



Together, Investing in Municipal Excellence

STILLWATER UTILITIES AUTHORITY MEETING AGENDA

OCTOBER 7, 2024

723 S. Lewis Street, Room 1122B

Stillwater, OK 74074

5:30 PM

Chair Will Joyce, Vice Chair Amy Dzialowski, Trustees Christie Hawkins, Kevin Clark,
& Tim Hardin

1. Call Meeting to Order

2. Consent Docket

Items listed on the consent docket are routine administrative matters that may be approved without discussion. The Trustees will take action on these items collectively with a single vote. The requested action is indicated for each item listed. Should a Trustee elect to discuss, amend, revise, or table any item listed on the consent docket, the item will be moved to the section of the agenda titled "Items Removed from the Consent Docket" for consideration and possible action. Additionally, a Trustee or the General Manager may simply ask the Chair to remove an item from the consent docket prior to action by the Trustees and no action will be taken on the removed item at this meeting.

a.	Approve September 23, 2024 regular meeting minutes		
b.	Approve a budget amendment in the amount of \$57,000 for the repairs to the Water Treatment Plant ozone generator system.	SUA-24-55	James Driskel
c.	Authorize the purchase of two new grit pumps for an amount not to exceed \$54,000, which includes a 10% contingency; authorize the General Manager to sign all related documents; and approve the associated budget amendment.	SUA-24-56	James Driskel
d.	Approve a Professional Services Agreement with CEC Corporation for \$722,700; authorize the General Manager to sign related documents; and approve associated budget amendment for	SUA-24-57	Travis Small

	\$51,188.		
e.	Approve the attached budget amendment reducing the appropriations in the Water Fund for a portion of Engineering Services for FY2025 Water Projects being funded with Coronavirus Local Fiscal Recovery Funds (ARPA Funds).	SUA-24-58	David Barth
f.	Approve budget amendments to reflect receipt and appropriation of insurance proceeds.		Christy Cluck

3. Public Comment on Items not Scheduled for Public Hearings

Stillwater City Code, Section 2-53(a) & (b), provides that taxpayers or residents of the city, or their authorized legal representatives, may address the Trustees at a regularly scheduled meeting on any item of business listed on the meeting agenda provided they have submitted a written request prior to the meeting either online at Request to speak form or via the form found in the lobby outside Council chambers.

4. Items Removed from the Consent Docket

Items removed from the consent docket are placed on this section of the agenda for discussion, revision, amendment and/or tabling prior to action by the Trustees. The Trustees may take action, including a vote or series of votes, on items removed to this section of the agenda after the requested discussion, revision, or amendment.

5. Resolutions

The City Council will hear a staff presentation, discuss, and take action including a vote or series of votes on each resolution listed as presented or as amended or revised by the City Council.

a.	RESOLUTION NO. SUA-2024-7: A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AMENDED TRUST INDENTURE CREATING AND RECREATING THE STILLWATER UTILITIES AUTHORITY; AND CONTAINING OTHER PROVISIONS RELATING THERETO.
b.	RESOLUTION NO. SUA-2024-8: A RESOLUTION OF THE STILLWATER UTILITIES AUTHORITY (THE "AUTHORITY") AUTHORIZING THE ISSUANCE OF ITS UTILITY SYSTEM AND SALES TAX REVENUE BONDS (THE "BONDS") IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$51,325,000, AND AUTHORIZING A CERTIFICATE OF DETERMINATION; APPROVING THE SOLICITATION FOR AND USE OF BOND INSURANCE AND/OR A RESERVE SURETY OR INSURANCE POLICY; DESIGNATING UNDERWRITERS WITH RESPECT TO THE SALE OF THE BONDS; AUTHORIZING THE SALE OF THE BONDS AT NEGOTIATED SALE AND WAIVING COMPETITIVE BIDDING; APPROVING THE FORM OF BOND PURCHASE AGREEMENT; APPROVING A GENERAL BOND INDENTURE AND SERIES SUPPLEMENTAL BOND INDENTURE AUTHORIZING THE ISSUANCE AND SECURING THE PAYMENT OF THE BONDS; PROVIDING THAT THE ORGANIZATIONAL DOCUMENT CREATING THE AUTHORITY IS SUBJECT TO THE PROVISIONS OF THE BOND INDENTURE; RATIFYING AND CONFIRMING A LEASE AGREEMENT, AS AMENDED, PERTAINING TO THE LEASING OF THE CITY'S WATER,

SANITARY SEWER, SOLID WASTE, AND ELECTRIC SYSTEMS TO THE AUTHORITY, AND AUTHORIZING AN AMENDED LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT; APPROVING AND AUTHORIZING EXECUTION OF A SALES TAX AGREEMENT BY AND BETWEEN THE CITY AND THE AUTHORITY PERTAINING TO A YEAR-TO-YEAR PLEDGE OF CERTAIN SALES TAX REVENUE; APPROVING THE FORM OF AN OFFICIAL STATEMENT PERTAINING TO THE BONDS, AUTHORIZING THE CHAIRMAN OR VICE CHAIRMAN TO APPROVE ANY CORRECTION TO SAID OFFICIAL STATEMENT, AND AUTHORIZING DISTRIBUTION OF THE SAME; APPROVING THE FORMS OF A CONTINUING DISCLOSURE AGREEMENT AND AN OFFICIAL STATEMENT; RATIFYING AND CONFIRMING A POWER PURCHASE AND SALE AGREEMENT AND A CAPACITY PURCHASE AGREEMENT WITH GRAND RIVER DAM AUTHORITY; AUTHORIZING THE DIRECTING THE MODIFICATION OF COLLATERAL PERTAINING TO CERTAIN OBLIGATION OF THE AUTHORITY TO THE OKLAHOMA WATER RESOURCES BOARD; AUTHORIZING AND DIRECTING THE EXECUTION OF BONDS AND OTHER DOCUMENTS RELATING TO THE TRANSACTION INCLUDING BOND INSURANCE AND/OR SURETY DOCUMENTS, AND PROFESSIONAL SERVICES AGREEMENTS WITH BOND COUNSEL, FINANCIAL ADVISOR, AND DISCLOSURE COUNSEL; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

6. Questions and Inquiries

7. Reports from Officers and Boards

Announcements and remarks of general interest may be made by Trustees, General Manager or General Counsel. Items of City business that may require discussion or action, including a vote or series of votes, are listed below

8. Adjourn

On October 4, 2024 at 11:50 a.m., a true and correct copy of this agenda was posted on the kiosk outside City Hall, 723 S. Lewis Street, Stillwater, OK.

The City of Stillwater encourages participation from all citizens. If participation at any public meeting is not possible due to a disability, please notify the City Manager's office at least 48 hours prior to the meeting by calling 405.742.8243.

- Meetings are televised on AT&T U-verse channel 99 and Optimum channel 14.
- Find meeting agendas and minutes online at [Agendas and Minutes](#)
- Official minutes are archived in the City Clerk's office.

**IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING LAW THE AGENDA
WAS POSTED SEPTEMBER 19, 2024 AT 4:30 P.M. AT THE MUNICIPAL BUILDING,
723 SOUTH LEWIS, STILLWATER, OKLAHOMA**

**MINUTES
STILLWATER UTILITIES AUTHORITY
REGULAR MEETING
COUNCIL HEARING ROOM
723 S. LEWIS
SEPTEMBER 23, 2024**

PRESENT: CHAIR WILLIAM H. JOYCE, VICE CHAIR AMY DZIALOWSKI
TRUSTEES CHRISTIE HAWKINS AND TIM HARDIN
ABSENT: TRUSTEE KEVIN CLARK

1. CALL MEETING TO ORDER

Chair Joyce called the meeting to order at 6:07 p.m.

2. CONSENT DOCKET

- a. Approve September 9, 2024 regular meeting minutes
- b. Approve budget amendment appropriating \$290,000 from the RSF for the 69kV laminated pole replacement project.
- c. Approve Blue Peak Pole Attachment Agreement #25 and authorize the General Manager to sign the agreement.

MOTION BY TRUSTEE HARDIN, SECOND BY VICE CHAIR DZIALOWSKI TO APPROVE THE CONSENT DOCKET AS PRESENTED.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

3. PUBLIC COMMENT ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING

There were no requests to speak on agenda items not scheduled for public hearing.

4. ITEMS REMOVED FROM CONSENT DOCKET

None.

5. GENERAL ORDERS

- a. Consider approval of the Task Order Agreement with Black and Veatch for Engineering Services for FY25 Water and Sewer Capital Projects; authorize expenditures associated with Task Orders 1 and 2; approve the associated budget amendment appropriating \$4,256,476 for the initial two Task Orders and a 10% contingency; and authorize the General Manager to sign all related documents.

Engineering Manager of Water Utilities David Barth reported that the Water Utilities Capital Improvement Plan (CIP) includes more than 100 water and sewer projects that are slated for design and construction

within the next 5-8 years. Beyond this list of staff identified projects, various projects may be added to the top of the prioritized list due to emergencies or economic development needs. In order to complete the Projects listed on the CIP, staff have planned to implement a new Annual Program system that places higher responsibility and accountability on consultants to complete the work and reduces the number of consultants being managed by staff. Although the project support functions for staff will continue, the efficiency of having multiple projects funneled through a single consultant team will provide for more progress than a project-by-project system can accomplish.

Mr. Barth stated that between April and August 2024, staff conducted a selection process seeking engineering consultants capable of designing and overseeing construction for the FY25 Program, for which projects were identified by staff, and for developing a 5-year Execution Plan for the FY26 through FY30 Annual Programs. Mr. Barth reported that for the selection process, 20 firms submitted letters of interest and three were interviewed. Staff selected the team led by Black & Veatch (B&V). Staff & B&V have negotiated a scope and fee for a Task Order (TO) Agreement for the requested services. The initial TO's are based on completing the FY25 Program in two work packages.

