

The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

DURANT CITY UTILITIES AUTHORITY

6:00 PM

**Roscoe J. Hatfield
Council Chambers
300 West Evergreen
Durant, Oklahoma**

January 9, 2024

AGENDA

CALL TO ORDER

ROLL CALL

ORDER OF BUSINESS

1. Consent Items

To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.

- a. Consider Approval of Regular Meeting Minutes of December 12, 2023

2. Consider Items Removed from Consent

3. Information Items

4. Administration

- a. Discussion, Consideration and Possible Action on Purchasing a Gravity Belt Thickener Pump for the Amount of \$35,576.00 From Automatic Engineering
- b. Discussion, Consideration and Possible Action to Accept a Professional Agreement with EST Engineering in the Amount of \$1,812,697.00 for the Engineering of Waterline Relocation at 1st Avenue and Gerlach Drive
- c. Consider Approval of Agreement Between City of Durant and Wall Engineering for Professional Services for Waste Water Treatment Plant Improvements Phase I and II (C-2024-01)

5. New Business

ADJOURNMENT

CERTIFICATE

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 14th day of November 2023 and that an agenda of said meeting was posted at the place of such meeting at 2:45 p.m. on the 5th day of January 2024.



Cynthia J. Price, City of Durant



The City of Durant

Memorandum

Date: 1/9/2024
To: Mayor and City Council
From: Cynthia Price, City Clerk
Re: Consider Approval of Regular Meeting Minutes of December 12, 2023

Council Information / Action Requested

Approval of Regular Meeting Minutes of December 12, 2023

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:

1. Durant City Utilities Authority Minutes 12122023 cjp

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 8th day of November, 2023 and that an agenda of said meeting was posted at the place of such meeting at 3:40 p.m. on the 8th day of December, 2023.



Cynthia J. Price, City of Durant

**MINUTES OF THE MEETING OF DURANT CITY UTILITIES AUTHORITY
December 12, 2023 AT 6:00 PM
Roscoe J. Hatfield
Council Chambers
300 West Evergreen
Durant, Oklahoma**

CALL TO ORDER

Chairman Tucker called the meeting to order at 6:29 p.m.

ROLL CALL

Present:

Trustee Lauran Fuller
Trustee Humphrey Miller
Trustee Danny Sherrer
Vice Chairman Mike Simulescu
Chairman Martin Tucker
City Attorney Tom Marcum
Interim City Manager Rick Rumsey
City Clerk Cynthia J. Price

Absent:

None

ORDER OF BUSINESS

1. Consent Items

To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.

- a. Consider Approval of Regular Meeting Minutes of November 14, 2023

Motion To: Approve Consent Item as Presented

Motion By: Mike Simulescu

Seconded By: Humphrey Miller

Ayes: Fuller, Miller, Sherrer, Simulescu, Tucker

Nays: None

Abstain: None

2. Consider Items Removed from Consent

3. Information Items

4. Administration

5. New Business

There was no new business.

ADJOURNMENT

Motion To: Adjourn Meeting

Motion By: Martin Tucker

Seconded By: Humphrey Miller

Ayes: Fuller, Miller, Sherrer, Simulescu, Tucker

Nays: None

Abstain: None



The City of Durant

Memorandum

Date: 1/9/2024
To: Mayor and City Council
From:
Re: Information Items

Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:



The City of Durant

Memorandum

Date: 1/9/2024
To: Mayor and City Council
From:
Re: Administration

Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:



The City of Durant

Memorandum

Date: 1/9/2024
To: Mayor and City Council
From: Phillip Hightower, Public Works Director
Re: Discussion, Consideration and Possible Action on Purchasing a Gravity Belt Thickener Pump for the Amount of \$35,576.00 From Automatic Engineering.

There is only one Gravity Belt Thickener Pump operational at this time. This will serve as a backup for redundancy to meet DEQ requirements. This is a critical component of the Digester. If this pump fails, we will be unable to remove sludge from our SBR's which in turn will put us out of compliance with DEQ. We have two quotes and Automatic Engineering is the best out of the two. Staff recommends Automatic Engineering for this project. Quotes are in the attachments.

Council Information / Action Requested

Approve Purchasing a Gravity Belt Thickener Pump for the Amount of \$35,576.00 From Automatic Engineering

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:

1. GBT Pump Quotes



AUTOMATIC ENGINEERING

A COGENT COMPANY

DATE: 12/13/2023

PROPOSAL #: OP-560500

TO: Kevin Shirley

PROJECT: GBT Feeder Pump – WAS Station

Automatic Engineering proposes to furnish equipment or materials as described below.

Quantity	Item	Unit Price	Total Price
1	BN 70-6LS w/ 15hp motor. – 190gpm @ 30psi – 252rpm w/ adjustable stator design.		
2	150# gasket and bolt packs		
	Labor to install and startup – 2 men 2 days		

*Freight is prepaid and add

TOTAL

\$35,576.00

THIS PROPOSAL IS SUBJECT TO OUR STANDARD ATTACHED CONDITIONS OF SALE

TERMS: Net 30 Days

QUOTED BY: Travis Fox 918-850-5090

SHIPMENT: 12 weeks ARO and APPROVAL

F.O.B. Factory

Phone (918) 585-5703

This quote is valid for 30 days

Fax (918) 585-5707



Durant.org
Powered by Google

Jody Bush <operator@durant.org>

Cavity pump

1 message

David Roberson <droberson@spikeenterprise.com>

Mon, Aug 7, 2023 at 2:07 PM

To: "jbush@durant.org" <jbush@durant.org>

One (1) Netzsch NEMO replacement progressive cavity pump with 15HP motor and base is \$50,345.00 freight included, estimated delivery 14 weeks. Installation/taxes/anchor bolts/etc. not included. This is the configuration that will be a drop-in replacement.

Per discussions with Netzsch the 8 week lead time option would incorporate their "standard pump end" which would be 6"-12" longer and 1"-2" higher changing the centerlines of the suction/discharge which would result in the need for piping/mounting modifications.

David Roberson

Spike Enterprise Inc.

Regional Sales Manager (OK, TX, KS, AR)

M: (903)-392-5683

droberson@spikeenterprise.com

<https://www.spikeenterprise.com>



The City of Durant

Memorandum

Date: 1/9/2024
To: Mayor and City Council
From: Phillip Hightower, Public Works Director
Re: Discussion, Consideration and Possible Action to Accept a Professional Agreement with EST Engineering in the Amount of \$1,812,697.00 for the Engineering of Waterline Relocation at 1st Avenue and Gerlach Drive.

This is a Professional Agreement with EST Engineering for the relocation of water lines at the intersection of 1st Avenue and Gerlach Drive. ODOT is going to widen 1st Avenue at the intersection of 1st Avenue and Gerlach Drive to install turn lanes and Traffic Signals. The city has five water lines that have to be relocated for this project. It is the cities' responsibility to relocate these lines. This project is not budgeted in this year's budget and will have to be budgeted for the upcoming fiscal year. A copy of the agreement is in the attachments.

Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:

1. Work Order #1 Durant Waterline Relocation - 2023-12-07 (1)

December 7, 2023

Phillip Hightower, Director
Public Works Department
City of Durant
121 NE 2nd Avenue
Durant, OK 74701

Re: PROPOSAL FOR PROFESSIONAL SERVICES
City of Durant – SH 78 Waterline Relocation
Durant, Oklahoma

Dear Mr. Hightower:

Thank you for taking time to allow us to visit and discuss road improvements project. We are grateful for this opportunity, and we look forward to working with you.

It is our understanding that the City of Durant, Oklahoma ("City") requests EST, Inc. ("Engineer") to perform engineering services described herein pursuant to the terms of this Letter Agreement for Professional Services for City of Durant – SH 78 Waterline Relocation (Project).

EST has acquainted itself with the Project and offers to provide the services described below for the Project. The Client warrants that it is either the legal owner of the property to be improved by this Project or that the Client is acting as the duly authorized agent of the legal owner of such property. The Client acknowledges that it has reviewed any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. EST will provide professional services (more specifically described in "Scope of Services" attached hereto) to the Client for the Project. The City desired to engage the Consultant to provide professional services associated with implementation of City's limited to basic engineering and topographical surveying, procurement, construction management, program management, and additional services for ("Services") for the City of Durant – SH Waterline Relocation. Should the Client request work in addition to the Scope of Services, EST will invoice the Client for such additional services (Optional Additional Services) at the standard hourly billing rate charged for those employees performing the work, plus reimbursable expenses if any. EST will not commence work for Optional Additional Services without the Client's prior written approval.

EST agrees to provide all its services in a timely, competent, and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

PROJECT DESCRIPTION

The Oklahoma Department of Transportation (ODOT) is proposing a project aimed at enhancing the infrastructure of State Highway (SH) 78, specifically at its intersection with Gerlach Rd in Durant, Oklahoma. The proposed initiative involves widening SH 78 and will also require the relocation of various waterlines to accommodate the expansion.

The proposed project consists of waterline relocation comprising of approximately 1014 linear feet (LF) of 16-inch waterline, 617 LF of 18-inch waterline, 1163 LF of 24-inch waterline, and 295 LF of 36-inch pipe. Detailed visualizations of the proposed project can be found in the attached aerial plans provided in Exhibit "A".

Noteworthy aspects of the project involve the relocation of the 18-inch and 36-inch waterlines, necessitating the implementation of bore technology beneath State Highway (SH) 78. The bore for both waterlines will employ steel casings, adhering strictly to ODOT standards for utility crossings. This method ensures the seamless integration of the waterline relocation into the widened SH 78 roadway, meeting safety and infrastructure requirements.

SCOPE OF ENGINEERING SERVICES

This project encompasses Engineering and Survey (E&S), contractor procurement (Procurement), construction management (CM), and additional services dedicated to the design and construction of waterline relocations for the City of Durant.

The project's scope involves the relocation of approximately 1014 LF of 16-inch and 1163 LF of 24-inch waterline along the southern perimeter of SH 78.

Additionally, an estimated 110 LF of 18-inch waterline and 285 LF of 36-inch waterline, currently crossing under SH 78, are anticipated to undergo boring to facilitate the widening of SH 78. Furthermore, approximately 507 LF of 18-inch waterline is slated for installation on the east side of Gerlach Rd.

Negotiations with the Oklahoma Department of Transportation (ODOT) will be essential for determining the exact location of waterline relocation, with the anticipated franchise utilities relocations. It is noteworthy that uncertainties persist regarding a clear understanding of the limits and routes of existing utilities at this juncture.

To adhere to safety and construction standards, the waterlines are projected to be positioned a meet ODOT and ODEQ standards.

City of Durant - SH 78 Waterline Relocation					
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS					
No.	Item Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$ 80,000.00	\$ 80,000.00
2	Clear & Grub	1	LS	\$ 7,500.00	\$ 7,500.00
3	Trench Safety Plan	1	LS	\$ 5,000.00	\$ 5,000.00
4	Hydromulch Seeding	1	LS	\$ 6,500.00	\$ 6,500.00
5	Stormwater Pollution Prevention plan (SWPPP) and Implementa	1	LS	\$ 5,000.00	\$ 5,000.00
6	Traffic Control	1	LF	\$ 7,000.00	\$ 7,000.00
8	6-Inch Pipe Installation by Open Cut	1014	LF	\$ 80.00	\$ 81,120.00
7	10-Inch Pipe Installation by Open Cut	1167	LF	\$ 130.00	\$ 151,710.00
8	12-Inch Pipe Installation by Open Cut	1167	LF	\$ 160.00	\$ 186,720.00
9	16-Inch Pipe Installation by Open Cut	10	LF	\$ 170.00	\$ 1,700.00
10	30-Inch Casing and 16-Inch Pipe Carrier Pipe Bored	285	LF	\$ 950.00	\$ 88,000.00
11	18-Inch Pipe Installed by Open Cut	482	LF	\$ 300.00	\$ 144,600.00
12	30-Inch Casing and 18-Inch Pipe Carrier Pipe Bored	115	LF	\$ 1,000.00	\$ 115,000.00
13	36-Inch Pipe Installed by Open Cut	10	LF	\$ 440.00	\$ 4,400.00
15	6" Gate Valve	2	EA	\$ 2,500.00	\$ 5,000.00
16	10" Gate Valve	2	EA	\$ 3,500.00	\$ 7,000.00
17	12" Gate Valve	1	EA	\$ 5,000.00	\$ 5,000.00
18	16" Gate Valve	2	EA	\$ 12,000.00	\$ 24,000.00
19	18" Gate Valve	2	EA	\$ 20,000.00	\$ 40,000.00
20	24" Gate Valve	2	EA	\$ 32,000.00	\$ 64,000.00
21	Connection to 6 Inch Waterline	1	EA	\$ 2,500.00	\$ 2,500.00
22	Connection to 10 Inch Waterline	1	EA	\$ 5,000.00	\$ 5,000.00
23	Connection to 12 Inch Waterline	1	EA	\$ 7,500.00	\$ 7,500.00
24	Connection to 16 Inch Waterline	1	EA	\$ 10,000.00	\$ 10,000.00
25	Connection to 18 Inch Waterline	1	EA	\$ 15,000.00	\$ 15,000.00
26	Connection to 24 Inch Waterline	1	EA	\$ 18,000.00	\$ 18,000.00
27	Connection to 36 Inch Waterline	1	EA	\$ 28,000.00	\$ 28,000.00
28	New Long Side Water Service	5	EA	\$ 2,500.00	\$ 12,500.00
29	New Short Service	2	EA	\$ 2,100.00	\$ 4,200.00
30	Rock Excavation	1711	CY	\$ 30.00	\$ 51,330.00
31	Abandonment	902	LF	\$ 21.00	\$ 18,942.00
32	Geotech	1	LS	\$ 10,000.00	\$ 10,000.00
33	ODEQ Permit	1	LS	\$ 1,071.70	\$ 1,071.70
SUBTOTAL					\$ 1,213,293.70
15% Construction Contingency					\$ 181,994.06
CONSTRUCTION SUBTOTAL					\$ 1,395,287.76

Construction costs are estimated. Actual construction costs will be based on actual construction contract approved by the City of Durant.

- 1) Engineering and Survey (E&S)
 - a. Lump Sum Fee for E&S will be based on Estimated Construction Costs.

- b. Fee for E&S will be adjusted through a written change order at a rate of 10.8% based on actual bid value for base project bid plus all alternatives of the recommended bid award.

2) Procurement

- a. Lump Sum Fee for procurement is based on Estimated Construction Value.
- b. Fee for Procurement will be adjusted through a written change order at a rate of 1.35% based on actual bid value for base project bid plus all alternatives of the recommended bid award.
- c. If multiple procurements are required, each procurement effort will be billed at the Lump Sum Fee value.

3) Construction Management

- a. Lump Sum Fee for construction management will be based on Estimated Construction Value.
- b. Lump Sum Construction Management Fee will be based on contractor completing the project in the construction contract schedule.
- c. Fee for Construction Management will be adjusted through a written change order at a rate of 5.6% based on the value of the contract awarded to the selected contractor.

