BILLABLE EXPENSES: Billable expenses include specialty vehicles (\$0.67/mile) and use of personal vehicles (at current IRS rate). A listing of all billable expense charges is available as applicable.

REIMBURSABLE EXPENSES: Reimbursable expenses include costs for meals and lodging when overnight stay is required for the project, costs for special mailing/printing, costs for materials and supplies purchased for specific use on the project, and costs of outside consultants used on the project.

Schedule of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative

The following duties, responsibilities and limitations of authority may be incorporated in the Task Order for a Specific Project:

D6.02 Resident Project Representative

A. Engineer shall furnish a Resident Project Representative ("RPR"), assistants, and other field staff to assist Engineer in observing progress and quality of the Work. The RPR, assistants, and other field staff under this Exhibit D may provide full time representation or may provide representation to a lesser degree.

B. Through such additional observations of a Contractor's work in progress and field checks of materials and equipment by the RPR and assistants, Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of a Contractor's work in progress, supervise, direct, or have control over the Contractor's work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by a Contractor, for safety precautions and programs incident to a Contractor's work in progress, for any failure of a Contractor to comply with Laws and Regulations applicable to a Contractor's performing and furnishing the Work, or responsibility for a Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in Paragraph A. 1.05 of Exhibit A as incorporated in the Task Order are applicable.

C. The duties and responsibilities of the RPR are limited to those of Engineer in the Agreement with the Owner and in the Contract Documents, and are further limited and described as follows:

1. General:

- a. RPR is Engineer's agent at the Specific Project Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
- b. RPR's dealings in matters pertaining to a Contractor's work in progress shall in general be with Engineer and Contractor, keeping Owner advised as necessary.
- c. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor.
- d. RPR shall generally communicate with Owner with the knowledge of and under the direction of Engineer.

2. Schedules:

- a. Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by a Contractor and consult with Engineer concerning acceptability.

3. Conferences and Meetings:

- a. Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

4. Liaison:

- a. Serve as Engineer's liaison with Contractor, working principally through a Contractor's superintendent and assist in understanding the intent of the Contract Documents.
- b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.

- c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
5. *Interpretation of Contract Documents:*
- a. Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.
6. *Shop Drawings and Samples:*
- a. Record date of receipt of Samples and approved Shop Drawings.
 - b. Receive Samples which are furnished at the Specific Project Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. *Modifications:*
- a. Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to Engineer.
 - b. Transmit to Contractor in writing decisions as issued by Engineer.
8. *Review of Work and Rejection of Defective Work:*
- a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
9. *Inspections, Tests, and System Startups:*
- a. Consult with Engineer in advance of scheduled major inspections, tests, and systems startups of important phases of the Work.
 - b. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
 - c. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems startups.
 - d. Accompany visiting inspectors representing public or other agencies having jurisdiction over a Specific Project, record the results of these inspections, and report to Engineer.
10. *Records:*
- a. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other project related documents.
 - b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- c. Record names, addresses and telephone numbers of all Contractors, subcontractors, and major suppliers of materials and equipment.
- d. Maintain records for use in preparing project documentation.
- e. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

11. Reports:

- a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.
- b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
- c. Furnish to Engineer and Owner copies of all inspection, test, and system startup reports.
- d. Report immediately to Engineer the occurrence of Site accidents, any Hazardous Environmental Conditions of a nature or extent not specifically identified in the Task Order, emergencies, or acts of God endangering the Work, and property damaged by fire or other causes.

12. Payment Requests:

- a. Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

13. Certificates, Operation and Maintenance Manuals:

- a. During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by a Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

14. Completion:

- a. Before Engineer issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- b. Observe whether Contractor has arranged for inspections required by Laws and Regulations, including but not limited to those to be performed by public agencies having jurisdiction over the Work.
- c. Participate in a final payment inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed or corrected.
- d. Observe whether all items on final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

D. Resident Project Representative shall not:

- 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
- 2. Exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.
- 3. Undertake any of the responsibilities of a Contractor, subcontractors, suppliers, or a Contractor's superintendent.
- 4. Advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of the Work unless such advice or directions are specifically required by the Contract Documents.

5. Advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the activities or operations of Owner or a Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than a Contractor.
8. Authorize Owner to occupy a Specific Project in whole or in part.

Insurance

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

G6.05 *Insurance*

A. The limits of liability for the insurance required by paragraphs 6.05.A and 6.05.B of the Agreement are as follows:

1. By Engineer:

a. Workers' Compensation:	Statutory
b. General Liability --	
1) Each Occurrence (Bodily Injury and Property Damage):	\$1,000,000
2) General Aggregate:	\$2,000,000
c. Automobile Liability --	
1) Combined Single Limit (Bodily Injury and Property Damage): Each Accident	\$500,000
d. Professional Liability—	
1) Each Occurrence	\$1,000,000
2) General Aggregate	\$2,000,000

2. By Owner:

a. Workers' Compensation:	Statutory
b. Employer's Liability --	
1) Each Accident	\$500,000
2) Disease, Policy Limit	\$500,000
3) Disease, Each Employee	\$500,000
c. General Liability --	
1) Each Occurrence (Bodily Injury and Property Damage):	\$1,000,000
2) General Aggregate	\$2,000,000
d. Automobile Liability	
1) Bodily Injury:	
a) Each Accident	\$500,000
2) Property Damage:	
a) Each Accident	\$500,000
[or]	
1) Combined Single Limit (Bodily Injury and Property Damage):	
a) Each Accident	\$500,000

B. Additional Insureds

1. Engineer and Engineer's Consultants identified in the Task Order for a Specific Project shall be listed on Owner's policies of insurance as additional insureds as provided in paragraph 6.05.B.

(The remainder of this page is intentionally blank.)

This is EXHIBIT H, consisting of one (1) page, referred to in and part of the **Master Agreement between Owner and Engineer for Professional Services** dated January 17, 2024.

Dispute Resolution

Paragraph 6.09 of the Agreement is amended and supplemented to include the following agreement of the parties:

H6.09 *Dispute Resolution*

A. 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 unless the parties mutually agree otherwise.

(The remainder of this page is intentionally blank.)

This is **EXHIBIT I**, consisting of two (2) pages, referred to in and part of the Master Agreement between Owner and Engineer for Professional Services dated January 17, 2024.

Allocation of Risks

Paragraph 6.11 of the Agreement is amended and supplemented to include the following agreement of the parties:

16.11-B Limitation of Engineer's Liability

1. *Engineer's Liability Limited to Amount of Insurance Proceeds.* Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, 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 (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal) and shall not exceed a total amount of \$1,000,000.

2. *Exclusion of Special, Incidental, Indirect and Consequential Damages.* To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to a Specific Project or the Agreement from any cause or causes, including but not limited to any such damages caused by 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.

3. *Betterment.* If, due to the Engineer's error, any required item or component of the project is omitted from the Engineer's construction documents, the Engineer shall provide at no additional cost the construction documents for the omitted item or component, but the Engineer shall not be responsible for paying the construction cost to add such item or component to the extent that such item or component would have been otherwise necessary to the project or otherwise adds value or betterment to the project. In no event will the Engineer be responsible for any cost or expense that provides betterment, upgrade or enhancement of the project. This will in no way relieve the Engineer from any legal responsibility for extra costs required to add such required item or component. Extra costs will be considered those costs above and beyond what the item or component would have cost had it not been omitted from the construction documents.

4. *Delays.* The Engineer is not responsible for delays caused by factors beyond the Engineer's reasonable control, including but not limited to delays because of labor strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the Owner to furnish timely information or approve or disapprove of the Engineer's services or work product promptly, or delays caused by faulty performance by the Owner or by contractors. When such delays beyond the Engineer's reasonable control occur, the Owner agrees the Engineer is not responsible for damages, nor shall the Engineer be deemed to be in default of this agreement.

5. *Extension of Protection.* The Owner agrees to extend any and all liability limitations and indemnifications provided by the Owner to the Engineer to those individuals and entities the Engineer retains for performance of the service under this agreement, including but not limited to the Engineer's officers and employees and their heirs and assigns, as well as the Engineer's sub-consultants and their officers, employees, heirs and assigns.

(The remainder of this page is intentionally blank.)

Special Provisions

For projects for which CDBG financing is being utilized by the Owner, the following changes to the general form of agreement will apply:

- A. The Agreement is amended to include the following:
1. Delete the wording on page 5 of the 11 page Agreement, Article 6 – General Considerations, 6.06-Termination and replace with the following wording:

“The Owner and/or the Engineer shall have the right to terminate this Contract at any time by giving at least ten (10) days notice in writing. The notice shall specify the effective date of such termination. Upon cancellation, the Owner will be responsible only for those costs incurred by the Engineer to the date of termination. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, and models, photographs and reports prepared by the Engineer under this Contract shall, at the option of the City, become its property and the Engineer shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.”
 2. The agreement will be subject to the following provisions of Executive Orders 11246 and 11375.

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applications for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements, for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 or Sept. 24, 1965, and shall pose copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit

access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 or September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rules, regulations, or orders of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

B. Access to and maintenance of records.

The Contractor must maintain all required records for five years after final payments are made and all other pending matters are closed. At any time during normal business hours and as frequently as is deemed necessary, the Contractor shall make available and furnish all information and reports required, and will permit access to books, records, and accounts by the Owner, Department of Housing and Urban Development, the Secretary of Labor, the Department of Economic Development or their authorized representatives, for purposes of investigation to ascertain compliance.

C. Title VI of the Civil Rights Act of 1964 (P.L. 88-352).

Generally provides that no person shall be excluded from participation, denied benefits, or subjected to discrimination on the basis of race, color, or national origin under any program or activity receiving federal financial assistance. (Further requirements specified in 24 CFR Part 1.)

D. Iowa Civil Rights Act of 1965 (Iowa Executive Orders 15 and 34).

E. Section 109 of Title of the Housing And Community Development Act of 1974, as amended (42 U.S.C. 5309)

Generally provides that no person shall be excluded from participation (including employment), denied program benefits or subjected to discrimination on the basis of race, color, physical or mental disabilities, national origin, religion or religious affiliation, or sex under any program or activity funded in whole or in part under Title I or this Act. (Further requirements are specified in 24 CFR 570.602).

F. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.)

Generally provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funds.

G. Section 504 of the Rehabilitation Act of 1973, as amended (P.L. 93-112)

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

H. The Americans With Disabilities Act (P.L. 101-336, 42 U.S.C. 12101-12213)

Guarantees equally opportunity for individuals with disabilities in public accommodations, employment, transportation, state and local government services and telecommunications.

I. Section 3 of the Housing and Urban Development Act Of 1968, as amended (12U.S.C. 1701u)

Generally provides that, to the greatest extent feasible, opportunities for training and employment that arise through HUD-financed projects shall be given to lower-income residents of the project area. Section 3 also provides that contracts awarded in connection with such projects be awarded to business located in the project area, or business owned, in substantial part, by residents of the project area.

1. The work to be preformed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded top business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant there to by the Secretary of Housing and Urban Development set forth in 24 CFR Section 3, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
3. The contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding if any, a notice advising said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The Contractor will include this section 3 clause in every subcontract; for work in connection with the project and will, at the direction of the applicant for or Contractor of Federal financial assistance, take appropriate action pursuant to the Subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Section 3. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Section 3 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Section 3, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract, shall be a condition of the Federal financial assistance provided to the project, binding upon the applicant or Contractor for such assistance, its successor, and assigns. Failure to fulfill these requirements shall subject the applicant or Contractor, its contractors and subcontractors, its successors, and assigns to those sanctions specified by the grant or loan agreement or contract through Federal assistance is provided, and to such sanctions as are specified by 24 CFR Section 135.135.

J. Termination Clause

The Owner and/or the Contractor shall have the right to terminate this Contract at any time by giving at least ten (10) days notice in writing. The notice shall specify the effective date of such termination. Upon cancellation, the Owner will be responsible only for those costs incurred by the Contractor to the date of termination. In the event of termination, all

finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor under this Contract shall, at the option of the City, become its property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

K. Restrictions On Lobbying

All parties to this Contract certify, to the best of their knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Federal Lobbying" in accordance with its instruction.
3. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-Contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

L. Contracts in excess of \$100,000

Shall require compliance with the following laws and regulations:

- Section 306 of the Clean Air Act (42 USC 1857(h))
- Section 508 of the Clean Water Act (33 USC 1368)
- Executive Order 11738
- EPA Regulations – 40 CFR, Part 15

M. Clean Air and Water Acts – required clauses:

This Clause is required in all third party contracts involving projects subject to the Clean Air Act (42 USC 1857 et seq.), the Federal Water Pollution Control Act (33 USC 1251 et seq.), and the regulations of the Environmental Protection Agency with respect to 40 CFR 15, as amended. It should also be mentioned in the bid document.

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will certify that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency pursuant to 40 CFR 15.20.

2. The Contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 USC 1318) relating to inspection monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
3. The Contractor agrees that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the Environmental Protection Agency Listed of Violating Facilities.
4. The Contractor agrees that it will include or cause to be included the criteria and requirements in Paragraph (1) through (4) of this section in every nonexempt subcontract and require every subcontractor to take such action as the Government may direct as a means of enforcing such provisions.



515-809-2020

1333 Buckeye Ave #1043,
Ames, IA 50010

info@purposeas.com

www.purposeassociates.com

Purpose Associates

Dedicated to Serving Your Water & Wastewater Needs

City of Seward, NE

Water Treatment Plant Improvements

Proposal

December 26, 2023



Contents

Company Overview	2
Our Services	3
Project Team	5
Relevant Experience and Projects.....	9
System Description and Estimated Budget Costs	13
Potential Timeline	15
We're Here To Help.....	16

COMPANY OVERVIEW

Purpose Associates delivers high quality, tailored engineering solutions for municipal and industrial clients, with a focus on drinking water treatment, wastewater treatment, and sustainability.

Purpose has focused on developing high specialization in the unique needs of drinking water and wastewater systems. Our teams create solutions to fit your needs and desires, with the ability to innovate to solve problems. Purpose serves clients from the facility planning phase through design and construction.

Our Staff

Our team of talented and specialized engineers provides high quality technical solutions while also striving for high levels of service to our clients. Working with Purpose means that you will have access to leaders in the water/wastewater industry, with Board Certified Environmental Engineers, LEED Accredited Professionals, Envision Sustainability Professionals, and Ph.D.'s, including professors at leading universities throughout the nation. We believe in mentorship and investing in the growth of our staff. Therefore, our staff engage in continual training to stay abreast of the most recent technological and regulatory updates. We are also dedicated to diversity, equity, and inclusion and striving to create a diverse water workforce.

We are water and wastewater experts. That's why our clients look to us for responsible water and wastewater solutions. It's our passion and it's what we do every day. We strive to build lasting relationships with our clients. Our experience is the foundation of our work, and our reputation is based on the lasting relationships we build with our satisfied clients. Our work is guided by an unwavering commitment to service and satisfaction at every phase of a project. We work closely with our clients to field questions, address concerns, and gather input every step of the way.

