

AGREEMENT
FOR
ENGINEERING SERVICES

This AGREEMENT, between the Norman Utilities Authority (OWNER) and Garver, LLC (GARVER);

WITNESSETH

WHEREAS, OWNER intends to construct the PROJECT to produce Class A biosolids utilizing a co-composting process.

WHEREAS, OWNER requires engineering services for assistance with process evaluation and site selection, performance evaluation, detailed design, bidding services, and construction administration, and in connection with the PROJECT (the SERVICES); and,

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

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

ARTICLE 1 - EFFECTIVE DATE

The effective date of this AGREEMENT shall be _____.

ARTICLE 2 - COMPLETION DATE

GARVER shall complete the SERVICES in accordance with Attachment A, Scope of Services.

ARTICLE 3 - GOVERNING LAW

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

ARTICLE 4 - SERVICES TO BE PERFORMED BY ENGINEER

GARVER shall perform the SERVICES described in Attachment A, Scope of Services.

ARTICLE 5 - COMPENSATION

OWNER shall pay GARVER in accordance with Attachment B, Compensation.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

- 6.1. OWNER-Furnished Data: Upon request, OWNER will provide to GARVER all data in OWNER's possession relating to GARVER 's SERVICES on the PROJECT. Such data may include operations reports, record drawings, and equipment manuals for the WRF. GARVER 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 GARVER.
- 6.2. Access to Facilities and Property: OWNER will make its facilities accessible to GARVER as required for ENGINEER's performance of its SERVICES
- 6.3. Timely Review: OWNER will examine GARVER's studies, reports, sketches, drawings, specifications, proposals, and other documents; and transmit OWNER comments or other decisions to GARVER in a timely manner.
- 6.4. Meetings and Workshops: OWNER will participate in progress meetings and workshops with GARVER or contractor(s) defined in Attachment A, 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 GARVER 's SERVICES or PROJECT construction.

- 6.6. Hazardous Substances: If hazardous substances in any form are encountered or suspected, GARVER will stop its own work in the affected portions of the PROJECT to permit testing and evaluation. GARVER 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

GARVER 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. GARVER 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, GARVER's fee for the SERVICES and in consideration of the promises contained in this AGREEMENT, OWNER and GARVER agree to allocate and limit such liabilities in accordance with this Article.
- 8.2 Indemnification and Liability. GARVER agrees to indemnify, and hold harmless the OWNER, its officers, servants, and employees, from and against legal liability for all claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees recoverable under applicable law) caused by a negligent act, error, or omission of GARVER in the performance of services under this Agreement. OWNER agrees to indemnify, and hold harmless GARVER, its officers, servants, and employees, from and against legal liability for all claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees recoverable under applicable law) caused by a negligent act, error, or omission of the OWNER in the performance of services under this Agreement, provided such indemnification shall be applicable only to the extent sovereign immunity has been waived pursuant to Oklahoma law. GARVER and the OWNER each agree to promptly service notice on the other party of any claims arising hereunder, and shall cooperate in the defense of such claims. The acceptance by OWNER or its representatives of any certification of insurance providing for coverage other than as required in this Agreement to be furnished by GARVER shall in no event be deemed a waiver of any of the provisions of this indemnity provision. None of the foregoing provisions shall deprive the OWNER of any action, right, or remedy otherwise available to OWNER at common law.
- 8.3 Employee Claims. GARVER shall indemnify OWNER against legal liability for damages arising out of claims by GARVER's employees. OWNER shall indemnify GARVER against legal liability for damages arising out of claims by OWNER's employees.
- 8.4 Consequential Damages. To the fullest extent permitted by law, GARVER 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 GARVER shall maintain the following insurance:

- 9.1 Worker's compensation insurance for GARVER's employees as required by Oklahoma Workers Compensation Statutes.
- 9.2 Comprehensive general liability insurance with a minimum of \$125,000 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 \$125,000 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.

GARVER 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 GARVER as additional insured on their General Liability Insurance policies.

GARVER 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 GARVER to the same extent.

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

GARVER shall not be responsible for: (1) construction means, methods, techniques, sequences, procedures or safety and security precautions and programs in connection with the PROJECT; (2) the failure of any contractor, subcontractor, vendor or other PROJECT participant, not under contract to GARVER, 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 GARVER in Attachment B, Scope of Services.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Since GARVER 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, GARVER's opinion of probable costs and of PROJECT schedules shall be made on the basis of experience and qualifications as a professional engineer. GARVER does not guarantee that proposals, bids, or actual PROJECT costs will not vary from GARVER's cost estimates.