4) Additional Services

- a. Franchise Utility Relocation Coordination – EST will work to identify affected franchise utilities and provide coordination with those affected franchise utilities to facilitate relocation of their facilities for construction of the project.
- b. Geotechnical Investigation & Utility Investigation – coordinate and facilitate completion of a geotechnical investigation necessary for the design of the project. EST will also procure a contractor to investigate the configuration of existing underground utilities in key locations as it relates to the design of this project.
- c. Public Involvement – Provide public involvement through-out project execution as requested by the City.
- d. Easement acquisition – Provide easement acquisition support throughout the project as requested by the City. Known easement acquisitions will include the following parcels:
 - i. Properties along SH 78
 - ii. Properties along Gerlach Rd.
- e. Contractor Schedule Extension - Additional charge for exceeding construction contract schedule will be coordinated and agreed upon in writing with City as the situation occurs.
- f. Construction Contract Change Orders
 - i. Basic Engineering and Topographical Surveying services for additive value of change orders will be billed at a lump sum equal to 10.8% of the additive value of Construction Contract Change Orders.

- ii. Procurement services for the additive value of change orders will be billed at a lump sum equal to 0% of the additive value of Construction Contract Change Orders
- iii. CM services for the additive value of change orders will be billed at a lump sum equal to 5.6% of the additive value of Construction Contract Change Orders

SCHEDULE FOR EST'S SERVICES

Unless otherwise agreed, EST expects to perform its services under the Agreement as follows:

Anticipated Start Date:	December 11, 2024
Survey completed:	Approx. 6 weeks January 22, 2023
Schematic Design (SD) Review Set:	Approx 2 months after Survey Complete March 25, 2023
Developmental Design Review Set (DD)	Approx 2 months after SD review comments June 24, 2023
100 % Construction Documents (CD)	Approx 3 months after DD review comments Dec. 27, 2023
Procurement	Approx 3 months, September 27, 2024
Construction Completion Date:	Approx 18 months March 1, 2025

EST will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and EST reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

CONSULTANT'S SERVICES

- 1.1 Employment of Consultant – The City hereby agrees to retain Consultant to perform professional engineering services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement. Consultant further agrees that if any employee of Consultant, who is performing the day-to-day services under this Agreement for the Project, is separated, for any reason, from employment with Consultant, Consultant shall notify, in writing, a minimum of five (5) business days prior to said separation unless circumstances reasonably warrant a shorter notice period which shall not exceed two (2) business days following the separation.
- 1.2 Scope of Services – The parties agree that Consultant shall perform such services as are set forth and described in "SCOPE OF ENGINEERING SERVICES," which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or

modifications to the scope of services described in "SCOPE OF ENGINEERING SERVICES," in the form of written change orders, may be authorized from time to time by The City.

- 1.2.1 Requirement of Written Change Order – "Extra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the City of Durant, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the City of Durant Council's authorization for the Mayor of the City of Durant to execute said change order.
- 1.2.2 DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE CITY OF DURANT. Project Administrators, Superintendents, and/or Inspectors of the City are not authorized to issue verbal or written change orders.
- 1.3 Schedule of Work – Consultant agrees to commence work immediately upon the execution of this Agreement, and to proceed diligently with said work to completion.

CITY'S RESPONSIBILITIES

The City shall do the following in a timely manner so as not to delay the services of Consultant:

- 2.1 Project Data – The City shall furnish required information, that it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 City Project Administrator – The City of Durant shall designate, when necessary, a representative authorized to act on City's behalf with respect to the Project (the "Project Administrator"). The City hereby designates the Director of Public Works as the Project Administrator for this work order. The City or such authorized representative shall examine the documents submitted by Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of Consultant's services.

CONSULTANT'S COMPENSATION

- 3.1 Compensation for Consultant's Services – As described in "Consultant's Services," compensation for this Project shall be on a Lump-Sum Basis, for an amount not to exceed the amounts listed in Exhibit "B", ("Consultant's Fee") and shall be paid in accordance with this section and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B."
- 3.1.1 Completion of Record Documents – City and Consultant agree that the completion of the Record Documents and/or "As-Built" Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by City prior to payment of the final five percent (5%) of Consultant's Fee. The electronic formatting shall be either PDF and/or

Computer Aided Design and Drafting (“CADD”). Completion of the Record Documents and/or “As-Built” documents shall be included in Consultant’s Fee and considered to be within the Scope of Services defined under this Agreement.

- 3.1.2 Disputes between the City and Construction Contractor – If the Project involves Consultant performing Construction Administration Services relating to an agreement between a Construction Contractor (the “Contractor”) and City, and upon receipt of a written request by the City, Consultant shall research previous and existing conditions of the Project, and make a determination whether or not to certify that sufficient cause exists for City to declare the Contractor in default of the terms and conditions of the agreement. Consultant shall submit his findings in writing to City, or submit a written request for a specific extension of time (including the basis for such extension), within fifteen (15) calendar days of receipt of the written request from City. City and Consultant agree that if requested by City, completion of this task shall be included in Consultant’s Fee and considered to be within the Scope of Services as defined under this Agreement.
- 3.1.3 Consultation and Approval by Governmental Authorities and Franchised Utilities – Consultant shall be responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and to participate in consultation with said agencies in order to obtain all necessary approvals and/or permissions. Consultant shall be responsible for preparation and timely submittal of documents required for review, approval, and/or recording by such agencies. Consultant shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by such agencies at no additional charge to City.
- 3.2 Direct Expenses – Direct Expenses are included in Consultant’s Fee as described under “CONSULTANT’S COMPENSATION” and include actual reasonable and necessary expenditures made by Consultant and Consultant’s employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit “B,”. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to City for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant’s subsequent payment for services; provided, however this shall not be City’s sole and exclusive remedy for said over-payment.
- 3.3 Additional Services – Consultant shall provide the services as described in the Scope of Services as set forth in “SCOPE OF ENGINEERING SERVICES” of this Agreement. If authorized in writing by City, Consultant shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph (“Additional Services”). These services may include, but are not limited to:

- 3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations which are not provided for or contemplated in the Scope of Services described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.5 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 3.3.6 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to City.

Hourly Billable Rates by Position

<i>Name</i>	<i>Position</i>	<i>Hourly Rate</i>
Raunel Ortiz, P.E.	Project Engineer	\$ 185.00
--	Design Engineer II	\$ 195.00
--	Design Engineer I	\$ 155.00
--	Design Specialist II	\$ 165.00
--	Design Specialist I	\$ 115.00
Robin Swan	Senior Technical	\$ 110.00
--	Cad Specialist II	\$ 95.00
--	Cad Specialist I	\$ 75.00
--		
	Clerical	\$ 75.00

- 3.4 Invoices – No payment to Consultant shall be made until Consultant tenders an invoice to City. Consultant shall submit monthly invoices for services rendered, based upon the actual

percentage of work complete at the time the invoice is prepared, or are to be mailed to City immediately upon completion of each individual task listed in Exhibit "B." On all submitted invoices for services rendered and work completed on a monthly basis, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but not be limited to: summaries of: (A) employee time charges, (B) invoices for work obtained from other parties, and (C) log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.

- 3.5 Timing of Payment – City shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by City to Consultant is considered to be complete upon mailing of payment by City. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 Disputed Payment Procedures – In the event of a disputed or contested billing by City, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. City shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date City receives the invoice. City shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of Consultant, City shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of "CONSULTANT'S COMPENSATION" section 3.5. If a dispute is resolved in favor of City, Consultant shall submit to City a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid City in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. City agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.
- 3.7 Failure to Pay – Failure of City to pay an invoice, for a reason other than upon written notification as stated in the provisions of "CONSULTANT'S COMPENSATION" section 3.6 to Consultant within sixty (60) days from the date of the invoice shall grant Consultant the right, in addition to any and all other rights provided, to, upon written notice to City, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to City. City shall not be required to pay any invoice submitted by Consultant if Consultant breached any provision(s) herein.
- 3.8 Adjusted Compensation – If the Scope of the Project or if Consultant's services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.

- 3.9 Project Suspension – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to City all finished or unfinished documents, data, studies, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

TERMS AND CONDITIONS

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and Agreement represents the entire understanding between the Client and EST with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative will be Mr. Raunel Ortiz, P.E.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files, and return an executed original to EST. This proposal will be open for acceptance for a period of three months from the date set forth above, unless changed by EST in writing.

EST, INC.

By: 
Raunel Ortiz, PE
Design Engineer

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

CITY OF DURANT, OKLAHOMA

By: _____
Signature

Print Name: _____

Title: _____

Date: _____

ATTACHMENTS

Exhibit "A" – ODOT PROPOSED PLANS

Exhibit "B" – Compensation Schedule / Project Billing / Project Budget

EXHIBIT "A" – ODOT PROPOSED PLANS

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Work Order #1 Cost Summary - City of Durant - SH 78 Waterline Relocation									
Design, Procurement, Construction and Construction Management									
Estimated Construction Costs					\$ 1,395,288				
									\$ 1,395,288
Estimated Design and Surveying Fees based on estimated cost of Utility improvements only listed above*									
		\$ 300,000		\$ 700,000		\$ 395,288		\$ -	
E&S	9.00%	\$ 27,000	9.00%	\$ 63,000	9.00%	\$ 35,576	9.00%	\$ -	\$ 125,576
Procurement	3.00%	\$ 9,000	1.50%	\$ 10,500	1.35%	\$ 5,336	1.00%	\$ -	\$ 24,836
CM	8.00%	\$ 24,000	6%	\$ 42,000	5.60%	\$ 22,136.11	5.00%	\$ -	\$ 88,136
		\$ 60,000		\$ 115,500		\$ 63,048		\$ -	\$ 238,548
Additional Services including Easement Acquisition and Other Costs not included in E&S, Procurement, and CM*									
Coordination with ODOT									
				Estimated Hours		Hourly Rate			
Principal		4 hr/mo		32	*	\$ 135.00	=	\$ 4,320	
Senior Professional				0	*	\$ 180.00	=	\$ -	
Professional IV				0	*	\$ 160.00	=	\$ -	
Professional III				0	*	\$ 130.00	=	\$ -	
Professional II		8 hr/mo		128	*	\$ 110.00	=	\$ 14,080	
Professional I				0	*	\$ 85.00	=	\$ -	
							=		
Senior Technical				0	*	\$ 110.00	=	\$ -	
Technical II				64	*	\$ 95.00	=	\$ 6,080	
Technical I				0	*	\$ 80.00	=	\$ -	
Clerical I		4 hr/mo		32	*	\$ 50.00	=	\$ 1,600	
Other Direct Costs @ \$5.00/hour				256	*	\$ 5.00	=	\$ 1,280	
								\$ 27,360	
									\$ 27,360

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Coordination and Permitting with ODEQ							
		Estimated Hours		Hourly Rate			
Principal	4 hr/mo	16	*	\$ 135.00	=	\$ 2,160	
Senior Professional		0	*	\$ 180.00	=	\$ -	
Professional IV		0	*	\$ 160.00	=	\$ -	
Professional III		0	*	\$ 130.00	=	\$ -	
Professional II	8 hr/mo	64	*	\$ 110.00	=	\$ 7,040	
Professional I		0	*	\$ 85.00	=	\$ -	
					=		
Senior Technical		0	*	\$ 110.00	=	\$ -	
Technical II		32	*	\$ 95.00	=	\$ 3,040	
Technical I		0	*	\$ 80.00	=	\$ -	
Clerical I	4 hr/mo	8	*	\$ 50.00	=	\$ 400	
Other Direct Costs @ \$5.00/hour		120	*	\$ 5.00	=	\$ 600	
ODEQ PERMIT FEE						\$ 1,157	
						\$ 14,397	
							\$ 14,397
Coordination with Franchise Utilities							
		Estimated Hours		Hourly Rate			
Principal	4 hr/mo	8	*	\$ 135.00	=	\$ 1,080	
Senior Professional		0	*	\$ 180.00	=	\$ -	
Professional IV		0	*	\$ 160.00	=	\$ -	
Professional III		0	*	\$ 130.00	=	\$ -	
Professional II	8 hr/mo	32	*	\$ 110.00	=	\$ 3,520	
Professional I		0	*	\$ 85.00	=	\$ -	
					=		
Senior Technical		0	*	\$ 110.00	=	\$ -	
Technical II		0	*	\$ 95.00	=	\$ -	
Technical I		16	*	\$ 80.00	=	\$ 1,280	
Clerical I	4 hr/mo	8	*	\$ 50.00	=	\$ 400	
Other Direct Costs @ \$5.00/hour		64	*	\$ 5.00	=	\$ 320	
						\$ 6,600	
							\$ 6,600

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Geotechnical Investigation								
		Estimated		Hourly				
		Hours		Rate				
Principal		0	*	\$ 135.00	=	\$ -		
Senior Professional		8	*	\$ 180.00	=	\$ 1,440		
Professional IV		0	*	\$ 160.00	=	\$ -		
Professional III		0	*	\$ 130.00	=	\$ -		
Professional II		8	*	\$ 110.00	=	\$ 880		
Professional I		0	*	\$ 85.00	=	\$ -		
					=			
Senior Technical		0	*	\$ 110.00	=	\$ -		
Technical II		0	*	\$ 95.00	=	\$ -		
Technical I		8	*	\$ 80.00	=	\$ 640		
Clerical I		4	*	\$ 50.00	=	\$ 200		
Other Direct Costs @ \$5.00/hour		28	*	\$ 5.00	=	\$ 140		
							\$ 3,300	
Geotechnical Investigation - EST							\$ 7,500	
								\$ 10,800
Public Involvement								
		Estimated		Hourly				
		Hours		Rate				
Principal	4 hr/mo	32	*	\$ 135.00	=	\$ 4,320		
Senior Professional		0	*	\$ 180.00	=	\$ -		
Professional IV		0	*	\$ 160.00	=	\$ -		
Professional III		0	*	\$ 130.00	=	\$ -		
Professional II	8 hr/mo	128	*	\$ 110.00	=	\$ 14,080		
Professional I		0	*	\$ 85.00	=	\$ -		
					=			
Senior Technical		0	*	\$ 110.00	=	\$ -		
Technical II		0	*	\$ 95.00	=	\$ -		
Technical I		64	*	\$ 80.00	=	\$ 5,120		
Clerical I	4 hr/mo	32	*	\$ 50.00	=	\$ 1,600		
Other Direct Costs @ \$5.00/hour		256	*	\$ 5.00	=	\$ 1,280		
							\$ 26,400	
Subcontractors: None							\$ -	
								\$ 26,400