OUR SERVICES

Purpose strives to meet our clients' municipal and industrial water/wastewater needs, from the planning and study phase through design and construction. Purpose has also developed strategic partnerships with organizations to provide a suite of Civil and Environmental Engineering services, all in one place, including Civil/Municipal, Stormwater, Electrical, Mechanical, and Structural engineering services. Purpose also works closely with several universities to stay at the cutting edge of research and help train students.

WATER SERVICES

Water treatment plants	Facility design — new, upgrade, expansion
Surface water source development	Technology assessments
Groundwater source development	Process and equipment pilot studies
Storage tanks	Facility assessments
Water distribution systems	Distribution studies and computer modeling
Pumping systems	Rate studies
Master plans	Value engineering
Facility Plans	Grant, loan applications, and administration
Water Reuse Studies	Asset management planning

We work with our partner organizations to provide a collaborative approach to solving your engineering needs. We strive to implement a One Water approach, tapping into synergies in various parts of projects to provide better solutions and more benefit to our clients. Research shows that an integrated and interdisciplinary approach early-on provides the most benefit to clients while reducing costs. So whether we are recovering nutrients and energy from wastewater or using green stormwater techniques to mitigate flooding while beautifying neighborhoods, we strive to create value for you by using the full potential of resources you already have.

WASTEWATER SERVICES

Treatment planning and design	Facility Plans
Process and equipment evaluations	Operations assistance
Biosolids and sludge management	Capital improvements planning
Anaerobic treatment	Wastewater characterization studies
Biogas utilization	Treatability evaluations
Sewer and pump station design	Water quality stream studies
Sanitary sewer system evaluations	Facility Design — new, upgrade, expansion
Inflow and infiltration studies	User charge studies
Permitting	Pretreatment programs
Value engineering	Biological Nutrient Removal (BNR)
Operations and maintenance manuals	NPDES Permitting

We specialize in innovative water and wastewater technology to serve clients both regionally and nationally. Communities of all sizes rely on our expertise in water management to meet the increasing demand for safe and sustainable water solutions.



SUSTAINABILITY SERVICES

Multi-discipline collaboration for a One-Water Approach

Life Cycle Cost Analysis

LEED Certification

Envision Sustainability Certification

Quadruple bottom line assessments (Economic, Social, Environmental, Technical)

Life Cycle Assessment (LCA) of Environmental Impact

Greenhouse gas assessments

Risk and Resilience Assessments

Renewable energy options

Multi-Objective Decision Analysis

We see sustainability as being integral to everything we do. Our highly trained staff are experts in both qualitative and quantitative sustainability assessment methods. Assessment tools such as Life Cycle Assessment (LCA) have been used as the gold standard in academia for decades for making decisions with sustainability in mind. We employ Ph.D. trained engineers who have applied these tools in both their academic work as well as for clients such as you. These tools add dimension to planning efforts and help you make better decisions. Furthermore, sustainability assessments instill confidence in the people you serve that the choices being made are sound and that facilities are designed to provide the most benefit to people and the environment.

PROJECT TEAM

Project Team

We believe that the firms who serve you are only as good as the people who are working collaboratively on the project to meet your needs.

We have hand-picked highly qualified engineers to assist with this project. The project team is proposed to include the following:



Adib Amini, Ph.D., PE, ENV SP, BCEE; Project Manager, Project Engineer

Dr. Amini helps cities and industries with their Drinking Water, Wastewater, Stormwater, and Sustainability needs, serving as an engineering manager and trusted advisor. He has expertise in drinking water and wastewater treatment, sustainability, resilient design, technology innovation, life cycle environmental impact assessment, and renewable energy. He has worked on a variety of water/wastewater projects from the facility planning phase through design and construction. He has worked with both municipal and industrial clients, providing high quality, tailored solutions to meet their needs.

Dr. Amini also serves as Program Director at UW-Madison, teaching courses to engineers, operators, and city staff professionals in water, wastewater, stormwater, and sustainability.



Steve Duranceau, Ph.D., PE; Technical Advisor

Steve Duranceau is a well-known water treatment expert and is one of the world's highest regarded experts in Reverse Osmosis water treatment systems. He performs a variety of professional engineering services, including: independent peer reviews, expert testimony, training, and general consulting in the increasingly complex field of environmental engineering. He also performs feasibility studies, water quality studies, corrosion control studies, document evaluations, peer reviews, value analysis, plant operations troubleshooting, process evaluations (process audits), 4-log "CT" virus inactivation assessments, initial distribution system evaluations, disinfection, disinfection by-products, distribution system water quality, and general consulting/advising.



Karl Payne, Ph.D. Technical Advisor, Project Engineer

Dr. Payne has been engaged in consulting and research work since 2002 in wastewater and water resources. He has worked in cross-functional teams of scientists and engineers to develop innovative technologies to address challenges. In addition to his consulting work, he is a Lecturer and Program Coordinator at the University of West Indies, Cave Hill.



Tom Fitzwilliams, PE, Project Engineer

Tom specializes in treatment process optimization, troubleshooting, and operator training. He has managed more than \$100M of treatment planning, design, and construction projects. He is a WI-certified operator and served as the lead certified wastewater operator for multiple treatment systems. He is also the owner of Clearstart Water, through which he provides expert support to operators of various facilities.



Laramie Heuser, P.E., Project Engineer

Mr. Heuser has worked in water/wastewater consulting in Iowa for over 7 years, performing a broad range of work with municipalities throughout the state. Mr. Heuser also assists organizations with permitting and serves as a Utility Engineer for Iowa State University.



Nick Johnson, PE (Electrical Engineer with KCL Engineering)

Mr. Johnson is an electrical engineer with over 15 years experience in serving clients. He has worked on both sides of engineering design and construction, with expertise in water/wastewater projects and sustainable design.



Chad Bass, PE (Mechanical Engineer with KCL Engineering)

Mr. Bass is a mechanical engineer with over a 15 years experience on mechanical projects. Mr. Bass will perform calculations to ensure the thermal loads and ventilation systems are adequate in the building and, if modifications are needed, will design improvements.



Derek Lash, PE (Civil Engineering with EOR)

Derek has expertise in site design, and construction administration for civil construction projects ranging from \$50,000 to over \$2 million. He has implemented projects across the Midwest, as well as California, Washington, Texas, and Maryland. Derek has worked on stormwater reuse, dam removal, street reconstruction, wetland creation, iron-enhanced sand, permeable pavements, and other water centric projects. His background in geotechnical engineering, hydrologic and hydraulic analysis, and constructability provides a great asset to an owner's needs.

Todd Barrett, PE (Structural Engineer with IMEG)

Mr. Barrett is an Associate Principal and Senior Structural Engineer at IMEG with over 18 years of experience in structural engineering and experience in water and wastewater projects.

You may note that the project team is especially broad and highly talented, including multiple Ph.D's and world-class experts. That is intentional. All team members will be available resources for your project. We have found that involving technical experts with a broad range of backgrounds, especially in early stages of projects, leads to better solutions, more innovation, and better outcomes for clients.

Our work is guided by an unwavering commitment to service and satisfaction at every phase of a project. We work closely with our clients to field questions, address concerns, and gather input every step of the way.

Purpose's Partners

Purpose has also developed strategic partnerships with organizations to provide a suite of Civil and Environmental Engineering services, all in one place, including Civil/Municipal, Stormwater, Electrical, Mechanical, and Structural engineering services. We work with our partner organizations to provide a collaborative approach to solving your engineering needs. Research shows that an integrated and interdisciplinary approach early-on provides the most benefit to clients while reducing costs. Our partners include the following:



EOR – Civil, Site, and Stormwater Services. EOR is a collaborative group of environmental and design professionals passionate about protecting our waters, restoring healthy ecosystems, and enhancing each community's unique sense of place. EOR specializes in: environmental compliance, biological surveying, & restoration; water-resources engineering, watershed planning, & modeling; sustainable site design, renewable energy, & landscape architecture.



KCL Engineering – Electrical and Mechanical Services. KCL is well-known for their collaborative approach, positive culture, and focus on sustainability. KCL also has experience providing electrical/mechanical design for many water/wastewater projects.



IMEG – Structural Engineering Services. IMEG offers a variety of engineering services and collaborates on many water/wastewater projects throughout the country. As a people-centered firm, IMEG has intentionally strives to put relationships and communities first, without sacrificing expertise.

RELEVANT EXPERIENCE AND PROJECTS

Our team members have worked on a variety of water projects as well as specifically Reverse Osmosis projects. Included below are a variety of projects. Note that as Purpose Associates has formed as of last year, these projects were completed by members of the project team over their careers.

Facility Planning, Design, and Construction Projects

- Water System Facility Plan, New Reverse Osmosis Water Treatment Plant Design and Construction, Water Tower design and construction, Grimes, IA
- Water System Facility Plan, Wellman, IA
- Reverse Osmosis Boiler Feed Water, Ho-Chunk Casino, Baraboo, WI
- Peer Review and Value Analysis Services for Kalaeloa Seawater Reverse Osmosis Desalination Facility, Honolulu Board of Water Supply, HBWS, Honolulu, HI
- Evaluation of the Kukio Resorts Reverse Osmosis Water Treatment Plant, Kailua-Kona, HI
- Evaluation of the Hualalai Reverse Osmosis WTP for Aqua Engineers, Kailua-Kona, HI
- U.S. Air Force Manta Seawater Desalination Study and Design, Manta, Ecuador; U.S. Air Force Manta Ceiba WTP, Integrated Membrane Process Design, Manta, Ecuador.
- Wadi Ma'in Zara & Mujib (Jordan) Seawater Desalting WTP Peer Review, ABB SUSA Inc., North Brunswick, NJ
- Iron and Manganese Pressure Filter and Ion Exchange Softener, Ho-Chunk Casino, Baraboo, WI
- Iron Pressure Filter, City of Nekoosa, WI
- 100 MGD Detention, Blending and Chemical Treatment for Pinellas County's Facility Receiving Ground, Surface and Desalted Seawater Supply's (Optimize Post-Treatment for Corrosion Control and Disinfection By-Products), Jones Edmunds (Gainesville FL) and Pinellas County (Largo, FL).
- Developed post-treatment stabilization guidelines for utilities employing brackish and seawater desalination using reverse osmosis membranes based on outcomes from a literature review, case studies, professional experience and workshop discussions. Identified potential impacts of desalinated water on existing distribution systems and the quality of the water delivered to consumers. Denver, CO
- Marco Island 2.0-mgd Reverse Osmosis Retrofit Expansion, Marco Island, FL (This project included the first known demonstrated use of interstage turbines for energy

recovery; City received Most-Improved Water Plant Award by the Florida Department of Environmental Protection in 2000).

- Sarasota Reverse Osmosis 12-MGD WTP Retrofit Design and Specifications as the Owner's Representative for Design-Build Process Retrofit, Sarasota, FL. This project received the 2004 Grand Award for the Florida Institute of Consulting Engineer's Water Engineering Project.
- Brazos River Authority (BRA) Brackish Surface Water Treatment System (SWATS) Membrane Plant Evaluations, Granbury, TX (Provided expert witness testimony in related US Federal Court landmark case).
- Conducted a potable water membrane plant survey involving over twenty Florida operations and technical literature review for an AWWA Research Foundation sponsored project. Denver, CO
- Marco Island Integration of Immersed Ultrafiltration into an Existing Lime Softening WTP and Process Upgrades, Marco Island, FL. (This project represented the first ultrafiltration membrane process permitted for construction and used to produce potable water the state of Florida).
- T. Mabry Carlton Jr. Electrodialysis Reversal (EDR) WTP Monthly Operations Reports, Sarasota, FL (At the time this was the largest demonstrated use of EDR for potable production in the world).
- U.S. Air Force Nanofiltration Water Treatment Plant Design - Moody Air Force Base, Valdosta, GA. (This project represented the first nanofiltration membrane process permitted for construction and used to produce potable water the state of Georgia)



Membrane Process Post-Treatment & Corrosion Research Investigations

- Water Treat Plant Post-Construction, Humboldt, IA
- County of Maui - EPA Lead Control Strategy, Maui, HI.
- Blending Surface Water and Ground Water in the Hanamaulu Water Distribution System, Kauai, HI
- Bahamas Water and Sewerage District Desk-Top Evaluation Corrosion and Red Water, Nassau.
- Guam-US Navy Corrosion Control and Protection Plan, Marianna Islands, Guam.
- Mission Hill Lead and Copper Rule Compliance, Santa Barbara County, CA.
- Altamonte Springs Lead & Copper Corrosion Control Effectiveness Report, Altamonte Springs, FL.
- Investigation of Drinking Water Quality Residential Copper Tube Pitting, Marco Island, FL.

Pilot Plant, Planning and Development Projects.

- San Patricio Texas Seawater RO Pretreatment Pilot Study, Denver, CO.
- Membrane Pilot-Plant Evaluation, USEPA, Cincinnati, OH.
- Marco Island Integrated Membrane WTP Pilot Plant, Marco Island, FL.
- Irvine Ranch Water District Deep Aquifer Treatment System Membrane Pilot Design, Irvine, CA.
- North Miami Beach Pilot Plant, North Miami Beach, FL
- Peer Review Advisory Member for Under Ocean Floor Intake Project, Long Beach, CA.
- Peer Review of the city of Waxahachie, TX 24 MGD ultrafiltration process of surface water supply.
- Peer Review of the city of Mansfield, TX 20 MGD ultrafiltration water treatment plant process.



City of Sarasota, Reverse Osmosis Retrofit (6MGD as part of 12MGD Project)

Relevant Classes Taught by Team Members:

- Membrane Technologies
- Membrane Filtration Systems
- Corrosion and Pipe Integrity
- Distribution System Water Quality

Relevant Refereed Books

- Duranceau S.J.; R.J. Pfeiffer-Wilder*, S.A. Douglas*, N. Peña-Holt*; I.C. Watson. Post-Treatment Stabilization of Desalinated Water. Denver, CO: Water Research Foundation and U.S. Environmental Protection Agency (2011). 201 pages. ISBN 978-1-60573-129-2.
- Duranceau, S.J. (Editor) Membrane Practices for Water Treatment. AWWA Trends in Water Series. Denver, CO: AWWA (2001). 589 pages. ISBN 978-1-58321-147-0.

SYSTEM DESCRIPTION AND TOTAL ESTIMATED BUDGET COSTS

Based on discussions with city staff, the most immediate need is providing additional water treatment capacity. The existing system is a reverse osmosis (RO) system consisting of 2 skids that are 571 gallons/minute each. Space was allocated within the building for a third skid to be installed in the future. The first 2 skids were installed in approximately 2004 and were manufactured by Advanced Environmental Water Technologies (AEWT). AEWT was purchased by Biwater, a British company, in 2005. Purpose was able to contact Biwater and recover all documentation related to Seward's original design as well as obtain a quote for a third skid of the same size (571 gpm). The preliminary quote for the equipment alone is approximately \$510,000, as shown in the cost estimate table below. Note that alternative manufacturers of RO systems can also provide the third skid. Obtaining the skid from Biwater is likely to be most similar to existing skids and is less likely to have operational conflicts with the existing system. Therefore, it is most helpful for a cost comparison at this point. However, other manufacturers can be evaluated during the design phase.

