

AGREEMENT
FOR
ENGINEERING SERVICES

This AGREEMENT, between the Norman Utilities Authority (OWNER) and SMC Consulting Engineers, P.C., (ENGINEER);

WITNESSETH

WHEREAS, OWNER intends to construct approximately 2,000 feet of 15-inch and 1,100 feet of 12-inch sanitary sewer and associated appurtenances allowing the East Ridge Lift Station to be demolished by connecting to the existing 15-inch Summit Valley Interceptor. This PROJECT will be identified as the Summit Valley Interceptor.

WHEREAS, construction of the PROJECT is to accommodate future wastewater flows resulting from full build-out of the NORMAN 2025 LAND USE AND TRANSPORTATION PLAN.

WHEREAS, OWNER requires survey, design and engineering services in connection with the PROJECT (the SERVICES); and,

WHEREAS, ENGINEER is prepared to provide said SERVICES; and.

NOW THEREFORE, in consideration of the promises contained in this AGREEMENT, OWNER and ENGINEER agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this AGREEMENT shall be _____.

ARTICLE 2 - COMPLETION DATE

ENGINEER shall complete the SERVICES in accordance with Attachment A, Project Schedule.

ARTICLE 3 - GOVERNING LAW

The laws of the state of Oklahoma shall govern this AGREEMENT.

ARTICLE 4 - SERVICES TO BE PERFORMED BY ENGINEER

ENGINEER shall perform the SERVICES described in Attachment B, Scope of Services.

ARTICLE 5 - COMPENSATION

OWNER shall pay ENGINEER in accordance with Attachment C, Compensation.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

- 6.1. OWNER-Furnished Data: Upon request, OWNER will provide to ENGINEER all data in OWNER's possession relating to ENGINEER's SERVICES on the PROJECT. Such data may include electronic data available from the OWNER's Geographic Information System (GIS) and data or drawings generated by OWNER's wastewater collection system model. OWNER shall cause additional model runs to be completed to assist ENGINEER in completion of the SERVICES. ENGINEER will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by OWNER. OWNER's data is provided for temporary use or copying by ENGINEER.
- 6.2. Access to Facilities and Property: OWNER will make its facilities accessible to ENGINEER as required for ENGINEER's performance of its SERVICES

- 6.3. Timely Review: OWNER will examine ENGINEER's studies, reports, sketches, drawings, specifications, proposals, and other documents; and transmit OWNER comments or other decisions to ENGINEER in a timely manner.
- 6.4. Meetings: OWNER will participate in monthly progress meetings or other meetings with ENGINEER or contractor(s) defined in Scope of Services.
- 6.5. Advertisements, Permits, and Access: Unless otherwise agreed to in the Scope of Services, OWNER will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for ENGINEER's SERVICES or PROJECT construction.
- 6.6. Hazardous Substances: If hazardous substances in any form are encountered or suspected, ENGINEER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation. ENGINEER will, if requested by OWNER, conduct tests to determine the extent of the problem and will perform the necessary studies and recommend necessary remedial measures at an additional fee with contract terms to be negotiated.

ARTICLE 7 - STANDARD OF CARE

ENGINEER shall exercise the same degree of care skill and diligence in the performance of the SERVICES as is ordinarily possessed and exercised by a professional engineer under similar circumstances. ENGINEER shall correct the SERVICES that fail to satisfy this standard of care. No warranty, express or implied is included in this AGREEMENT or in any drawing, specifications, report or opinion produced pursuant to this AGREEMENT.

ARTICLE 8 - LIABILITY AND INDEMNIFICATION

- 8.1. General. Having considered the potential liabilities that may exist during the performance of the SERVICES, the benefits of the PROJECT, the ENGINEER's fee for the SERVICES and in consideration of the promises contained in this AGREEMENT, OWNER and ENGINEER agree to allocate and limit such liabilities in accordance with this Article.
- 8.2. Indemnification. ENGINEER and OWNER each agrees to defend, indemnify and hold harmless each other, its agents and employees, from and against legal liability for all claims, losses, damages and expenses to the extent such claims, losses, damages, or expenses are caused by its negligent acts, errors or omissions. In the event such claims, losses, damages or expenses are caused by the joint or concurrent negligence of ENGINEER and OWNER, such liability shall be borne by each party in proportion to its own negligence.
- 8.3. Employee Claims. ENGINEER shall indemnify OWNER against legal liability for damages arising out of claims by ENGINEER's employees. OWNER shall indemnify ENGINEER against legal liability for damages arising out of claims by OWNER's employees.
- 8.4. Consequential Damages. To the fullest extent permitted by law, ENGINEER shall not be liable to OWNER for any special, indirect or consequential damages resulting in any way from the performance of the SERVICES.
- 8.5. Survival. Upon completion of all SERVICES obligations and duties provided for in this AGREEMENT or if this AGREEMENT is terminated for any reason the terms and conditions of this Article shall survive.