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Easement Acquisition									
			Estimated		Hourly				
			Hours		Rate				
Principal			16	*	\$ 135.00	=	\$ 2,160		
Senior Professional			0	*	\$ 180.00	=	\$ -		
Professional IV			0	*	\$ 160.00	=	\$ -		
Professional III			0	*	\$ 130.00	=	\$ -		
Professional II			64	*	\$ 110.00	=	\$ 7,040		
Professional I			0	*	\$ 85.00	=	\$ -		
						=			
Senior Technical			0	*	\$ 110.00	=	\$ -		
Technical II			0	*	\$ 95.00	=	\$ -		
Technical I			32	*	\$ 80.00	=	\$ 2,560		
Clerical I			8	*	\$ 50.00	=	\$ 400		
Other Direct Costs @ \$5.00/hour			120	*	\$ 5.00	=	\$ 600		
								\$ 12,760	
Subcontractors: RPLS								\$ 10,000	
Landowner Payments								\$ 25,000	
Legal/Appraisal/Etc.								\$ 10,000	
									\$ 57,760
Disputes Between City and Construction Contractor									
EST will provide support to the City on a time and materials basis for construction contract dispute resolution.									
Construction Contract Change Order Services									
E&S			10.8% of additive value of construction contract change orders						
Procurement			0% of additive value of construction contract change orders						
CM			5.6% of additive value of construction contract change orders						
Estimated Program Management costs*									
Subtotal Estimated Project Cost*							\$ 1,777,153		
Design Phase Program Management Fee							\$ 17,772		
Construction Phase Program Management Fee							\$ 17,772		
									\$ 35,543
Contractor Schedule Extension									
Additional daily charge for exceeding construction contract schedule will be charged at the liquidated damages rate applicable to the construction contract.									
Total Estimated Project Cost*								\$ 1,812,697	
Work Order #1 Cost Summary - City of Durant - SH 78 Waterline Relocation									
Estimated Construction Cost							\$ 1,395,288		
ODCs not included in E&S, Procurement, and CM							\$ 143,317		
E&S							\$ 125,576		
Procurement							\$ 24,836		
CM							\$ 88,136		
Design Phase Program Management Fee							\$ 17,772		
Construction Phase Program Management Fee							\$ 17,772		
Total authorized this work order							\$ 1,812,697		

December 7, 2023

Phillip Hightower, Director
Public Works Department
City of Durant
121 NE 2nd Avenue
Durant, OK 74701

Re: PROPOSAL FOR PROFESSIONAL SERVICES
City of Durant – SH 78 Waterline Relocation
Durant, Oklahoma

Dear Mr. Hightower:

Thank you for taking time to allow us to visit and discuss road improvements project. We are grateful for this opportunity, and we look forward to working with you.

It is our understanding that the City of Durant, Oklahoma ("City") requests EST, Inc. ("Engineer") to perform engineering services described herein pursuant to the terms of this Letter Agreement for Professional Services for City of Durant – SH 78 Waterline Relocation (Project).

EST has acquainted itself with the Project and offers to provide the services described below for the Project. The Client warrants that it is either the legal owner of the property to be improved by this Project or that the Client is acting as the duly authorized agent of the legal owner of such property. The Client acknowledges that it has reviewed any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. EST will provide professional services (more specifically described in "Scope of Services" attached hereto) to the Client for the Project. The City desired to engage the Consultant to provide professional services associated with implementation of City's limited to basic engineering and topographical surveying, procurement, construction management, program management, and additional services for ("Services") for the City of Durant – SH Waterline Relocation. Should the Client request work in addition to the Scope of Services, EST will invoice the Client for such additional services (Optional Additional Services) at the standard hourly billing rate charged for those employees performing the work, plus reimbursable expenses if any. EST will not commence work for Optional Additional Services without the Client's prior written approval.

EST agrees to provide all its services in a timely, competent, and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

PROJECT DESCRIPTION

The Oklahoma Department of Transportation (ODOT) is proposing a project aimed at enhancing the infrastructure of State Highway (SH) 78, specifically at its intersection with Gerlach Rd in Durant, Oklahoma. The proposed initiative involves widening SH 78 and will also require the relocation of various waterlines to accommodate the expansion.

The proposed project consists of waterline relocation comprising of approximately 1014 linear feet (LF) of 16-inch waterline, 617 LF of 18-inch waterline, 1163 LF of 24-inch waterline, and 295 LF of 36-inch pipe. Detailed visualizations of the proposed project can be found in the attached aerial plans provided in Exhibit "A".

Noteworthy aspects of the project involve the relocation of the 18-inch and 36-inch waterlines, necessitating the implementation of bore technology beneath State Highway (SH) 78. The bore for both waterlines will employ steel casings, adhering strictly to ODOT standards for utility crossings. This method ensures the seamless integration of the waterline relocation into the widened SH 78 roadway, meeting safety and infrastructure requirements.

SCOPE OF ENGINEERING SERVICES

This project encompasses Engineering and Survey (E&S), contractor procurement (Procurement), construction management (CM), and additional services dedicated to the design and construction of waterline relocations for the City of Durant.

The project's scope involves the relocation of approximately 1014 LF of 16-inch and 1163 LF of 24-inch waterline along the southern perimeter of SH 78.

Additionally, an estimated 110 LF of 18-inch waterline and 285 LF of 36-inch waterline, currently crossing under SH 78, are anticipated to undergo boring to facilitate the widening of SH 78. Furthermore, approximately 507 LF of 18-inch waterline is slated for installation on the east side of Gerlach Rd.

Negotiations with the Oklahoma Department of Transportation (ODOT) will be essential for determining the exact location of waterline relocation, with the anticipated franchise utilities relocations. It is noteworthy that uncertainties persist regarding a clear understanding of the limits and routes of existing utilities at this juncture.

To adhere to safety and construction standards, the waterlines are projected to be positioned a meet ODOT and ODEQ standards.

City of Durant - SH 78 Waterline Relocation					
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS					
No.	Item Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$ 80,000.00	\$ 80,000.00
2	Clear & Grub	1	LS	\$ 7,500.00	\$ 7,500.00
3	Trench Safety Plan	1	LS	\$ 5,000.00	\$ 5,000.00
4	Hydromulch Seeding	1	LS	\$ 6,500.00	\$ 6,500.00
5	Stormwater Pollution Prevention plan (SWPPP) and Implementa	1	LS	\$ 5,000.00	\$ 5,000.00
6	Traffic Control	1	LF	\$ 7,000.00	\$ 7,000.00
8	6-Inch Pipe Installation by Open Cut	1014	LF	\$ 80.00	\$ 81,120.00
7	10-Inch Pipe Installation by Open Cut	1167	LF	\$ 130.00	\$ 151,710.00
8	12-Inch Pipe Installation by Open Cut	1167	LF	\$ 160.00	\$ 186,720.00
9	16-Inch Pipe Installation by Open Cut	10	LF	\$ 170.00	\$ 1,700.00
10	30-Inch Casing and 16-Inch Pipe Carrier Pipe Bored	285	LF	\$ 950.00	\$ 88,000.00
11	18-Inch Pipe Installed by Open Cut	482	LF	\$ 300.00	\$ 144,600.00
12	30-Inch Casing and 18-Inch Pipe Carrier Pipe Bored	115	LF	\$ 1,000.00	\$ 115,000.00
13	36-Inch Pipe Installed by Open Cut	10	LF	\$ 440.00	\$ 4,400.00
15	6" Gate Valve	2	EA	\$ 2,500.00	\$ 5,000.00
16	10" Gate Valve	2	EA	\$ 3,500.00	\$ 7,000.00
17	12" Gate Valve	1	EA	\$ 5,000.00	\$ 5,000.00
18	16" Gate Valve	2	EA	\$ 12,000.00	\$ 24,000.00
19	18" Gate Valve	2	EA	\$ 20,000.00	\$ 40,000.00
20	24" Gate Valve	2	EA	\$ 32,000.00	\$ 64,000.00
21	Connection to 6 Inch Waterline	1	EA	\$ 2,500.00	\$ 2,500.00
22	Connection to 10 Inch Waterline	1	EA	\$ 5,000.00	\$ 5,000.00
23	Connection to 12 Inch Waterline	1	EA	\$ 7,500.00	\$ 7,500.00
24	Connection to 16 Inch Waterline	1	EA	\$ 10,000.00	\$ 10,000.00
25	Connection to 18 Inch Waterline	1	EA	\$ 15,000.00	\$ 15,000.00
26	Connection to 24 Inch Waterline	1	EA	\$ 18,000.00	\$ 18,000.00
27	Connection to 36 Inch Waterline	1	EA	\$ 28,000.00	\$ 28,000.00
28	New Long Side Water Service	5	EA	\$ 2,500.00	\$ 12,500.00
29	New Short Service	2	EA	\$ 2,100.00	\$ 4,200.00
30	Rock Excavation	1711	CY	\$ 30.00	\$ 51,330.00
31	Abandonment	902	LF	\$ 21.00	\$ 18,942.00
32	Geotech	1	LS	\$ 10,000.00	\$ 10,000.00
33	ODEQ Permit	1	LS	\$ 1,071.70	\$ 1,071.70
SUBTOTAL					\$ 1,213,293.70
15% Construction Contingency					\$ 181,994.06
CONSTRUCTION SUBTOTAL					\$ 1,395,287.76

Construction costs are estimated. Actual construction costs will be based on actual construction contract approved by the City of Durant.

- 1) Engineering and Survey (E&S)
 - a. Lump Sum Fee for E&S will be based on Estimated Construction Costs.

- b. Fee for E&S will be adjusted through a written change order at a rate of 10.8% based on actual bid value for base project bid plus all alternatives of the recommended bid award.
- 2) Procurement
 - a. Lump Sum Fee for procurement is based on Estimated Construction Value.
 - b. Fee for Procurement will be adjusted through a written change order at a rate of 1.35% based on actual bid value for base project bid plus all alternatives of the recommended bid award.
 - c. If multiple procurements are required, each procurement effort will be billed at the Lump Sum Fee value.
- 3) Construction Management
 - a. Lump Sum Fee for construction management will be based on Estimated Construction Value.
 - b. Lump Sum Construction Management Fee will be based on contractor completing the project in the construction contract schedule.
 - c. Fee for Construction Management will be adjusted through a written change order at a rate of 5.6% based on the value of the contract awarded to the selected contractor.
- 4) Additional Services
 - a. Franchise Utility Relocation Coordination – EST will work to identify affected franchise utilities and provide coordination with those affected franchise utilities to facilitate relocation of their facilities for construction of the project.
 - b. Geotechnical Investigation & Utility Investigation – coordinate and facilitate completion of a geotechnical investigation necessary for the design of the project. EST will also procure a contractor to investigate the configuration of existing underground utilities in key locations as it relates to the design of this project.
 - c. Public Involvement – Provide public involvement through-out project execution as requested by the City.
 - d. Easement acquisition – Provide easement acquisition support throughout the project as requested by the City. Known easement acquisitions will include the following parcels:
 - i. Properties along SH 78
 - ii. Properties along Gerlach Rd.
 - e. Contractor Schedule Extension - Additional charge for exceeding construction contract schedule will be coordinated and agreed upon in writing with City as the situation occurs.
 - f. Construction Contract Change Orders
 - i. Basic Engineering and Topographical Surveying services for additive value of change orders will be billed at a lump sum equal to 10.8% of the additive value of Construction Contract Change Orders.

- ii. Procurement services for the additive value of change orders will be billed at a lump sum equal to 0% of the additive value of Construction Contract Change Orders
- iii. CM services for the additive value of change orders will be billed at a lump sum equal to 5.6% of the additive value of Construction Contract Change Orders

SCHEDULE FOR EST'S SERVICES

Unless otherwise agreed, EST expects to perform its services under the Agreement as follows:

Anticipated Start Date:	December 11, 2024
Survey completed:	Approx. 6 weeks January 22, 2023
Schematic Design (SD) Review Set:	Approx 2 months after Survey Complete March 25, 2023
Developmental Design Review Set (DD)	Approx 2 months after SD review comments June 24, 2023
100 % Construction Documents (CD)	Approx 3 months after DD review comments Dec. 27, 2023
Procurement	Approx 3 months, September 27, 2024
Construction Completion Date:	Approx 18 months March 1, 2025

EST will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and EST reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

CONSULTANT'S SERVICES

- 1.1 Employment of Consultant – The City hereby agrees to retain Consultant to perform professional engineering services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement. Consultant further agrees that if any employee of Consultant, who is performing the day-to-day services under this Agreement for the Project, is separated, for any reason, from employment with Consultant, Consultant shall notify, in writing, a minimum of five (5) business days prior to said separation unless circumstances reasonably warrant a shorter notice period which shall not exceed two (2) business days following the separation.
- 1.2 Scope of Services – The parties agree that Consultant shall perform such services as are set forth and described in "SCOPE OF ENGINEERING SERVICES," which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or

modifications to the scope of services described in "SCOPE OF ENGINEERING SERVICES," in the form of written change orders, may be authorized from time to time by The City.

- 1.2.1 Requirement of Written Change Order – "Extra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the City of Durant, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the City of Durant Council's authorization for the Mayor of the City of Durant to execute said change order.
- 1.2.2 DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE CITY OF DURANT. Project Administrators, Superintendents, and/or Inspectors of the City are not authorized to issue verbal or written change orders.
- 1.3 Schedule of Work – Consultant agrees to commence work immediately upon the execution of this Agreement, and to proceed diligently with said work to completion.

CITY'S RESPONSIBILITIES

The City shall do the following in a timely manner so as not to delay the services of Consultant:

- 2.1 Project Data – The City shall furnish required information, that it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 City Project Administrator – The City of Durant shall designate, when necessary, a representative authorized to act on City's behalf with respect to the Project (the "Project Administrator"). The City hereby designates the Director of Public Works as the Project Administrator for this work order. The City or such authorized representative shall examine the documents submitted by Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of Consultant's services.

CONSULTANT'S COMPENSATION

- 3.1 Compensation for Consultant's Services – As described in "Consultant's Services," compensation for this Project shall be on a Lump-Sum Basis, for an amount not to exceed the amounts listed in Exhibit "B", ("Consultant's Fee") and shall be paid in accordance with this section and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B."
- 3.1.1 Completion of Record Documents – City and Consultant agree that the completion of the Record Documents and/or "As-Built" Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by City prior to payment of the final five percent (5%) of Consultant's Fee. The electronic formatting shall be either PDF and/or

Computer Aided Design and Drafting (“CADD”). Completion of the Record Documents and/or “As-Built” documents shall be included in Consultant’s Fee and considered to be within the Scope of Services defined under this Agreement.