During discussions with Brandon Koll (Water/Wastewater Director) and Mike Oneby (City Engineer), concern was expressed regarding overall water treatment capacity. Namely that even the addition of a third skid of the same size may not meet the city's needs within a year. Therefore, it may be necessary to explore additional strategies for increasing treatment capacity, such as exploring alternative source waters that could allow for partial or full bypass of the RO system. The city of Seward currently has access to at least 2 aquifers, the Dakota Aquifer and the High Plains Aquifer. Based on previous tests, the High Plains Aquifer water is high in nitrates, for which RO was initially installed. The Dakota Aquifer is low in nitrates and can therefore potentially be used to supplement water demand and bypass the RO system. However, the Dakota Aquifer is also high in ammonia, potentially requiring breakpoint chlorination and exceeding the current system's ability to provide chlorine.

There are a number of further options such as modifying the existing skids and/or installing a larger/upsized third skid. A study is likely needed at some point to evaluate the variety of options for meeting long term capacity needs. However, a study would require additional time and delay improvements. The city has opted to postpone a study and first install the 3rd RO skid, as the system was initially designed for.

As a starting place, we requested sizing and costs for a third skid that is larger than the original two but can still potentially fit in the existing footprint. Biwater quoted this system as a 750-800gpm skid (approximately 40% more capacity than the original skids) at approximately \$650,000. For illustrative and budgeting purposes, the costs for expanding the existing system with a 571gpm or an 800gpm are shown in the cost table below. As shown, the expected budget for such a project is approximately \$1.7-2.2 million. Actual costs may be in the approximate range of these numbers, but further defining the scope of the design/construction as well as performing a more detailed cost estimate are necessary to increase the accuracy of

the costs. Note that these costs are being provided to assist the city’s decision-making and are for budgeting and illustrative purposes.

Table 1: Budget Costs

Cost Estimate*		Alternative 1	Alternative 2
		571 GPM Third RO Skid	800 GPM (40% larger) Third RO Skid
Reverse Osmosis System		\$510,000	\$650,000
Install	25%	\$128,000	\$163,000
General Project Costs (Mobilization, Demobilization, etc)	15%	\$96,000	\$122,000
Process Modifications	20%	\$128,000	\$163,000
Electrical Modifications	15%	\$96,000	\$122,000
Mechanical Modifications	2%	\$13,000	\$17,000
Subtotal		\$971,000	\$1,237,000
Undefined Scope (Contingency)	40%	\$389,000	\$495,000
Subtotal		\$1,360,000	\$1,732,000
Engineering	22.5%	\$306,000	\$390,000
Total		\$1,700,000	\$2,200,000

*The above costs are for budgeting and illustrative purposes only. Actual costs are likely to be in the approximate range of the above numbers, but a more detailed cost estimate is necessary to increase the accuracy of costs

PROPOSED PROJECT SCOPE AND COSTS

The city has identified that its most immediate need is providing additional water treatment capacity. The existing system is a reverse osmosis (RO) system consisting of 2 skids that are 571 gallons/minute each. The original system was designed to allow for addition of a third skid in the future.

This project proposal includes Preliminary and Final Design phases for the addition of a third RO skid.

Note that bidding, construction administration, and post-construction phases are not currently included in this proposal, but Purpose is able to provide these services in a revised proposal or as part of a future agreement with the city.

Evaluation of both a 571 gpm skid and a larger one will be performed during preliminary design phase of this project. Obtaining the skid from Biwater is likely to be most similar to existing skids and is less likely to have operational conflicts with the existing system. However,

additional manufacturers can also be evaluated during the preliminary design phase, if the city chooses.

Further details of the services that will be provided are included in the attached Master Services Agreement and Task Order No. SENE2023A.

The proposed cost of these services are as a lump sum method and are as follows:

Table 2: Proposed Engineering Design Costs

Preliminary Design Phase	\$62,500.00
Final Design Phase	\$75,000.00
Total Engineering Design Cost	\$137,500.00

If bidding, construction administration, and post-construction services are desired to be added to the current proposal, the proposed lump sum prices are as follows:

Table 3: Proposed Potential Bidding and Construction Administration Costs

Bidding Phase	\$12,500.00
Construction Phase	\$52,500.00
Total Engineering Cost (Including Design)	\$202,500.00

Note that Resident Project Observer (RPR) costs are not included in the above costs. A local RPR will likely be contracted to perform these services.

You may note that the proposed engineering cost is below typical market costs for a project of this size. To arrive at this number, we have estimated the hours involved in performing the work and have taken into account the anticipated complexity of the project. If these costs are beyond the city’s ability to afford, please let us know. Our goal is to provide high quality engineering services to all clients and exceed your expectations. We do not want cost to prevent us from serving you.

POTENTIAL TIMELINE

- Preliminary Design – Goal completion date: March, 15, 2024. Complete at latest by May 30, 2024.
- Final Design – Goal completion date: June, 15, 2024. Complete at latest by October 25, 2024.

The intent of the above schedule is to allow bidding to take place in the Summer of 2024 so that construction can be completed before June of 2025 and the expanded system can meet

2025 summer demands, when the demands are highest. Note that the above dates have been selected as reasonable dates; however, the utmost effort will be made to complete the design in an expeditious manner so that the expanded system can be constructed as soon as possible.

Our intent is that during the first few weeks of the project, the feasibility of completing construction by the beginning of Summer 2024 will be assessed (one year before the formal schedule above). Particular attention is being given to timeline because we feel that if the project can be delivered sooner, it can potentially decrease issues the city may face with water shortages over the summer months and reduce inconveniences for residents and businesses of Seward. If it is determined to be feasible and if the City is amenable, we would like to pursue it. This will likely require ordering the RO skid and potentially other materials within weeks of beginning design so that it can arrive on site as soon as possible. Regardless of whether or not this expedited timeline is feasible, the project will be given the utmost priority and significant resources will be contributed toward it, especially early in the project, to complete the design as quickly as possible.

WE'RE HERE TO HELP

If you have any questions about the above, please reach out to us. We are always happy to talk with you to ensure we are meeting your needs in a reasonable and effective manner.

Email us at: aa@purposeas.com

Call us at: [515-809-2020](tel:515-809-2020)

Find us online at: www.purposeassociates.com

A. Consideration of Task Order #1 to the Master Agreement with Purpose Associates
in the Amount of \$137,500

Task Order No. SENE2023A

Task Order

In accordance with paragraph 1.01 of the Master Agreement between Owner and Engineer for Professional Services dated January 17, 2024 ("Agreement"), Owner and Engineer agree as follows:

Specific Project Data

- A. Title:** RO Water Treatment Plant Expansion
 - B. Description:** The City of Seward, Nebraska has identified that its most immediate need is providing additional water treatment capacity. The existing system is a reverse osmosis (RO) system consisting of 2 skids that are 571 gallons/minute each. The original system was designed to allow for addition of a third skid in the future.
- 1. Services of Engineer** - Services of Engineer for this Task Order No. SENE2023A shall be as per Exhibit A of the Master Agreement except as modified below (*Paragraph and Sub-paragraph numbering below coincides with the particular Paragraph and Sub-paragraph numbering of Exhibit A of the Master Agreement for which modifications are hereby made*):

Part 1 -- Basic Services

A1.01 Study and Report Phase – Not included.

A1.02 Preliminary Design Phase - As per Exhibit A, but with the following additions or modifications:

1. Geotechnical investigations will likely not be required. If found to be required, such investigations are not included. Engineer will assist Owner in obtaining services of a geotechnical engineer and Owner will pay the associated costs.
2. Meetings as required, with the following minimum anticipated:
 - a. Kickoff meeting with City Staff
 - b. Two preliminary design meetings with City Staff.
3. Provide deliverables at 30% and 60% completion
4. Furnish up to three (3) paper review copies and an electronic PDF of the Preliminary Design Phase documents and any other deliverables to Owner.

A1.03 Final Design Phase - As per Exhibit A, but with the following additions or modifications:

1. Include the following as part of the Final Design Phase:
 - b. Engineer shall prepare NDEE Construction Permit Application to be executed and submitted by Owner.
2. Provide deliverables at 90% and 100% completion
3. Furnish up to three (3) paper copies and an electronic PDF of the Final Design Phase documents and any other deliverables to Owner. Meetings as required, with the following minimum anticipated:
 - a. Three final design review meetings with City Staff.

A1.04 Bidding or Negotiating Phase – Not included

Task Order No. SENE2023A

A1.05 Construction Phase – Not included

A1.06 Post-Construction Phase – Not included

Part 2 -- Additional Services

A2.01 Additional Services Requiring Owner’s Authorization in Advance – None currently included

2. Owner's Responsibilities - Owner Responsibilities for this Task Order shall be as per Exhibit B of the Master Agreement and as modified below:

B.2.01. As per Exhibit B, but with the following additional responsibilities:

- C.3. The Owner shall be responsible for all property and easement acquisitions as per B.2.01.C.3, if required. The Owner will be responsible for all property appraisals.

- H. The Owner shall pay for all permit fees or reimburse Engineer for all permit fees paid by Engineer associated with the project. Such fees are not included in this contract.

3. Times for Rendering Services - Phases of work shall be provided as follows:

Engineer and Owner are aware that there are factors outside the Engineer’s control that may affect the Engineer’s schedule for completing the services to be provided under this Agreement. The Engineer shall perform these services with reasonable diligence and expediency consistent with sound professional practices.

<u>Phase</u>	<u>Anticipated Completion Date</u>
Preliminary Design Phase	Deliver to Owner within 150 days of authorization to proceed
Final Design Phase	Deliver to Owner within 150 days of completion of previous phase

4. Payments to Engineer for Services and Reimbursable Expenses

Payments to Engineer shall be in accordance with Exhibit C of the Master Agreement. Specifically, Owner shall pay Engineer for services as follows:

	Fee Basis	Amount
Basic Services		
Preliminary Design Phase	Method A. Lump Sum	\$62,500
Final Design Phase	Method A. Lump Sum	\$75,000
Permit Fee	Direct Reimbursement	To Be Determined
Additional Services		To Be Determined, if needed

Notes:

- (1) Method A Lump Sum fees noted above include appropriate amounts for direct expenses for each item.
- (2) Amounts listed above that are based on Standard Hourly Rates and Reimbursable Expenses are estimates only; actual fees and charges for those items may differ from the estimated amounts.
- (3) Total lump sum fee is \$137,500.

Task Order No. SENE2023A

5. Engineer's Consultants:

- (1) Electrical & Mechanical - KCL Engineering
- (2) Additional consultants may be utilized at discretion of Engineer

6. 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 a Specific Project 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 for this Task Order.
 - 2) *Exclusion of Special, Incidental, Indirect and Consequential Damages.* To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, Engineer and Engineer's officers, directors, partners, employees, agents, and Engineer's Consultants shall not be liable to Owner or anyone claiming by, through, or under Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to a Specific Project or the Agreement from any cause or causes, including but not limited to any such damages caused by 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.
 - 3) *Extension of Protection.* The Owner agrees to extend any and all liability limitations and indemnifications provided by the Owner to the Engineer to those individuals and entities the Engineer retains for performance of the service under this agreement, including but not limited to the Engineer's officers and employees and their heirs and assigns, as well as the Engineer's sub-consultants and their officers, employees, heirs and assigns.
7. **Other Modifications to Master Agreement** - The term of the Master Agreement is hereby extended to the completion date of the work under this Task Order if that should extend beyond the current term of the Agreement.

8. Attachments - None

9. Documents Incorporated By Reference - None

Approval and Acceptance: Approval and Acceptance of this Task Order, including the attachments listed above, shall incorporate this document as part of the Agreement. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

Task Order No. SENE2023A

The Effective Date of this Task Order is January 17, 2024.

Owner

Engineer

Jan. 12, 2024

Signature Date

Signature Date

Joshua Eickmeier
Name

Adib Amini, Ph.D., PE, ENV SP, BCEE
Name

Mayor
Title

Principal
Title

Authorized Representative for Task Order:

Authorized Representative for Task Order:

Michael Oneby, P.E.
Name

Adib Amini, Ph.D., PE, ENV SP, BCEE
Name

City Engineer
Title

Principal / Project Manager
Title

142 N. 7th Street, Seward, NE 68434
Address

1333 Buckeye Ave #1043, Ames, IA 50010
Address

Michael.Oneby@cityofsewardne.gov
E-Mail Address

aa@purposeas.com
E-Mail Address

(402) 643-2928 x203
Phone

515-809-2020
Phone

Fax

Fax

3. Items Related to the 6th Street, Ash to Lincoln Water Main Replacement Project - City Engineer Oneby
 - A. Consideration of a Recommendation to Award a Construction Contract to K2 Construction for the 6th Street - Ash to Lincoln Street Water Main Replacement Project in the Amount of \$1,607,243.50

OWNER: City of Seward

PROJECT: 6th Street – Ash Street to Lincoln Street Watermain Replacement

ENGINEER: Schemmer

PROJECT NO.: 09083001

BID OPENING LOCATION: City Hall, 537 Main St., Seward, Nebraska

BID OPENING DATE: January 11, 2024

No.	Bidder Name	Total Amount Base Bid	Total Amount Alternative Bid	Total Amount Base + Alternative	Receipt of Addendum 1	Receipt of Addendum 2	Bid Submittal	Bid Bond
1.	^{1/11 8:54 AM} K2 Construction	\$1,361,268.50	\$245,875.00	\$1,607,243.50	1/8/24	1/9/24	✓	✓
2.	^{1/11 9:55 AM} Elsbury Construction	\$1,492,393.06	\$338,920.60	\$1,831,313.66	1/8/24	1/9/24	✓	✓
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								

Witnessed:


Derek Bargmann, City Clerk


Date 1/11/24 10A
Brandon Koll, Water/Wastewater Director


Mike Oneby, City Engineer

BID FORM

Project Identification:

CITY OF SEWARD, 6TH STREET WATER MAIN IMPROVEMENTS

Contract Identification and Number:

Schemmer Project No. 09083.001

ARTICLE 1-BID RECIPIENT

1.01 This Bid is submitted to:

City of Seward
Attn. City Clerk
537 Main Street
P.O. Box 38
Seward, NE 68434

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER’S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 45 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>8 Jan 24</u>
<u>2</u>	<u>9 Jan 24</u>
<u> </u>	<u> </u>

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) that have been identified in SC-4.02 as containing reliable "technical data,"
- E. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