ARTICLE 12 - REUSE OF DOCUMENTS

Upon OWNER's request GARVER 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 GARVER 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 GARVER. GARVER 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 GARVER 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 GARVER's compensation.

ARTICLE 14 - DELAY IN PERFORMANCE

Neither OWNER nor GARVER 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 GARVER 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:

GARVER: Kyle Kruger P.E.
Garver LLC
1016 24th Avenue NW
Norman, OK 73069
405-329-2555
KMKruger@GarverUSA.com

OWNER: Mark Daniels, P.E.
Norman Utilities Authority (NUA)
201-C West Gray
P.O. Box 370
Norman OK 73070
405-217-7778
Mark.Daniels@NormanOK.gov

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

ARTICLE 16 - WAIVER

A waiver by either OWNER or GARVER 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 GARVER. 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 – Scope of Services
Attachment B – Compensation
Attachment C – Potential Compost Facility Locations Exhibit

ARTICLE 19 - SUCCESSORS AND ASSIGNS

OWNER and GARVER 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.

ARTICLE 20 - NO THIRD PARTY BENEFICARY


Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the OWNER or GARVER.

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

DATED this _____ day of _____ 20_____.

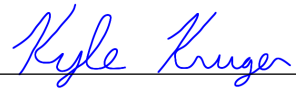
Garver, LLC – GARVER

ATTEST

By: 

Printed
Name: Michael Graves

Title: Vice-President



Kyle Kruger

Project Manager

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: _____

Printed
Name: _____

Title: _____

ATTACHMENT A

SCOPE OF SERVICES

GARVER shall perform the following SERVICES under this AGREEMENT:

1.0 GENERAL

Generally, the scope of services includes evaluation of biosolids co-composting via the windrow method to achieve Class A Biosolids for the **Norman Utilities Authority (Owner)** in **Norman, Oklahoma**. An evaluation of sites near the Water Reclamation Facility (WRF) will be evaluated as well. This scope of services also includes modification and update to Norman Water Reclamation Facility's existing Sludge Management Plan. Detailed design and the development of bid ready documents is not included in this scope of services and is anticipated to be added by amendment. Evaluations will reference Oklahoma Department of Environmental Quality (DEQ) construction standards.

2.0 CLASS A BIOSOLIDS – CO-COMPOSTING EVALUATION

2.1 Co-Compost Evaluation Study

2.1.1 Kick-off Meeting

Prior to beginning the evaluation study, Garver will schedule and conduct a project kick-off meeting to confirm project goals, expectations, anticipated challenges associated with the project, walk the potential areas for site evaluations, and define team member roles. Following the meeting, meeting minutes will be prepared by Garver and distributed to attendees.

2.1.2 Site Visits of Existing Composting Facilities

Garver will coordinate and attend day trips to visit up to (3) three facilities practicing composting of biosolids. The following facilities have been identified based on composting practice and proximity to Norman, OK:

- Windrow composting facilities in Tahlequah, OK and Bentonville, AR
- Static aerated pile facility in Ardmore, OK

Owner will select up to five of their staff to participate in site visits. A total of three (3) full work days for two (2) Garver employees are anticipated for coordinating and attending the site visits. During site visits, Garver and the Owner will visit with the compost operations staff to discuss design considerations and identify potential advantages and drawbacks associated with each process. The results of the site visits and information learned will be included in the Co-composting Evaluation TM (Section 2.1.3).

2.1.3 Co-Composting Evaluation TM

Garver will develop a technical Memorandum (TM) that will identify requirements and define additional treatment processes, equipment, and storage needed at the Norman WRF to achieve Class A biosolids and compare this method to the existing biosolids disposal. A metric of wet tons or dry tons of solids handled will be developed and utilized as a basis for like-comparisons across the biosolids handling disposal (existing and proposed) options.

2.1.3.1 Class A-Biosolids Technology Screening

The Owner's preferred method for achieving Class A Biosolids is Windrow Composting. As a means of supporting the selection of this technology, up to two (2) other composting technologies to achieve Class A Biosolids requirements will be screened and summarized in the TM. The additional two technologies to be considered are:

- 1) Aerated Static Piles
- 2) Closed Vessel Composting

Capital cost evaluations will be included with the technology screenings. Life Cycle Costs Analysis and Triple Bottom Line Evaluations of the composting alternatives are not included with this scope of services and will be considered Extra Work (see Section 7.0). The results of the technology screening will be

summarized in the Co-Composting Evaluation TM and will include a composting recommendation from the screened alternatives.