ARTICLE 9 - INSURANCE

During the performance of the SERVICES under this AGREEMENT ENGINEER shall maintain the following insurance:

- 9.1. Worker's compensation insurance for ENGINEER's employees as required by Oklahoma Workers Compensation Statutes.
- 9.2. Comprehensive general liability insurance with a minimum of \$500,000 per accident for bodily injury or death and \$25,000 per occurrence for property damage.

9.3 Comprehensive automobile liability insurance with a minimum of \$500,000 per accident for bodily injury or death and \$25,000 for property damage.

9.4 Professional Liability (errors and omissions) insurance with a minimum policy value of \$1,000,000.

ENGINEER shall furnish OWNER certificates of insurance that shall include a provision that such insurance shall not be canceled without at least thirty days written notice to OWNER. All PROJECT contractors shall be required to include OWNER and ENGINEER as additional insured on their General Liability Insurance policies.

ENGINEER and OWNER each shall require its insurance carriers to waive all rights of subrogation against the other and its directors, officers, partners, commissioners, officials, agents and employees for damages covered by property insurance during and after the SERVICES. A similar provision shall be incorporated into all contractual arrangements entered into by OWNER and shall protect OWNER and ENGINEER to the same extent.

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

ENGINEER shall not be responsible for: (1) construction means, methods, techniques, sequences, procedures or safety precautions and programs in connection with the PROJECT; (2) the failure of any contractor, subcontractor, vendor or other PROJECT participant, not under contract to ENGINEER, to fulfill contractual responsibilities to the OWNER or to comply with federal, state or local laws, regulations, and codes; or (3) procuring permits, certificates and licenses required for any construction unless such responsibilities are specifically assigned to ENGINEER in Attachment B, Scope of Services.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Since ENGINEER has no control over the cost of labor, materials or equipment furnished by others or over the resources provided by others to meet PROJECT schedules, ENGINEER's opinion of probable costs and of PROJECT schedules shall be made on the basis of experience and qualifications as a professional engineer. ENGINEER does not guarantee that proposals, bids, or actual PROJECT costs will not vary from ENGINEER's cost estimates.

ARTICLE 12 - REUSE OF DOCUMENTS

Upon OWNER's request ENGINEER shall furnish OWNER with deliverables and/or other data on electronic media. All documents, including but not limited to, drawings, specifications and computer software prepared by ENGINEER pursuant to this AGREEMENT are instruments of Service in respect to the PROJECT. Said documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the PROJECT or on any other PROJECT.

ARTICLE 13 - TERMINATION

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this AGREEMENT. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

OWNER may terminate or suspend performance of this AGREEMENT for OWNER's convenience upon written notice to ENGINEER. ENGINEER shall terminate or suspend performance of the SERVICES on a schedule acceptable to OWNER. If termination or suspension is for OWNER's convenience, OWNER shall pay ENGINEER for all the SERVICES performed to date, amount not to exceed the normal fee amount due for the SERVICES rendered and termination or suspension expenses. Upon restart, an equitable adjustment shall be made to ENGINEER's compensation.

ARTICLE 14 - DELAY IN PERFORMANCE

Neither OWNER nor ENGINEER shall be considered in default of this AGREEMENT for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this

AGREEMENT, such circumstances include, but are not limited to abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riot and other civil disturbances; strikes, work slowdowns and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or SERVICES required to be provided by either OWNER or ENGINEER under this AGREEMENT.

Should such circumstances occur the non-performing party shall, within a reasonable period after being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this AGREEMENT.

ARTICLE 15 - COMMUNICATIONS

Any communication required by this AGREEMENT shall be made in writing to the address specified below:

ENGINEER: Christopher D. Anderson, P.E., Vice President
SMC Consulting Engineers, P.C.
815 West Main
Oklahoma City, OK 73106
405-232-7715
chris.anderson@smcokc.com

OWNER: Mark Daniels, P.E.
Norman Utilities Authority
201-C West Gray
P.O. Box 370
Norman OK 73070
405-366-5377
mark.daniels@normanok.gov

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of ENGINEER and OWNER.

ARTICLE 16 - WAIVER

A waiver by either OWNER or ENGINEER of any breach of this AGREEMENT shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 17 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this AGREEMENT or the occurrence of any event rendering any portion or provision of this AGREEMENT void shall in no way affect the validity or enforceability of any other portion or provision of this AGREEMENT. Any void provision shall be deemed severed from this AGREEMENT, and the balance of this AGREEMENT shall be construed and enforced as if this AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to amend this AGREEMENT to replace any stricken provision with a valid Provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire AGREEMENT from being void should a provision, which is of the essence of this AGREEMENT, be determined void.