6th Street Water Main Improvements – Base Bid

Item	Description	Estimate Quantity	Unit	Bid Unit Price	Bid Price
1	MOBILIZATION	1	LS	\$ 120,000.00	\$ 120,000.00
2	REMOVE PAVEMENT	1019	SY	\$ 12.50	\$ 12,737.50
3	SAWING PAVEMENT	1881	LF	\$ 6.50	\$ 12,226.50
4	REMOVE DRIVEWAY	784	SY	\$ 12.50	\$ 9800.00
5	REMOVE WALK	307	SY	\$ 11.50	\$ 3530.50
6	REMOVE AND RESET SIGN	4	EA	\$ 155.00	\$ 620.00
7	REMOVE STREET LIGHT POLE	4	EA	\$ 5000.00	\$ 20,000.00
8	GENERAL CLEARING AND GRUBBING	1	LS	\$ 16,000.00	\$ 16,000.00
9	8" CONCRETE PAVEMENT, 47B-3500	1027	SY	\$ 92.00	\$ 95,511.00
10	CONCRETE PAVEMENT, 47B-3500, 4" SIDEWALK	307	SY	\$ 85.00	\$ 26,095.00
11	CONCRETE PAVEMENT, 47B-3500, 6" DRIVEWAY	784	SY	\$ 100.00	\$ 78,400.00
12	COMBINED CURB AND GUTTER	675	LF	\$ 35.00	\$ 23,625.00
13	TEMPORARY DRIVE/SIDEWALK	1091	SY	\$ 100.00	\$ 109,100.00
14	BUILD TEMPORARY SURFACING	296	SY	\$ 90.00	\$ 26,640.00
15	DETECTABLE WARNING PANELS	152	SF	\$ 35.00	\$ 5320.00
16	TRAFFIC CONTROL FOR CONST	1	LS	\$ 25,000.00	\$ 25,000.00
17	CONVERT CURB INLET TO GRATE INLET	1	EA	\$ 5500.00	\$ 5500.00
18	CURB INLET	1	EA	\$ 5600.00	\$ 5600.00
19	DIRECTIONAL DRILLING FOR 8" WATER MAIN	1064	LF	\$ 60.00	\$ 63,840.00
20	DIRECTIONAL DRILLING FOR 10" WATER MAIN	53	LF	\$ 80.00	\$ 4240.00
21	DIRECTIONAL DRILLING FOR 12" WATER MAIN	322	LF	\$ 80.00	\$ 25,760.00
22	CONC FOR PLUGS & COLLARS	1.10	CY	\$ 650.00	\$ 715.00

23	REINF STEEL FOR COLLARS	43	LBS	\$ 3.00	\$ 129.00
24	CONC FOR THRUST BLOCKS & ANCHORAGES	9.6	CY	\$ 435.00	\$ 4176.00
25	REINF STEEL FOR THRUST BLOCKS & ANCHORAGES	308	LBS	\$ 2.50	\$ 770.00
26	ABANDONMENT OF WATER MAIN	1	LS	\$10,000.00	\$ 10,000.00
27	REM & SALVAGE HYDRANT	5	EA	\$ 1200.00	\$ 6000.00
28	WATER MAIN, 6"	162	LF	\$ 76.00	\$ 12,312.00
29	WATER MAIN, 8"	1824	LF	\$ 105.00	\$ 191,520.00
30	WATER MAIN, 10"	143	LF	\$ 130.00	\$ 18,590.00
31	WATER MAIN, 12"	1007	LF	\$ 133.00	\$ 133,931.00
32	WATER MAIN, 14"	44	LF	\$ 185.00	\$ 8140.00
33	WATER MAIN, 16"	73	LF	\$ 230.00	\$ 16,790.00
34	ANCHORING ELBOW, MJ, 6"	3	EA	\$ 300.00	\$ 900.00
35	ANCHORING COUPLING, MJ (L=18"), 6"	8	EA	\$ 295.00	\$ 2360.00
36	REDUCER, MJ, 6" X 4"	1	EA	\$ 225.00	\$ 225.00
37	REDUCER, MJ, 8" X 6"	1	EA	\$ 250.00	\$ 250.00
38	REDUCER, MJ, 12" X 8"	1	EA	\$ 350.00	\$ 350.00
39	REDUCER, MJ, 12" X 10"	1	EA	\$ 360.00	\$ 360.00
40	REDUCER, MJ, 16" X 12"	1	EA	\$ 700.00	\$ 700.00
41	REDUCER, MJ, 16" X 14"	1	EA	\$ 800.00	\$ 800.00
42	DEG BEND, MJ, 8" X 90	3	EA	\$ 330.00	\$ 990.00
43	DEG BEND, MJ, 14" X 90	1	EA	\$ 900.00	\$ 900.00
44	DEG BEND, MJ, 6" X 45	2	EA	\$ 260.00	\$ 520.00
45	DEG BEND, MJ, 8" X 45	2	EA	\$ 300.00	\$ 600.00
46	DEG BEND, MJ, 10" X 45	4	EA	\$ 400.00	\$ 800.00
47	DEG BEND, MJ, 12" X 45	2	EA	\$ 500.00	\$ 1000.00

48	TEE, MJ, 8" X 6"	6	EA	\$ 400.00	\$ 2400.00
49	TEE, MJ, 8" X 8"	1	EA	\$ 450.00	\$ 450.00
50	TEE, MJ, 10" X 6"	2	EA	\$ 500.00	\$ 1000.00
51	TEE, MJ, 10" X 8"	2	EA	\$ 550.00	\$ 1100.00
52	TEE, MJ, 12" X 6"	1	EA	\$ 625.00	\$ 625.00
53	TEE, MJ, 12" X 8"	1	EA	\$ 700.00	\$ 700.00
54	TEE, MJ, 12" X 12"	3	EA	\$ 850.00	\$ 2550.00
55	TEE, MJ, 16" X 6"	1	EA	\$ 1100.00	\$ 1100.00
56	TEE, MJ, 16" X 12"	1	EA	\$ 1400.00	\$ 1400.00
57	TEE, MJ, 16" X 14"	1	EA	\$ 1800.00	\$ 1800.00
58	TEE, MJ, 16" X 16"	1	EA	\$ 1800.00	\$ 1800.00
59	SOLID SLEEVE, MJ (L=12"), 6"	2	EA	\$ 160.00	\$ 320.00
60	SOLID SLEEVE, MJ (L=12"), 8"	10	EA	\$ 300.00	\$ 3000.00
61	SOLID SLEEVE, MJ (L=12"), 10"	5	EA	\$ 350.00	\$ 1750.00
62	SOLID SLEEVE, MJ (L=12"), 12"	2	EA	\$ 420.00	\$ 840.00
63	SOLID SLEEVE, MJ (L=12"), 14"	1	EA	\$ 620.00	\$ 620.00
64	SOLID SLEEVE, MJ (L=15"), 16"	1	EA	\$ 750.00	\$ 750.00
65	PLUG, MJ, 6"	1	EA	\$ 160.00	\$ 160.00
66	PLUG, MJ, 16"	1	EA	\$ 600.00	\$ 600.00
67	RETAINER GLANDS, MJ, 4"	1	EA	\$ 45.00	\$ 45.00
68	RETAINER GLANDS, MJ, 6"	25	EA	\$ 70.00	\$ 1750.00
69	RETAINER GLANDS, MJ, 8"	64	EA	\$ 70.00	\$ 4480.00
70	RETAINER GLANDS, MJ, 10"	31	EA	\$ 130.00	\$ 4030.00
71	RETAINER GLANDS, MJ, 12"	31	EA	\$ 140.00	\$ 4340.00
72	RETAINER GLANDS, MJ, 14"	6	EA	\$ 230.00	\$ 1380.00

73	RETAINER GLANDS, MJ, 16"	16	EA	\$ 300.00	\$ 4800.00
74	GATE VALVE, MJ, 6"	11	EA	\$ 1800.00	\$ 19,800.00
75	GATE VALVE, MJ, 8"	7	EA	\$ 2500.00	\$ 17,500.00
76	GATE VALVE, MJ, 10"	2	EA	\$ 3500.00	\$ 7000.00
77	GATE VALVE, MJ, 12"	3	EA	\$ 4300.00	\$ 12,900.00
78	BUTTERFLY VALVE, MJ, 16"	2	EA	\$ 6300.00	\$ 12,600.00
79	HYDRANT, L=6.5'	8	EA	\$ 6000.00	\$ 48,000.00
80	BORING FOR 0.75" WATER SERVICE PIPE	159	LF	\$ 20.00	\$ 3180.00
81	BORING FOR 1.25" WATER SERVICE PIPE	43	LF	\$ 30.00	\$ 1290.00
82	BORING FOR 2" WATER SERVICE PIPE	49	LF	\$ 30.00	\$ 1470.00
83	POTHOLE WATER SERVICE	30	EA	\$ 300.00	\$ 9000.00
84	RECONSTRUCT WATER SERVICE	30	EA	\$ 1600.00	\$ 48,000.00
85	COPPER WATER SERVICE PIPE, 0.75"	329	LF	\$ 30.00	\$ 9870.00
86	COPPER WATER SERVICE PIPE, 1"	65	LF	\$ 30.00	\$ 1950.00
87	COPPER WATER SERVICE PIPE, 1.25"	61	LF	\$ 30.00	\$ 1830.00
88	COPPER WATER SERVICE PIPE, 1.5"	5	LF	\$ 30.00	\$ 150.00
89	COPPER WATER SERVICE PIPE, 2"	79	LF	\$ 35.00	\$ 2765.00
90	SEEDING, TY "B"	2.00	AC	\$ 8000.00	\$ 16,000.00
TOTAL BASE BID				\$ 1,361,268.50	

6th Street Water Main Improvements – Alternate Bid

Item	Description	Estimate Quantity	Unit	Bid Unit Price	Bid Price
1	MOBILIZATION	1	LS	\$20,000.00	\$20,000.00
2	REMOVE PAVEMENT	167	SY	\$15.00	\$2,505.00
3	SAWING PAVEMENT	148	LF	\$10.00	\$1,480.00
4	REMOVE SIDEWALK	11	SY	\$10.00	\$110.00
5	GENERAL CLEARING AND GRUBBING	1	LS	\$4500.00	\$4500.00
6	8" CONCRETE PAVEMENT, 47B-3500	167	SY	\$95.00	\$15,865.00
7	CONCRETE PAVEMENT, 47B-3500, 4" SIDEWALK	11	SY	\$100.00	\$1100.00
8	COMBINED CURB AND GUTTER	85	LF	\$50.00	\$4,250.00
9	DETECTABLE WARNING PANEL	32	SF	\$35.00	\$1,120.00
10	TRAFFIC CONTROL FOR CONST	1	LS	\$10,000.00	\$10,000.00
11	DIRECTIONAL DRILLING FOR 6" WATER MAIN	73	LF	\$75.00	\$5,475.00
12	DIRECTIONAL DRILLING FOR 8" WATER MAIN	568	LF	\$65.00	\$36,920.00
14	CONC FOR THRUST BLOCKS & ANCHORAGES	1.5	CY	\$400.00	\$600.00
15	WATER MAIN, 4"	6	LF	\$85.00	\$510.00
16	WATER MAIN, 6"	144	LF	\$80.00	\$11,520.00
17	WATER MAIN, 8"	619	LF	\$105.00	\$64,995.00
18	ANCHORING ELBOW, MJ, 6"	1	EA	\$300.00	\$300.00
19	ANCHORING COUPLING, MJ (L=18"), 6"	3	EA	\$300.00	\$900.00
20	REDUCER, MJ, 6" X 4"	2	EA	\$225.00	\$450.00
21	DEG BEND, MJ, 8" X 90	1	EA	\$350.00	\$350.00
22	DEG BEND, MJ, 6" X 45	4	EA	\$260.00	\$1,040.00
23	CROSS, MJ, 8" X 6"	1	EA	\$500.00	\$500.00

24	TEE, MJ, 6" X 6"	1	EA	\$ 360.00	\$360.00
25	TEE, MJ, 8" X 6"	2	EA	\$ 420.00	\$ 840.00
26	SOLID SLEEVE, MJ (L=12"), 4"	2	EA	\$ 165.00	\$ 330.00
27	SOLID SLEEVE, MJ (L=12"), 6"	1	EA	\$ 170.00	\$ 170.00
28	SOLID SLEEVE, MJ (L=12"), 8"	7	EA	\$ 300.00	\$2100.00
29	RETAINER GLANDS, MJ, 4"	6	EA	\$ 45.00	\$ 270.00
30	RETAINER GLANDS, MJ, 6"	23	EA	\$ 55.00	\$ 1265.00
31	RETAINER GLANDS, MJ, 8"	26	EA	\$ 75.00	\$ 1950.00
32	GATE VALVE, MJ, 6"	5	EA	\$ 1800.00	\$ 9000.00
33	GATE VALVE, MJ, 8"	2	EA	\$ 2500.00	\$ 5000.00
34	HYDRANT, L=6.5'	3	EA	\$ 6000.00	\$ 18,000.00
35	POTHOLE WATER SERVICE	8	EA	\$ 300.00	\$ 2400.00
36	RECONSTRUCT WATER SERVICE	8	EA	\$ 1600.00	\$ 12,800.00
37	COPPER WATER SERVICE PIPE, 0.75"	90	LF	\$ 30.00	\$ 2700.00
38	COPPER WATER SERVICE PIPE, 1"	10	LF	\$ 30.00	\$ 300.00
39	SEEDING, TY "B"	0.50	AC	\$ 8000.00	\$ 4000.00
TOTAL ALTERNATE BID				\$ 245,975.00	
BASE BID + ALTERATE TOTAL BID				1,607,243.50	

Unit Prices have been computed in accordance with Paragraph 11.03.B of the General Conditions.

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

ARTICLE 6 – TIME OF COMPLETION

6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

7.01 The following documents are submitted with and made a condition of this Bid:

A. Required Bid security in the form of 5% CB _____;

Defined Terms

7.02 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 8 – BID SUBMITTAL

9.01 This Bid is submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____
(Individual's signature)

Doing business as: _____

A Partnership

Partnership Name: K2 Construction

By: [Signature]
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): Travis Sondgerath

A Corporation

Corporation Name: _____
(SEAL)

State of Incorporation: _____
Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____
(CORPORATE SEAL)

Attest _____

Date of Qualification to do business in [State where Project is located] is
____/____/____.

A Joint Venture

Name of Joint Venture: _____

First Joint Venturer Name: _____
(SEAL)

By: _____
(Signature of first joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Second Joint Venturer Name: _____
(SEAL)

By: _____
(Signature of second joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

Bidder's Business Address 7701 Cornhusker Highway
Lincoln, NE 68507

Phone No. 402-467-2355 Fax No. 402-467-2055

E-mail jwebert@hdconstruction.biz

SUBMITTED on Jan 10, 2024.

State Contractor License No. _____, [If applicable]

From: [Holle, Doug](#)
To: [Michael Oneby](#)
Cc: [Roth, Alexander](#)
Subject: 6th Street Watermain Bid Analysis
Date: Friday, January 12, 2024 9:32:21 AM
Attachments: [image001.png](#)
[Seward Water Main Base Bid Comparison.pdf](#)
[Seward Water Main Alternate Bid Comparison.pdf](#)
[Seward Water Main Alternate Bid Comparison.xls](#)
[Seward Water Main Base Bid Comparison.xls](#)

Dear Mike,

Two bids were received on January 11, 2024 for the project. Both bidders are reputable contractors and had included completed bid bonds with their submitted bids. In review of the bids, K2 Construction submitted the lowest Base Bid and lowest Base Bid + Alternate Bid. The K2 Construction Base Bid + Alternate Bid totaled \$1,607,243.50, which is 10% below the Engineer's Base Bid + Alternate Bid estimate of \$1,786,591.87. As this project is a unit price contract paid per actual quantities installed, Schemmer reviewed the proposed unit prices by each contractor as shown in the attachments. Although a couple unit prices varied more than 25% from the engineer's estimated prices, the estimated quantities are considered an accurate estimate of anticipated quantities for those unit price outliers and is not anticipated to significantly affect the overall cost of the project nor would result in which contractor would be the lowest bidder. It is our recommendation K2 be awarded the project.