2.1.3.2 Composting Facility Siting

As part of the Co-composting TM, Garver will evaluate up to three (3) potential sites for constructing windrow composting facilities. Site evaluations will include assessment of available footprint, transportation and access requirements, and potential overlaps in regulatory jurisdiction. The Owner has identified the following sites for this evaluation:

- 1) Adjacent to the current Norman yard waste composting operations
- 2) At the old solid waste transfer station
- 3) At the old composting facility site

Attachment C provides an aerial view of these locations and their proximity to the Norman WRF.

2.1.3.3 Develop Co-composting Windrow Concept

Garver will develop design criteria, an opinion of probable construction costs (OPCC), anticipated performance to achieve Class A Biosolids with windrow co-composting, and describe Owner preferences and objections. This evaluation will include a life cycle cost estimate based on a 20-year planning horizon which will include capital costs for equipment and facilities associated with implementation of windrow composting technology and recurring operations and maintenance costs. The expected range of accuracy for OPCC at this conceptual level estimate is -30 to +50% of the actual project estimate. The life cycle estimate will be also reported in cost per tons treated. Garver does not warranty actual bid amounts based on preliminary cost estimating. A sketch of proposed improvements on the selected site will supplement the concept development.

2.1.3.4 Biosolids Disposal

Garver will summarize the requirements and estimate costs for current disposal of Class B Biosolids for a 20-year life cycle. The following three disposal methods are currently practiced:

- 1) Land application at nearby site
- 2) Land application at alternate site approximately 18 miles from WRF
- 3) Hauling and dumping at Norman's landfill

Estimated disposal costs will be based on Owner's existing operations and maintenance data following the dewatering process. This data will include historical lease payments, testing requirements, hauling costs, tipping fees. A unit cost per ton of solids disposed/hailed (\$/ton) will be developed for the purpose of comparison to windrow biosolids composting.

A matrix of non-monetary factors associated with the three (3) existing and the new co-composting disposal option will be developed for comparative purposes. Garver will utilize a weighted matrix with input from Owner's staff.

2.1.3.5 End-Use Evaluation

Garver will assist the Owner in evaluating up to three (3) potential end-uses for the finished product from the selected alternative to be distributed or sold, consistent with ODEQ regulations. End-use evaluations will be based on one (1) unit of measurement (e.g. pounds, tons, or cubic yards) with a range of potential rates (\$/unit measurement) for the sale of the finished product. These rates will be presented as a range of potential revenue generating mechanisms and will be compared to the 20-year life cycle costs generated at this stage of the project (conceptual development) for windrow co-composting.

2.1.3.6 Produce Technical Memorandum

The Draft Co-Composting Evaluation TM will summarize the findings from tasks 2.1.2 – 2.1.3. The TM will confirm the type of Co-composting and recommended site for implementing its process components. The draft TM will be provided to the Owner for review, prior to the Co-Composting Evaluation Workshop (detailed below in task 2.1.4).

The Final TM will incorporate Owner comments generated during review of the draft TM and discussion during the final Co-Composting Evaluation Workshop.

2.1.4 Co-Composting Evaluation Workshop

Garver will lead and participate in a final Co-Composting Workshop with the Owner to review and discuss the findings of Co-composting Evaluation TM. During the workshop, Garver will review the findings of the report and confirm the recommended alternative. Garver will receive Owner's comments and will incorporate them into the final report. Detailed design of the selected alternative is anticipated to commence with an approved amendment from the Owner.

2.2 Geotechnical Services

An allowance for geotechnical services is included for this project. Garver's subconsultant will undertake geotechnical services to determine the soil conditions for design. The proposed fee is an allowance based on up to two (2) borings at the selected composting site. Each boring will be up to 20 ft. deep to obtain information sufficient for the foundation design of the compost facilities.