ARTICLE 18 - INTEGRATION

This AGREEMENT represents the entire and integrated AGREEMENT between OWNER and ENGINEER. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this AGREEMENT. This AGREEMENT, including its attachments and schedules, may only be changed by a written amendment executed by both parties. The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A—Schedule

Attachment B--Scope of Services
Attachment C--Compensation

ARTICLE 19 - SUCCESSORS AND ASSIGNS

OWNER and ENGINEER each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to this AGREEMENT and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this AGREEMENT.

IN WITNESS WHEREOF, OWNER and ENGINEER have executed this AGREEMENT.

DATED this _____ day of _____, 20_____.

SMC Consulting Engineers, P.C. - ENGINEER

By: Christopher D. Anderson
Title: Vice - President

ATTEST

Mellonee Penna

Norman Utilities Authority- OWNER

APPROVED as to form and legality this _____ day of _____, 20_____.

City Attorney

APPROVED by the Trustees of the Norman Utilities Authority this _____ day of _____, 20_____.

ATTEST

By: _____
Title: _____

ATTACHMENT A

SCHEDULE

1. ENGINEER shall prepare Easement Availability Report along the proposed alignment of interceptor and submit report to the OWNER within 30 calendar days following receipt of notice to proceed.
2. ENGINEER shall submit draft contract documents to the OWNER within 60 calendar days following receipt of, and approval from the OWNER of, the Easement Availability Report.
3. ENGINEER shall complete final contract documents and all other SERVICES necessary to allow the OWNER to advertise for bids within 60 calendar days following receipt of, and approval from the OWNER of, the draft contract documents.
4. ENGINEER shall submit record drawings to the OWNER within 30 calendar days after acceptance of construction PROJECT by OWNER.

Failure of ENGINEER to comply with above schedule for various tasks or subtasks may result in OWNER's termination of this AGREEMENT.

ATTACHMENT B

SCOPE OF SERVICES

ENGINEER shall perform the following SERVICES under this AGREEMENT:

1. EASEMENT AVAILABILITY REPORT:

ENGINEER will immediately contact property owners along the OWNER proposed alignment for sewer interceptors proposed in the PROJECT, regarding the availability of utility and access easements. Sewer easement widths shall not be less than 15 feet in width for sewer depths up to 15 feet, plus five additional feet in width for each five feet of additional sewer depth greater than 15 feet.

ENGINEER will acquire all easements by donation by emphasizing the importance of proposed easements to OWNER and the resulting availability of public sewer to the property owner. Where necessary, ENGINEER shall acquire access agreements allowing ENGINEER and OWNER access to the property for purposes of laying out and acquiring necessary survey data. ENGINEER shall not extend monetary offers to property owners without written concurrence by OWNER's representative.

ENGINEER shall deliver three (3) copies of Easement Availability Report in accordance with the timeline defined in Attachment A. Easement Availability Report shall, at a minimum, include:

- Certified ownerships of all impacted parcels including copy of title, name(s) of property owners, complete mailing address, telephone and fax contact numbers, and email addresses (if applicable).
- Proposed Easement Location Map(s) indicating location of originally proposed easements (width, length, area), and reasonable easement modifications suggested by the property owner. If centerline of proposed sewer is shifted during negotiations, provide GPS acquired horizontal control for realignment.

2. PRELIMINARY DESIGN SERVICES

2.a. Preliminary Design Survey: Perform preliminary topographic survey along the selected route of the PROJECT in sufficient detail to prepare preliminary design documents. ENGINEER and OWNER shall consider existing man-made improvements or obstructions along the route, as well as the opinion of the impacted property owner in determining final route of the PROJECT. Said survey report shall indicate all existing easements, obstructions, adjacent structures, underground and above ground public and private utilities, roadways, driveways, fences, large trees and shrubs, other pertinent physical features and changes in surface topography. The preliminary survey shall extend at least 25 feet on either side of the proposed sewer alignment.

2.b. Preliminary Design:

ENGINEER shall evaluate the alignment for the proposed interceptor on the basis of cost, constructability, right-of-way and easement acquisition, and other pertinent factors, and shall provide a recommendation for the alignment of the proposed interceptor. ENGINEER shall ensure that all existing lift stations proposed for elimination can be successfully eliminated. Design analysis shall consider permitting requirements of the US Army Corps of Engineers, the Oklahoma Department of Environmental Quality, and other affected utility companies.

ENGINEER shall utilize construction techniques minimizing damage to flood plains and drainage ways. ENGINEER shall attend meeting with OWNER to approve preliminary design. OWNER staff must approve the preliminary design prior to proceeding with the final plans and specifications. The final design will be based on the interceptor improvements selected by the OWNER.

3. FINAL DESIGN SERVICES:

3.a. Right-of Way Mapping: Prepare all necessary right-of-way (ROW) and easement plans, parcel maps, and easement descriptions necessary for completion of the PROJECT. Prepare and furnish, for each affected

parcel, copies of maps showing the general location and dimensions of needed temporary construction easements, permanent utility easements, or access easements.