Sincerely,
Doug Holle



Doug Holle
Executive Vice President

402.488.2500 Phone 402.431.6206 Direct
SCHEMMER.COM



From: Michael Oneby <Michael.Oneby@cityofsewardne.gov>
Sent: Thursday, January 11, 2024 2:37 PM

6th Street Water Main
City of Seward

6th Street Watermain Replacement (Base Bid Comparison)

ITEM	Engineer's Estimate			K2 Construction		Elsbury Construction					
	TOTAL	UNIT	UNIT COST	TOTAL COST	Unit Price	Base Bid	Unit Price	Base Bid			
GENERAL											
Mobilization	1	LS	\$112,299.64	\$112,299.64	107%	\$ 120,000.00	1	\$ 120,000.00	\$ 47,047.56	1	\$ 47,047.56
Remove Pavement	1019	SY	\$20.00	\$20,386.67	63%	\$ 12.50	1,019	\$ 12,737.50	\$ 7.60	1,019	\$ 7,744.40
Sawing Pavement	1881	LF	\$8.00	\$15,048.00	81%	\$ 6.50	1,881	\$ 12,226.50	\$ 5.26	1,881	\$ 9,894.06
Remove Driveway	784	SY	\$20.00	\$15,682.22	63%	\$ 12.50	784	\$ 9,800.00	\$ 7.60	784	\$ 5,958.40
Remove Walk	307	SY	\$20.00	\$6,140.00	58%	\$ 11.50	307	\$ 3,530.50	\$ 7.60	307	\$ 2,333.20
Remove and Reset Sign	4	EA	\$150.00	\$600.00	103%	\$ 155.00	4	\$ 620.00	\$ 377.66	4	\$ 1,510.64
Remove Street Light Pole	4	EA	\$1,000.00	\$4,000.00	500%	\$ 5,000.00	4	\$ 20,000.00	\$ 4,677.64	4	\$ 18,710.56
Subtotal				\$174,156.53							
EARTHWORK											
Gen Clearing & Grubbing	1	LS	\$5,000.00	\$5,000.00		\$ 16,000.00	1	\$ 16,000.00	\$ 7,601.15	1	\$ 7,601.15
Subtotal				\$5,000.00							
PAVING											
8" Concrete Pavement, 47B-3500	1027	SY	\$100.00	\$102,711.11	93%	\$ 93.00	1027	\$ 95,511.00	\$ 108.17	1027	\$ 111,090.59
Concrete Pavement, 47B-3500, 4" Sidewalk	307	SY	\$80.00	\$24,560.00	106%	\$ 85.00	307	\$ 26,095.00	\$ 99.40	307	\$ 30,515.80
Concrete Pavement, 47B-3500, 6" Driveway	784	SY	\$100.00	\$78,411.11	100%	\$ 100.00	784	\$ 78,400.00	\$ 102.32	784	\$ 80,218.88
Combined Curb and Gutter	675	LF	\$45.00	\$30,375.00	78%	\$ 35.00	675	\$ 23,625.00	\$ 116.94	675	\$ 78,934.50
Temporary Drive/Sidewalk	1091	SY	\$120.00	\$130,920.00	83%	\$ 100.00	1091	\$ 109,100.00	\$ 109.92	1091	\$ 119,922.72
Build Temporary Surfacing	296	SY	\$150.00	\$44,400.00	60%	\$ 90.00	296	\$ 26,640.00	\$ 124.54	296	\$ 36,863.84
Detectable Warning Panel	152	SF	\$50.00	\$7,600.00	70%	\$ 35.00	152	\$ 5,320.00	\$ 58.47	152	\$ 8,887.44
Subtotal				\$418,977.22							
TRAFFIC CONTROL											
Traffic Control for Const	1	LS	\$50,000.00	\$50,000.00	50%	\$ 25,000.00	1	\$ 25,000.00	\$ 133,598.39	1	\$ 133,598.39
Subtotal				\$50,000.00							
STORM DRAINAGE											
Convert Curb Inlet to Grate Inlet	1	EA	\$5,000.00	\$5,000.00	110%	\$ 5,500.00	1	\$ 5,500.00	\$ 3,633.30	1	\$ 3,633.30
Curb Inlet	1	EA	\$5,000.00	\$5,000.00	112%	\$ 5,600.00	1	\$ 5,600.00	\$ 4,787.70	1	\$ 4,787.70
Subtotal				\$10,000.00							
WATER											
Directional Drilling for 8" Water Main	1,064	LF	\$70.00	\$74,480.00	86%	\$ 60.00	1064	\$ 63,840.00	\$ 209.53	1064	\$ 222,939.92
Directional Drilling for 10" Water Main	53	LF	\$160.00	\$8,480.00	50%	\$ 80.00	53	\$ 4,240.00	\$ 344.00	53	\$ 18,232.00
Directional Drilling for 12" Water Main	322	LF	\$200.00	\$64,400.00	40%	\$ 80.00	322	\$ 25,760.00	\$ 275.17	322	\$ 88,604.74
Conc for Plugs & Collars	1,10	CY	\$500.00	\$550.00	130%	\$ 650.00	1.1	\$ 715.00	\$ 1,491.93	1.1	\$ 1,641.12
Reinf Steel for Collars	43	LBS	\$3.00	\$128.40	100%	\$ 3.00	43	\$ 129.00	\$ 9.41	43	\$ 404.63
Conc for Thrust Blocks & Anchorages	9.6	CY	\$400.00	\$3,840.00	109%	\$ 435.00	9.6	\$ 4,176.00	\$ 637.57	9.6	\$ 6,120.67
Reinf Stl for Thrust Blks & Anchorages	308	LBS	\$3.00	\$925.20	83%	\$ 2.50	308	\$ 770.00	\$ 9.40	308	\$ 2,895.20
Abandonment of Water Main	1	LS	\$10,000.00	\$10,000.00	100%	\$ 10,000.00	1	\$ 10,000.00	\$ 5,534.37	1	\$ 5,534.37
Rem & Salvage Hydrant	5	EA	\$1,500.00	\$7,500.00	80%	\$ 1,200.00	5	\$ 6,000.00	\$ 1,070.08	5	\$ 5,350.40
Water Main, 6"	162	LF	\$80.00	\$12,960.00	95%	\$ 76.00	162	\$ 12,312.00	\$ 33.36	162	\$ 5,404.32
Water Main, 8"	1,824	LF	\$100.00	\$182,400.00	105%	\$ 105.00	1824	\$ 191,520.00	\$ 43.01	1824	\$ 78,450.24
Water Main, 10"	143	LF	\$175.00	\$25,025.00	74%	\$ 130.00	143	\$ 18,590.00	\$ 60.53	143	\$ 8,655.79
Water Main, 12"	1,007	LF	\$150.00	\$151,050.00	89%	\$ 133.00	1007	\$ 133,931.00	\$ 70.42	1007	\$ 70,912.94
Water Main, 14"	44	LF	\$250.00	\$11,000.00	74%	\$ 185.00	44	\$ 8,140.00	\$ 98.61	44	\$ 4,338.84
Water Main, 16"	73	LF	\$300.00	\$21,900.00	77%	\$ 230.00	73	\$ 16,790.00	\$ 97.98	73	\$ 7,152.54
Anchoring Elbow, MJ, 6"	3	EA	\$425.00	\$1,275.00	71%	\$ 300.00	3	\$ 900.00	\$ 339.65	3	\$ 1,018.95
Anchoring Coupling, MJ (L=18"), 6"	8	EA	\$400.00	\$3,200.00	74%	\$ 295.00	8	\$ 2,360.00	\$ 322.75	8	\$ 2,582.00
Reducer, MJ, 6" X 4"	1	EA	\$300.00	\$300.00	75%	\$ 225.00	1	\$ 225.00	\$ 199.67	1	\$ 199.67
Reducer, MJ, 8" X 6"	1	EA	\$400.00	\$400.00	63%	\$ 250.00	1	\$ 250.00	\$ 256.69	1	\$ 256.69
Reducer, MJ, 12" X 8"	1	EA	\$400.00	\$400.00	88%	\$ 350.00	1	\$ 350.00	\$ 369.04	1	\$ 369.04
Reducer, MJ, 12" X 10"	1	EA	\$450.00	\$450.00	80%	\$ 360.00	1	\$ 360.00	\$ 414.56	1	\$ 414.56
Reducer, MJ, 16" X 12"	1	EA	\$700.00	\$700.00	100%	\$ 700.00	1	\$ 700.00	\$ 985.87	1	\$ 985.87
Reducer, MJ, 16" X 14"	1	EA	\$750.00	\$750.00	107%	\$ 800.00	1	\$ 800.00	\$ 828.23	1	\$ 828.23
Deg Bend, MJ, 8" X 90	3	EA	\$500.00	\$1,500.00	66%	\$ 330.00	3	\$ 990.00	\$ 337.59	3	\$ 1,012.77
Deg Bend, MJ, 14" X 90	1	EA	\$700.00	\$700.00	129%	\$ 900.00	1	\$ 900.00	\$ 922.65	1	\$ 922.65
Deg Bend, MJ, 6" X 45	2	EA	\$400.00	\$800.00	65%	\$ 260.00	2	\$ 520.00	\$ 244.89	2	\$ 489.78
Deg Bend, MJ, 8" X 45	2	EA	\$450.00	\$900.00	67%	\$ 300.00	2	\$ 600.00	\$ 305.12	2	\$ 610.24
Deg Bend, MJ, 10" X 45	4	EA	\$500.00	\$2,000.00	80%	\$ 400.00	4	\$ 1,600.00	\$ 420.15	4	\$ 1,680.60
Deg Bend, MJ, 12" X 45	2	EA	\$600.00	\$1,200.00	83%	\$ 500.00	2	\$ 1,000.00	\$ 535.44	2	\$ 1,070.88
Tee, MJ, 8" X 6"	6	EA	\$600.00	\$3,600.00	67%	\$ 400.00	6	\$ 2,400.00	\$ 451.94	6	\$ 2,711.64
Tee, MJ, 8" X 8"	1	EA	\$700.00	\$700.00	64%	\$ 450.00	1	\$ 450.00	\$ 504.70	1	\$ 504.70
Tee, MJ, 10" X 6"	2	EA	\$800.00	\$1,600.00	63%	\$ 500.00	2	\$ 1,000.00	\$ 565.97	2	\$ 1,131.94
Tee, MJ, 10" X 8"	2	EA	\$900.00	\$1,800.00	61%	\$ 550.00	2	\$ 1,100.00	\$ 621.49	2	\$ 1,242.98
Tee, MJ, 12" X 6"	1	EA	\$1,000.00	\$1,000.00	63%	\$ 625.00	1	\$ 625.00	\$ 653.36	1	\$ 653.36
Tee, MJ, 12" X 8"	1	EA	\$1,100.00	\$1,100.00	64%	\$ 700.00	1	\$ 700.00	\$ 713.72	1	\$ 713.72
Tee, MJ, 12" X 12"	3	EA	\$1,200.00	\$3,600.00	71%	\$ 850.00	3	\$ 2,550.00	\$ 880.85	3	\$ 2,642.55
Tee, MJ, 16" X 6"	1	EA	\$1,800.00	\$1,800.00	61%	\$ 1,100.00	1	\$ 1,100.00	\$ 1,146.33	1	\$ 1,146.33
Tee, MJ, 16" X 12"	1	EA	\$1,900.00	\$1,900.00	74%	\$ 1,400.00	1	\$ 1,400.00	\$ 1,406.05	1	\$ 1,406.05
Tee, MJ, 16" X 14"	1	EA	\$2,000.00	\$2,000.00	90%	\$ 1,800.00	1	\$ 1,800.00	\$ 1,792.07	1	\$ 1,792.07
Tee, MJ, 16" X 16"	1	EA	\$2,000.00	\$2,000.00	90%	\$ 1,800.00	1	\$ 1,800.00	\$ 1,714.96	1	\$ 1,714.96
Solid Sleeve, MJ (L=12"), 6"	2	EA	\$400.00	\$800.00	40%	\$ 160.00	2	\$ 320.00	\$ 209.33	2	\$ 418.66
Solid Sleeve, MJ (L=12"), 8"	10	EA	\$800.00	\$8,000.00	38%	\$ 300.00	10	\$ 3,000.00	\$ 336.11	10	\$ 3,361.10
Solid Sleeve, MJ (L=12"), 10"	5	EA	\$900.00	\$4,500.00	39%	\$ 350.00	5	\$ 1,750.00	\$ 427.07	5	\$ 2,135.35
Solid Sleeve, MJ (L=12"), 12"	2	EA	\$1,200.00	\$2,400.00	35%	\$ 420.00	2	\$ 840.00	\$ 520.66	2	\$ 1,041.32
Solid Sleeve, MJ (L=12"), 14"	1	EA	\$1,500.00	\$1,500.00	41%	\$ 620.00	1	\$ 620.00	\$ 717.21	1	\$ 717.21
Solid Sleeve, MJ (L=15"), 16"	1	EA	\$1,800.00	\$1,800.00	42%	\$ 750.00	1	\$ 750.00	\$ 846.66	1	\$ 846.66
Plug, MJ, 6"	1	EA	\$1,000.00	\$1,000.00	16%	\$ 160.00	1	\$ 160.00	\$ 117.73	1	\$ 117.73
Plug, MJ, 16"	1	EA	\$1,000.00	\$1,000.00	60%	\$ 600.00	1	\$ 600.00	\$ 556.20	1	\$ 556.20
Retainer Glands, MJ, 4"	1	EA	\$120.00	\$120.00	38%	\$ 45.00	1	\$ 45.00	\$ 67.57	1	\$ 67.57
Retainer Glands, MJ, 6"	25	EA	\$100.00	\$2,500.00	70%	\$ 70.00	25	\$ 1,750.00	\$ 91.88	25	\$ 2,297.00
Retainer Glands, MJ, 8"	64	EA	\$120.00	\$7,680.00	58%	\$ 70.00	64	\$ 4,480.00	\$ 114.72	64	\$ 7,342.08
Retainer Glands, MJ, 10"	31	EA	\$200.00	\$6,200.00	65%	\$ 130.00	31	\$ 4,030.00	\$ 187.29	31	\$ 5,805.99
Retainer Glands, MJ, 12"	31	EA	\$250.00	\$7,750.00	56%	\$ 140.00	31	\$ 4,340.00	\$ 209.51	31	\$ 6,494.81
Retainer Glands, MJ, 14"	6	EA	\$350.00	\$2,100.00	66%	\$ 230.00	6	\$ 1,380.00	\$ 353.74	6	\$ 2,122.44
Retainer Glands, MJ, 16"	16	EA	\$400.00	\$6,400.00	75%	\$ 300.00	16	\$ 4,800.00	\$ 353.74	16	\$ 5,659.84
Gate Valve, MJ, 6"	11	EA	\$1,600.00	\$17,600.00	113%	\$ 1,800.00	11	\$ 19,800.00	\$ 1,453.54	11	\$ 15,988.94
Gate Valve, MJ, 8"	7	EA	\$2,200.00	\$15,400.00	114%	\$ 2,500.00	7	\$ 17,500.00	\$ 2,155.91	7	\$ 15,091.37
Gate Valve, MJ, 10"	2	EA	\$3,000.00	\$6,000.00	117%	\$ 3,500.00	2	\$ 7,000.00	\$ 3,149.66	2	\$ 6,299.32
Gate Valve, MJ, 12"	3	EA	\$3,500.00	\$10,500.00	123%	\$ 4,300.00	3	\$ 12,900.00	\$ 3,857.41	3	\$ 11,572.23
Butterfly Valve, MJ, 16"	2	EA	\$6,000.00	\$12,000.00	105%	\$ 6,300.00	2	\$ 12,600.00	\$ 6,027.21	2	\$ 12,054.42
Hydrant, L=6.5'	8	EA	\$5,000.00	\$40,000.00	12						