- 3.1.2 Disputes between the City and Construction Contractor – If the Project involves Consultant performing Construction Administration Services relating to an agreement between a Construction Contractor (the “Contractor”) and City, and upon receipt of a written request by the City, Consultant shall research previous and existing conditions of the Project, and make a determination whether or not to certify that sufficient cause exists for City to declare the Contractor in default of the terms and conditions of the agreement. Consultant shall submit his findings in writing to City, or submit a written request for a specific extension of time (including the basis for such extension), within fifteen (15) calendar days of receipt of the written request from City. City and Consultant agree that if requested by City, completion of this task shall be included in Consultant’s Fee and considered to be within the Scope of Services as defined under this Agreement.
- 3.1.3 Consultation and Approval by Governmental Authorities and Franchised Utilities – Consultant shall be responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and to participate in consultation with said agencies in order to obtain all necessary approvals and/or permissions. Consultant shall be responsible for preparation and timely submittal of documents required for review, approval, and/or recording by such agencies. Consultant shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by such agencies at no additional charge to City.
- 3.2 Direct Expenses – Direct Expenses are included in Consultant’s Fee as described under “CONSULTANT’S COMPENSATION” and include actual reasonable and necessary expenditures made by Consultant and Consultant’s employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit “B,”. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to City for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant’s subsequent payment for services; provided, however this shall not be City’s sole and exclusive remedy for said over-payment.
- 3.3 Additional Services – Consultant shall provide the services as described in the Scope of Services as set forth in “SCOPE OF ENGINEERING SERVICES” of this Agreement. If authorized in writing by City, Consultant shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph (“Additional Services”). These services may include, but are not limited to:

- 3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations which are not provided for or contemplated in the Scope of Services described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.5 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 3.3.6 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to City.

Hourly Billable Rates by Position

<i>Name</i>	<i>Position</i>	<i>Hourly Rate</i>
Raunel Ortiz, P.E.	Project Engineer	\$ 185.00
--	Design Engineer II	\$ 195.00
--	Design Engineer I	\$ 155.00
--	Design Specialist II	\$ 165.00
--	Design Specialist I	\$ 115.00
Robin Swan	Senior Technical	\$ 110.00
--	Cad Specialist II	\$ 95.00
--	Cad Specialist I	\$ 75.00
--		
	Clerical	\$ 75.00

- 3.4 Invoices – No payment to Consultant shall be made until Consultant tenders an invoice to City. Consultant shall submit monthly invoices for services rendered, based upon the actual

percentage of work complete at the time the invoice is prepared, or are to be mailed to City immediately upon completion of each individual task listed in Exhibit "B." On all submitted invoices for services rendered and work completed on a monthly basis, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but not be limited to: summaries of: (A) employee time charges, (B) invoices for work obtained from other parties, and (C) log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.

- 3.5 Timing of Payment – City shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by City to Consultant is considered to be complete upon mailing of payment by City. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 Disputed Payment Procedures – In the event of a disputed or contested billing by City, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. City shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date City receives the invoice. City shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of Consultant, City shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of "CONSULTANT'S COMPENSATION" section 3.5. If a dispute is resolved in favor of City, Consultant shall submit to City a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid City in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. City agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.
- 3.7 Failure to Pay – Failure of City to pay an invoice, for a reason other than upon written notification as stated in the provisions of "CONSULTANT'S COMPENSATION" section 3.6 to Consultant within sixty (60) days from the date of the invoice shall grant Consultant the right, in addition to any and all other rights provided, to, upon written notice to City, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to City. City shall not be required to pay any invoice submitted by Consultant if Consultant breached any provision(s) herein.
- 3.8 Adjusted Compensation – If the Scope of the Project or if Consultant's services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.

- 3.9 Project Suspension – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to City all finished or unfinished documents, data, studies, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

TERMS AND CONDITIONS

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and Agreement represents the entire understanding between the Client and EST with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative will be Mr. Raunel Ortiz, P.E.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files, and return an executed original to EST. This proposal will be open for acceptance for a period of three months from the date set forth above, unless changed by EST in writing.

EST, INC.

By: 
Raunel Ortiz, PE
Design Engineer

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

CITY OF DURANT, OKLAHOMA

By: _____
Signature

Print Name: _____

Title: _____

Date: _____

ATTACHMENTS

Exhibit "A" – ODOT PROPOSED PLANS

Exhibit "B" – Compensation Schedule / Project Billing / Project Budget

EXHIBIT "A" – ODOT PROPOSED PLANS

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Work Order #1 Cost Summary - City of Durant - SH 78 Waterline Relocation									
Design, Procurement, Construction and Construction Management									
Estimated Construction Costs					\$ 1,395,288				
									\$ 1,395,288
Estimated Design and Surveying Fees based on estimated cost of Utility improvements only listed above*									
		\$ 300,000		\$ 700,000		\$ 395,288		\$ -	
E&S	9.00%	\$ 27,000	9.00%	\$ 63,000	9.00%	\$ 35,576	9.00%	\$ -	\$ 125,576
Procurement	3.00%	\$ 9,000	1.50%	\$ 10,500	1.35%	\$ 5,336	1.00%	\$ -	\$ 24,836
CM	8.00%	\$ 24,000	6%	\$ 42,000	5.60%	\$ 22,136.11	5.00%	\$ -	\$ 88,136
		\$ 60,000		\$ 115,500		\$ 63,048		\$ -	\$ 238,548
Additional Services including Easement Acquisition and Other Costs not included in E&S, Procurement, and CM*									
Coordination with ODOT									
				Estimated Hours		Hourly Rate			
Principal		4 hr/mo		32	*	\$ 135.00	=	\$ 4,320	
Senior Professional				0	*	\$ 180.00	=	\$ -	
Professional IV				0	*	\$ 160.00	=	\$ -	
Professional III				0	*	\$ 130.00	=	\$ -	
Professional II		8 hr/mo		128	*	\$ 110.00	=	\$ 14,080	
Professional I				0	*	\$ 85.00	=	\$ -	
							=		
Senior Technical				0	*	\$ 110.00	=	\$ -	
Technical II				64	*	\$ 95.00	=	\$ 6,080	
Technical I				0	*	\$ 80.00	=	\$ -	
Clerical I		4 hr/mo		32	*	\$ 50.00	=	\$ 1,600	
Other Direct Costs @ \$5.00/hour				256	*	\$ 5.00	=	\$ 1,280	
								\$ 27,360	
									\$ 27,360

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Coordination and Permitting with ODEQ							
		Estimated Hours		Hourly Rate			
Principal	4 hr/mo	16	*	\$ 135.00	=	\$ 2,160	
Senior Professional		0	*	\$ 180.00	=	\$ -	
Professional IV		0	*	\$ 160.00	=	\$ -	
Professional III		0	*	\$ 130.00	=	\$ -	
Professional II	8 hr/mo	64	*	\$ 110.00	=	\$ 7,040	
Professional I		0	*	\$ 85.00	=	\$ -	
					=		
Senior Technical		0	*	\$ 110.00	=	\$ -	
Technical II		32	*	\$ 95.00	=	\$ 3,040	
Technical I		0	*	\$ 80.00	=	\$ -	
Clerical I	4 hr/mo	8	*	\$ 50.00	=	\$ 400	
Other Direct Costs @ \$5.00/hour		120	*	\$ 5.00	=	\$ 600	
ODEQ PERMIT FEE						\$ 1,157	
						\$ 14,397	
							\$ 14,397
Coordination with Franchise Utilities							
		Estimated Hours		Hourly Rate			
Principal	4 hr/mo	8	*	\$ 135.00	=	\$ 1,080	
Senior Professional		0	*	\$ 180.00	=	\$ -	
Professional IV		0	*	\$ 160.00	=	\$ -	
Professional III		0	*	\$ 130.00	=	\$ -	
Professional II	8 hr/mo	32	*	\$ 110.00	=	\$ 3,520	
Professional I		0	*	\$ 85.00	=	\$ -	
					=		
Senior Technical		0	*	\$ 110.00	=	\$ -	
Technical II		0	*	\$ 95.00	=	\$ -	
Technical I		16	*	\$ 80.00	=	\$ 1,280	
Clerical I	4 hr/mo	8	*	\$ 50.00	=	\$ 400	
Other Direct Costs @ \$5.00/hour		64	*	\$ 5.00	=	\$ 320	
						\$ 6,600	
							\$ 6,600

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Geotechnical Investigation								
		Estimated		Hourly				
		Hours		Rate				
Principal		0	*	\$ 135.00	=	\$ -		
Senior Professional		8	*	\$ 180.00	=	\$ 1,440		
Professional IV		0	*	\$ 160.00	=	\$ -		
Professional III		0	*	\$ 130.00	=	\$ -		
Professional II		8	*	\$ 110.00	=	\$ 880		
Professional I		0	*	\$ 85.00	=	\$ -		
					=			
Senior Technical		0	*	\$ 110.00	=	\$ -		
Technical II		0	*	\$ 95.00	=	\$ -		
Technical I		8	*	\$ 80.00	=	\$ 640		
Clerical I		4	*	\$ 50.00	=	\$ 200		
Other Direct Costs @ \$5.00/hour		28	*	\$ 5.00	=	\$ 140		
							\$ 3,300	
Geotechnical Investigation - EST							\$ 7,500	
								\$ 10,800
Public Involvement								
		Estimated		Hourly				
		Hours		Rate				
Principal	4 hr/mo	32	*	\$ 135.00	=	\$ 4,320		
Senior Professional		0	*	\$ 180.00	=	\$ -		
Professional IV		0	*	\$ 160.00	=	\$ -		
Professional III		0	*	\$ 130.00	=	\$ -		
Professional II	8 hr/mo	128	*	\$ 110.00	=	\$ 14,080		
Professional I		0	*	\$ 85.00	=	\$ -		
					=			
Senior Technical		0	*	\$ 110.00	=	\$ -		
Technical II		0	*	\$ 95.00	=	\$ -		
Technical I		64	*	\$ 80.00	=	\$ 5,120		
Clerical I	4 hr/mo	32	*	\$ 50.00	=	\$ 1,600		
Other Direct Costs @ \$5.00/hour		256	*	\$ 5.00	=	\$ 1,280		
							\$ 26,400	
Subcontractors: None							\$ -	
								\$ 26,400

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Easement Acquisition									
			Estimated		Hourly				
			Hours		Rate				
Principal			16	*	\$ 135.00	=	\$ 2,160		
Senior Professional			0	*	\$ 180.00	=	\$ -		
Professional IV			0	*	\$ 160.00	=	\$ -		
Professional III			0	*	\$ 130.00	=	\$ -		
Professional II			64	*	\$ 110.00	=	\$ 7,040		
Professional I			0	*	\$ 85.00	=	\$ -		
						=			
Senior Technical			0	*	\$ 110.00	=	\$ -		
Technical II			0	*	\$ 95.00	=	\$ -		
Technical I			32	*	\$ 80.00	=	\$ 2,560		
Clerical I			8	*	\$ 50.00	=	\$ 400		
Other Direct Costs @ \$5.00/hour			120	*	\$ 5.00	=	\$ 600		
								\$ 12,760	
Subcontractors: RPLS								\$ 10,000	
Landowner Payments								\$ 25,000	
Legal/Appraisal/Etc.								\$ 10,000	
									\$ 57,760
Disputes Between City and Construction Contractor									
EST will provide support to the City on a time and materials basis for construction contract dispute resolution.									
Construction Contract Change Order Services									
E&S		10.8% of additive value of construction contract change orders							
Procurement		0% of additive value of construction contract change orders							
CM		5.6% of additive value of construction contract change orders							
Estimated Program Management costs*									
Subtotal Estimated Project Cost*							\$ 1,777,153		
Design Phase Program Management Fee								\$ 17,772	
Construction Phase Program Management Fee								\$ 17,772	
									\$ 35,543
Contractor Schedule Extension									
Additional daily charge for exceeding construction contract schedule will be charged at the liquidated damages rate applicable to the construction contract.									
Total Estimated Project Cost*									\$ 1,812,697
Work Order #1 Cost Summary - City of Durant - SH 78 Waterline Relocation									
Estimated Construction Cost							\$ 1,395,288		
ODCs not included in E&S, Procurement, and CM							\$ 143,317		
E&S							\$ 125,576		
Procurement							\$ 24,836		
CM							\$ 88,136		
Design Phase Program Management Fee							\$ 17,772		
Construction Phase Program Management Fee							\$ 17,772		
Total authorized this work order							\$ 1,812,697		

December 7, 2023

Phillip Hightower, Director
Public Works Department
City of Durant
121 NE 2nd Avenue
Durant, OK 74701

Re: PROPOSAL FOR PROFESSIONAL SERVICES
City of Durant – SH 78 Waterline Relocation
Durant, Oklahoma

Dear Mr. Hightower:

Thank you for taking time to allow us to visit and discuss road improvements project. We are grateful for this opportunity, and we look forward to working with you.

It is our understanding that the City of Durant, Oklahoma ("City") requests EST, Inc. ("Engineer") to perform engineering services described herein pursuant to the terms of this Letter Agreement for Professional Services for City of Durant – SH 78 Waterline Relocation (Project).

EST has acquainted itself with the Project and offers to provide the services described below for the Project. The Client warrants that it is either the legal owner of the property to be improved by this Project or that the Client is acting as the duly authorized agent of the legal owner of such property. The Client acknowledges that it has reviewed any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. EST will provide professional services (more specifically described in "Scope of Services" attached hereto) to the Client for the Project. The City desired to engage the Consultant to provide professional services associated with implementation of City's limited to basic engineering and topographical surveying, procurement, construction management, program management, and additional services for ("Services") for the City of Durant – SH Waterline Relocation. Should the Client request work in addition to the Scope of Services, EST will invoice the Client for such additional services (Optional Additional Services) at the standard hourly billing rate charged for those employees performing the work, plus reimbursable expenses if any. EST will not commence work for Optional Additional Services without the Client's prior written approval.

EST agrees to provide all its services in a timely, competent, and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

PROJECT DESCRIPTION

The Oklahoma Department of Transportation (ODOT) is proposing a project aimed at enhancing the infrastructure of State Highway (SH) 78, specifically at its intersection with Gerlach Rd in Durant, Oklahoma. The proposed initiative involves widening SH 78 and will also require the relocation of various waterlines to accommodate the expansion.

The proposed project consists of waterline relocation comprising of approximately 1014 linear feet (LF) of 16-inch waterline, 617 LF of 18-inch waterline, 1163 LF of 24-inch waterline, and 295 LF of 36-inch pipe. Detailed visualizations of the proposed project can be found in the attached aerial plans provided in Exhibit "A".

Noteworthy aspects of the project involve the relocation of the 18-inch and 36-inch waterlines, necessitating the implementation of bore technology beneath State Highway (SH) 78. The bore for both waterlines will employ steel casings, adhering strictly to ODOT standards for utility crossings. This method ensures the seamless integration of the waterline relocation into the widened SH 78 roadway, meeting safety and infrastructure requirements.

SCOPE OF ENGINEERING SERVICES

This project encompasses Engineering and Survey (E&S), contractor procurement (Procurement), construction management (CM), and additional services dedicated to the design and construction of waterline relocations for the City of Durant.

The project's scope involves the relocation of approximately 1014 LF of 16-inch and 1163 LF of 24-inch waterline along the southern perimeter of SH 78.

