

**AGREEMENT
FOR
ENGINEERING SERVICES**

This AGREEMENT, between the Norman Utilities Authority (OWNER) and ALAN PLUMMER ASSOCIATES, INC., (ENGINEER);

WITNESSETH

WHEREAS, OWNER intends to replace approximately 5,300 LF of 24-inch waterline and associated appurtenances as described in RFP-1314-28. This PROJECT will be identified as Robinson Waterline Replacement and shall be as described in Attachment B.

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 generated by OWNER's water distribution system model. 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 and Liability. The ENGINEER agrees to defend, 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) caused by a negligent act, error, or omission of the ENGINEER in the performance of services under this Agreement. OWNER agrees to defend, indemnify, and hold harmless the ENGINEER, 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) 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. The ENGINEER 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 the ENGINEER 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. 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 \$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.

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: David L. McPherson, Ph.D., P.E.
Alan Plummer Associates, Inc.
120 North Robinson, Suite 1400
Oklahoma City, OK 73102
214-208-3055
dmcpherson@apaienv.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 15 day of January, 2014.

Alan Plummer Associates, Inc. - ENGINEER

By:

Title:

[Signature]
Principal

ATTEST

[Signature]
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:

Title:

Chairman

Secretary

ATTACHMENT A

SCHEDULE

The Preliminary Pipeline Design Technical Memorandum (TM) shall be completed in accordance with the following schedule:

- Draft TM shall be delivered to OWNER within 60 calendar days from Notice to Proceed.
- Final TM shall be delivered to OWNER within 30 calendar days following receipt of OWNER comments on the Draft TM.

ATTACHMENT B**CITY OF NORMAN****ROBINSON WATER LINE REPLACEMENT – SCOPE OF SERVICES****January, 2014****1.0 BACKGROUND**

The Robinson Water Line Replacement (Project) will provide the Norman Utility Authority (OWNER) with reliable conveyance capacity in the transmission system. In General, the Project will consist of the replacement of the existing 24-inch ductile iron waterline located along Robinson Street between 24th Ave. NW and Brookhaven Blvd. with a new HDPE or PVC pipeline. The length of the replacement pipeline will be approximately 5,300 linear feet and the required diameter will be determined during Phase I activities as noted below but will be of sufficient size to convey the current volumetric flow contained in both the existing 24-inch pipe and the 12-inch pipe located in the same area.

Phase I of the design will consist of a route study, pipeline conceptual design and preparation of a preliminary design technical memorandum. Major activities include:

- Development of the OWNER's design criteria and preferences for the project.
- Review of the OWNER's current hydraulic model and recommendation of a suitable replacement pipeline size. The OWNER will provide a copy of their existing model in WaterCAD.
- Analysis of up to three (3) distinct alternative alignments and recommendation of an alignment for the replacement pipeline. In lieu of a third alignment alternative, multiple alternative alignments that diverge along portions of a single primary route may be developed and studied.
- Conduct an engineering walk through and associated environmental field activities to facilitate development of alignment alternatives.
- Preparation and presentation of a preliminary design technical memorandum discussing evaluation criteria and route selection for the three alignment alternatives.

Alan Plummer Associates, Inc. (ENGINEER) will provide services related to the conceptual and preliminary design activities described above. These services are further detailed as General Services below. Subsequent to completion of Phase I required detailed design, bidding and construction services are expected to be provided as agreed by the OWNER and ENGINEER in a future amendment or by separate agreement. Geotechnical analysis, surveying, utility location and traffic control design will be preliminarily addressed under Activity C of the technical memorandum and will be finalized during the detailed design phase.

2.0 GENERAL SERVICES

Basic Services provided by the ENGINEER will generally be covered under three main activities: Activity A – Project Coordination, Activity B -Preliminary Pipeline Design and Activity C – Engineering Allowances. Specific tasks for each activity are identified in the following sections.

ACTIVITY A - PROJECT COORDINATION

Task A-1 – Project Management

Provide project management for Activities A and B. Project management will include, but not be limited to developing and implementing a project management plan; tracking and managing internal schedules of work; monitoring and addressing issues related to the scope of work, budget and deliverables; preparing and processing monthly billings; providing labor resources necessary to fulfill scoped work; scheduling and participating in quality control reviews; and providing updates to the OWNER on a regular basis.

- a. ENGINEER will coordinate design efforts on project tasks identified below.
- b. ENGINEER as the prime design consultant will manage sub-consultant's field and design activities and coordinate those efforts with the OWNER.
- c. ENGINEER shall prepare a common monthly invoice for all preliminary design phase services.

Task A-2 – Design Coordination Kickoff and Progress Meetings

- a. ENGINEER will prepare for and participate in a Project kick-off meeting for the route study and pipeline conceptual design. At the kick-off meeting ENGINEER will confirm with the OWNER the scope of work, deliverables, schedule and administrative protocols.
 - 1. ENGINEER will present an overview of the proposed draft criteria to be used in evaluating the alternative alignments at the kickoff meeting.
 - 2. ENGINEER will prepare a meeting memorandum documenting the agreed upon pipeline route selection criteria to be used and other decisions from the meeting. The ENGINEER will incorporate the draft route evaluation criteria discussed into memorandum modified as needed to incorporate the OWNER's input.
- b. Design Coordination Meetings - ENGINEER will coordinate, prepare for, and conduct coordination meetings to review progress with the OWNER and the consultants working on the design. Meetings will take place at the OWNER's office in Norman. ENGINEER will prepare an agenda for the meetings, moderate the meetings and prepare/distribute meeting notes. Up to four (4) coordination meetings will be held; the budgeted meetings are in addition to the kickoff meeting.