**6th Street Water Main
City of Seward**

6th Street Watermain Replacement (Alternate Bid Comparison)

ITEM	Engineer's Estimate				K2 Construction			Elsbury Construction			
	TOTAL	UNIT	UNIT COST	TOTAL COST	Unit Price		Base Bid	Unit Price		Base Bid	
GENERAL											
Mobilization	1	LS	\$18,424.04	\$18,424.04	109%	\$ 20,000.00	1	\$ 20,000.00	\$ 22,468.81	1	\$ 22,468.81
Remove Pavement	167	SY	\$20.00	\$3,348.89	75%	\$ 15.00	167	\$ 2,505.00	\$ 7.60	167	\$ 1,269.20
Sawing Pavement	148	LF	\$8.00	\$1,184.00	125%	\$ 10.00	148	\$ 1,480.00	\$ 17.54	148	\$ 2,595.92
Remove Walk	11	LF	\$20.00	\$220.00	50%	\$ 10.00	11	\$ 110.00	\$ 7.60	11	\$ 83.60
Subtotal				\$23,176.93							
EARTHWORK											
Gen Clearing & Grubbing	1	LS	\$1,000.00	\$1,000.00	450%	\$ 4,500.00	1	\$ 4,500.00	\$ 5,847.04	1	\$ 5,847.04
Subtotal				\$1,000.00							
PAVING											
8" Concrete Pavement, 47B-3500	167	SY	\$100.00	\$16,744.44	95%	\$ 95.00	167	\$ 15,865.00	\$ 108.17	167	\$ 18,064.39
Concrete Pavement, 47B-3500, 4" Sidewalk	11	SY	\$80.00	\$873.15	125%	\$ 100.00	11	\$ 1,100.00	\$ 99.40	11	\$ 1,093.40
Combined Curb and Gutter	85	LF	\$45.00	\$3,825.00	111%	\$ 50.00	85	\$ 4,250.00	\$ 116.94	85	\$ 9,939.90
Detectable Warning Panel	32	SF	\$50.00	\$1,600.00	70%	\$ 35.00	32	\$ 1,120.00	\$ 58.47	32	\$ 1,871.04
Subtotal				\$23,042.59							
TRAFFIC CONTROL											
Traffic Control for Const	1	LS	\$10,000.00	\$10,000.00	100%	\$ 10,000.00	1	\$ 10,000.00	\$ 38,185.52	1	\$ 38,185.52
Subtotal				\$10,000.00							
WATER											
Directional Drilling for 6" Water Main	73	LF	\$70.00	\$5,110.00	107%	\$ 75.00	73	\$ 5,475.00	\$ 241.65	73	\$ 17,640.45
Directional Drilling for 8" Water Main	568	LF	\$70.00	\$39,760.00	93%	\$ 65.00	568	\$ 36,920.00	\$ 212.30	568	\$ 120,586.40
Conc for Thrust Blocks & Anchorages	1.5	CY	\$400.00	\$600.00	100%	\$ 400.00	1.5	\$ 600.00	\$ 635.73	1.5	\$ 953.60
Water Main, 4"	6	LF	\$150.00	\$900.00	57%	\$ 85.00	6	\$ 510.00	\$ 92.33	6	\$ 553.98
Water Main, 6"	144	LF	\$80.00	\$11,520.00	100%	\$ 80.00	144	\$ 11,520.00	\$ 34.48	144	\$ 4,965.12
Water Main, 8"	619	LF	\$100.00	\$61,900.00	105%	\$ 105.00	619	\$ 64,995.00	\$ 48.82	619	\$ 30,219.58
Anchoring Elbow, MJ, 6"	1	EA	\$425.00	\$425.00	71%	\$ 300.00	1	\$ 300.00	\$ 328.98	1	\$ 328.98
Anchoring Coupling, MJ (L=18"), 6"	3	EA	\$400.00	\$1,200.00	75%	\$ 300.00	3	\$ 900.00	\$ 322.85	3	\$ 968.55
Reducer, MJ, 6" X 4"	2	EA	\$300.00	\$600.00	75%	\$ 225.00	2	\$ 450.00	\$ 198.80	2	\$ 397.60
Deg Bend, MJ, 8" x 90	1	EA	\$500.00	\$500.00	70%	\$ 350.00	1	\$ 350.00	\$ 338.38	1	\$ 338.38
Deg Bend, MJ, 6" X 45	4	EA	\$400.00	\$1,600.00	65%	\$ 260.00	4	\$ 1,040.00	\$ 244.83	4	\$ 979.32
Cross, MJ, 8" x 6"	1	EA	\$700.00	\$700.00	71%	\$ 500.00	1	\$ 500.00	\$ 572.09	1	\$ 572.09
Tee, MJ, 6" X 6"	1	EA	\$500.00	\$500.00	72%	\$ 360.00	1	\$ 360.00	\$ 396.37	1	\$ 396.37
Tee, MJ, 8" X 6"	2	EA	\$600.00	\$1,200.00	70%	\$ 420.00	2	\$ 840.00	\$ 451.95	2	\$ 903.90
Solid Sleeve, MJ (L=12"), 4"	2	EA	\$300.00	\$600.00	55%	\$ 165.00	2	\$ 330.00	\$ 200.53	2	\$ 401.06
Solid Sleeve, MJ (L=12"), 6"	1	EA	\$400.00	\$400.00	43%	\$ 170.00	1	\$ 170.00	\$ 208.75	1	\$ 208.75
Solid Sleeve, MJ (L=12"), 8"	7	EA	\$800.00	\$5,600.00	38%	\$ 300.00	7	\$ 2,100.00	\$ 336.07	7	\$ 2,352.49
Retainer Glands, MJ, 4"	6	EA	\$120.00	\$720.00	38%	\$ 45.00	6	\$ 270.00	\$ 67.24	6	\$ 403.44
Retainer Glands, MJ, 6"	23	EA	\$100.00	\$2,300.00	55%	\$ 55.00	23	\$ 1,265.00	\$ 91.90	23	\$ 2,113.70
Retainer Glands, MJ, 8"	26	EA	\$120.00	\$3,120.00	63%	\$ 75.00	26	\$ 1,950.00	\$ 114.75	26	\$ 2,983.50
Gate Valve, MJ, 6"	5	EA	\$1,600.00	\$8,000.00	113%	\$ 1,800.00	5	\$ 9,000.00	\$ 1,453.41	5	\$ 7,267.05
Gate Valve, MJ, 8"	2	EA	\$2,200.00	\$4,400.00	114%	\$ 2,500.00	2	\$ 5,000.00	\$ 2,156.43	2	\$ 4,312.86
Hydrant, L=6.5'	3	EA	\$5,000.00	\$15,000.00	120%	\$ 6,000.00	3	\$ 18,000.00	\$ 6,575.78	3	\$ 19,727.34
Pothole Water Service	8	EA	\$500.00	\$4,000.00	60%	\$ 300.00	8	\$ 2,400.00	\$ 477.89	8	\$ 3,823.12
Reconstruct Water Service	8	EA	\$1,600.00	\$12,800.00	100%	\$ 1,600.00	8	\$ 12,800.00	\$ 1,291.51	8	\$ 10,332.08
Copper Water Service Pipe, 0.75"	90	LF	\$30.00	\$2,700.00	100%	\$ 30.00	90	\$ 2,700.00	\$ 9.36	90	\$ 842.40
Copper Water Service Pipe, 1"	10	LF	\$35.00	\$350.00	86%	\$ 30.00	10	\$ 300.00	\$ 88.32	10	\$ 883.20
Subtotal				\$186,505.00							
EROSION CTRL											
Seeding, Ty "B"	0.50	AC	\$10,000.00	\$5,000.00		\$ 8,000.00	0.5	\$ 4,000.00	\$ 4,092.94	0.5	\$ 2,046.47
Subtotal				\$5,000.00							
Total				\$248,724.52				\$ 245,975.00			\$ 338,920.60



Office of the City Engineer
147 North 7th Street

Memo

To: Greg Butcher, City Administrator

From: Mike Oneby, P.E., City Engineer

cc: Derek Bargmann, City Clerk; Brandon Koll, Water/Wastewater Director

Date: January 12, 2024

Re: 6th Street – Ash Street to Lincoln Street Watermain Replacement Project
Recommendation of Award

The City advertised for bids to replace watermain along 6th Street from Ash Street to Lincoln Street ahead of the Hwy 15 reconstruction in 2024 and 2025. The City hosted a public bid opening on January 11, 2024 at 10:00 AM at City Hall, overseen by City Clerk Derek Bargmann, Water/Wastewater Director Brandon Koll, and City Engineer Mike Oneby. Two bids were received, listed high to low in the table below along with the Engineer's Opinion of Probable Construction Cost.

The bidders were asked to submit both a base bid (Ash Street to Roberts Street) and an alternate bid (Roberts to Lincoln). The project was split to facilitate accepting a smaller project that fit within the Water CIP budget. The bid amounts calculated with the alternate bid item is presented in the middle three columns in the table. The order of high to low bidder did not change with the alternate bid item.

No.	Bidder	Submittal Date & Time	Base Bid Amount [\$]	Alternate Bid Amount [\$]	Total Base + Alternate [\$]	Amount above Low	
						[\$]	[%]
2.	Elsbury Construction Grand Island, NE	9:55 AM 1/11/24	1,492,393.06	388,920.60	1,831,313.66	274,070.16	+ 17%
	Engineer's Estimate	N/A	1,537,867.35	248,724.52	1,786,591.87	179,348.37	+ 11%
1.	K2 Construction Lincoln, NE	8:54 AM 1/11/24	1,361,268.50	245,975.00	1,607,243.50	0.00	N/A

The project's Engineer (Schemmer Associates) reviewed both bids and found no irregularities that would prohibit award to the low bidder (see attached memo). After reviewing both bids, the City Engineer concurs with the Engineer, and the City Engineer recommends award to K2 Construction as the low bidder. Furthermore, the City Engineer recommends award to K2 Construction accepting the alternate bid item, with the total amount awarded (base plus alternate) in the amount of \$1,607,243.50.

B. Consideration of a Professional Services Agreement in the Amount of \$156,526 with The Schemmer Associates for Construction Engineering Services

**AGREEMENT BETWEEN
THE CITY OF SEWARD
AND
THE SCHEMMER ASSOCIATES
FOR PROFESSIONAL SERVICES**

**6th Street – Ash Street to Lincoln Street Water Main Reconstruction
CONSTRUCTION ENGINEERING**

TABLE OF CONTENTS

Page

ARTICLE 1 – SERVICES OF ENGINEER	1
1.01 Scope.....	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES.....	1
2.01 General	1
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES.....	2
3.01 Commencement	2
3.02 Time for Completion	2
ARTICLE 4 – INVOICES AND PAYMENTS	2
4.01 Invoices	2
4.02 Payments	2
ARTICLE 5 – OPINIONS OF COST	3
5.01 Opinions of Probable Construction Cost	3
5.02 Opinions of Total Project Costs	3
ARTICLE 6 – GENERAL CONSIDERATIONS	3
6.01 Standards of Performance	3
6.02 Use of Documents	5
6.03 Insurance	6
6.04 Suspension and Termination	6
6.05 Controlling Law.....	8
6.06 Successors, Assigns, and Beneficiaries.....	8
6.07 Dispute Resolution.....	8
6.08 Environmental Condition of Site.....	9
6.09 Indemnification and Mutual Waiver	9
6.10 Miscellaneous Provisions	10
ARTICLE 7 – DEFINITIONS.....	11
7.01 Defined Terms	11
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS.....	12
8.01 Exhibits Included	12
8.02 Total Agreement	13

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

THIS IS AN AGREEMENT effective as of January 17 , 2024 (“Effective Date”) between

The City of Seward (“Owner”) and

The Schemmer Associates Inc. (“Engineer”).

Owner intends to Contract with Engineer to receive construction engineering services for observation, material sampling, material testing, and management of the paving improvements and associated plan work detailed in the plans entitled “6th Street – Ash Street to Lincoln Street Water Main Reconstruction” (“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 *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.

6.03 *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.

6.04 *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.

6.05 *Controlling Law*

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

6.06 *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.

6.07 *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.

6.08 *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.

6.09 *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.

6.10 *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 3 pages.
- B. Exhibit B, “Consultant Estimate of Hours and Expenses,” consisting of 3 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.

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:

City of Seward

By: Joshua Eickmeier

Title: Mayor

Date: _____

Signed: _____

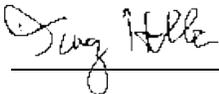
Engineer:

The Schemmer Associates

By: Doug Holle

Title: Executive Vice President, Engineering

Date: 1/12/2024

Signed: 

Address for giving notices:

537 Main Street

Seward, NE 68434

Address for giving notices:

333 S. 21st Street

Suite 102

Lincoln, NE 68510

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 3 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services**

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

6th STREET – ASH STREET TO LINCOLN STREET WATER MAIN IMPROVEMENTS

1. INTRODUCTION

The following Scope of Services for Construction Engineering Services shall include Project Management, Construction Observation, Administration, Staking and Materials Testing. The work shall include but are not limited to; the preconstruction phase, construction phase, construction closeout, coordination with the general contractor, construction observation, as-built plans, final documents, staking, and materials testing.

2. ASSUMPTIONS

- Construction duration is defined in special provisions as substantial completion of phase 1 by April 1, 2024 and phase 2 by July 1, 2024. Final completion for both phases is to be completed by August 1, 2024.
- Construction inspection (including mobilization) is anticipated to average 9 hours per working day with 90 working days anticipated. Inspection for alternate #1 is included in this scope.

3. PROJECT DESCRIPTION

- Water main improvements are planned along 6th Street from just south of Ash Street to Lincoln Street and Hwy 15 intersection in Seward, NE.