Mr. Barth presented and discussed the water projects that are part of the FY25 package and answered Trustee's questions.

MOTION BY TRUSTEE HAWKINS, SECOND BY TRUSTEE HARDIN TO APPROVE THE TASK ORDER AGREEMENT WITH BLACK AND VEATCH FOR ENGINEERING SERVICES FOR FY25 WATER AND SEWER CAPITAL PROJECTS; AUTHORIZE EXPENDITURES ASSOCIATED WITH TASK ORDERS 1 AND 2; APPROVE THE ASSOCIATED BUDGET AMENDMENT APPROPRIATING \$4,256,476 FOR THE INITIAL TWO TASK ORDERS AND A 10% CONTINGENCY; AND AUTHORIZE THE GENERAL MANAGER TO SIGN ALL RELATED DOCUMENTS.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

6. QUESTIONS & INQUIRIES

None.

7. REPORTS FROM OFFICERS & BOARDS

- a. Miscellaneous items from the General Counsel: No report.
- b. Miscellaneous items from the General Manager: No report.
- c. Miscellaneous items from Trustees: No report.
 - i) Discussion about scheduling items for upcoming meetings

8. ADJOURN

MOTION BY VICE CHAIR DZIALOWSKI, SECOND BY TRUSTEE HAWKINS TO ADJOURN THE SEPTEMBER 23, 2024 REGULAR MEETING OF THE STILLWATER UTILITIES AUTHORITY.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

The September 23, 2024 regular meeting of the Stillwater Utilities Authority adjourned at 6:21 p.m.

**WILLIAM H. JOYCE, CHAIR
STILLWATER UTILITIES AUTHORITY**

**TERESA KADAVY, SECRETARY
STILLWATER UTILITIES AUTHORITY**

DRAFT

REPORT TO: STILLWATER UTILITIES AUTHORITY**MEETING DATE: OCTOBER 7, 2024**

Agenda Item:	2.b. SUA-24-55
Previous/Related Action:	
Background/Issue:	Due to the need for urgent repairs to the Water Treatment Plant Ozone Generator system, the use of O&M funding in the amount of \$57,000 was approved. The Water Treatment Plant budgeted \$80,000 for Equipment Repair for FY25. A Budget Amendment is needed to provide funding for continued Plant maintenance and repair.
Proposal/Solution:	Approve a budget amendment to increase the Water Treatment Plant O&M budget by \$57,000 to facilitate continued maintenance and repairs.
Financial Source/Impact:	The Water Fund contains adequate funding for the attached proposed budget amendment.
Related Strategic Priority:	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
Recommended Action/Motion:	Staff recommends that Trustees: • Approve the attached budget amendment increasing the Water Treatment Plant budget in the amount of \$57,000.
Prepared By:	James Driskel, Water Utilities Dir.
Reviewed By:	James Driskel Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, General Manager

Attachments

1. WTP Ozone BA

Budget Amendment Request

For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/06/2024

Department: Water Resources 

Requested by: James Driskel

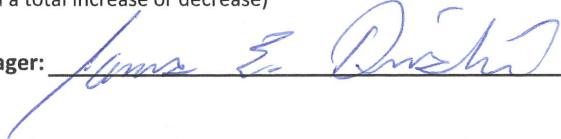
Explanation:

Expenditures:
Appropriate funds for the repairs to the Water Treatment Plant ozone generator system. Project funded from the Water Fund.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Equipment Repair	9129270 - 53030		\$ 124,390	\$ 57,000	\$ 181,390
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 57,000

Reviewed by Department Manager: 

Date: 9-6-24

Reviewed by Finance: _____

Date: _____

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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REPORT TO: STILLWATER UTILITIES AUTHORITY**MEETING DATE: OCTOBER 7, 2024**

Agenda Item:	2.c. SUA-24-56
Previous/Related Action:	
Background/Issue:	The Wastewater Treatment process requires two grit pumps in the headworks building. These pumps lift sand, gravel, and other coarse material three stories to a grit auger for removal from further treatment. Currently, only one pump is operational with the other requiring repair or replacement. The current pumps were installed in 2012 and have reached the end of their recommended service life. Due to age and wear, the pumps require frequent repair or rebuilds. The rebuild cost is \$11,000 per pump with a quoted full replacement cost of \$24,552 per pump.
Proposal/Solution:	To increase plant reliability and decrease repair frequency, staff proposes to replace the two grit pumps at the Haynes Equipment Company's quoted price of \$24,552 each for a total of \$49,104.
Financial Source/Impact:	• This proposal requires a new appropriation in the amount of \$54,000, which includes 10% contingency, from the SUA Water Fund, which has sufficient funds. • A Budget Amendment for appropriating funds is included.
Related Strategic Priority:	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
Recommended Action/Motion:	Staff recommends that Trustees authorize the purchase of two new grit pumps for an amount not to exceed \$54,000, which includes a 10% contingency; approve the attached Budget Amendment; and authorize the General Manager to sign all related documents.
Prepared By:	James Driskel, Water Utilities Dir.
Reviewed By:	James Driskel Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, General Manager

Attachments

1. BA grit pumps WWTP



Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/17/2024

Department: Water Resources

Requested by: James Driskel

Explanation: To appropriate funds for the purchase of 2 grit pumps to replace existing grit pumps at the Wastewater Treatment Plant.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase: WWTP - Grit Pumps	9139370 - 54008	25ST02913	\$ 0	\$ 54,000	\$ 54,000
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 54,000

Reviewed by Department Manager: James E. Driskel

Date: 9-17-24

Reviewed by Finance: [Signature]

Date: 9/17/2024

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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REPORT TO: STILLWATER UTILITIES AUTHORITY

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	2.d. SUA-24-57
Previous/Related Action:	CC-21-67, April 19, 2021: FY21 Pavement Management Plan (PMP) CC-24-34, April 1, 2024: FY24 Projects Proposal & FY25 PMP SUA-21-31, August 16, 2021: Waterline Improvement to Support FY21 PMP
Background/Issue:	On April 19, 2021, City Council approved the FY21 Pavement Management Plan which included a roadway project on Knoblock from 4th to University. On April 1, 2024, staff presented a proposal to City Council to combine efforts for additional roadway work in the same area. The full list of proposed areas of reconstruction and rehabilitation include the following: • Knoblock from 4th to University • 4th from Hester to Duck • 4th from Orchard to Walnut • 4th from Garfield to Lincoln • Lincoln from 6th to 4th On August 16, 2021, a waterline improvement project was approved by SUA for the following areas in support of the original roadway improvement plan: • Knoblock from 4th to 3rd • 4th from Hester to West • 3rd from Hester to West
Proposal/Solution:	Staff issued a Request for Proposals (RFP), focused on providing professional services to address roadway and waterline improvements in the locations identified above. Staff received responses from 4 highly qualified firms. Each response underwent a detailed assessment based upon the criteria provided in the RFP solicitation. Following scoring and ranking of the responses by staff, CEC Corporation was selected as the top candidate. Staff and CEC have negotiated an agreement which includes the following services: survey; geotechnical investigation; design services for roadway, waterline, landscape/hardscape, electrical, lighting,

	irrigation and other; right-of-way coordination; utility relocation coordination; and construction administration.
Financial Source/Impact:	Sufficient funds are available in Transportation Sales Tax Fund and the Water Fund to complete the effort.
Related Strategic Priority:	#4 CONNECTED SPACES
Recommended Action/Motion:	Staff recommends a motion to: • Approve a Professional Services Agreement (PSA) with CEC Corporation for \$722,700 (includes \$664,510 for roadway and \$58,190 for waterlines); • Authorize the General Manager to execute the PSA; and • Authorize a Budget Amendment in the amount of \$51,188 from the Water Fund.
Prepared By:	Travis Small, Division Manager Transportation & Drainage
Reviewed By:	Candy Staring Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, General Manager

Attachments

1. BA 25TR04 912 Water
2. 25TR04 - Professional Services Agreement

Budget Amendment Request
For Budget Year 2025

Office: 405.372.0025
Web: stillwater.org

Date: 09/30/2024

Department: Transportation

Requested by: Candy Staring

Explanation:

Expenditures:
Appropriate funds for the design agreement for Knoblock/4th/Lincoln improvement project. Project funded from the Water Fund.

Account Name	Account Number (xxxxxx-xxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Knoblock/4th/Lincoln	9129216 - 54020	25TR04912	\$ 0	\$ 51,188	\$ 51,188
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Increase:

Decrease:

Net Change: (will usually result in a total increase or decrease)

\$ 51,188

Candy Staring

9.30.2024

Reviewed by Department Manager: _____ Date: _____

Reviewed by Finance: _____ Date: _____

Approved by CMO: _____ Date: _____

Approved by City Council: _____ ☐ Yes ☐ No Date: _____

Processed by Finance: _____ Date: _____

Set ID: _____ Date Sent to SA&I: _____

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Laws and Regulations.

Roadway and Utility Improvements for
Knoblock Street, 4th Avenue and Lincoln Street

Owner: City of Stillwater, Oklahoma / Stillwater Utilities Authority

Engineer: CEC Corporation

Project #: 25TR04 & 25WL04

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



and
Issued and Published Jointly

by



This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, EJCDC E-001, 2009 Edition.

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www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
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American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
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www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

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ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

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

THIS IS AN AGREEMENT effective as of _____, 20____ (“Effective Date”) between

City of Stillwater, Oklahoma/Stillwater Utilities Authority (“Owner”) and

CEC Corporation (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Project #25TR04 ~~& 25WL04~~ – Roadway and Utility Improvements for Knoblock Street, 4th Avenue and Lincoln Street

Engineer's services under this Agreement are generally identified as follows:

Provide plans and specifications for pavement rehabilitation and waterline relocation along 4th Street from Orchard to Walnut streets, Garfield to Lincoln streets and Hester to Duck streets, Lincoln Street from 4th to 5th Ave., and S. Knoblock Street from 4th Ave. to W. University Ave.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Exhibit C.

- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

- A. Engineer is authorized to begin rendering services as of the ~~Effective Date~~ written Notice to Proceed as provided by the Owner.

3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, may be adjusted based on the schedules provided in Exhibit C.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, may be adjusted based on the schedules provided in Exhibit C.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance of any task required in this Agreement within the time set forth, as duly adjusted, then ~~Engineer shall credit Owner \$100.00/calendar day until said task is completed.~~ shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer ~~shall~~ may submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.

- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
- ~~1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and~~
 - ~~2. itted by law, if less) from said thirtieth day; and~~
 3. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, 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 opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

5.02 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and regulations.
 - 2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement provided to Engineer in writing. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint

Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.

- H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.
- L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, review and response to Contractor claims, contract administration, processing Change Orders, revisions to the Contract Documents during construction, construction surety bonding and insurance requirements, construction observation and review, review of payment applications, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase engineering or professional services except for those services that are expressly required of Engineer in Exhibit A, Paragraph A1.05.

6.03 *Use of Documents*

- A. All drawings, raw data files, tracings, plans, computations, specifications, maps and other documents prepared or obtained under this contract shall become the sole property of Owner and shall be delivered to Owner without restriction on future use. Engineer shall retain in its files all original drawings, specifications and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers after completion of the contract. Owner shall require that any such change be sealed,

dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified. Engineer shall not release any hardcopies or electronic files, native or pdf, prepared or obtained under this contract to any third party without prior written consent of Owner

- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit A Appendix 3.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. ~~Engineer grants Owner a limited license to~~ may use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents 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, 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) for the purposes of this Agreement and limited specifically to the relationship between Owner and Engineer, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from be responsible for all claims, damages, losses, ~~and expenses, including 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 use~~ shall not create any rights in third parties.
- F. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies and as loss payees on any property insurance policies carried by Owner which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (including the Work itself), motor vehicle damage and injuries, and other insurance necessary 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 liability and other insurance purchased and maintained by Contractor for the Project.
- D. ~~Owner and~~ Engineer shall ~~each~~ deliver to the Owner ~~other~~ certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

- A. Suspension:
 - 1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
 - 2. By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- b. By Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

- a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. *Payments Upon Termination:*

1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.

~~2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C, not to exceed 5% of the remaining project cost.~~

6.06 *Controlling Law*

- A. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located, which is the State of Oklahoma for the purposes of this project. Venue for any legal action shall be in Payne County, Oklahoma.

6.07 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under law.

- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then either or both may exercise their rights under law.

6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an adjustment in its compensation or in the time of completion, or both; such adjustment shall be based on the schedules provided in Exhibit C, or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages arising out of or relating to the Project and Agreement, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. ~~This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."~~

- B. ~~Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.~~
- C. ~~To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.~~
- D. *Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. ~~÷ To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.~~

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
 6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
 7. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
 8. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

9. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
10. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
11. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
12. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
13. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
14. *Engineer* – The individual or entity named as such in this Agreement.
15. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
16. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
17. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
18. *PCBs* – Polychlorinated biphenyls.
19. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
20. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
21. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

22. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
23. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
24. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D (Not included).
25. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
26. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
27. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
28. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
29. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
30. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
31. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
32. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion,

including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

33. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits and Attachments Included:

- A. Exhibit A, Engineer's Services.

Appendix 1 to Exhibit A: General Scope of Services

Appendix 2 to Exhibit A: Landscape Architectural Scope

Appendix 3 to Exhibit A: Geotechnical Scope

Appendix 4 to Exhibit A: Survey Scope

Appendix 5 to Exhibit A: Project Schedule

Appendix 6 to Exhibit A: GIS Digital Data Submission Requirements

- B. Exhibit B, Owner's Responsibilities.

- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.

Appendix 1 to Exhibit C- Reimbursable Expenses

Appendix 2 to Exhibit C- Standard Hourly Rates

Appendix 3 to Exhibit C- Basis of Fee

- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. Not Included.

- E.

- F. Exhibit F, Construction Cost Limit. Not Included.

- G. Exhibit G, Insurance.

- H.

- I.
- J.
- K. Exhibit K, Suggested Format for Amendment to Owner-Engineer Agreement. As Issued.

8.02 *Total Agreement:*

- A. This Agreement, (together with the exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives:*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications:*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

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

Owner:
City of Stillwater, Oklahoma

Engineer:
CEC Corporation

By: _____

By: 

Title: Kimberly Meek, City Manager

Title: Doug Glenn, P.E. (President)

Date
Signed: _____

Date
Signed: 9/26/24

Owner:
Stillwater Utilities Authority

Engineer License or Firm
Certificate No. C.A. 32

By: _____

State of: Oklahoma

Title: Kimberly Meek, General Manager

Date
Signed: _____

Address for giving notices:

Address for giving notices:

PO Box 1449

1300 S. Main St.

Stillwater, OK 740760-1449

Tulsa, OK 74119

Designated Representative (Paragraph 8.03. A):

Designated Representative (Paragraph 8.03. A):

Candy Staring, P.E.

Shannon Hanks, P.E., CFM, EOMDM

Title: Engineering Department Director

Title: Oklahoma Municipal Department Manager

Phone Number: (405) 742-8203

Phone Number: (918) 663-9401

Facsimile Number: (405) 742-8324

Facsimile Number: (918) 663-9404

E-mail Address: Candy.Staring@Stillwaterok.gov

E-mail Address: Shannon.Hanks@connectcec.com

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

Kimberly Carnley, City Attorney

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Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineering services are rendered for 25TR04 ~~and 25W04~~ - Knoblock Street, 4th Ave and Lincoln Street Roadway and Utility Improvements. This work includes pavement repair on Knoblock from 4th Ave to University Ave, 4th Ave from Hester St to Duck St, Lincoln St from 6th Ave to 4th Ave, 4th Ave from Garfield St to Lincoln St, and 4th Ave from Orchard St to Walnut St. Utility work for this project is included on 3rd Ave from Hester St to West St, Knoblock from 4th Ave to 3rd Ave and 4th Ave from Hester St to Duck St. Project includes sidewalk repairs, streetscaping and miscellaneous appurtenances. Reference scope maps can be found in Appendix 1 to Exhibit A.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

All services shall be performed in compliance with City of Stillwater, ODEQ and ODOT standards. As a part of the following basic services the ENGINEER shall provide and coordinate as generally described the following:

- Geotechnical Services and Coordination
- Survey Services and Coordination
- Subsurface Utility Engineering Services and Coordination (Levels A through C as necessary)
- Design Services (including: Geometric, Site Grading, Drainage, Bridge & Structural (as necessary), Surfacing, Public Utility Relocation Design (as necessary) and other Miscellaneous Design)
- Private Utility Relocation Services and Coordination
- Right-of-Way Services (including: Document Research, Preparation of Legal Instruments, One-Time Staking, Acquisition, etc.) & Coordination
- Government/Regulatory Agency Coordination and Permitting
- Construction Administration Services
- Project Management/Administrative Services

Services are more specifically described as follows:

A1.01 PROJECT MANAGEMENT/ADMINISTRATIVE DUTIES: ENGINEER shall be responsible to perform the following tasks, which are considered subsidiary to the Work, throughout the course of the PROJECT:

- A. Meet with the OWNER in a Pre-Design Conference to identify design criteria, codes, requirements and other critical design features of the Project such as preferred alignment as well as project schedule and milestone dates. All designs shall meet current City of Stillwater codes, regulations and design criteria as found in the latest versions of the Design and Construction Standards, Land Development Code, City Ordinances and Comprehensive Plan.
- B. Review OWNER Design AND Construction Standards as well as Standard Details and identify which, if any, exceptions to the Standards are warranted. If necessary suggest modifications to a Standards including replacement or deletion.
- C. Coordinate, organize, schedule and conduct all necessary meetings and

conferences including preparing the agenda, creating a meeting summary and all follow-on services such as meeting summary distribution, comments incorporation, action item completion tracking or other identified needs.

- D. Document all meetings, conferences, coordination, phone conversations, etc. and send documentation to OWNER within three (3) calendar days.
- E. Provide OWNER with a list of all proposed sub-consultants and tasks sub-consultants are responsible to perform.
- F. Meet with the OWNER to discuss review comments on each phase of the Project, and incorporate appropriate comments into following phase.
- G. Prepare monthly status and Project tracking reports.
- H. Provide management services to drive continuous progress of the overall Project through all phases of the Work.
- I. Prepare all documentation required for City approval process (i.e. council reports, power point presentations, memos, correspondence, etc.). Present to City staff and Council as required (i.e. council meetings, design workshops and other miscellaneous meetings).
- J. Prepare all contract documents (for bidding, construction, design, and amendments including subconsultants as required) and facilitate execution as required.
- K. Provide archives of all correspondence and Project data (for appropriate documentation of the Project).
- L. Manage staff and any subconsultants through all phases of the Project until construction is complete and the Project is closed out.
- M. If multiple bid packages are required, group projects in a manner to minimize the number of bid packages and contracts.
- N. Evaluate cost savings approaches to meet budget requirements and achieve lowest overall project costs.
- O. Schedule work to achieve the shortest possible time frame for completion of the Project.
- P. Incorporate highest possible quality in all phases of services.
- Q. Provide quality assurance/quality control throughout the design phase to meet OWNER's requirements & expectations.