2.3 Sludge Management Plan

Garver will assist the Owner in developing a new sludge management plan (SMP) to submit as part of a permit application for new Class A Biosolids composting facilities (as defined in the ODEQ requirements for Biosolids SECTION 252 CHAPTER 606 SUBCHAPTER 8). The Owner will furnish Garver a copy of the currently approved sludge management plan. The Owner will be responsible for performing or paying a third party for testing and laboratory analysis required for completing the new sludge management plan. Owner will also pay any applicable fees to the ODEQ upon submission to the State.

The new sludge management plan will maintain the current methods of disposal defined in the Owner's current sludge management plan and make any modifications based on the results of this study. The Owner will provide Garver additional information needed to complete the plan. Garver will notify the Owner of any potential regulatory changes that may impact their current sludge management plan and provide guidance to the WRF staff for testing and sampling that may be required for Class A Biosolids Composting.

A Draft copy of Sludge Management Plan will be provided to the Owner for review and comment. The Final Plan and Application will be submitted to ODEQ by the Owner (along with any required application fees paid by the Owner). Garver will address one (1) round of comments from ODEQ.

3.0 Project Deliverables

The following will be submitted to the Owner, or others as indicated, by Garver:

1. Three (3) copies of the Draft Co-Composting Evaluation TM.
2. Three (3) copies of the Final Co-Composting Evaluation TM.
3. Three (3) copies of the Preliminary Sludge Management Plan to Owner.
4. Three (3) copies of the Final Sludge Management Plan to Owner.
5. Electronic files as requested.

4.0 Meetings and Workshops

Garver intends to schedule, conduct, and attend the following meetings and workshops for the project. Meeting minutes will be prepared and distributed by Garver to Owner and others upon request by the Owner following each meeting:

1. Project Kickoff Meeting
2. Three (3) Site Visits/Meetings at Biosolids Composting Facilities
3. Final Co-composting Evaluation Workshop

5.0 Schedule

Garver shall begin work under this Agreement within ten (10) days of a Notice to Proceed and shall complete the work in accordance with the schedule below:

<u>Description</u>	<u>Calendar Days</u>
Draft Co-Composting Evaluation TM	90 days from Notice to Proceed
Final Co-Composting Evaluation TM	15 days from receipt of Owner Comments on Draft TM
Draft Sludge Management Plan	30 days from approval by Owner of the Final Co-composting Evaluation TM
Final Sludge Management Plan	15 days from receipt of Owner Comments on Draft SMP

6.0 Additional Services

The additional services listed in this section are anticipated to complete the project, but are not included in this current scope of services. They will be added by amendment with written notice of approval by Owner to Garver.

- 6.1 Surveys – TBD**
- 6.2 Detailed Design – TBD**
- 6.3 Utility and Regulatory Coordination – TBD**
- 6.4 Environmental Services – TBD**
- 6.5 Bidding Services – TBD**
- 6.6 Construction Phase Services – TBD**

7.0 Extra Work

The following items are not included under this agreement but will be considered as Extra Work:

1. Design services of any kind.
2. Submittals or deliverables in addition to those listed herein.
3. Meetings and workshops in addition to those listed herein
4. Piloting of any compost processes
5. Preparation of a Storm Water Pollution Prevention Plan (SWPPP). If necessary, the construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to DEQ.
6. Construction materials testing.
7. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
8. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
9. Support services during construction, including construction administration and observation.
10. Services after construction, such as warranty follow-up, operations support
11. Survey services.
12. Prequalification of Bidders.
13. Warranty Assistance

Extra Work will be as directed by the Owner in writing for an additional fee as agreed upon by the Owner and Garver.

ATTACHMENT B – COMPENSATION

The OWNER will compensate GARVER 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	Labor	Expenses	Total Fee Amount
2.1	Compost Evaluation	\$ 53,100.00	\$ 6,600.00	\$ 59,700.00
2.2	Geotechnical Services (Allowance)	N/A	N/A	\$ 5,000.00
2.3	New Sludge Management Plan	\$ 39,400.00	\$ 2,800.00	\$ 42,200.00
	Totals	\$ 92,500.00	\$ 9,400.00	\$ 106,900.00
Anticipated Services (to be completed in the Future by Amendment)				
6.1	Survey			TBD
6.2	Detailed Design			TBD
6.3	Utility/Regulatory Coordination			TBD
6.4	Environmental Services			TBD
6.5	Bidding Services			TBD
6.6	Construction Phase Services			TBD

GARVER 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 GARVER's interim statements.

ATTACHMENT C

POTENTIAL CO-COMPOSTING FACILITY LOCATIONS EXHIBIT