4. PRE-CONSTRUCTION PHASE

The following pre-construction phase tasks will include but are not limited to:

- A. Conduct the pre-construction meeting with the contractor and all stake holders.
- B. Preconstruction photos
- C. Draft and hand out flyers to residents

5. CONSTRUCTION PHASE

The following construction phase tasks will include, but are not limited to:

- A. Establish a procedure for managing, tracking, and storing all relevant documents between the contractor, City, and CE firm.
- B. Mobilize a construction inspection team on site for the duration of the construction activities per paragraph 2. ASSUMPTIONS.
- C. Maintain project field diaries, accurate quantities, files and records.
- D. Construction progress photos
- E. Complete daily report for each day.
- F. Monitor the contractors' activities for compliance with the plans and specifications.
- G. Review work zone traffic control devices each day CE firm is on site.
- H. Review contractor submittals.
- I. Conduct weekly meetings (Construction Progress Meetings) with the contractor. Nineteen (19) meetings are included in this scope.
- J. Draft change orders as needed. Two (2) change orders are included in this scope.
- K. Review and recommend contractor's pay applications on a monthly basis. Five (5) pay application reviews are included in this scope.
- L. Perform materials testing in accordance with NDOT Materials Sampling Guide
- M. Perform construction staking as listed below. It is assumed any stakes set and impacted by construction activity requiring re-staking will be viewed as additional effort and may result in added effort invoiced.
 - 1. Re-establish control
 - 2. Stake water main line and grade and valves / fittings

6. CONSTRUCTION CLOSEOUT

The following construction phase tasks will include but are not limited to:

- A. Conduct a final project walkthrough/inspection.
- B. Prepare and provide to the contractor a punch list of repair items that need to be addressed before project acceptance.
- C. Verify all project work has been completed, inspected and approved.
- D. Prepare as-built plans. As-built plans will be created and submitted in electronic format.

7. PROJECT MANAGEMENT

The following project management tasks will include, but are not limited to:

- A. Review work, communication with contractor / client, and invoicing



Hour Estimate Form
Construction Engineering Services
6th Street - Ash Street to Lincoln Street Water Main Replacement

City of Seward
 Project No. 09083.001

January 12, 2024

ITEM NO.	TASK DESCRIPTION	SEN ENG	PROJ REP	FIELD TECH II	SEN RLS	CADD TECH	2 MAN SURV CREW	ADMIN SUPP	TOTAL PER TASK	Task	
											Cost
I.	Preconstruction Phase										\$ 4,405.00
I.a	Preconstruction Meeting	6	3						9		
I.b	Preconstruction photos		4						4		
I.c	Hand out flyers	6	12						18		
II.	Construction Phase										\$ 133,740.00
II.a	Establish procedure for tracking relevant documents	1	1						2		
II.b	Mobilize construction inspection team on site		90						90		
II.c	Maintain project diaries, quantities, and records	6	14						20		
II.d	Construction photos		45						45		
II.e	Complete daily reports	6	45						51		
II.f	Monitor contractors' activities for compliance with plans and specs	20	510						530		
II.g	Review traffic control devices each day		22						22		
II.h	Review submittals	8	2						10		
II.i	Conduct weekly meetings	67	19						86		
II.j	Change orders	8	2						10		
II.k	Pay app reviews	10	2						12		
II.l	Materials testing		60	25					85		
II.m	Construction staking				9	12	64		85		
III.	Construction Closeout										\$ 6,245.00
III.a	Final project walkthrough / inspection	6	8						14		
III.b	Prepare and distribute punch list	2	3						5		
III.c	Verify project work completion and acceptance	2	12						14		
III.d	As Built Plans	2	12						14		
IV.a	Project Management										\$ 2,220.00
IV.a	Review work, communication, invoicing	12							12		
	Labor Fee										\$ 146,610.00
	Direct Expenses										\$ 9,916.00
	TOTALS	162	866	25	9	12	64	0	1138		\$ 156,526.00

**Construction Engineering Services
6th Street - Ash Street to Lincoln Street Water Main Replacement**

City of Seward
Project No. 09083.001

BREAKDOWN OF COSTS

<u>PROJECT TASK & PERSONNEL CLASSIFICATION</u>	<u>ESTIMATED HOURS</u>	<u>RATE</u>	<u>ESTIMATED TOTAL</u>
I. Preconstruction Phase			
SENIOR ENGINEER	12	\$185.00	\$2,220
PROJECT REPRESENTATIVE	19	\$115.00	\$2,185
FIELD TECHNICIAN II	0	\$105.00	\$0
RLS	0	\$145.00	\$0
CADD TECHNICIAN	0	\$80.00	\$0
2 MAN SURVEY CREW	0	\$190.00	\$0
ADMINISTRATIVE SUPPORT	0	\$80.00	\$0
		TASK TOTAL	\$4,405
II. Construction Phase			
SENIOR ENGINEER	126	\$185.00	\$23,310
PROJECT REPRESENTATIVE	812	\$115.00	\$93,380
FIELD TECHNICIAN II	25	\$105.00	\$2,625
RLS	9	\$145.00	\$1,305
CADD TECHNICIAN	12	\$80.00	\$960
2 MAN SURVEY CREW	64	\$190.00	\$12,160
ADMINISTRATIVE SUPPORT	0	\$80.00	\$0
		TASK TOTAL	\$133,740
III. Construction Closeout			
SENIOR ENGINEER	12	\$185.00	\$2,220
PROJECT REPRESENTATIVE	35	\$115.00	\$4,025
FIELD TECHNICIAN II	0	\$105.00	\$0
RLS	0	\$145.00	\$0
CADD TECHNICIAN	0	\$80.00	\$0
2 MAN SURVEY CREW	0	\$190.00	\$0
ADMINISTRATIVE SUPPORT	0	\$80.00	\$0
		TASK TOTAL	\$6,245
Continued Next Page			
IV. Project Management			
SENIOR ENGINEER	12	\$185.00	\$2,220
PROJECT REPRESENTATIVE	0	\$115.00	\$0
FIELD TECHNICIAN II	0	\$105.00	\$0
RLS	0	\$145.00	\$0
CADD TECHNICIAN	0	\$80.00	\$0
2 MAN SURVEY CREW	0	\$190.00	\$0
ADMINISTRATIVE SUPPORT	0	\$80.00	\$0
		TASK TOTAL	\$2,220
Sub-Total			<u>\$146,610</u>
 REIMBURSABLES			
	No.	Rate (\$)	
Plan Sets	4	\$20.00	\$ 80.00
Mileage	14800	\$ 0.670	\$ 9,916.00
Other			\$ -
Other			\$ -
Sub-Total			<u>\$ 9,916.00</u>
 TOTAL ESTIMATED FEE			<u><u>\$ 156,526.00</u></u>

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 **\$156,526.00**.
 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)

12/27/2023

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 have ADDITIONAL INSURED provisions or 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 FNIC P.O. Box 45279 Omaha NE 68145-0279	CONTACT NAME: Deanne Beltz-Sund PHONE (A/C. No. Ext): 402-861-7000 E-MAIL ADDRESS: deanne.beltz@fnicgroup.com	FAX (A/C. No):
	INSURER(S) AFFORDING COVERAGE	
License#: SCH41058 SCH41058	INSURER A: Continental Casualty Co.	20443
INSURED The Schemmer Associates Inc. 1044 North 115th Street Omaha NE 68154	INSURER B: Continental Insurance Company	35289
	INSURER C: Valley Forge Insurance Co.	20508
	INSURER D:	
	INSURER E:	
INSURER F:		

COVERAGES

CERTIFICATE NUMBER: 1045927698

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<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"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:			6023928716	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			6023928747	12/31/2023	12/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<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 checked="" type="checkbox"/> RETENTION \$ 10,000			6023928702	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 6,000,000 AGGREGATE \$ 6,000,000 \$
B	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 N	N/A	6023928733	12/31/2023	12/31/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability Claims Made Basis Pollution Legal Liab			AEH288365469	12/31/2023	12/31/2024	\$5,000,000 \$5,000,000 Ea.Claim Aggregate

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

CERTIFICATE HOLDER**CANCELLATION**

City of Seward Nebraska
 142 N. 7th St.
 Seward NE 68434

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

© 1988-2015 ACORD CORPORATION. All rights reserved.

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.

4. Consideration of a Professional Services Agreement with The Schemmer Associates for Design Engineering Services for the Worthman Blvd Extension Project in the Amount of \$128,685.42 - City Engineer Oneby

AGREEMENT BETWEEN
THE CITY OF SEWARD
AND
THE SCHEMMER ASSOCIATES
FOR PROFESSIONAL SERVICES

WORTHMAN BOULEVARD EXTENSION

PRELIMINARY AND FINAL DESIGN

Professional Services Provided: Roadway Design and Drainage Analysis

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 – SERVICES OF ENGINEER	1
1.01 Scope.....	1
ARTICLE 2 – OWNER’S RESPONSIBILITIES.....	1
2.01 General	1
ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES.....	2
3.01 Commencement	2
3.02 Time for Completion	2
ARTICLE 4 – INVOICES AND PAYMENTS	2
4.01 Invoices	2
4.02 Payments	2
ARTICLE 5 – OPINIONS OF COST	3
5.01 Opinions of Probable Construction Cost	3
5.02 Opinions of Total Project Costs	3
ARTICLE 6 – GENERAL CONSIDERATIONS	3
6.01 Standards of Performance	3
6.02 Design Without Construction Phase Services	4
6.03 Use of Documents	5
6.04 Insurance	6
6.05 Suspension and Termination	6
6.06 Controlling Law.....	8
6.07 Successors, Assigns, and Beneficiaries.....	8
6.08 Dispute Resolution.....	9
6.09 Environmental Condition of Site.....	9
6.10 Indemnification and Mutual Waiver	10
6.11 Miscellaneous Provisions	11
ARTICLE 7 – DEFINITIONS	11
7.01 Defined Terms	11
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS	13
8.01 Exhibits Included.....	13
8.02 Total Agreement	13

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

THIS IS AN AGREEMENT effective as of _____ , _____ (“Effective Date”) between

The City of Seward (“Owner”) and

The Schemmer Associates Inc. (“Engineer”).

Owner intends to Contract with Engineer to receive preliminary and final design services for roadway design for:

Extension of Worthman Boulevard on new alignment beginning at the intersection of Pine Street and ending approximately 1,000 feet west near the existing drainage swale at the center of the southeast quarter of Section 29, Township 11 North, Range 3 East in Seward, Nebraska. Work associated with this project includes design of new roadway, water main extension, sanitary sewer extension, street lighting design, and drainage analysis for a detention pond.

_____ (“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 6 pages.
- B. Exhibit B, "Consultant Estimate of Hours and Expenses," consisting of 2 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.

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:

City of Seward

Engineer:

The Schemmer Associates

By: _____

By: Douglas G. Holle

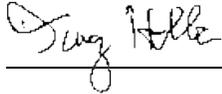
Title: _____

Title: Principal

Date: _____

Date: 1/9/2024

Signed: _____

Signed: 

Address for giving notices:

Address for giving notices:

333 S. 21st Street
Suite 102
Lincoln, NE 68510

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 6 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated January 10, 2024.

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

WORTHMAN BOULEVARD EXTENSION

(Project Description)

This project includes work associated with design services related to the completion of final engineering plans to extend Worthman Boulevard and associated watermain and sanitary trunk sewer on new alignment beginning at the intersection of Pine Street and ending approximately 1,000 feet west near the existing drainage swale at the center of the southeast quarter of Section 29, Township 11 North, Range 3 East in Seward, Nebraska.

The required services will include project administration, preliminary and final roadway design of Worthman Boulevard and drainage analysis for a detention pond that will serve Lots 2, 3, 4, and 5 within Seward Rail Campus PUD, 1st Addition, Seward, Nebraska.

The project will be funded with local funding only. The design will conform to all applicable City of Seward and Nebraska Department of Transportation requirements including the Nebraska DOT Construction Specifications.

Information Provided by the City or Others

The City will provide all available information including existing studies, reports, mapping, as-built plans, and data.

The City will also provide the following:

- a. As-Built plans including all adjacent and affected infrastructure including existing street, storm and sanitary sewers, watermain, etc.
- b. GIS Information, including existing right-of-way.
- c. Data on existing City control points and benchmarks.
- d. Current list of utility companies and contact information.
- e. Topographic survey, including one-call utility locate records.
- f. Geotechnical reports.

Tasks specifically not included:

- Right-of-way appraisal and acquisition services.
- Subdivision replats.
- Title searches.
- Topographic survey.
- Traffic engineering.
- All construction phase services.
- Retaining wall design.
- Guardrail design.
- Structural design related to the construction of concrete box culverts.
- Geotechnical engineering.
- Wetland Delineation and 404 permitting.
- Storm sewer design.
- Water main modeling.

Project Schedule

- | | | |
|----|---------------------------------|--------------------------|
| a. | January 17 th , 2024 | Notice to Proceed (NTP) |
| b. | May 1 st , 2024 | Plan-in-Hand (30%) Plans |
| c. | June 3 rd , 2024 | Final Submittal |
| d. | July 16 th , 2024 | Approval to Bid |
| e. | October 2024 to June 2025 | Construction |

Design Plan Sheets

Roadway plan sheets will be prepared in Nebraska Department of Transportation format. The following plan sheets are anticipated to be included in the final plan set:

- a. Cover Sheet
- b. Typical Section
- c. Summary of Quantities
- d. Horizontal Control
- e. General Information
- f. Geometrics Plan
- g. Detention Cell Grading Plan and Details
- h. Joints and Grades Plan
- i. Construction Phasing Plan
- j. Construction and Removal Plan
- k. Drainage Plan and Profile
- l. Roadway Plan and Profile
- m. Water Main Plan and Profile
- n. Sanitary Sewer Plan and Profile
- o. Pavement Marking and Permanent Signing Plan
- p. Street Lighting Plan and Details
- q. Erosion Control Plan
- r. Miscellaneous Details
- s. Roadway Cross Section Sheets

Submittals

The following formal submittals are anticipated:

- a. Plan-in-Hand (30%) Plans
- b. Final Submittal

Project Tasks

The following tasks are anticipated to complete the work for this project:

I. Project Administration- This task consists of project management activities, agency and stakeholder meetings, utility coordination meetings, kickoff and progress meetings with City staff and internal coordination meetings.

- a. ***Project Management-*** Includes activities required for budget and schedule management, staff assignments, internal cost control, preparation and processing of project correspondence, invoices, and monthly progress reports throughout this phase of the project. For scoping purposes, project management is assumed to last from January 2024 through June 2024.
- b. ***Progress Meetings with City Staff-*** Progress meetings with City staff will be conducted to update progress and seek resolution of identified issues. Two (2) progress meetings are anticipated. Meetings will be attended by the ENGINEER's project manager and one additional project team member.

It is assumed all meetings will be held in the City of Seward.

- c. ***Team Coordination Meetings-*** Includes internal staff meetings throughout project development.
- d. ***Property Owner Meetings-*** Includes up to two meetings with adjacent property owners for determining driveway access locations.

II. Preliminary Design- This task will include site inspection, data collection, utility coordination, typical section, drainage plan and profile, roadway plan and profile, preliminary construction phasing, detention cell grading plan, water main plan and profile, sanitary sewer plan and profile, opinion of probable construction costs, and plan-in-hand meeting. Preliminary design includes the stretch of new roadway beginning from the intersection of Worthman Boulevard and Pine Street extending approximately 1,000 feet west, ending on the east side of the existing drainage swale. The intersection at Worthman/Pine would be redesigned to improve turning movements. Preliminary Design task II.j - *Roadway Plan and Profiles* includes development of a horizontal and vertical alignment of the Worthman Boulevard extending west from Pine Street for approximately 1,900 feet extending to the west property line.