A1.02 *CONCEPTUAL DESIGN PHASE*: Upon receiving the written Notice to Proceed, the ENGINEER shall perform the following tasks in accordance with the schedule provided in Appendix 5 to Exhibit A:

- A. With OWNER input, establish Project goals and alignments for design project (including: roadways, storm sewers, sanitary sewers and water lines as required).
- B. Provide a land survey for design purposes.
 - 1. Establish horizontal and vertical control necessary for the design and construction of the Project including the establishment of reference points and benchmarks at Project termini and at interim points along the Project by setting monuments (such as PK nails), at distances no greater than 500 feet between monuments and at offset locations sufficient as to not be disturbed during construction, throughout the Project.
 - 2. Conduct all field surveys, including topographical, boundary, and aerial surveys, as necessary, to locate all features required for the design of the Project.
 - 3. Research and field-verify, to the fullest extents possible (typically S.U.E. level "C"), the horizontal and vertical locations of all public and private utilities within the Project boundary, which may be in conflict with the Project and include in base survey along with all pertinent utility easements. It is incumbent upon ENGINEER to determine if further

- investigation is necessary and advise OWNER of such need.
4. As S.U.E. Level "B" & "A" services are required, provide field survey of all uncovered utilities (include: horizontal and vertical location, description, material, size, etc.) and incorporate in topographic survey utilized for design purposes.
 5. Determine and include all existing right-of-way and easements.
 6. Prepare and submit proposed right-of-way and easement documents for said Project as defined in Paragraph A1.02.M below.
 7. Submit one (1) drawing on electronic media (AutoCAD 2018 or newer) and one (1) PDF file of the final survey.
- C. Evaluate conditions and capacities of existing systems and develop conceptual plans/alternatives for proposed improvements.
- Roadway
 - Stormwater/Drainage (as required)
 - Sanitary Sewer (as required)
 - Water (as required)
- D. Coordinate with utility companies to provide adequate relocation corridors as necessary. Provide conceptual design plans to all utility companies electronically (i.e. pdf or CADD files as required) at submittal of conceptual design plans.
- E. If necessary, identify right-of-way required to accommodate construction of Project and necessary utility relocation.
- F. Begin coordination with and provide all necessary services to obtain approvals and/or permits from various governmental and regulatory agencies (i.e. USACOE, FEMA, ODEQ, USFWS, SHPO, OCC, Tribal entities, etc.) as required.
- G. Submit six (6) bound sets of half-size prints, one (1) set of drawings on electronic media (AutoCAD 2018 or newer version), one (1) PDF file of the Conceptual design, and conceptual opinion of probable construction cost.
- H. The Conceptual Design Phase submittal shall include:
- Land Survey
 - Hydraulic Report (if required)
 - Various Studies and Reports (i.e. Threatened and Endangered Species Assessments, Jurisdictional Waters and Wetlands, Cultural Resources, etc.) began (if required)
 - Title Sheet
 - Typical Sections
 - Right-of-Way Map & Data (Existing Right-of-Way)
 - Survey Data Sheet
 - Plan and Profiles
 - General Plan and Elevation (if required)
 - Bridge Typical Section (if required)
 - Construction Sequence for Bridge (if required)
 - Proposed Public Utility Relocation Plan and Profiles (Water, Sanitary Sewer, etc., if required)
 - Cross sections
 - Conceptual opinion of probable construction cost using 20% contingency
- I. Attend a meeting with the OWNER to review the Conceptual Design Phase submittal and provide meeting minutes.
- J. After completion of Conceptual Design Phase review meeting and upon approval by OWNER, conduct all necessary geotechnical investigations and submit report of recommendations to the OWNER for:
- Existing pavement and subsurface conditions
 - Proposed pavement sub-grade treatment
 - Proposed pavement section

- Fill recommendations (if required)
- Proposed foundation design (if required)
- K. After completion of Conceptual Design Phase review meeting and upon approval by OWNER, prepare RIGHT-OF-WAY DESIGN as required.
 1. Prepare right-of-way and easement instruments, in both Microsoft Word and PDF formats along with closure reports, based upon the comments received from the conceptual design review and coordination with utility companies. Instruments shall provide sufficient room to accommodate utility relocations and other construction activities.
 2. Prepare Right-of-Way map/plan sheet(s).
 3. Procure and provide Property Reports on unplatted properties and properties which contain less than required right-of-way/easements necessary for construction of the Project.
 4. Submit, prior to completion of the Preliminary Design Phase, three (3) bound sets of half-size plan sheets and one (1) set of legal instruments, in both Microsoft Word and PDF formats, indicating right-of-way and easement documents for the Project final taking/acquisitions requirements.
 5. Provide one time only right-of-way staking services for 0 parcels (assumed for initial estimating purposes).
- L. ENGINEER'S services under the Conceptual Design Phase will be considered complete on the date when the submittals required by Paragraph A1.02.J above have been delivered to and accepted by the OWNER.

A1.03 *PRELIMINARY DESIGN PHASE*: Following approval of the Concept Design, The ENGINEER shall perform the following tasks in accordance with the Appendix 5 to Exhibit A:

- A. Address comments provided by OWNER from Conceptual Design Phase.
- B. Upon approval by OWNER, incorporate geotechnical investigation recommendations in design plans.
- C. Conduct all necessary design functions to complete the Preliminary Design plans including:
 1. Roadway geometric layout and design.
 2. Drainage analysis and design (in accordance with City of Stillwater Design and Construction Standards and Stormwater Quality and Management Ordinance Chapter 35).
 3. Perform preliminary bridge layout and design as well as miscellaneous preliminary structural design (if required)
 4. Sanitary Sewer (if required)
 5. Water (if required)
- D. Attend one (1) public meeting and provide any figures, displays, or media required for use in the public meeting.
- E. Conduct preliminary coordination with private and public utility companies.
 1. Meet with utility companies and OWNER to conduct coordination for relocation of utility facilities and services in conflict with the Project and request relocation plans/proposals from private utility companies.
 2. Review relocation plans and proposals submitted by private utilities, and provide comments and recommendations prior to OWNER approval and execution of the relocation plans. Obtain releases for non-relocated facilities.
 3. Provide preliminary design plans to all utility companies electronically (i.e. pdf or CADD files as required).
- F. Prepare preliminary special provisions.
- G. Prepare preliminary quantity estimate.
- H. Provide all necessary services for acquisition of right-of-way and easements required for construction of the Project.

- I. Complete coordination with and obtain approvals and/or permits from various governmental and regulatory agencies (i.e. USACOE, FEMA, ODEQ, USFWS, SHPO, OCC, Tribal entities, etc.) as required.
- J. Submit six (6) bound sets of half-size prints, one (1) set of drawings on electronic media (AutoCAD 2018 or newer), one (1) PDF file, and one (1) set of full-size prints (if required) of the Preliminary plans.
- K. The Preliminary Design Phase submittal shall include:
 - Geotechnical Investigation Report
 - Various Studies and Reports (i.e. Threatened and Endangered Species Assessments, Jurisdictional Waters and Wetlands, Cultural Resources, etc.)(completed if required)
 - Title Sheet
 - Pay Quantities and Pay Item/General Notes
 - Typical Sections
 - Right-of-Way Map & Data
 - Proposed Drainage Area Map and Drainage data
 - Survey Data Sheet
 - Plan and Profiles
 - General Plan and Elevation (if required)
 - Bridge Typical Section (if required)
 - Bridge Details (if required)
 - Construction Sequence for Bridge (if required)
 - Proposed Public Utility Relocation Plan and Profiles (Water, Sanitary Sewer, etc., if required)
 - Special Details
 - Cross Sections
 - Preliminary opinion of probable construction cost using 15% contingency
- L. Attend a meeting with the OWNER to review the Preliminary Design Phase submittal and provide meeting minutes.
- M. ENGINEER'S services under the Preliminary Design Phase will be considered complete on the date when the submittals required by Paragraph A.1.03.K above have been delivered to and accepted by the OWNER.

A1.04 *FINAL DESIGN PHASE*: Following approval of the Preliminary Design, the ENGINEER shall perform the following tasks in accordance with the Appendix 5 to Exhibit A:

- A. Address comments provided by OWNER from Preliminary Design Phase.
- B. Conduct all necessary design functions required to complete the Final Design plans including:
 - Roadway geometric layout and design.
 - Drainage analysis and design (in accordance with City of Stillwater Design and Construction Standards and Stormwater Quality and Management Ordinance Chapter 35).
 - Perform final bridge layout and design as well as miscellaneous final structural design (if required).
 - Sanitary Sewer (if required)
 - Water (if required)
- C. Finalize utility relocation coordination verify all affected utilities have been relocated as necessary.
- D. Finalize acquisitions of all right-of-way and easements necessary for Project construction.
- E. Finalize coordination with various governmental and regulatory agencies and verify required approvals/permits are obtained.