ACTIVITY B – PRELIMINARY PIPELINE DESIGN

Task B-1 – ODOT Coordination

- a. ENGINEER will prepare for and attend coordination meeting(s) with Oklahoma Department of Transportation (ODOT) to discuss alignment alternatives. ENGINEER will prepare and distribute meeting notes.

Task B-2 – Draft Technical Memorandum Preparation

- a. ENGINEER will prepare alternative alignments of the Robinson pipeline for consideration. The route study for the Robinson pipeline will include three (3) alternate alignments. Alignment alternatives will be based on aerial imagery, parcel information, available topographic data, land use, other publically available data,

coordination with ODOT, and ground-level observations made from public roads. OWNER's staff from Public Works Engineering, Planning Department, Environmental and Operations will participate in development of the alignment alternatives. ENGINEER shall obtain a flood plain permit from OWNER.

- b. Using publically available data and interviews with OWNER staff, identify the impacted parcels and provide the parcel ownership and contact information along the three (3) alternate pipeline alignments for the Robinson pipeline.
- c. For each of the alignments, identify potential easement access locations. Develop profiles using best available topography and perform a preliminary hydraulic analysis. Using publically available data, identify geologic formations likely to be encountered along the alignment alternatives and document.
- d. Perform a desktop review including USGS topographic maps, National Wetland Inventory maps, soil survey maps and available aerial imagery to identify potential environmental issues associated with the pipeline alignment alternatives.
- e. Develop preliminary alignment evaluation matrix for the Robinson pipeline. Using selection criteria, prepare a preliminary ranking score for each candidate alignment.
- f. Alignment Evaluation Meeting: Prepare presentation materials showing preliminary alignments on aerial overlay, along with profiles. Meet with the OWNER and discuss the alternatives considered and the initial scores. Based on input from the OWNER modify alignments and scoring if needed and develop a recommended alignment. This meeting will occur in concert with a design coordination meeting.
- g. Review the OWNER's current hydraulic model and recommend suitable replacement pipe diameter to incorporate the volumetric flows of both the 24-inch and 12-inch pipes that parallel Robinson Ave.
- h. Identify the recommended pipeline material and mechanical equipment selection.
 - 1. Develop a preliminary schedule of pipeline and mechanical materials for each pipeline. Schedule will include material type, pressure class, and performance characteristics for the selected alignment.
 - 2. Meet with the OWNER and present materials considered and discuss advantages and disadvantages of each. Document decisions made for inclusion into the Pipeline Preliminary Design Technical Memorandum.
 - 3. Prepare a draft technical memorandum documenting the design and selection criteria used, alternative alignments considered, issues of concern, and recommended alignment. Incorporate preliminary plan and profiles for the alternative pipelines based on available topographic data. Prepare three (3) bound hard copies and one (1) pdf electronic copy of the draft technical memorandum. Present the draft of the technical memorandum to the OWNER.

Task B-3 – Final Technical Memorandum Preparation

- a. After receiving input and comments from the OWNER, ODOT and other impacted parties, ENGINEER shall update and finalize the technical memorandum. ENGINEER shall deliver three (3) bound hard copies and one (1) pdf electronic copy of the final technical memorandum to the OWNER.

ACTIVITY C – ENGINEERING ALLOWANCES

- a. Preliminary geotechnical analysis, surveying, utility location and traffic control design. Lump Sum amounts shown in Attachment C are estimated costs. The OWNER will be billed for the actual amount. The amount shown will not be exceeded without written OWNER approval.

ADDITIONAL SERVICES

Additional Services are those services not included in General Services that may be required for the Project but cannot be defined sufficiently at this time to establish a Scope of Work. These include, but are not necessarily limited to the following:

- a. Other services not included in Basic or Special Services that are approved by the OWNER.
- b. Modification of design criteria or significant design changes following review and comment on the Preliminary Design Report and 30% design document submittal.
- c. Labor and Analytical costs associated with water quality sampling, not included in Basic or Special Services.
- d. Additional archeological investigations beyond those provided in Basic or Special Services.
- e. GIS processing of geophysical and/or geotechnical data beyond the assumptions provided in Basic or Special Services.
- f. Preparing applications and supporting documents for grants, loans, or planning advances for providing data for detailed applications.
- g. Providing additional copies of reports, plans, specifications, and contract documents beyond those specifically described in Basic and Special Services.
- h. Preparing environmental impact statements, storm water discharge permits, and 404 permit applications, except as specifically included in the Basic Engineering Services.
- i. Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties other than condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the OWNER.
- j. Payment of fees for permit applications and publication(s) of notices.
- k. Public relation activities and consulting services.
- l. Services known to be required for completion of the PROJECT that the OWNER agrees are to be furnished by the ENGINEER or by a sub-consultant that cannot be defined sufficiently at this time to establish the maximum compensation.

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:

| Activity | Task Description | Lump Sum Amount |
|-----------------|---|------------------------|
| A-1 | Project Management | \$4,400 |
| A-2 | Design Coordination Kickoff and Progress Meetings | \$13,000 |
| B-1 | Coordination with ODOT | \$5,700 |
| B-2 | Draft TM Preparation | \$54,000 |
| B-3 | Final TM Preparation | \$12,800 |
| C | Engineering Allowances (Survey, Geotech, Traffic) | \$10,000 |
| Total | | \$99,900 |

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.

No budgetary allowance has established for Additional Services. Additional services must be authorized by amendment of the agreement. Time and materials billing for ENGINEER'S labor will be at the hourly rates provided below. ENGINEER's direct expenses, including subcontractor expenses, will include a multiplier of 1.10.