- a. *Site Inspection*- Includes site visits during preliminary design to verify site constraints, impacts, and compatibility with proposed design. It is assumed one site visit will be required.
- b. *Data Collection*- Existing information and data available for the project will be assembled and reviewed including as-built information for existing streets, structures, utilities, storm sewers, right-of-way, GIS data, and other relevant information available.
- c. *Construction Phasing*- A conceptual construction phasing plan will be developed for the roadway.
- d. *Utility Coordination*- Includes coordination with the known utility companies to identify the limits and potential conflicts of all utilities along the project corridor. ENGINEER will request maps of all existing utilities within the project corridor. Preliminary drawings will be supplied to all utility companies requesting design information.
- e. *Detention Cell Grading Plan and Details*- A drainage study for a detention pond that will accommodate future, full-build conditions for stormwater runoff from Lots 2, 3, 4, and 5 within Seward Rail Campus PUD, 1st Addition. The City requires that within the Rail Campus new development, post-project peak runoff flow rates not exceed the existing peak runoff flow rates for the 10-year and 100-year recurrence intervals. Drainage basin delineation will include topographic survey supplemented with GIS data.

A technical design memorandum will be prepared documenting the hydrologic and hydraulic analysis including figures and tables supporting the recommended drainage improvements.

A grading plan sheet will be developed for detailing the location, excavation limits, proposed grading contours, and detention cell outlet works.

- f. *Drainage Plan and Profiles*- Storm sewer improvements including pipe, inlets, and manholes will be shown on the drainage plan and profile sheets.
- g. *Opinion of Probable Construction Cost*- NDOT bid items and unit prices will be used to compute quantities and submit an opinion of probable construction cost prior to the plan-in-hand (after selection of preferred design alternative).
- h. *Plan-in-Hand*- A plan in hand meeting will be scheduled and conducted with the City of Seward staff at approximately thirty (30) percent preliminary design plan completion. The plan-in-hand will be documented with minutes summarizing the significant findings and decisions made.

At the completion of preliminary design, plans will be submitted to all utility companies for review and use in developing preliminary relocation plans and schedules if necessary.

Meeting minutes will be prepared for all meetings.

- i. *Quality Assurance/Quality Control (QA/QC)*- The ENGINEER shall perform QA/QC reviews of project documents at various stages of design and prior to any formal submittal.
- j. *Roadway Plan and Profiles* – Roadway geometric layout and vertical profile will be shown on the roadway plan and profile sheets. Four (4) Plan & Profile (P&P) sheets are assumed to be necessary along Worthman Boulevard. This task also includes developing the vertical and horizontal alignment for approximately 1,900 feet extending to the west property line.
- k. *Typical Sections* – The roadway typical section will be developed along Worthman Boulevard. It is anticipated the typical section will consist of a two-lane urban roadway cross section with sidewalk on both sides.
- l. *Water Main Plan and Profiles* – Includes development of watermain plan and profile sheets for extension of the existing watermain along Worthman Boulevard. Watermain design shall be in accordance with the City of Lincoln Standard Specifications for Municipal Construction. The pipe sizes will be provided by the City. Hydrant locations will be identified by the City. No water modeling will be conducted. It is assumed the length of water main extension will not exceed 1,000 feet.
- m. *Sanitary Sewer Plan and Profiles* – Includes development of sanitary sewer plan and profile sheets for extension of the existing sanitary sewer along Worthman Boulevard. It is assumed the length of sanitary sewer extension will not exceed 1,000 feet.

III. Final Design- This task will include construction and removal plans, drainage plan and profile sheets, construction phasing, limits of construction, erosion control, miscellaneous design details, and opinion of probable construction costs. Final design includes the stretch of new roadway beginning from the intersection of Worthman Boulevard and Pine Street extending approximately 1,000 feet west, ending on the east side of the existing drainage swale.

- a. *Geometric Sheets*- Sheets will be developed that show the coordinate location of all proposed pavement.
- b. *Joints and Grades Sheets* – Pavement grades and concrete jointing sheets will be developed along all reconstructed streets. This task includes detailing the design model along the project.
- c. *Construction and Removal Plan*- Sheets will be prepared that detail construction and removals for the project in accordance with NDOT pay items.
- d. *Drainage Plan and Profile*-Plan and profile sheets will be finalized.

- e. *Roadway Plan and Profile* – Roadway plan and profile sheets will be finalized. This task includes final roadway modeling for approximately 1,000 feet of roadway.
- f. *Water Main Plan and Profiles* – Water main plan and profile sheets will be finalized.
- g. *Sanitary Sewer Plan and Profiles* – Sanitary sewer plans and profiles sheets will be finalized.
- h. *Roadway Cross Sections* – Roadway cross section sheets will be finalized.
- i. *Erosion Control Plans*- A sediment and erosion control plan will be developed to prevent erosion and promote revegetation within the limits of construction.
- j. *Construction Phasing Plan*- A final phasing plan will be developed for the project.
- k. *Pavement Marking and Permanent Signing*– Plans and details will be developed for permanent pavement markings and signing.
- l. *Street Lighting* – Plans and details will be developed for street lighting.
- m. *Miscellaneous Details*-ENGINEER to provide design and drafting of miscellaneous details on the project.
- n. *Final Opinion of Probable Construction Cost*- NDOT bid items and unit prices will be used to compute quantities and submit an opinion of probable construction cost at the completion of the final plans.
- o. *Utility Coordination*- Final plans will be submitted to utility owners impacted by the construction. ENGINEER to develop status of utilities report.
- p. *Quality Assurance/Quality Control (QA/QC)*- The ENGINEER shall perform QA/QC reviews of project documents at various stages of design and prior to any formal submittal.
- q. *Special Provisions*- ENGINEER to develop special provisions for the project. Special provisions to include recurring NDOT special provisions as well as project specific provisions.
- r. *Permitting*- ENGINEER to apply for permits on the project. The anticipated permits for the project are a Floodplain Development Permit, Construction Stormwater Permit, Wastewater Construction permit and Watermain Extension approval through the NDEE.
- s. *Bid-Phase Services* – ENGINEER will assist the City in advertising the Project for bids. ENGINEER will coordinate with A&D Technical Supply to distribute plans to potential contractors. The City will conduct the bid letting.

EXHIBIT B: Hour Estimate Form
Preliminary and Final Design
WORTHMAN BOULEVARD EXTENSION

City of Seward

ITEM NO.	TASK DESCRIPTION	PRIN	PROJ MGR	SEN PROJ ENGR	REG DESIGN ENGR	ENGR/SEN TECH	ENGR TECH	SEN REG SURVEYOR	PARTY CHIEF SURVEYOR	ASSOC SURVEYOR	GRAPHIC DESIGNER	ADMIN ASST	TOTAL PER TASK
I.	Project Administration												
I.a	Project Management	6	24										30
I.b	Progress Meetings with City Staff		4		12								16
I.c	Team Coordination Meetings		8		8	8							24
I.d	Property Owner Meetings		6		6		2						14
II.	Preliminary Design												
II.a	Site Inspection				6	6							12
II.b	Data Collection				8		8						16
II.c	Construction Phasing				2	4	2						8
II.d	Utility Coordination		1		8		8						17
II.e	Detention Cell Grading Plan and Details		4		40	60	32						136
II.f	Drainage Plan and Profiles				16	40	16						72
II.g	Quantities/Opinion of Probable Construction Cost		1		8	4	8						21
II.h	Plan-in-Hand		4		4	8							16
II.i	Quality Assurance/Quality Control		4		4	2							10
II.j	Roadway Plan and Profiles		2		24	40	32						98
II.k	Typical Sections		1		2	4	4						11
II.l	Water Main Plan and Profiles				8	16	24						48
II.m	Sanitary Sewer Plan and Profiles				8	8	16						32
III.	Final Design												
III.a	Geometrics		1		8	8	16						33
III.b	Joints and Grades		2		4	12	8						26
III.c	Construction and Removal Plan		1		8	16	16						41
III.d	Drainage Plan and Profile Sheets		1		2	4	4						11
III.e	Roadway Plan and Profile Sheets		1		2	4	4						11
III.f	Water Main Plan and Profiles		1		2	8	2						13
III.g	Sanitary Sewer Plan and Profiles		1		2	4	2						9
III.h	Roadway Cross-section Sheets				8	32	16						56
III.i	Erosion Control Plans		1		2	8	16						27
III.j	Construction Phasing Plan				2	8	4						14
III.k	Pavement Marking and Permanent Signing Sheets				2	4	4						10
III.l	Street Lighting Plan			8	8		8						24
III.m	Miscellaneous Details				2	4	8						14
III.n	Quantities/Opinion of Probable Cost		1		4	2							7
III.o	Utility Coordination				12		8						20
III.p	Quality Assurance/Quality Control		4		8								12
III.q	Special Provisions		8	4	12								24
III.r	Permitting		4	4	24								32
III.s	Bid-Phase Services		4		16								20
													0
													0
	TOTALS	6	89	16	292	314	268	0	0	0	0	0	985

WORTHMAN BOULEVARD EXTENSION

City of Seward

Preliminary and Final Design

EXHIBIT B: FEE SUMMARY SCHEDULE

Direct Salary Costs

PROJECT TASK & PERSONNEL CLASSIFICATION	ESTIMATED HOURS	2024 RATE	ESTIMATED LABOR CHARGE	TASK COST
I. Project Administration				\$14,250.00
PRINCIPAL	6	\$245.00	\$1,470.00	
PROJECT MANAGER	42	\$180.00	\$7,560.00	
SENIOR PROJECT ENGINEER	0	\$187.50	\$0.00	
REGISTERED DESIGN ENGINEER	26	\$160.00	\$4,160.00	
ENGINEER/ SENIOR TECHNICIAN	8	\$107.50	\$860.00	
ENGINEERING TECHNICIAN	2	\$100.00	\$200.00	
REGISTERED SURVEYOR	0	\$150.00	\$0.00	
PARTY CHIEF SURVEYOR	0	\$110.00	\$0.00	
ASSOCIATE SURVEYOR	0	\$85.00	\$0.00	
GRAPHIC DESIGNER	0	\$0.00	\$0.00	
ADMINISTRATIVE ASSISTANT	0	\$0.00	\$0.00	
II. Preliminary Design				\$60,780.00
PRINCIPAL	0	\$245.00	\$0.00	
PROJECT MANAGER	17	\$180.00	\$3,060.00	
SENIOR PROJECT ENGINEER	0	\$187.50	\$0.00	
REGISTERED DESIGN ENGINEER	138	\$160.00	\$22,080.00	
ENGINEER/ SENIOR TECHNICIAN	192	\$107.50	\$20,640.00	
ENGINEERING TECHNICIAN	150	\$100.00	\$15,000.00	
REGISTERED SURVEYOR	0	\$150.00	\$0.00	
PARTY CHIEF SURVEYOR	0	\$110.00	\$0.00	
ASSOCIATE SURVEYOR	0	\$85.00	\$0.00	
GRAPHIC DESIGNER	0	\$0.00	\$0.00	
ADMINISTRATIVE ASSISTANT	0	\$0.00	\$0.00	
III. Final Design				\$52,735.00
PRINCIPAL	0	\$245.00	\$0.00	
PROJECT MANAGER	30	\$180.00	\$5,400.00	
SENIOR PROJECT ENGINEER	16	\$187.50	\$3,000.00	
REGISTERED DESIGN ENGINEER	128	\$160.00	\$20,480.00	
ENGINEER/ SENIOR TECHNICIAN	114	\$107.50	\$12,255.00	
ENGINEERING TECHNICIAN	116	\$100.00	\$11,600.00	
REGISTERED SURVEYOR	0	\$150.00	\$0.00	
PARTY CHIEF SURVEYOR	0	\$110.00	\$0.00	
ASSOCIATE SURVEYOR	0	\$85.00	\$0.00	
GRAPHIC DESIGNER	0	\$0.00	\$0.00	
ADMINISTRATIVE ASSISTANT	0	\$0.00	\$0.00	
Subtotal Labor Costs	985		\$127,765.00	

DIRECT NON-SALARY COSTS:	No.	Rate (\$)	
Printing	1	\$ 300.00	\$ 300.00
Mileage	926	\$ 0.670	\$ 620.42
Survey Mileage		\$ -	\$ -
Geotech (Field Drilling Subcontractor)		\$ -	\$ -
Geotech (Lab Reimbursable)		\$ -	\$ -
Title Searches		\$ -	\$ -
Lodging		\$ -	\$ -
Per Diem		\$ -	\$ -
Public Meeting		\$ -	\$ -
Storm Sewer Video Inspection		\$ -	\$ -
Wetland Delineation		\$ -	\$ -
Sub-Total Direct Non-Salary Costs			\$ 920.42

TOTAL ESTIMATED FEE **\$128,685.42**

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 **\$128,685.42**.
 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)

12/27/2023

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 have ADDITIONAL INSURED provisions or 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 FNIC P.O. Box 45279 Omaha NE 68145-0279	CONTACT NAME: Deanne Beltz-Sund PHONE (A/C. No. Ext): 402-861-7000 E-MAIL ADDRESS: deanne.beltz@fnicgroup.com	FAX (A/C. No):
	INSURER(S) AFFORDING COVERAGE	
License#: SCH41058 SCH41058	INSURER A: Continental Casualty Co.	NAIC # 20443
INSURED The Schemmer Associates Inc. 1044 North 115th Street Omaha NE 68154	INSURER B: Continental Insurance Company	35289
	INSURER C: Valley Forge Insurance Co.	20508
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 1045927698

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<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"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:			6023928716	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			6023928747	12/31/2023	12/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<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 checked="" type="checkbox"/> RETENTION \$ 10,000			6023928702	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 6,000,000 AGGREGATE \$ 6,000,000 \$
B	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 N	N/A	6023928733	12/31/2023	12/31/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability Claims Made Basis Pollution Legal Liab			AEH288365469	12/31/2023	12/31/2024	\$5,000,000 \$5,000,000 Ea.Claim Aggregate

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

CERTIFICATE HOLDER**CANCELLATION**

City of Seward Nebraska
 142 N. 7th St.
 Seward NE 68434

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

© 1988-2015 ACORD CORPORATION. All rights reserved.

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.

5. Update on the Wellness Center - City Administrator Butcher

CITY ADMINISTRATOR'S REPORT

FUTURE REQUESTS FOR COUNCIL AGENDA ITEMS OR ADMINISTRATIVE ACTION

ANNOUNCEMENT OF UPCOMING EVENTS

STRATEGY SESSION

1. Strategy Session with City Attorney Regarding Litigation Strategy - City Attorney Hoffschneider
2. Strategy Session with City Attorney Regarding Real Estate Interests at the Seward Rail Campus - City Attorney Hoffschneider

MOTION TO ADJOURN

I, Derek Bargmann, the duly appointed qualified and acting City Clerk of the City of Seward, Nebraska, hereby certify that the foregoing Notice of Meeting and Agenda for such meeting has been posted in the following places: Seward City Hall, Seward Municipal Building, Seward County Courthouse, Seward Memorial Library and CityofSewardNE.gov

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City.

Derek Bargmann, City Clerk

Date