- F. Prepare final quantity estimates.
- G. Prepare Contract proposals in units compatible with OWNER requirements.
- H. Submit six (6) bound sets of half-size prints of final construction plans, one (1) bound set of full-size prints (if required) of final construction plans, three (3) sets of final construction contract bid documents, one (1) PDF file and three (3) sets of half-size prints of final utility relocation plans, if required, to the OWNER for distribution and review.
- I. The Final Design Phase submittal shall include:
 - Structural Design Calculations
 - Title Sheet
 - Pay Quantities and Pay Item/General Notes
 - Typical Sections
 - Quantity & Miscellaneous Summaries
 - Summary of Drainage Structures, as needed
 - Storm Water Management Plan (SWP3)
 - Project Drainage Area Map
 - Right-of-Way Map & Data
 - Survey Data Sheet
 - Plan and Profiles
 - Waterline Relocation Sheets, as necessary
 - Sanitary Sewer Relocation Sheets, as necessary
 - Intersection Details (tie-in to intersection plans by others)
 - Miscellaneous/Special Details Sheet(s), as needed
 - General Plan and Elevation (if required)
 - Bridge Typical Section (if required)
 - Bridge Details (if required)
 - Construction Sequence for Bridge (if required)
 - Riprap Details
 - Signing & Striping
 - Construction Sequencing/Traffic Control
 - Cross Sections
 - Standard Construction Drawings
 - Special Provisions and Specifications (as needed)
 - Final opinion of probable construction cost using 10% contingency
- J. Attend a meeting with the OWNER to review the Final Design Phase submittal and provide meeting minutes.
- K. Incorporate final review comments and furnish one (1) complete set of full-size drawings and contract documents, three (3) half-size sets of final drawings, one (1) set of final drawings in pdf format and electronic media (AutoCAD 2018 or newer), one (1) master set of final construction contract documents, specifications, and special provisions for bidding purposes on electronic media, in both Microsoft Word and pdf formats, and paper.
- L. Provide final design plans to all utility companies electronically (i.e. pdf or CADD files as required).
- M. ENGINEER'S services under the Final Design Phase will be considered complete on the date when the submittals required by paragraph A1.04.I above have been delivered to and accepted by the OWNER.

A1.05 BIDDING AND NEGOTIATING PHASE: After acceptance by OWNER of the most recent opinion of probable construction cost and the Final Design Phase plans, and upon written authorization by OWNER to proceed, ENGINEER shall perform the following tasks in accordance with the Appendix 5 to Exhibit A:

- A. Prepare all construction contract documents (i.e.: plans, agreement, general

conditions, supplementary conditions, special provisions, notice to bidders, instructions to bidders, bonds, technical specifications, bid proposal, other bidding documents, etc.) for advertisement on Ionwave ([City of Stillwater \(ionwave.net\)](http://City of Stillwater (ionwave.net))) and assist in obtaining bids or proposals for the Work.

- B. Plan, prepare agenda, and conduct the Pre-Bid Meeting and provide information to OWNER and Bidders as appropriate to clarify, correct or change the bidding documents. Draft and submit any required Addenda to OWNER for review and comment before issuing to eligible bidders.
- C. Provide information or assistance needed by OWNER in the course of any negotiations with prospective contractors.
- D. Consult with OWNER as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.
- E. If bidding documents require, the ENGINEER shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders.
- F. Attend the Bid opening, review received bids, modify Ionwave itemized bid tabulation, as necessary for alternates, and in consultation with City determine which Bidders to recommend to City Council for award of Construction Contracts.
- G. Prepare agenda item, council report and power point presentation for possible award. Assist OWNER in presentation to City Council/SUA meeting.
- H. Perform or provide the following additional Bidding and Negotiating Phase tasks or deliverables: None Identified.
- I. Prepare notice of awards to selected bidders and gather all appropriate documents from awarded contractor to compile final construction contract.
- J. Incorporate all addenda issued into a final set of conformed contract documents and provide required number of copies of conformed contract documents for execution. ENGINEER will facilitate and oversee execution of the contract by the awarded Contractor and OWNER.
- K. The Bidding and Negotiating Phase will be considered complete upon commencement of the Construction Administration Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this AGREEMENT).

A1.06 CONSTRUCTION ADMINISTRATION PHASE: ENGINEER is not granted the authority to direct the Contractor's Work or approve field or contract changes on behalf of the OWNER. Upon successful completion of the Bidding and Negotiating Phase and upon written authorization from OWNER to proceed with Construction Administration Phase, ENGINEER shall provide the following:

- A. Construction administrative and management services: After execution of the Construction Contract and through completion of Work, ENGINEER shall provide services which include, but are not limited to, the following:
 - 1. Coordinate, organize, schedule and conduct all Project meetings, including the Project Pre-Work meeting, conferences including preparing the agenda, facilitating the meetings, creating a meeting summary and all follow-on services such as meeting summary distribution, comments incorporation, action item completion tracking or other identified needs.
 - 2. Provide project management services throughout the construction phase including tracking, scheduling, reporting, correspondence, documentation, coordination and other required services for project management.
 - 3. Verify Contractor and Subcontractors have all required permits before

- beginning Work.
4. Coordinate with Engineering, Water Utilities, Public Works and other City departments and conduct all Work required (in advance of or during the Project) to ensure that all Project Work for a complete, compliant and successful Project is accomplished. These items include, but are not limited to: test shutdowns; traffic, pedestrian, and business access considerations; lane closures; waste management provisions; bus stop considerations; construction sequencing; water and sewer service tie-ins and interruptions; monitoring of all Project ongoing systems (such as construction sequencing, sewer bypasses, traffic control systems, temporary and emergency entry maintenance, etc.); resident and business OWNER notifications (Work Starts Letters, Shutdown Notices, etc.); and any other Project and/or Contractor required Work items (refer to Contract Documents, OWNER Standards, OWNER SOPs, and all local, county, state and federal rules and regulations).
 5. Provide coordination with and oversee all private and franchise utility corrective actions upon discovery of any conflicts with the Project plans. Ensure all new information is updated on record drawings.
- B. Coordination and management of all Project Meetings and Conferences: Organize, coordinate, lead and document all Project meetings including the Pre-Construction Conference, regularly scheduled progress meetings, onsite meetings and others, as necessary. Create and distribute minutes from all meetings/conferences within three (3) days of said event(s). OWNER'S attendance at each meeting is required.
- C. Schedules Management: Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to ENGINEER, including but not limited to: Progress Schedules, Schedule of Submittals, and Schedule of Values.
- D. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in ENGINEER's judgment are necessary to enable Contractor to proceed. ENGINEER shall also stake the proposed easements once after the 90% Submittal.
- E. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
1. Make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by ENGINEER, and the Resident Project Representative (not included), if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to ENGINEER in this AGREEMENT and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment, as assisted by the Resident Project Representative (not included), if any. Based on information obtained During such visits and observations, ENGINEER will determine in general if the Work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work and immediately advise OWNER of any deviation from Contract Documents.
 2. The purpose of ENGINEER's visits to, and representation by the

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

- F. Defective Work: Notify the OWNER immediately if, on the basis of ENGINEER's observations, ENGINEER believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
- G. Clarifications and Interpretations; Field Orders: Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER must have OWNER's approval for issuing field orders authorizing minor variations in the Work from the requirements of the Contract Documents.
- H. Claims by Contractor: ENGINEER shall review and make recommendations on all claims by Contractor including but not limited to delays, differing site conditions and requests for additional time and/or compensation. ENGINEER shall obtain approval from OWNER prior to issuance of recommendations regarding any/all claims.
- I. Change Orders and Work Change Directives: Recommend change orders and work change directives to OWNER, as appropriate. ENGINEER shall obtain approval from OWNER prior to issuance of recommendations regarding any/all claims, work change directives and change orders. Identify best solution (considering price, schedule, constructability, state statutes, etc.) for required changes to ENGINEER's plans, prepare all required documents (exhibits, attachments, figures, reports, etc.) to support the Change Order. All changes recommended by ENGINEER shall incorporate and be based upon all design factors and Project decisions made including modeling, sizing, locations, survey data, all utility locations, land acquisitions, geotechnical data, standards, regulations and any other factors. Prepare Draft and Final Reports and PowerPoint slides to support OWNER's Project Manager for presentations to City Council/SUA. Attend City Council and/or SUA Meetings, as necessary, to support the Project, and be prepared to defend Project decisions and progress during the CC or SUA Meetings.
- J. Shop Drawings, Samples, Submittals and other Data: Review and approve or take other appropriate action in respect to

Shop Drawings, Samples, Submittals and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. ENGINEER shall meet any Contractor's submittal schedule that ENGINEER has accepted.

- K. Tests and Inspections: ENGINEER shall review all plans for testing and test results for conformance with the Contract Documents. ENGINEER shall notify the OWNER and Contractor if any test results do not conform with the Contract Documents and, with the OWNER's approval, shall advise the Contractor if any rework is necessary to meet the Contract Documents.
- K. Substitutes and "or-equal": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of the OWNER/ENGINEER AGREEMENT.
- L. Applications for Payment: Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation.
 - 1. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments).
 - 2. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this AGREEMENT and the Contract Documents. Neither ENGINEER's review of Contractor's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what

purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, material, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

3. Provide assistance and support with documentation and preparation of OWNER's response to Contractor regarding its application for payment.

- M. Contractor's Completion Documents: Receive, review, and transmit to OWNER maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided in OWNER/ENGINEER AGREEMENT, and transmit the annotated record documents which are to be assembled by Contractor in accordance with Contract Documents to obtain final payment. The extent of such review by ENGINEER will be limited as provided in the OWNER/ENGINEER AGREEMENT.
- N. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, visit the Project to determine if the Work is substantially complete. After obtaining OWNER's approval and if ENGINEER considers the Work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.
- O. Final Acceptability of the Work: Conduct a final visit to the Project to determine, in conjunction with the OWNER, if the completed Work of Contractor is acceptable. If deficiencies in the Work are found, ENGINEER shall create and distribute a final punch-list, which has been reviewed and approved by the OWNER in advance, to the Contractor.
- P. Duration of Construction Administration Phase: The Construction Administration Phase will commence with the execution of the first Construction Contract for The Project or any part thereof and will terminate upon final payment to Contractors. Subject to the provisions of Article 3, ENGINEER may be entitled to an increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract. Such adjustment shall be based on the schedules provided in Exhibit C.
- Q. Limitation of Responsibilities: ENGINEER shall not be responsible for the acts or omissions of any Contractor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Contractor's Work, during the Construction Phase or otherwise. ENGINEER shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.07 *POST CONSTRUCTION PHASE*: Upon successful completion of the Construction Phase and upon written authorization from OWNER to proceed, ENGINEER shall provide the following:

- A. Together with OWNER, visit the Project to observe any apparent defects in the Work, assist OWNER in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if any.