Additionally, an estimated 110 LF of 18-inch waterline and 285 LF of 36-inch waterline, currently crossing under SH 78, are anticipated to undergo boring to facilitate the widening of SH 78. Furthermore, approximately 507 LF of 18-inch waterline is slated for installation on the east side of Gerlach Rd.

Negotiations with the Oklahoma Department of Transportation (ODOT) will be essential for determining the exact location of waterline relocation, with the anticipated franchise utilities relocations. It is noteworthy that uncertainties persist regarding a clear understanding of the limits and routes of existing utilities at this juncture.

To adhere to safety and construction standards, the waterlines are projected to be positioned a meet ODOT and ODEQ standards.

City of Durant - SH 78 Waterline Relocation					
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS					
No.	Item Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$ 80,000.00	\$ 80,000.00
2	Clear & Grub	1	LS	\$ 7,500.00	\$ 7,500.00
3	Trench Safety Plan	1	LS	\$ 5,000.00	\$ 5,000.00
4	Hydromulch Seeding	1	LS	\$ 6,500.00	\$ 6,500.00
5	Stormwater Pollution Prevention plan (SWPPP) and Implementa	1	LS	\$ 5,000.00	\$ 5,000.00
6	Traffic Control	1	LF	\$ 7,000.00	\$ 7,000.00
8	6-Inch Pipe Installation by Open Cut	1014	LF	\$ 80.00	\$ 81,120.00
7	10-Inch Pipe Installation by Open Cut	1167	LF	\$ 130.00	\$ 151,710.00
8	12-Inch Pipe Installation by Open Cut	1167	LF	\$ 160.00	\$ 186,720.00
9	16-Inch Pipe Installation by Open Cut	10	LF	\$ 170.00	\$ 1,700.00
10	30-Inch Casing and 16-Inch Pipe Carrier Pipe Bored	285	LF	\$ 950.00	\$ 88,000.00
11	18-Inch Pipe Installed by Open Cut	482	LF	\$ 300.00	\$ 144,600.00
12	30-Inch Casing and 18-Inch Pipe Carrier Pipe Bored	115	LF	\$ 1,000.00	\$ 115,000.00
13	36-Inch Pipe Installed by Open Cut	10	LF	\$ 440.00	\$ 4,400.00
15	6" Gate Valve	2	EA	\$ 2,500.00	\$ 5,000.00
16	10" Gate Valve	2	EA	\$ 3,500.00	\$ 7,000.00
17	12" Gate Valve	1	EA	\$ 5,000.00	\$ 5,000.00
18	16" Gate Valve	2	EA	\$ 12,000.00	\$ 24,000.00
19	18" Gate Valve	2	EA	\$ 20,000.00	\$ 40,000.00
20	24" Gate Valve	2	EA	\$ 32,000.00	\$ 64,000.00
21	Connection to 6 Inch Waterline	1	EA	\$ 2,500.00	\$ 2,500.00
22	Connection to 10 Inch Waterline	1	EA	\$ 5,000.00	\$ 5,000.00
23	Connection to 12 Inch Waterline	1	EA	\$ 7,500.00	\$ 7,500.00
24	Connection to 16 Inch Waterline	1	EA	\$ 10,000.00	\$ 10,000.00
25	Connection to 18 Inch Waterline	1	EA	\$ 15,000.00	\$ 15,000.00
26	Connection to 24 Inch Waterline	1	EA	\$ 18,000.00	\$ 18,000.00
27	Connection to 36 Inch Waterline	1	EA	\$ 28,000.00	\$ 28,000.00
28	New Long Side Water Service	5	EA	\$ 2,500.00	\$ 12,500.00
29	New Short Service	2	EA	\$ 2,100.00	\$ 4,200.00
30	Rock Excavation	1711	CY	\$ 30.00	\$ 51,330.00
31	Abandonment	902	LF	\$ 21.00	\$ 18,942.00
32	Geotech	1	LS	\$ 10,000.00	\$ 10,000.00
33	ODEQ Permit	1	LS	\$ 1,071.70	\$ 1,071.70
SUBTOTAL					\$ 1,213,293.70
15%		Construction Contingency		\$ 181,994.06	
CONSTRUCTION SUBTOTAL					\$ 1,395,287.76

Construction costs are estimated. Actual construction costs will be based on actual construction contract approved by the City of Durant.

- 1) Engineering and Survey (E&S)
 - a. Lump Sum Fee for E&S will be based on Estimated Construction Costs.

- b. Fee for E&S will be adjusted through a written change order at a rate of 10.8% based on actual bid value for base project bid plus all alternatives of the recommended bid award.
- 2) Procurement
 - a. Lump Sum Fee for procurement is based on Estimated Construction Value.
 - b. Fee for Procurement will be adjusted through a written change order at a rate of 1.35% based on actual bid value for base project bid plus all alternatives of the recommended bid award.
 - c. If multiple procurements are required, each procurement effort will be billed at the Lump Sum Fee value.
- 3) Construction Management
 - a. Lump Sum Fee for construction management will be based on Estimated Construction Value.
 - b. Lump Sum Construction Management Fee will be based on contractor completing the project in the construction contract schedule.
 - c. Fee for Construction Management will be adjusted through a written change order at a rate of 5.6% based on the value of the contract awarded to the selected contractor.
- 4) Additional Services
 - a. Franchise Utility Relocation Coordination – EST will work to identify affected franchise utilities and provide coordination with those affected franchise utilities to facilitate relocation of their facilities for construction of the project.
 - b. Geotechnical Investigation & Utility Investigation – coordinate and facilitate completion of a geotechnical investigation necessary for the design of the project. EST will also procure a contractor to investigate the configuration of existing underground utilities in key locations as it relates to the design of this project.
 - c. Public Involvement – Provide public involvement through-out project execution as requested by the City.
 - d. Easement acquisition – Provide easement acquisition support throughout the project as requested by the City. Known easement acquisitions will include the following parcels:
 - i. Properties along SH 78
 - ii. Properties along Gerlach Rd.
 - e. Contractor Schedule Extension - Additional charge for exceeding construction contract schedule will be coordinated and agreed upon in writing with City as the situation occurs.
 - f. Construction Contract Change Orders
 - i. Basic Engineering and Topographical Surveying services for additive value of change orders will be billed at a lump sum equal to 10.8% of the additive value of Construction Contract Change Orders.

- ii. Procurement services for the additive value of change orders will be billed at a lump sum equal to 0% of the additive value of Construction Contract Change Orders
- iii. CM services for the additive value of change orders will be billed at a lump sum equal to 5.6% of the additive value of Construction Contract Change Orders

SCHEDULE FOR EST'S SERVICES

Unless otherwise agreed, EST expects to perform its services under the Agreement as follows:

Anticipated Start Date:	December 11, 2024
Survey completed:	Approx. 6 weeks January 22, 2023
Schematic Design (SD) Review Set:	Approx 2 months after Survey Complete March 25, 2023
Developmental Design Review Set (DD)	Approx 2 months after SD review comments June 24, 2023
100 % Construction Documents (CD)	Approx 3 months after DD review comments Dec. 27, 2023
Procurement	Approx 3 months, September 27, 2024
Construction Completion Date:	Approx 18 months March 1, 2025

EST will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and EST reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

CONSULTANT'S SERVICES

- 1.1 Employment of Consultant – The City hereby agrees to retain Consultant to perform professional engineering services in connection with the Project. Consultant agrees to perform such services in accordance with the terms and conditions of this Agreement. Consultant further agrees that if any employee of Consultant, who is performing the day-to-day services under this Agreement for the Project, is separated, for any reason, from employment with Consultant, Consultant shall notify, in writing, a minimum of five (5) business days prior to said separation unless circumstances reasonably warrant a shorter notice period which shall not exceed two (2) business days following the separation.
- 1.2 Scope of Services – The parties agree that Consultant shall perform such services as are set forth and described in "SCOPE OF ENGINEERING SERVICES," which is attached hereto and incorporated herein by reference for all purposes. The parties understand and agree that deviations or

modifications to the scope of services described in "SCOPE OF ENGINEERING SERVICES," in the form of written change orders, may be authorized from time to time by The City.

- 1.2.1 Requirement of Written Change Order – "Extra" work, or "claims" invoiced as "extra" work, or "claims" which have not been issued as a duly executed, written change order by the City of Durant, will not be authorized for payment and/or shall not become part of the subcontracts. A duly executed written change order shall be preceded by the City of Durant Council's authorization for the Mayor of the City of Durant to execute said change order.
- 1.2.2 DO NOT PERFORM ANY EXTRA WORK AND/OR ADDITIONAL SERVICES WITHOUT A DULY EXECUTED WRITTEN CHANGE ORDER ISSUED BY THE CITY OF DURANT. Project Administrators, Superintendents, and/or Inspectors of the City are not authorized to issue verbal or written change orders.
- 1.3 Schedule of Work – Consultant agrees to commence work immediately upon the execution of this Agreement, and to proceed diligently with said work to completion.

CITY'S RESPONSIBILITIES

The City shall do the following in a timely manner so as not to delay the services of Consultant:

- 2.1 Project Data – The City shall furnish required information, that it currently has in its possession, as expeditiously as necessary for the orderly progress of the work, and Consultant shall be entitled to rely upon the accuracy and completeness thereof.
- 2.2 City Project Administrator – The City of Durant shall designate, when necessary, a representative authorized to act on City's behalf with respect to the Project (the "Project Administrator"). The City hereby designates the Director of Public Works as the Project Administrator for this work order. The City or such authorized representative shall examine the documents submitted by Consultant and shall render any required decisions pertaining thereto as soon as practicable so as to avoid unreasonable delay in the progress of Consultant's services.

CONSULTANT'S COMPENSATION

- 3.1 Compensation for Consultant's Services – As described in "Consultant's Services," compensation for this Project shall be on a Lump-Sum Basis, for an amount not to exceed the amounts listed in Exhibit "B", ("Consultant's Fee") and shall be paid in accordance with this section and the Compensation Schedule / Project Billing / Project Budget as set forth in Exhibit "B."
- 3.1.1 Completion of Record Documents – City and Consultant agree that the completion of the Record Documents and/or "As-Built" Documents, including hard copy formatting and electronic formatting, shall be completed, submitted to, and accepted by City prior to payment of the final five percent (5%) of Consultant's Fee. The electronic formatting shall be either PDF and/or

Computer Aided Design and Drafting (“CADD”). Completion of the Record Documents and/or “As-Built” documents shall be included in Consultant’s Fee and considered to be within the Scope of Services defined under this Agreement.

- 3.1.2 Disputes between the City and Construction Contractor – If the Project involves Consultant performing Construction Administration Services relating to an agreement between a Construction Contractor (the “Contractor”) and City, and upon receipt of a written request by the City, Consultant shall research previous and existing conditions of the Project, and make a determination whether or not to certify that sufficient cause exists for City to declare the Contractor in default of the terms and conditions of the agreement. Consultant shall submit his findings in writing to City, or submit a written request for a specific extension of time (including the basis for such extension), within fifteen (15) calendar days of receipt of the written request from City. City and Consultant agree that if requested by City, completion of this task shall be included in Consultant’s Fee and considered to be within the Scope of Services as defined under this Agreement.
- 3.1.3 Consultation and Approval by Governmental Authorities and Franchised Utilities – Consultant shall be responsible for identifying and analyzing the requirements of governmental agencies and all franchise utilities involved with the Project, and to participate in consultation with said agencies in order to obtain all necessary approvals and/or permissions. Consultant shall be responsible for preparation and timely submittal of documents required for review, approval, and/or recording by such agencies. Consultant shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by such agencies at no additional charge to City.
- 3.2 Direct Expenses – Direct Expenses are included in Consultant’s Fee as described under “CONSULTANT’S COMPENSATION” and include actual reasonable and necessary expenditures made by Consultant and Consultant’s employees and subcontractors in the interest of the Project. All submitted Direct Expenses are to be within the amounts as stated in the Compensation Schedule / Project Billing / Project Budget set forth in Exhibit “B,”. Consultant shall be solely responsible for the auditing and accuracy of all Direct Expenses, including those of its subcontractors, prior to submitting to City for reimbursement, and shall be responsible for the accuracy thereof. Any over-payment by City for errors in submittals for reimbursement may be deducted from Consultant’s subsequent payment for services; provided, however this shall not be City’s sole and exclusive remedy for said over-payment.
- 3.3 Additional Services – Consultant shall provide the services as described in the Scope of Services as set forth in “SCOPE OF ENGINEERING SERVICES” of this Agreement. If authorized in writing by City, Consultant shall provide additional services, to be compensated on an hourly basis in accordance with this paragraph (“Additional Services”). These services may include, but are not limited to:

- 3.3.1 Additional meetings, hearings, work-sessions, or other similar presentations which are not provided for or contemplated in the Scope of Services described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.2 Additional drafts and revisions to the Project which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.3 Additional copies of final reports and construction plans which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.4 Photography, professional massing models which are not provided for or contemplated in the Scope of Services as described in "SCOPE OF ENGINEERING SERVICES."
- 3.3.5 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on direct billable labor rates and expenses.
- 3.3.6 Compensation for Additional Services authorized by City shall be in addition to Consultant's Fee and shall be based on an hourly basis according to the following personnel rates. The rates set forth in this chart are subject to reasonable change provided prior written notice of said change is given to City.

Hourly Billable Rates by Position

<i>Name</i>	<i>Position</i>	<i>Hourly Rate</i>
Raunel Ortiz, P.E.	Project Engineer	\$ 185.00
--	Design Engineer II	\$ 195.00
--	Design Engineer I	\$ 155.00
--	Design Specialist II	\$ 165.00
--	Design Specialist I	\$ 115.00
Robin Swan	Senior Technical	\$ 110.00
--	Cad Specialist II	\$ 95.00
--	Cad Specialist I	\$ 75.00
--		
	Clerical	\$ 75.00

- 3.4 Invoices – No payment to Consultant shall be made until Consultant tenders an invoice to City. Consultant shall submit monthly invoices for services rendered, based upon the actual

percentage of work complete at the time the invoice is prepared, or are to be mailed to City immediately upon completion of each individual task listed in Exhibit "B." On all submitted invoices for services rendered and work completed on a monthly basis, Consultant shall include appropriate background materials to support the submitted charges on said invoice. Such background material shall include, but not be limited to: summaries of: (A) employee time charges, (B) invoices for work obtained from other parties, and (C) log information relating to Direct Expenses. All invoices for payment shall provide a summary methodology for administrative markup and/or overhead charges.