- 3.b. Draft Contract Documents: Prepare detailed contract documents including construction drawings, specifications and bidding documents. The construction drawings shall, at a minimum, include plan and profile sheets for all proposed utilities and standard detail sheets adequate to convey the intent of the design. The construction drawings shall show all property lines, proposed easements, existing recorded easements and all structures, utilities and other appurtenances that may be affected by the construction. Drawings will reflect actual conditions to a distance of at least 15 feet beyond the existing or proposed easement(s) for the sewer alignment.

Prepare technical specifications to fully describe the intended work and convey the intent of the design. ENGINEER shall utilize City of Norman Standard Specifications and Construction Drawings (City Specifications). For all items not adequately covered in the City Specifications, the ENGINEER will provide supplemental specifications and drawings. ENGINEER shall ensure that erosion prevention and stormwater runoff controls are included to prevent water quality degradation. All specifications used in this PROJECT will be submitted in a digital format acceptable to the OWNER.

ENGINEER will ensure that the design complies with the most recent amendment of all applicable portions of Oklahoma Administrative Code.

The ENGINEER will prepare necessary application forms and drawings for OWNER to secure US Army Corps of Engineers 404 permitting, and City of Norman floodplain permitting for the PROJECT. Prepare contract documents for the proposed work on a unit price basis. Supplemental specifications shall include a measurement and payment description. Each unit price bid item will be fully described in this section. Bid documents will likely be prepared to allow differing construction techniques such open trench, pipe bursting or directional boring. Additive alternates may also be included to maintain PROJECT budget.

Furnish 3 sets of the draft drawings, specifications and bidding documents to the OWNER.

- 3.c. Final Contract Documents: Incorporate modifications requested by the OWNER into the final contract documents including construction drawings, specifications, and bidding documents. Furnish 3 sets of the final drawings, specifications and bidding documents to the OWNER. Prior to the advertisement for bids, provide contract documents and construction permit applications to appropriate Federal, State, and local agencies from which approval of the PROJECT must be obtained. Prepare engineering design report and necessary calculations to comply with ODEQ requirements. Provide updated construction cost estimate. If necessary, incorporate modifications requested by permitting entities and obtain all required design approvals and permits prior to opening bids. The OWNER will be responsible for fees associated with the permitting process. Ensure that all necessary ROW is obtained prior to award of any construction contract(s).

- 3.d. Bidding Assistance: Prepare advertisement for bids and coordination publication of bidding notice with the OWNER. Distribute copies of the final contract documents to prospective bidders, material suppliers, and other interested parties. The OWNER will be responsible for advertisement costs.

Conduct pre-bid conference and, in conjunction with the OWNER, issue addenda in response to questions raised during the bidding process. Transmit addenda to all plan holders.

Conduct bid-opening proceedings, provide ENGINEER's estimate of probable construction cost and tabulate bid proposals. Make an analysis of the bids received and the suitability of the low bidder to perform the work. Make written recommendation to OWNER for awarding construction contract(s).

- 3.e. Project Management: During the final design services, attend any required conferences with the OWNER or any other affected party.

Upon award of the contract(s), furnish three (3) sets of the drawings, specifications and contract documents to the OWNER and three (3) sets to the PROJECT contractor for execution. Provide construction specifications to OWNER on electronic media.

Conduct pre-construction conference and, in conjunction with the OWNER, issue clarifications in response to questions raised at the conferences.

Provide one (1) set of reproducible record (as-built) drawings on mylar, two (2) sets of prints as well as the drawings on electronic media diskettes after completion of the PROJECT. Such drawings will be based upon construction records provided by the PROJECT contractor during construction and reviewed by the resident inspector.

ATTACHMENT C

COMPENSATION

The OWNER will compensate ENGINEER on a lump sum basis for the SERVICES rendered. The lump sum fee is broken down below by task as defined in the Scope of Services:

Task	Task Description	Lump Sum Amount
1	Easement Availability Report	\$2,000.00
2a	Preliminary Survey	9,000.00
2b	Preliminary Design Meeting	3,000.00
2	Preliminary Design Services Subtotal	\$12,000.00
3a	ROW Mapping	5,000.00
3b	Draft Contract Documents	20,000.00
3c	Final Contract Documents	11,000.00
3d	Bidding Assistance	1,000.00
3e	Project Management and Record Drawings	3,000.00
3	Final Design Services Subtotal	\$40,000.00
Total		\$54,000.00

The ENGINEER may submit interim statements, not to exceed one per month, for partial payment for SERVICES rendered. The statements to OWNER will be by task for the percentage of work actually completed. The OWNER shall make interim payments within 30 calendar days in response to ENGINEER's interim statements.