- B. Provide record drawings reflecting all field changes and final quantities. Submittals shall include two full sized reproducible prints, one AutoCAD format file, one full sized PDF file and one true half sized PDF file. Submittal should also include electronic files conforming to the OWNER's requirements listed in Appendix C to Exhibit A.
 - 1. Record drawings shall reflect the Project as installed, according to information provided by observation by the ENGINEER, markups by the contractor, markups by the inspector, field orders, change orders, and other sources of information made available to the ENGINEER.
 - 2. Record drawings shall generally be similar in appearance to design drawings. Drawing elements that do not reflect the Project as constructed shall be deleted, not struck through, and replaced with updated elements. Differences between bid docs and record drawings shall be colored red and clouded and annotated for review, but the final record drawings shall not include clouds and be fully understandable in black and white.
- C. Provide to OWNER all Project documentation in electronic format organized into folders as specified by OWNER.
- D. Provide OWNER with a Contractor evaluation report using the OWNER's template.
- E. Approximately sixty (60) days prior to the expiration of the warranty period, perform a warranty inspection to observe any apparent defect in the work and facilitate, with the contractor, correction of the defective work.

PART 2 – ADDITIONAL SERVICES

A2.01 ADDITIONAL SERVICES (REQUIRING OWNER'S WRITTEN AUTHORIZATION):

If authorized in writing by OWNER, ENGINEER shall furnish, or obtain from others, Additional Services of the types listed below:

- A. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond ENGINEER's control.
- B. Services resulting from OWNER's request to evaluate alternative solutions beyond those identified in this exhibit.
- C. Providing construction surveys and staking to enable Contractor to perform its Work other than as required in this exhibit, and any type of property surveys or related Engineering services needed for the transfer of interests in real property; and providing other special field surveys.
- D. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

This is **APPENDIX 1 TO EXHIBIT A**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 20 .

General Scope of Services

The City of Stillwater intends to rehabilitate pavement and replace utilities on multiple street sections. CEC Corporation proposes to provide engineering services; the following is our understanding of the project scope.



Figure 1

4th Avenue – Orchard Street to Walnut Street, Walnut Street, 4th Avenue to 6th Avenue

- Pavement (Red Hatch)
 - Full Depth reconstruction (Bus Route)
- Sidewalk/Ramps (White Hatch)
 - Sidewalk/ramps on south side of 4th
 - Sidewalk on west side of Walnut
- Utilities
 - Waterline - none
 - Storm Sewer– review drainage, replace grates/hoods



Figure 2

4th Avenue – Garfield Street to Lincoln Street

- Pavement
 - Full Depth reconstruction, north half, from Garfield St. to approximately 85' west of Lincoln.
 - Drives as needed
- Sidewalk/Ramps
 - Ramps on west side of 4th Ave./Lincoln St.
- Utilities
 - Waterline – none
 - Storm Sewer - none

Lincoln Street - 4th Avenue to 5th Avenue

- Pavement
 - Full Depth reconstruction
- Sidewalk/Ramps
 - Keep existing sidewalk/curb & gutter if possible
 - One section of new sidewalk on west side, jog over to curb
- Utilities - none



Figure 3

South Knoblock Street – W. University Avenue to 4th Avenue

- Pavement
 - Full Depth reconstruction
 - exclude 3rd Ave./Knoblock St. intersection, include 4th Ave./Knoblock St. intersection
 - Replace parking areas between University St. and 3rd Ave.
- Sidewalk/Ramps
 - ADA ramps at 3rd Ave. and 4th Ave.
 - Streetscape between University Ave. and 3rd Ave.
 - Electrical services to support streetscape improvement
- Utilities
 - Waterline:
 - Install 8” along Knoblock St., 3rd Ave. to 4th Ave., to replace existing
 - Install 6” along 3rd Ave., Hester St. to West St., to replace existing
 - Storm Sewer - Ensure future flow through intersections and streets
 - Sanitary Sewer – none

4th Avenue – Hester Street to Duck Street

- Pavement
 - Full Depth reconstruction from Hester St. to Knoblock St.
 - Rehabilitation and patching from Knoblock St. to Duck St.
 - Driveways as needed
- Sidewalk/Ramps
 - ADA ramps as needed
 - Connect sidewalk gap (Add Alternate)
- Utilities
 - Waterline - Install 8” along 4th Ave., Hester St. to Duck St., to replace existing
 - Storm Sewer – Ensure future flow through intersections and streets
 - Sanitary Sewer -existing crosses perpendicular to 4th Ave., replace 2 manholes between Knoblock Street and Duck Street

Roadway, Sidewalks, and Utility design services listed above shall be provided by CEC.
CEC will provide Electrical services for Lighting Design to support the Streetscape Services.

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Landscape Architectural Scope

Alaback Design Associates (AD) will work as a Subcontractor for CEC to develop streetscape improvements for Knoblock Street between University Avenue and W. 3rd Avenue. Project submittals will include the project definition phase (35%), preliminary plans (60%), final plans (90%), and final construction documents (100%). Our work will include complete construction documents and written specifications for streetscape elements of the project. AD will assist with conceptual design and construction document preparation for streetscape elements, including pedestrian pavement, landscaping / street trees, irrigation, site furnishings, and lighting coordination. Throughout the project duration, our proposed services include coordination with other design disciplines and participation in meetings with the consultant team and City of Stillwater.

Alaback Design Associates will assist with the streetscape enhancements, working in coordination with CEC, the City of Stillwater staff, and other design disciplines for the following:

- Site layout and material selection for pedestrian paving
- Site Furnishings layout and specification
- Landscape Materials (Trees, shrubs, groundcover, perennials, ornamental grasses)
- Site Irrigation System design for all landscaped areas
- Site Lighting layout for pedestrian areas (with electrical engineering by others).

The following tasks are understood to be provided by other firms:

- Detailed Electrical Engineering & Lighting Design
- Site Grading (including pavement and curb elevations)

Base Services (Lump Sum Fee)

As described below, the following general tasks will be completed for the identified block of Knoblock Street. These tasks will be completed over the course of the project's submittals at 35%, 65% 90%, and final bid documents.

Task 1: Conceptual Streetscape Design / Budgeting

(Task 1 work will be completed during the Conceptual Design and in conjunction with the 35% submittal.)

- Perform a comprehensive visual assessment of the existing conditions for the block that will be part of the streetscape improvements. This analysis will include existing paving types and conditions, site furnishings, trees, lighting, adjacent buildings, etc.
- Meet with Campus Corner representatives to discuss the project and gain an understanding of the goals for the merchants within this block.
- Develop a conceptual site plan for proposed streetscape improvements. As appropriate, our conceptual plan may include optional levels of enhancements.
- Prepare a cost estimate for proposed streetscape improvements.

Task 2: Hardscape Design and Construction Documents

- Preparation of site base plan from survey and civil plans provided by CEC. (Our understanding is that the current layout of street curbs and parking will generally be maintained with the proposed plans.)
- Preparation of conceptual streetscape plan for the project area.
- Refinement of conceptual plans based upon City of Stillwater review comments.
- Preparation of final design documents (including written specifications) for streetscape elements, paving, etc. Our drawings will include construction details for pavement, site furnishings, and other improvements in between the curblines and building facades.
- Preparation of detailed layout plans for pedestrian paving.
- Design / selection of site furnishings and amenities, including benches, litter receptacles, etc.
- Coordination of lighting selections and layout with electrical engineer and design team.

Task 3: Landscape Design & Construction Documents

- Prepare a preliminary landscape plan for review, identifying tree locations, planting bed areas, and other landscape elements. The preliminary plan will include proposed varieties of trees, shrubs, groundcover, and other plant material.
- Modify planting design based upon City staff review comments.
- Prepare construction documents for landscape plantings including a plant material schedule, spacing chart, bed preparation notes and general notes. Construction documents will include planting plans which indicate location, size and species of trees, shrubs and ground cover. Plans will include planting details.
- Prepare specifications and warranty for landscaping which will be utilized by landscape contractor to include maintenance, quality criteria and guarantee information.

Task 4: Irrigation Design & Construction Documents

- Complete design of an automatic, underground irrigation system for the desired areas of the project.
- CEC shall provide assistance with the water service lines for irrigation meters.
- Provide complete design layout showing heads, valves, piping, sizing of valves and pipe, controller(s), meter, backflow preventer, sleeves and all other components. Irrigation plans will include a detailed legend with complete specifications of all equipment.
- Coordination of irrigation system connection to site water lines including meter and backflow. Coordination of electrical supply to controller with electrical engineer.
- Prepare detailed irrigation specifications.

Task 5: Budgeting / Cost Estimating

- Preparation of quantity take-offs for estimating for each City submittal.
- Provide an opinion of probable construction costs at each of the City submittals and at the conclusion the final design for the streetscape elements that are part of our scope.

Task 6: Team Meetings / General Project Coordination

- Meet with CEC and design team throughout the design process to coordinate the design effort.
- Participate in conference calls as needed between City of Stillwater, CEC and the design team throughout the design process.

Task 7: Bidding Coordination

- Attend pre-bid meeting.
- Prepare and issue addendums or clarifications during the bidding period as needed. Respond to questions from bidders during the advertisement period.

Construction Phase Services (Hourly, NTE)

Task 8: Construction Administration / Site Observation

- Phone conferences with City of Stillwater and design team during installation of hardscape, irrigation and planting.
- Provide up to 5 site visits during installation of the hardscape, planting and irrigation installation process.
- Review and respond to shop drawing submittals for hardscape, planting and irrigation.
- Provide final inspections for hardscape, planting and irrigation.