- 3.5 Timing of Payment – City shall make payment to Consultant for said invoices within thirty (30) days following receipt and acceptance thereof. The parties agree that payment by City to Consultant is considered to be complete upon mailing of payment by City. Furthermore, the parties agree that the payment is considered to be mailed on the date that the payment is postmarked.
- 3.6 Disputed Payment Procedures – In the event of a disputed or contested billing by City, only that portion so contested may be withheld from payment, and the undisputed portion will be paid. City shall notify Consultant of a disputed invoice, or portion of an invoice, in writing by the twenty-first (21st) calendar day after the date City receives the invoice. City shall provide Consultant an opportunity to cure the basis of the dispute. If a dispute is resolved in favor of Consultant, City shall proceed to process said invoice, or the disputed portion of the invoice, within the provisions of "CONSULTANT'S COMPENSATION" section 3.5. If a dispute is resolved in favor of City, Consultant shall submit to City a corrected invoice, reflecting any and all payment(s) of the undisputed amounts, documenting the credited amounts, and identifying outstanding amounts on said invoice to aid City in processing payment for the remaining balance. Such revised invoice shall have a new invoice number, clearly referencing the previous submitted invoice. City agrees to exercise reasonableness in contesting any billing or portion thereof that has background materials supporting the submitted charges.
- 3.7 Failure to Pay – Failure of City to pay an invoice, for a reason other than upon written notification as stated in the provisions of "CONSULTANT'S COMPENSATION" section 3.6 to Consultant within sixty (60) days from the date of the invoice shall grant Consultant the right, in addition to any and all other rights provided, to, upon written notice to City, suspend performance under this Agreement, and such act or acts shall not be deemed a breach of this Agreement. However, Consultant shall not suspend performance under this Agreement prior to the tenth (10th) calendar day after written notice of suspension was provided to City. City shall not be required to pay any invoice submitted by Consultant if Consultant breached any provision(s) herein.
- 3.8 Adjusted Compensation – If the Scope of the Project or if Consultant's services are materially changed due to no error on behalf of Consultant in the performance of services under this Agreement, the amounts of Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant as a result of any material change to the Scope of the Project shall be authorized by written change order duly executed by both parties before the services are performed.

- 3.9 Project Suspension – If the Project is suspended or abandoned in whole or in part for more than three (3) months, Consultant shall be entitled to compensation for any and all work completed to the satisfaction of City in accordance with the provisions of this Agreement prior to suspension or abandonment. In the event of such suspension or abandonment, Consultant shall deliver to City all finished or unfinished documents, data, studies, drawings, maps, models, reports, photographs, and/or any other items prepared by Consultant in connection with this Agreement prior to Consultant receiving final payment. If the Project is resumed after being suspended for more than three (3) months, Consultant's compensation shall be equitably adjusted as approved by City. Any additional amounts paid to Consultant after the Project is resumed shall be agreed upon in writing by both parties before the services are performed.

TERMS AND CONDITIONS

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and Agreement represents the entire understanding between the Client and EST with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative will be Mr. Raunel Ortiz, P.E.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files, and return an executed original to EST. This proposal will be open for acceptance for a period of three months from the date set forth above, unless changed by EST in writing.

EST, INC.

By: 
Raunel Ortiz, PE
Design Engineer

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

CITY OF DURANT, OKLAHOMA

By: _____
Signature

Print Name: _____

Title: _____

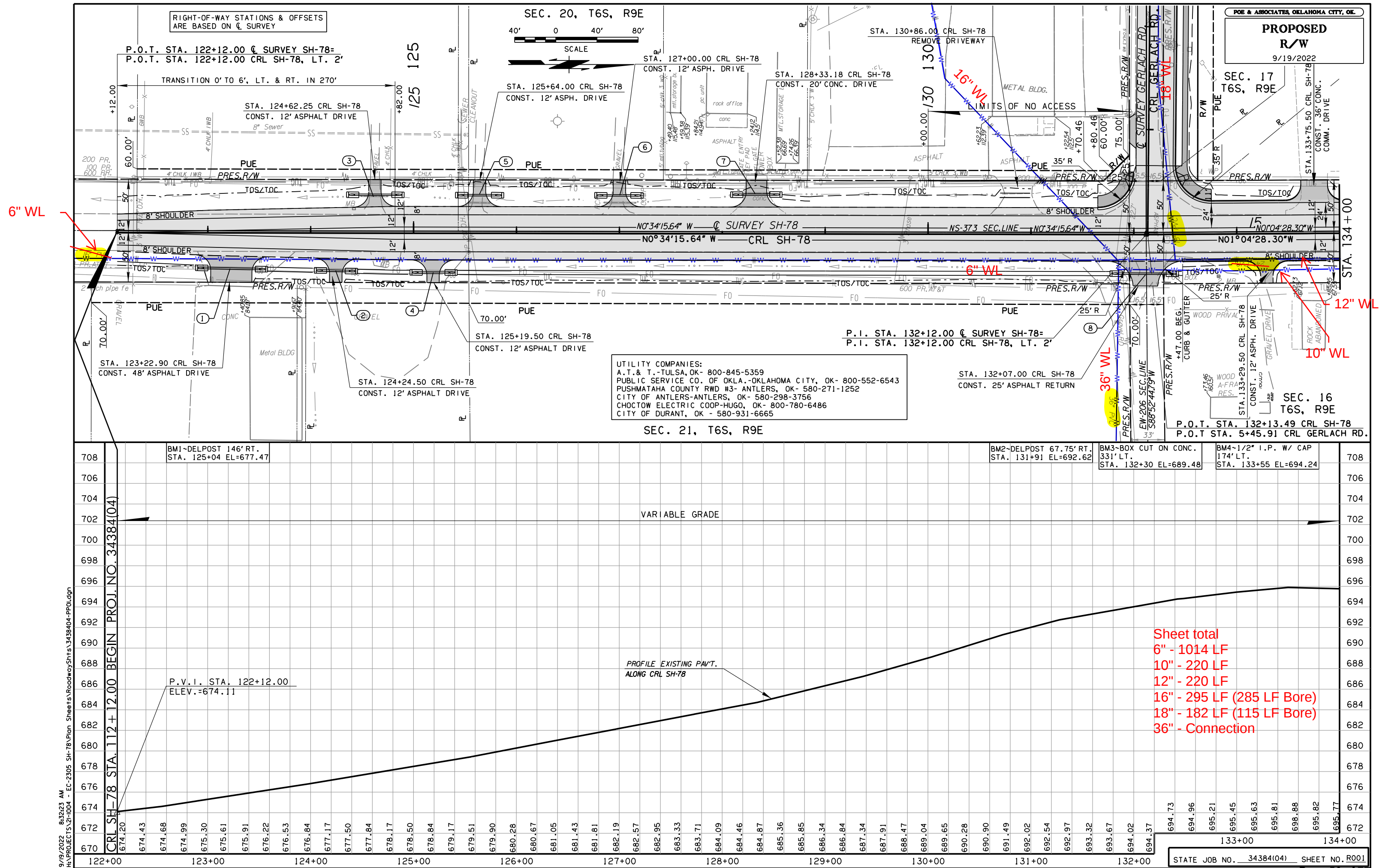
Date: _____

ATTACHMENTS

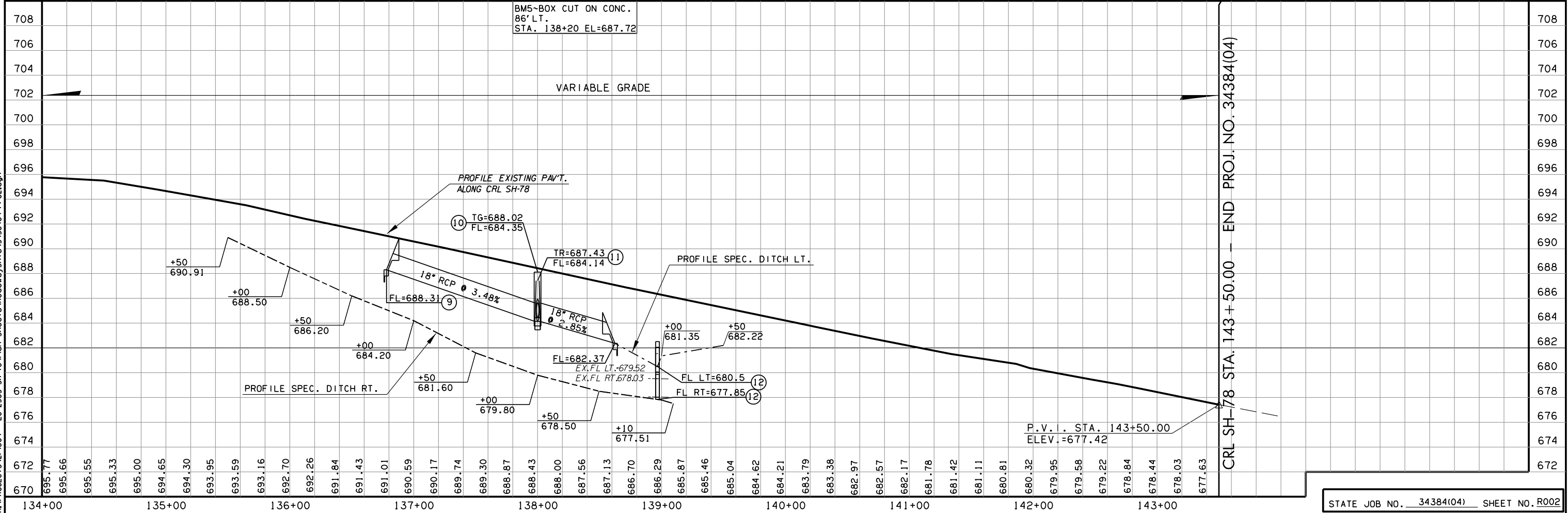
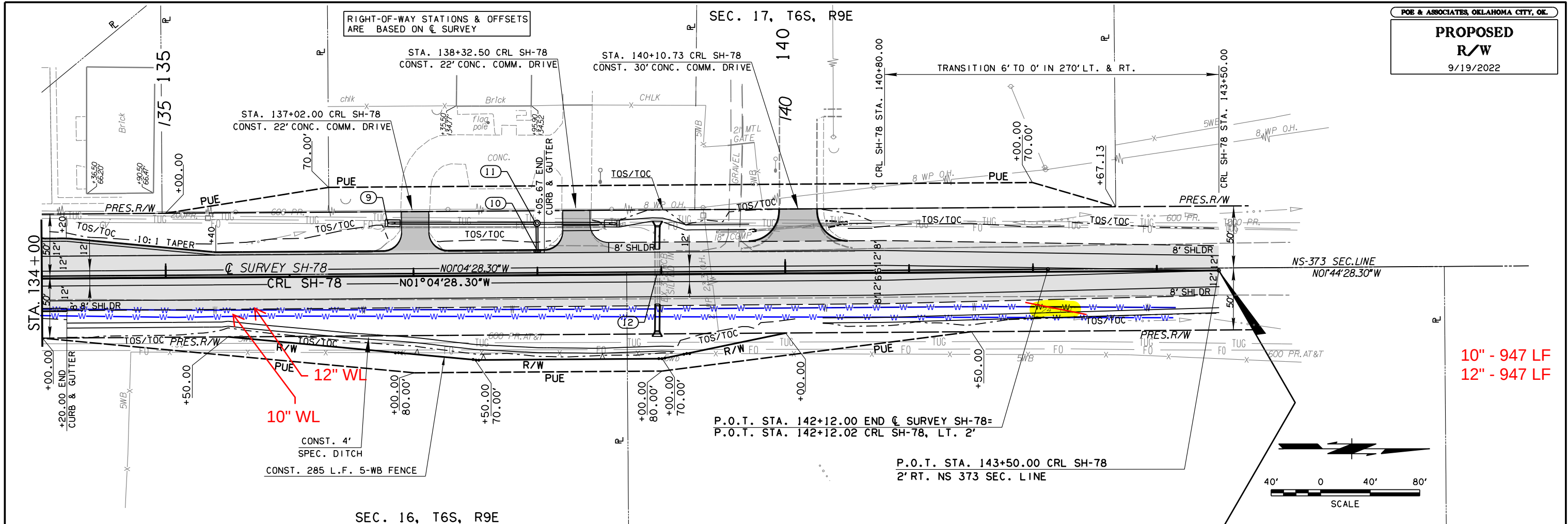
Exhibit "A" – ODOT PROPOSED PLANS

Exhibit "B" – Compensation Schedule / Project Billing / Project Budget

EXHIBIT "A" – ODOT PROPOSED PLANS



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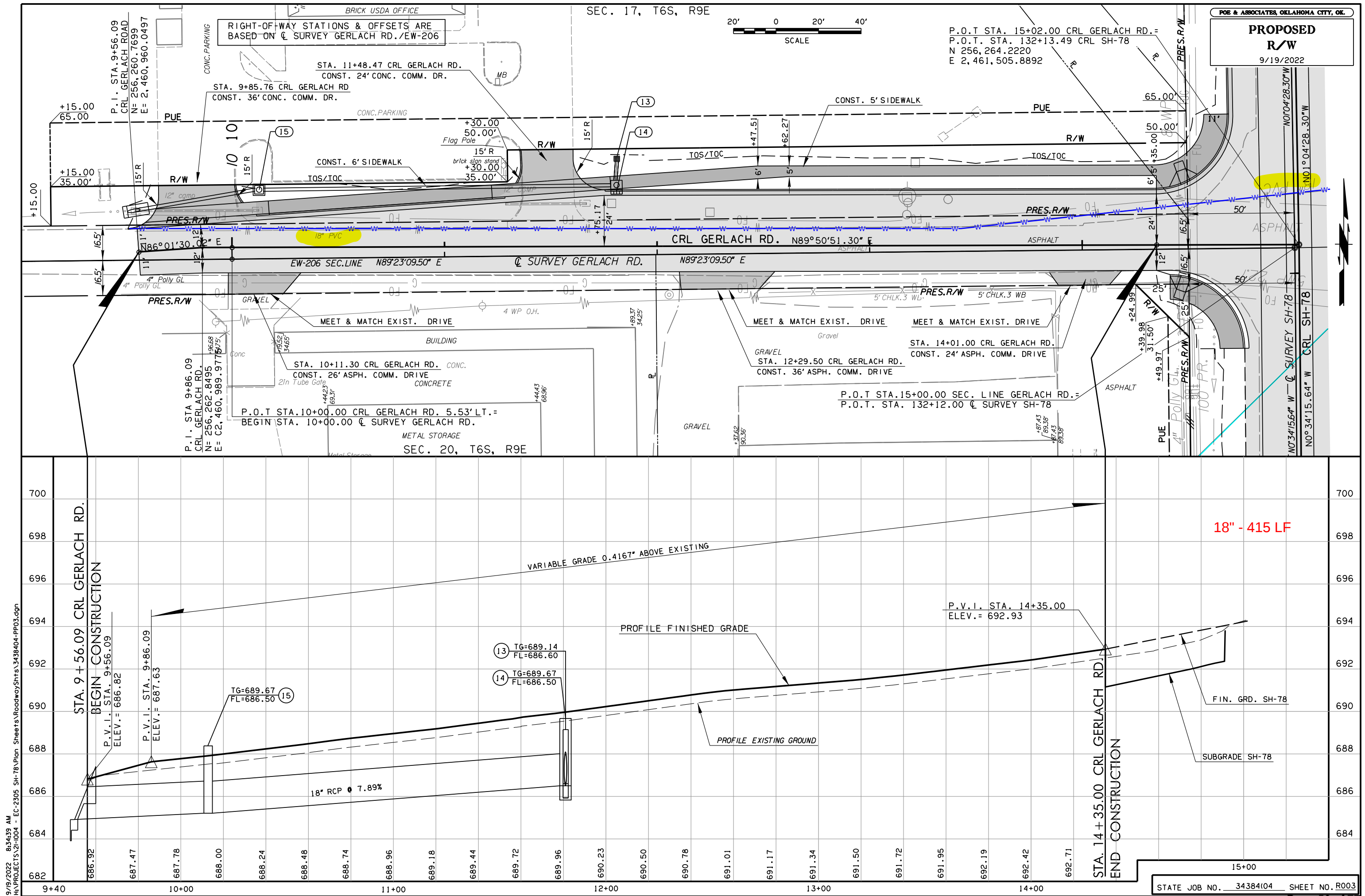


EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Work Order #1 Cost Summary - City of Durant - SH 78 Waterline Relocation									
Design, Procurement, Construction and Construction Management									
Estimated Construction Costs					\$ 1,395,288				
									\$ 1,395,288
Estimated Design and Surveying Fees based on estimated cost of Utility improvements only listed above*									
		\$ 300,000		\$ 700,000		\$ 395,288		\$ -	
E&S	9.00%	\$ 27,000	9.00%	\$ 63,000	9.00%	\$ 35,576	9.00%	\$ -	\$ 125,576
Procurement	3.00%	\$ 9,000	1.50%	\$ 10,500	1.35%	\$ 5,336	1.00%	\$ -	\$ 24,836
CM	8.00%	\$ 24,000	6%	\$ 42,000	5.60%	\$ 22,136.11	5.00%	\$ -	\$ 88,136
		\$ 60,000		\$ 115,500		\$ 63,048		\$ -	\$ 238,548
Additional Services including Easement Acquisition and Other Costs not included in E&S, Procurement, and CM*									
Coordination with ODOT									
				Estimated Hours		Hourly Rate			
Principal		4 hr/mo		32	*	\$ 135.00	=	\$ 4,320	
Senior Professional				0	*	\$ 180.00	=	\$ -	
Professional IV				0	*	\$ 160.00	=	\$ -	
Professional III				0	*	\$ 130.00	=	\$ -	
Professional II		8 hr/mo		128	*	\$ 110.00	=	\$ 14,080	
Professional I				0	*	\$ 85.00	=	\$ -	
							=		
Senior Technical				0	*	\$ 110.00	=	\$ -	
Technical II				64	*	\$ 95.00	=	\$ 6,080	
Technical I				0	*	\$ 80.00	=	\$ -	
Clerical I		4 hr/mo		32	*	\$ 50.00	=	\$ 1,600	
Other Direct Costs @ \$5.00/hour				256	*	\$ 5.00	=	\$ 1,280	
								\$ 27,360	
									\$ 27,360

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Coordination and Permitting with ODEQ							
		Estimated Hours		Hourly Rate			
Principal	4 hr/mo	16	*	\$ 135.00	=	\$ 2,160	
Senior Professional		0	*	\$ 180.00	=	\$ -	
Professional IV		0	*	\$ 160.00	=	\$ -	
Professional III		0	*	\$ 130.00	=	\$ -	
Professional II	8 hr/mo	64	*	\$ 110.00	=	\$ 7,040	
Professional I		0	*	\$ 85.00	=	\$ -	
					=		
Senior Technical		0	*	\$ 110.00	=	\$ -	
Technical II		32	*	\$ 95.00	=	\$ 3,040	
Technical I		0	*	\$ 80.00	=	\$ -	
Clerical I	4 hr/mo	8	*	\$ 50.00	=	\$ 400	
Other Direct Costs @ \$5.00/hour		120	*	\$ 5.00	=	\$ 600	
ODEQ PERMIT FEE						\$ 1,157	
						\$ 14,397	
							\$ 14,397
Coordination with Franchise Utilities							
		Estimated Hours		Hourly Rate			
Principal	4 hr/mo	8	*	\$ 135.00	=	\$ 1,080	
Senior Professional		0	*	\$ 180.00	=	\$ -	
Professional IV		0	*	\$ 160.00	=	\$ -	
Professional III		0	*	\$ 130.00	=	\$ -	
Professional II	8 hr/mo	32	*	\$ 110.00	=	\$ 3,520	
Professional I		0	*	\$ 85.00	=	\$ -	
					=		
Senior Technical		0	*	\$ 110.00	=	\$ -	
Technical II		0	*	\$ 95.00	=	\$ -	
Technical I		16	*	\$ 80.00	=	\$ 1,280	
Clerical I	4 hr/mo	8	*	\$ 50.00	=	\$ 400	
Other Direct Costs @ \$5.00/hour		64	*	\$ 5.00	=	\$ 320	
						\$ 6,600	
							\$ 6,600

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Geotechnical Investigation									
			Estimated		Hourly				
			Hours		Rate				
Principal			0	*	\$ 135.00	=	\$ -		
Senior Professional			8	*	\$ 180.00	=	\$ 1,440		
Professional IV			0	*	\$ 160.00	=	\$ -		
Professional III			0	*	\$ 130.00	=	\$ -		
Professional II			8	*	\$ 110.00	=	\$ 880		
Professional I			0	*	\$ 85.00	=	\$ -		
						=			
Senior Technical			0	*	\$ 110.00	=	\$ -		
Technical II			0	*	\$ 95.00	=	\$ -		
Technical I			8	*	\$ 80.00	=	\$ 640		
Clerical I			4	*	\$ 50.00	=	\$ 200		
Other Direct Costs @ \$5.00/hour			28	*	\$ 5.00	=	\$ 140		
								\$ 3,300	
Geotechnical Investigation - EST								\$ 7,500	
									\$ 10,800
Public Involvement									
			Estimated		Hourly				
			Hours		Rate				
Principal	4 hr/mo		32	*	\$ 135.00	=	\$ 4,320		
Senior Professional			0	*	\$ 180.00	=	\$ -		
Professional IV			0	*	\$ 160.00	=	\$ -		
Professional III			0	*	\$ 130.00	=	\$ -		
Professional II	8 hr/mo		128	*	\$ 110.00	=	\$ 14,080		
Professional I			0	*	\$ 85.00	=	\$ -		
						=			
Senior Technical			0	*	\$ 110.00	=	\$ -		
Technical II			0	*	\$ 95.00	=	\$ -		
Technical I			64	*	\$ 80.00	=	\$ 5,120		
Clerical I	4 hr/mo		32	*	\$ 50.00	=	\$ 1,600		
Other Direct Costs @ \$5.00/hour			256	*	\$ 5.00	=	\$ 1,280		
								\$ 26,400	
Subcontractors: None								\$ -	
									\$ 26,400

EXHIBIT "B"
COMPENSATION SCHEDULE / PROJECT BILLING / PROJECT BUDGET

Easement Acquisition									
			Estimated		Hourly				
			Hours		Rate				
Principal			16	*	\$ 135.00	=	\$ 2,160		
Senior Professional			0	*	\$ 180.00	=	\$ -		
Professional IV			0	*	\$ 160.00	=	\$ -		
Professional III			0	*	\$ 130.00	=	\$ -		
Professional II			64	*	\$ 110.00	=	\$ 7,040		
Professional I			0	*	\$ 85.00	=	\$ -		
						=			
Senior Technical			0	*	\$ 110.00	=	\$ -		
Technical II			0	*	\$ 95.00	=	\$ -		
Technical I			32	*	\$ 80.00	=	\$ 2,560		
Clerical I			8	*	\$ 50.00	=	\$ 400		
Other Direct Costs @ \$5.00/hour			120	*	\$ 5.00	=	\$ 600		
								\$ 12,760	
Subcontractors: RPLS								\$ 10,000	
Landowner Payments								\$ 25,000	
Legal/Appraisal/Etc.								\$ 10,000	
									\$ 57,760
Disputes Between City and Construction Contractor									
EST will provide support to the City on a time and materials basis for construction contract dispute resolution.									
Construction Contract Change Order Services									
E&S			10.8% of additive value of construction contract change orders						
Procurement			0% of additive value of construction contract change orders						
CM			5.6% of additive value of construction contract change orders						
Estimated Program Management costs*									
Subtotal Estimated Project Cost*							\$ 1,777,153		
Design Phase Program Management Fee							\$ 17,772		
Construction Phase Program Management Fee							\$ 17,772		
									\$ 35,543
Contractor Schedule Extension									
Additional daily charge for exceeding construction contract schedule will be charged at the liquidated damages rate applicable to the construction contract.									
Total Estimated Project Cost*									\$ 1,812,697
Work Order #1 Cost Summary - City of Durant - SH 78 Waterline Relocation									
Estimated Construction Cost							\$ 1,395,288		
ODCs not included in E&S, Procurement, and CM							\$ 143,317		
E&S							\$ 125,576		
Procurement							\$ 24,836		
CM							\$ 88,136		
Design Phase Program Management Fee							\$ 17,772		
Construction Phase Program Management Fee							\$ 17,772		
Total authorized this work order							\$ 1,812,697		



The City of Durant

Memorandum

Date: 1/9/2024
To: Mayor and City Council
From: Rick Rumsey, Interim City Manager
Re: Consider Approval of Agreement Between City of Durant and Wall Engineering for Professional Services for Waste Water Treatment Plant Improvements Phase I and II (C-2024-01)

Council Information / Action Requested

Approval of Agreement Between City of Durant and Wall Engineering for Professional Services for Waste Water Treatment Plant Improvements Phase I and II

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:

1. C-2024-01

DURANT CITY UTILITIES AUTHORITY

WWTP IMPROVEMENTS PHASE I & II

NOVEMBER 2023

SHORT FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

IN COOPERATION WITH

OKLAHOMA WATER RESOURCES BOARD



WALL ENGINEERING PROJECT # DU-20-02
WE FIRM CERTIFICATE OF AUTHORIZATION #5413

**WALL ENGINEERING, LLC
SHORT FORM OF AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of 11/14/23 ("Effective Date") between Durant City Utilities Authority ("Owner") and Wall Engineering, LLC ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows: Wastewater Treatment Plant Improvements Phase I & II ("Project").

This Agreement supersedes and takes the place of previous Agreement and the Scope and Fees outlined herein are for the complete project inclusive of both Phases. Credit will be given for previous engineering fees pays against fees outlined herein (which cover both Phases.)

Subject to other terms herein, including without limitation 5.01, Engineer's Scope of Services ("Services") under this Agreement are generally identified as follows:

- Participate in meetings with the Owner's representatives, consultants and any Local, State, Federal Agencies or governmental entities as required to define the project scope and design requirements.
- Provide, or cause to be provided, Topographic Survey, Property & ROW survey as required for project design.
- Provide, or cause to be provided, Geotechnical Engineering as required for project design.
- Prepare Engineering Report, Engineering Plans and Specifications for infrastructure improvements for the Project.
- Obtain approval of the Plans and Specifications from the Owner and seek approval from Oklahoma DEQ (fee to be paid by Owner).
- Prepare bid packages, and assist Owner in obtaining bids from contractors
- Prepare Contract documents and coordinate contract execution by Owner and Owner's selected Contractors.
- Provide general engineering contract administration during construction to include general overview of Contractors work, review and approval of Contractor's pay estimates, review of change order requests, and facilitate the acceptance of the work performed by the Contractor.
- Provide certain Inspection Services during Construction.
- Conduct Final Inspection and Project Closeout.
- Prepare final "As-Built" drawings.

Items specifically excluded from the scope of work (but may be included as additional services) include:

- Payment of fees for bid advertisement
- Payment of fees for ODEQ Permitting
- Easement Survey & Preparation (NOT ANTICIPATED / CITY PROPERTY)

In addition to those items set forth in the Agreement, Owner shall:

- Give thorough consideration to all documents and other information presented by Engineer and informing Engineer of all decisions within a reasonable time so as not to delay the Services.
- Make provision for the Personnel of Engineer to enter public and private lands as required for Engineer to perform necessary preliminary surveys and other investigations required under this scope of work.
- Obtain the necessary lands, easements and right-of-way for the construction of the work. All costs associated with securing the necessary land interests, including property acquisition and/or easement document preparation, surveys, appraisals, and abstract work, shall be borne by the Owner outside of this Agreement unless specifically outlined otherwise.
- Furnish Engineer such plans and records of construction and operation of existing facilities, available aerial photography, reports, surveys, or copies of the same, related to or bearing on the proposed work as may be in the possession of Owner. Such documents or data will be returned upon completion of the Services or at the request of Owner.
- Furnish Engineer a current boundary survey with easements of record plotted for the Project property.
- Pay all ODEQ plan review and advertising costs in connection with the Project.
- Provide legal, accounting, and insurance counseling services necessary for the Project and such auditing services as Owner may require.
- Furnish permits, permit fees, and approvals from all governmental authorities having jurisdiction over the Project and others as may be necessary for completion of the Project.
- Engineer shall be entitled to rely upon and shall not be responsible for the accuracy, completeness and timeliness of services and information furnished by Owner or Owner's consultants.

Owner's current anticipated design and construction milestone dates:

- Engineering design, plans and specifications prepared by: 05/01/24
- Construction commencement date: 11/01/24
- Substantial Completion date: 11/01/26

Any additional services beyond this Scope of Services specifically listed herein would be performed as requested based on current hourly rates or as a negotiated lump sum agreement, and may include an appropriate adjustment to the schedule.

Owner and Engineer further agree as follows:

1.01 Basic Agreement and Period of Service

- A. Engineer shall provide or furnish the Services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above ("Additional Services").
- B. Engineer shall complete its Services based on a mutually agreeable schedule.
- C. 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.

2.01 Payment Procedures

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for Services, Additional Services, and expenses within 30 days after receipt of Engineer's invoice, then (1) the amounts due Engineer will be increased at the rate of 2.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Engineer may, after giving seven days written notice to Owner, suspend Services under this Agreement until Engineer has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- B. *Payment:* As compensation for Engineer providing or furnishing Services and Additional Services, Owner shall pay Engineer as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly and within 30 days advise Engineer in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.

2.02 Basis of Payment—Lump Sum

- A. Owner shall pay Engineer for Services as follows:
 - 1. A Lump Sum amount of \$3,142,590 in current approved OWRB budget outlined as follows:

a. Basic Engineering	\$2,154,100 (previous invoiced \$825,890)
b. Bidding & Negotiation	\$5,890.00
c. Construction Engineering	\$546,900
d. Resident Construction Inspection & Oversight	\$326,920
e. Post Construction Engineering Including As-Builts	\$55,780
- B. The portion of the compensation amount billed monthly for Engineer's Services will be based upon Engineer's estimate of the percentage of the total Services actually completed during the billing period.