Additional Services

As requested, Alaback Design Associates will provide additional services that are not part of the basic services that have been described. As requested, AD will provide a lump sum quotation for identified work or provide work on an hourly basis in accordance with the rates that are provided in this proposal.

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Geotechnical Scope

The following scope of services is proposed to provide recommendations for pavements:

- Core existing pavements and measure, type, photograph to evaluate existing conditions.
- Twelve (12) soil test borings will be advanced to 3 feet below existing pavement section.
- Dynamic Cone Penetrometer (DCP) to 36" for correlation to in-situ California Bearing Ratio (CBR) for pavement subgrade evaluation.
- The moisture content of each sample will be evaluated. Selected soil samples will be classified in the laboratory.
- Evaluate soils below pavement for stabilization agent.
- Classify and sulfate test on one (1) sample from each boring.
- Provide recommendations for pavement rehabilitation if investigation allows; if not full depth removal to include option for subgrade stabilization or remediation if determined feasible with grades provided.

After the completion of subsurface exploration, an engineer will prepare a report summarizing the coring/drilling methods and test results and will provide recommendations for the design of pavements with minimum thicknesses.

Consultant's findings, opinions and recommendations are based solely upon the data and information obtained by and furnished to the Consultant at the time of services. It is recognized by the CLIENT that the Consultant obtains samples at discreet locations in an effort to provide a general characterization of the entire site. Variations may occur between boring locations. Additionally, CLIENT understands Consultant's layout of boring and test locations is approximate and may deviate a reasonable distance based on the layout methods used or site conditions encountered. Borings may alter or damage a site. The equipment used during drilling, including the drilling rig itself and other trucks may cause rutting onsite. Site restoration is not a part of this Scope. Dozer services, if required, are not included in this fee estimate.

PROJECT SCHEDULE

The site investigation is expected to take at least 2 weeks and will be scheduled within 4 weeks of receiving Notice to Proceed. We expect to submit our report four weeks after completion of field work. Verbal recommendations can be provided as results are obtained. Traffic coordination will need to be provided by the Owner if site is deemed unsafe for access during work hours.

SITE ACCESS & UTILITIES

This proposal assumes that the site is accessible to a trailer-mounted drill and that potential obstructions have been removed. CLIENT shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant shall take reasonable precautions to avoid damage to subterranean structures and utilities including initiating an Oklahoma One-Call and utilizing CEC SUE services; however, Consultant will not be responsible for damage to structures or utilities that are not called to Consultant's attention, are not correctly marked, or are incorrectly shown on plans furnished to the Consultant. The drill trailer and

truck used for sampling weighs approximately 6 tons. Consultant will not be responsible for damage to landscaping or sidewalks.

ADDITIONAL SERVICES

If there should be a change in project scope that leads to additional work or additional services are requested by CLIENT we will negotiate a fee to provide the changes or additional services prior to commencing the work.

After the completion of the design CEC Materials Testing Services can be provided and an estimated number of unit tests can be determined and a proposal for Construction Materials Testing Services can be provided upon request.

Survey Scope

LIMITS OF TOPOGRAPHIC SURVEY (Green Limits, shown on page 4)

- Verify control information from previously conducted survey
- Set a minimum of two (2) control points for horizontal and vertical purposes tied to OSU control network
- Establish at least two (2) benchmarks in each project vicinity and run differential level loop
- Provide topographic survey services to include the following existing surface features: roads, curbs, drives, sidewalks, buildings, finished floor at thresholds, signs, fences, walls, decorative trees, flowerbeds, all visible drainage structures, and visible and/or marked utilities
- Utilities: "OKIE811" will be contacted at least two (2) weeks prior to survey and the locations as marked will be obtained.
 - CEC will contact members listed on the OKIE ticket, request utility atlas maps, and plot atlas maps as "per atlas map" if said maps are provided to CEC by the Utility Owner.
 - CEC is NOT responsible for unmarked or mismarked utilities
 - Utility information will be placed in the Civil 3d and/or AutoCAD drawing.
- Storm sewer manholes, sanitary sewer manholes, water valves, and inverts will be measured for depth (to the connection outside of survey limits)
- Cross sections at 50' density including applicable break lines.
- Contours at 1.0' minimum density
- Provide Halo information
- Submit a C3D CAD file containing all above described items

PROPERTY PLOTTING (for properties within the Green survey limits)

- Document Research
 - Research deeds, plats, and other documents from County Clerk's and Assessor office / websites or through an abstractor/title company
- Boundary Control Research
 - Research section lines and/or platted monuments to be able to sufficiently plot plats and any unplatted deeded properties
- Plot properties, right-of-way, and easements (if applicable) throughout the following survey limits:
 - Lincoln St. from 6th Ave. to 4th Ave. throughout the survey limits
 - 4th Ave. from Lincoln Ave. to Garfield St. throughout the survey limits
 - 4th Ave. from Walnut St. to Orchard St. throughout the survey limits
 - 4th Ave. from Duck St. to West St. throughout the survey limits
 - Walnut St. from 6th Ave. to 4th Ave. throughout the survey limits

LIMITS OF TOPOGRAPHIC SURVEY (Yellow Limits, shown on page 4)

- Establish six (6) benchmarks in each project vicinity and run differential level loop
- Provide topographic survey services to include the following existing surface features: roads, curbs, drives, sidewalks, buildings, finished floor at thresholds, signs, fences, walls, decorative trees, flowerbeds, all visible drainage structures, and visible and/or marked utilities
- Utilities: "OKIE811" will be contacted at least two (2) weeks prior to survey and the locations as marked will be obtained.
 - CEC will contact members listed on the OKIE ticket, request utility atlas maps, and plot atlas maps as "per atlas map" if said maps are provided to CEC by the Utility Owner.
 - CEC is NOT responsible for unmarked or mismarked utilities
 - Utility information will be placed in the Civil 3d and/or AutoCAD drawing.
- Storm sewer manholes, sanitary sewer manholes, water valves, and inverts will be measured for depth (to the connection outside of survey limits)
- Cross sections at 50' density including applicable break lines.
- Contours at 1.0' minimum density
- Provide Halo information
- Submit a C3D CAD file containing all above described items

PROPERTY PLOTTING (for properties within the Yellow survey limits)

- Document Research
 - Research deeds, plats, and other documents from County Clerk's and Assessor office / websites or through an abstractor/title company
- Boundary Control Research
 - Research section lines and/or platted monuments to be able to sufficiently plot plats and any unplatted deeded properties
- Plot properties, right-of-way, and easements (if applicable) throughout the following survey limits:
 - 4th Ave. from West St. to Hester St. throughout the survey limits
 - 3rd Ave. from West St. to Duck St. throughout the survey limits
 - Knoblock St. from University Ave. to 4th Ave. throughout the survey limits

Items **EXCLUDED** from the Scope of Work

- Survey Data Sheets
- ALTA/NSPS Survey
- Property/Boundary Survey(s) / Lot splits / Subdivision platting
- Preparation of exhibits, easements, or legal descriptions
- Plat of Survey
- FEMA Flood Plain Determination
- Flood Plain Management
- Elevation Certificate(s)
- Construction staking
- Coordination of locating private utility lines
- Underground/subsurface utility engineering (SUE) services

- Utility Potholing or 4-way sweep locating

PROJECT SCHEDULE

Following receipt of our Notice to Proceed, CEC Survey will coordinate a submittal timeline with the CEC design project manager.

ADDITIONAL SERVICES

If there should be a change in project scope that leads to additional work or additional services are requested by CLIENT, we will negotiate a fee to provide the changes or additional services prior to commencing work.