2.03 *Additional Services:* For Additional Services, Owner shall pay Engineer an amount equal to the cumulative hours charged in providing the Additional Services by each class of Engineer's employees, times the standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Engineer's consultants' charges, if any. Engineer's standard hourly rates are attached as Appendix 1. Alternatively, if agreed to, Owner shall pay Engineer a negotiated lump sum amount. As an example, Additional Services may include, among others: Services due to changes in the Project, Services necessitated by the enactment or revision of codes, laws or regulations, and preparation for and attendance at public presentations, meetings or hearings relating to the Project.

3.01 *Termination*

A. The obligation to continue performance 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 Agreement's terms through no fault of the terminating party. Failure to pay Engineer for its Services is a substantial failure to perform and a basis for termination for cause and suspension of Services.

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 are delayed for more than 90 days for reasons beyond Engineer's control, including without limitation Owner's suspending of the Project, or as the result of the presence at the Site of undisclosed Constituents of Concern, as set forth in Paragraph 5.01.L.

c. Engineer shall have no liability to Owner on account of a termination for cause by Engineer.

d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.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 of notice; 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, by Owner effective upon Engineer's receipt of written notice from Owner.

3. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.

- B. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all Services and Additional Services performed or furnished in accordance with this Agreement, plus reimbursement of expenses incurred through the effective date of termination in connection with providing the Services and Additional Services, Engineer's consultants' charges, if any, and costs attributable to termination.

4.01 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, agents and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 4.01.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators, agents and legal representatives (and said assigns) of such other party, in respect of all covenants, rights, agreements, duties and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law, and except that Owner may assign this Agreement to a lender providing financing to the Project if the lender agrees to assume Owner's rights and obligations hereunder, including any payments due to Engineer by Owner. 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, nothing in this Agreement shall be construed to create a contractual relationship with, or a cause of action in favor of, or to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them. 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.

5.01 *General Considerations*

- 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 any services performed or furnished by Engineer. Subject to the foregoing standard of care, 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.
- B. Engineer shall not at any time supervise, direct, control, have authority over or be responsible for any Constructor's work, or any Constructor's means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a Constructor to comply with laws and regulations applicable to such Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor, nor shall Engineer be responsible for any Constructor's failure to perform the work in accordance with the requirements of the Contract Documents.

- C. Engineer shall not be responsible for the acts or omissions of any Constructor or any of Constructor's agents or employees or any other persons (except Engineer's own employees) at the Project site or otherwise furnishing or performing any construction work; or for any decision made on interpretations or clarifications of the construction contract or the Contract Documents given by Owner without consultation and written approval of Engineer. The Engineer shall have authority to act on behalf of Owner only to the extent provided in this Agreement or with express written authorization.
- D. Engineer shall visit the Project at intervals appropriate to the stage of construction to become familiar with the progress and quality of Constructor's work and to determine, in general, if the work observed is being performed in a manner indicating that the work, when completed, will be in accordance with the Contract Documents. However, Engineer shall not be required to make extensive or continual on-site inspections. If Engineer reviews Constructor's submittals, such as Shop Drawings, Product Data or Samples, that review is only for the limited purpose of checking for general conformance with information given and the design concept in the Contract Documents. Such review is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are Constructor's responsibility. Engineer's review shall not constitute approval of a deviation from the requirements of the Contract Documents unless Constructor has specifically informed Engineer in writing of such deviation at the time of submittal and Engineer has given specific written acknowledgment of the specific deviation. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to properly furnish and perform its work.
- E. Engineer's estimates (if any) of probable construction cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because 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 estimates of probable construction cost prepared by Engineer. If Owner requires greater assurance as to probable construction cost, then Owner agrees to obtain an independent cost estimate.
- F. Owner understands that the construction cost estimates developed by Engineer do not establish a limit for the construction contract amount. If the actual amount of the low construction bid or resulting construction contract exceeds the construction budget established by Owner, Engineer will not be required to re-design the Services without additional compensation.
- G. Engineer has the authority to reject work that does not conform to the Contract Documents and may require inspection or testing of the work, however a decision made in good faith by Engineer shall not give rise to any duty or responsibility of Engineer to any Constructor performing any work. Engineer shall not be responsible for any decision made regarding the construction contract requirements, or any application, interpretation, clarification, or modification of the construction Contract Documents other than those made by Engineer or its consultants.
- H. All documents prepared or furnished by Engineer are Instruments of Service, and Engineer retains exclusively an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the Instruments of Service on the Project, extensions of the Project, and for related uses of the Owner, including use solely on this Project by Constructor, subject to Owner performing its obligations under this Agreement,

including receipt by Engineer of full payment due and owing for all Services and Additional Services relating to preparation of the Instruments of Service and 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, on any other project, or for any other use or purpose, 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, is improper and will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and consultants;
 3. Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and consultants from all claims, damages, losses, and expenses, including all attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by Engineer; and
 4. such limited license to Owner shall not create any rights in third parties.
- I. Owner and Engineer may transmit, and shall accept, Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. Contemporaneous with this Agreement, Owner and Engineer shall designate in writing specific individuals to act as Owner's and Engineer's representatives with respect to the duties and responsibilities of the Parties to this Agreement.
 - J. In accepting and utilizing any form of digital data generated and provided by Engineer for its Services, Owner agrees that all such digital data are Instruments of Service of Engineer. Owner is aware that differences may exist between the digital data delivered and the printed hardcopy document. In the event of a conflict between the original signed document prepared by Engineer and digital data, the original signed and sealed hard-copy document shall govern. Under no circumstances shall delivery of digital data for use by Owner be deemed a sale by Engineer, and Engineer makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall Engineer be liable for indirect or consequential damages as a result of Owner's use or reuse of the digital data.
 - K. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, representatives and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages such as loss of use, lost profits, financing, and other such damages arising out of, resulting from, or in any way related to this Agreement or the Project, (2) to the extent damages are covered by property insurance, waive any and all claims or rights against each other for damages, except such rights as they may have to the proceeds of insurance, (3) agree that Engineer's total liability to Owner and maximum recovery from Engineer for any damages, claims, costs or expenses under this Agreement, whether in contract, tort or otherwise, shall be limited to the scope of services provided and further limited to the total amount of compensation received by Engineer under this Agreement, and (4) agree that Engineer is not responsible for damages arising from any circumstances beyond Engineer's reasonable control, including without limitation, strike or labor disputes, severe weather disruptions, natural disasters, fire or other acts of God, riots, epidemics, war or other emergencies, failure of any governmental agency to act in a timely manner, failure of performance by

Owner or Constructors, or discovery of any hazardous substances or differing and unforeseeable site conditions.

- L. The limitations set forth in the waivers above apply regardless of whether the claim is based in contract, tort, or negligence including gross negligence, strict liability, warranty, indemnity, error and omission, or any other cause whatsoever.
- M. No other warranties or causes of action of any kind, whether statutory, express or implied (including all warranties of merchantability and fitness for a particular purpose and all warranties arising from course of dealing or usage of trade) shall apply. Owner's exclusive remedies and Engineer's only obligations arising out of or in connection with defective Services (patent, latent or otherwise), whether based in contract, in tort (including negligence and strict liability), or otherwise, shall be those stated in the Agreement.
- N. Owner shall procure and maintain insurance as set forth workers' compensation (if applicable), general liability, motor vehicle damage and injuries, and other insurance necessary and sufficient to protect Owner's and Engineer's interests in the Project. Owner agrees that should he/she not have sufficient knowledge and expertise to ascertain levels of proper insurance required, that a insurance professional will be consulted. Owner shall cause Engineer to be listed as additional insureds on any general liability policies carried by Owner, which are applicable to the Project.
- O. Owner shall require any consultant and/or contractor additionally working on this project to purchase and maintain policies of insurance covering workers' compensation, general liability, motor vehicle damage and injuries, and other insurance necessary and sufficient to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such general liability insurance purchased and maintained by consultants and/or contractors for the Project.
- P. The parties acknowledge that Engineer's Services do not include any services related to unknown or undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an unknown or undisclosed Constituent 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 such portion of the Project is no longer affected, or terminate this Agreement for cause if it is not practical to continue providing Services.
- Q. Owner and Engineer agree to informally discuss and negotiate each dispute and any claim between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated by a mediator agreed upon by the parties. The Mediator's fee and any filing fees shall be shared equally by Owner and Engineer. If mediation is unsuccessful, then the parties may exercise their rights at law.
- R. This Agreement is to be governed by the law of the state in which the Project is located.
- S. Engineer's Services and Additional Services do not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) providing surety bonding

or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements; or (4) providing legal advice or representation.

- T. Engineer's Services and Additional Services do not include: providing any general insurance-related advice include amounts of coverage required, recommendations, counseling, or research, or enforcement of insurance requirements. It is the responsibility of the Owner to review and verify the submitted requirements and type of policies / riders outlined in the Contract Documents are reasonable and valid for project type. The amounts/type inserted by Engineer are for reference only and Engineer has no assumed responsibility or stated/implied expertise.
- U. Engineer has no stated or implied expertise in matter outside and not specifically referenced in this Agreement or within Engineer's standard area of practice. Examples include, but are not limited to, legal representation for review of Agreements and Contract Documents, municipal advisers, financial advisers, bond council, insurance professionals for review of insurance and bonding limits and requirements, accountants, and auditors. Owner should consult with relevant professionals for any matters not specific to this Agreement.
- V. The invalidity of any provision of this Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make it legal and enforceable, and if not, then that provision shall be stricken and all remaining provisions shall be valid and enforceable.
- W. Engineer 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.
- X. Except to the extent expressly included as part of the Services, Engineer will not provide research regarding utilities or survey utilities located and marked by their owners. Furthermore, since many utility companies typically will not locate and mark their underground facilities prior to notice of excavation, Engineer is not responsible for knowing whether underground utilities are present or knowing the exact location of such utilities for design and cost estimating purposes. In no event is Engineer responsible for damage to underground utilities, unmarked or improperly marked, caused by geotechnical conditions, potholing, construction, or other contractors or subcontractors working under a subcontract to this Agreement.
- Y. Owner and Engineer shall consider: (i) all information provided by the other Party that is marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 6.7 in writing promptly after being disclosed verbally; and (ii) all documents resulting from Engineer's performance of Services to be Confidential Information. Except as legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater confidentiality protection or written consent of the disclosing Party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving Party or its Personnel; (ii) was or becomes available to the receiving Party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving Party without the use of any Confidential Information of the disclosing Party; or (iv) is required to be disclosed by applicable law or a court

order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services. Nothing herein shall be interpreted as prohibiting Engineer from disclosing general information regarding the Project for future marketing purposes.

- Z. Engineer is and at all times shall be deemed an independent contractor in the performance of the Services under this Agreement.
- AA. In accordance with applicable law, including the applicable Uniform Electronic Transactions Act, Owner and Engineer agree that electronic signatures (such as e-mail or electronically-typed signatures) of the parties' authorized representatives to this Agreement or to later consents or approvals associated herewith shall constitute the valid signature of the party for purposes of obtaining agreements, consents or other matters prescribed by the Agreement.

6.01 *Owner's Responsibilities*

- A. In connection with the Project, Owner's responsibilities shall include the following:
 1. Any responsibilities set forth in Scope of Work.
 2. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items as further set forth in Scope of Work.
 3. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Project site of any Hazardous Materials or any relevant, material defect, or nonconformance in: (i) the Services; (ii) the performance by any contractor providing or otherwise performing construction services related to the Project; or (iii) Owner's performance of its responsibilities under this Agreement.
 4. Owner shall include Engineer as an indemnified party under the contractor's indemnity obligations included in the construction contract documents.
 5. Owner will not directly or indirectly solicit any of Engineer's Personnel during performance of this Agreement and for a period of one (1) year beyond completion of this Agreement.
 6. Owner shall provide additional advisers/professionals as deemed necessary by Owner for any services not specifically outlined and included in this Agreement. Examples include, but are not limited to, legal representation for review of Agreements and Contract Documents, municipal advisers, financial advisers, bond council, insurance professionals for review of insurance and bonding limits and requirements, accountants, auditors and other professionals as deemed necessary. Engineer has no stated or implied expertise in these matters and Owner should consult with relevant professional for any matters not specific to this Agreement.

7.01 *Entire Agreement; Amendment*

- A. This Agreement (including any expressly incorporated attachments), constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral representations, understandings, or agreements. This Agreement may only be amended, supplemented, modified, or canceled by a written instrument executed by both Owner and Engineer and dated.

Definitions

- B. *Constructor*—Any person or entity (not including the Engineer, its employees, agents, representatives, and consultants), performing or supporting construction activities relating to the Project, including but not limited to contractors, subcontractors, suppliers, Owner's work forces, utility companies, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
- C. *Constituent of Concern*—Asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that 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. §§5101 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.; or (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.

Attachments: Appendix 1, Engineer's Standard Hourly Rates

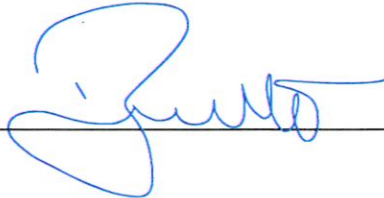
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: Durant City Utilities Authority

Engineer: Wall Engineering, LLC

By: _____

By:  _____

Print name: Martin Tucker

Print name: Brandon Wall, P.E.

Title: Chair

Title: President

Date Signed: 11/14/23

Date Signed: 11/14/23

Engineer License or Firm's Certificate No. :
Oklahoma #5413

Address for Owner's receipt of notices:
300 W Evergreen
Durant, OK 74701

Address for Engineer's receipt of notices:
223 N Washington
Durant, OK 74701

This is **Appendix 1, Engineer's Standard Hourly Rates**, referred to in and part of the Short Form of Agreement between Owner and Engineer for Professional Services.

Engineer's Standard Hourly Rates

A. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Appendix 1 and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in the Agreement, and are subject to annual review and adjustment.

B. Schedule of Hourly Rates:

Principal Engineer	\$235.00/hour
Professional Engineer / Project Engineer / Project Manager	\$182.00/hour
Construction Manager	\$153.00/hour
Engineering Intern	\$141.00/hour
Senior Engineering Technician	\$123.00/hour
Construction Inspector	\$ 98.00/hour
Engineering Technician	\$ 95.00/hour
CAD Technician	\$ 82.00/hour
Administrative / Clerical	\$ 66.00/hour
Survey Crew – Field	\$288.00/hour
Survey Crew – Office	\$145.00/hour
Leak Detection – Field	\$173.00/hour
Leak Detection – Office	\$128.00/hour
Leak Detection – Mileage	\$1.50/mile
Misc Mileage	IRS Rate
Per Diem	\$200/day
Engineering General Services Agreements	\$175.00/hour