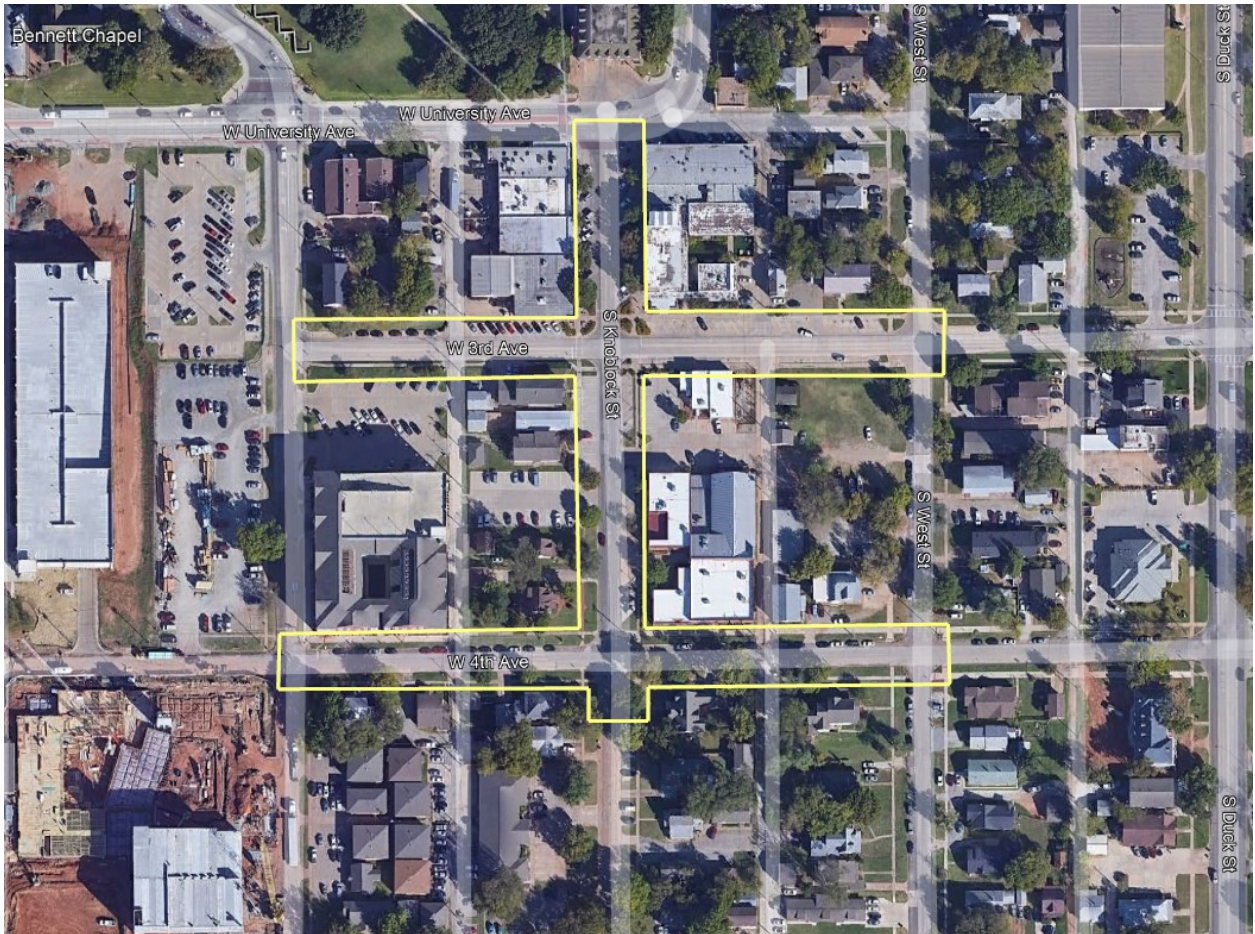
NOTES

- Any services not included in the scope will be an additional charge utilizing the most current approved hourly rates.
- The CEC Geospatial team may use LiDAR technology to supplement conventional topographic survey methods when deemed appropriate and/or necessary.
- On occasion, the CEC survey schedule may be affected by inclement weather, equipment malfunction(s), and/or unforeseen events. If a submittal delay is expected, CEC Survey will contact the design project manager and coordinate a new submittal timeline.

LIMITS OF GREEN AREAS

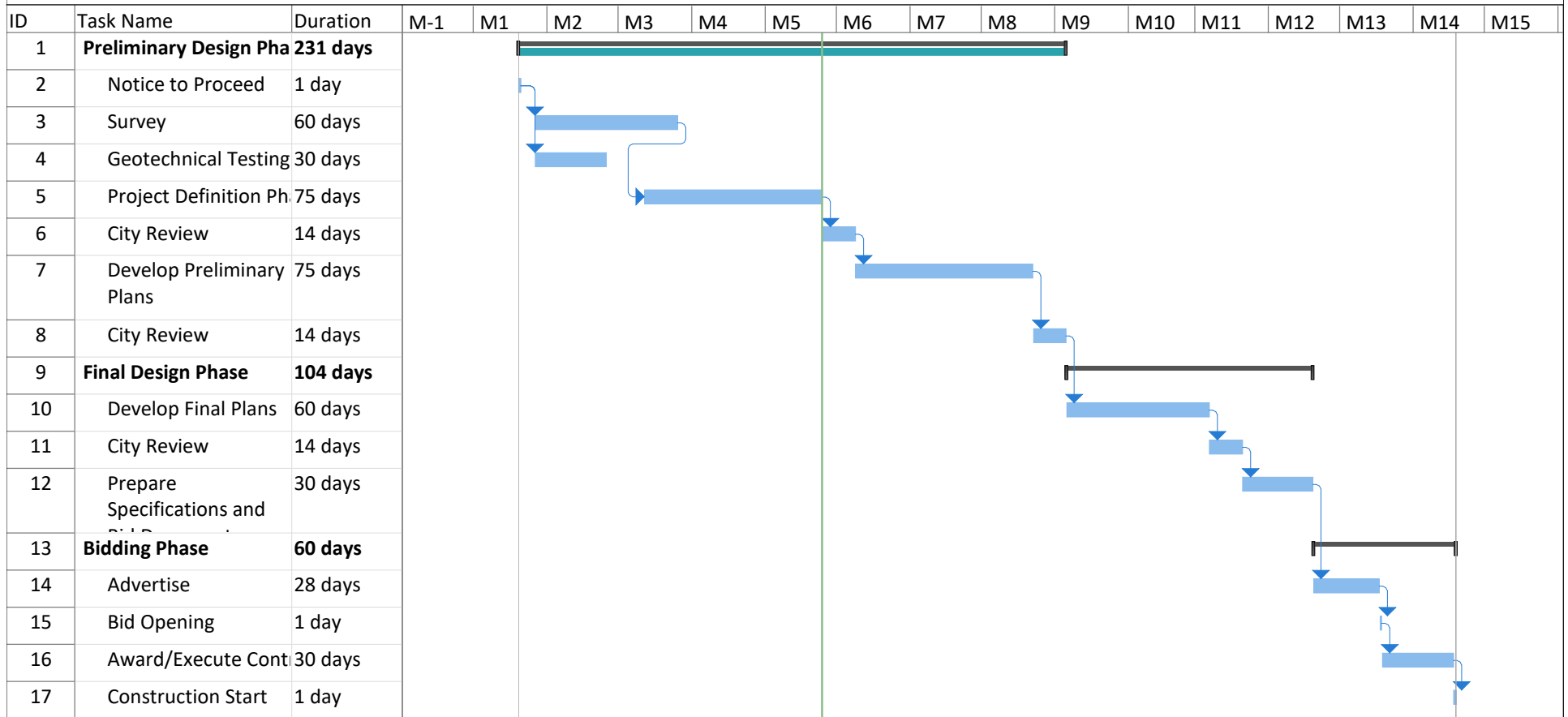


LIMITS OF YELLOW AREAS



Green areas represent areas for full topo survey areas the roadway and utility lump sum design.
Yellow areas represent areas for additional topo survey, as needed.

Appendix 5 to Exhibit A
PROJECT SCHEDULE - 25TR04-~~25W104~~
PAVEMENT REHABILITATION AND UTILITY RELOCATIONS
STILLWATER, OK



Task		Inactive Task		Start-only	
Split		Inactive Milestone		Finish-only	
Milestone		Inactive Summary		Deadline	
Summary		Manual Task		Progress	
Project Summary		Duration-only		Manual Progress	
External Tasks		Manual Summary Rollup			
External Milestone		Manual Summary			

GIS Digital Data Submission Requirements

The Engineer shall produce GIS and CAD files in such a way that allows the Owner to incorporate new or revised field data and information electronically into Owner's geographical record system. The submission requirements by the Engineer to the Owner for all files include the following criteria.

1. Digital Data Submission for GIS and CAD applies to all plan sheets submitted to the Owner including but not limited to site plans, design drawings, alignments, facilities drawings, easements, rights-of-way, as-builts and final plats.
2. Acceptable data formats in order of preference include:
 - a) ESRI Geodatabase (Personal or File)
 - b) ArcView Shapefiles
 - c) DXF (AutoCAD Drawing Exchange Format)
 - d) DWG (CAD drawing file)
3. Standard transfer media will be accepted on flash drives or through upload to cloud.
4. All drawing elements shall be submitted referencing the Oklahoma State Plane Coordinate System and will utilize the North American Datum of 1983 (NAD83) for horizontal control and be measured in US Feet (not meters).
 - a) Projection Name:
"NAD_1983_StatePlane_Oklahoma_North_FIPS_3501_Feet"
5. To expedite the conversion of CAD data, if so provided, into the Owner's GIS, the following requirements shall be met:
 - a) Closure is critical in converting CAD elements to GIS features, all polygon features (i.e. parcel boundaries) shall be 'snapped' closed.
 - b) Submitted files shall contain only complete point, polyline or polygon features.
 - c) The segregation of layering shall allow for each component to be individually isolated in its entirety.
 - d) Proposed and existing entities shall be on separate layers.
 - e) The submittal with its required layers shall not maintain any external references, attachments, or third party layers.
 - f) Drawing features and layers shall include descriptive attributes in a feature linked attribute table. See Table 1.

6. Digital submissions to the Owner shall only include the base and utility system layers listed in Table 1. At the Engineer's request, Owner will provide digital data schema conforming to and expanding Table 1.

Table 1: Digital Data Schema⁽¹⁾

Layer Name	Data Type	Layer Description	Attribute ⁽²⁾
Base			
Street	Polyline	Street Centerline	Streetname
Road_EOP	Polyline	edge of pavement	
Easement	Polyline	Easement	Type, Width
Lot	Polyline	Lot	Lot, Block number
Block	Polyline	Block	
Subdivision	Polyline	Subdivision	Subdivision name
Building	Polyline	Building Footprints	
Driveway	Polyline	Driveway	
Water			
wMain	Polyline	Water main	Size, Material
wSystemValve	Point	Water valve	Size, Type
wHydrant	Point	Fire hydrant	Manufacture
wFitting	Point	Water Fitting	Type, Size
wServiceConnection	Point	Water Meter	
Wastewater			
Sewerline	Polyline	Wastewater Mains	Size, Material
Manhole	Point	Wastewater Manholes	Type, Depth, Size
Stormwater			
swClosedChannels	Polyline	Stormwater Closed Channel	Type, Material ⁽²⁾
swOpenChannel	Polyline	Stormwater Open Channel	Type
swNetworkStructure	Point	Stormwater Structure	Type
swManhole	Point	Stormwater Manhole	Type, Size
swInlet	Point	Stormwater Inlet	Type, Dimension
swOutlet	Point	Stormwater Outlet	Type, Dimension
Electric			
PrimaryConductor	Polyline	Electric Main Line	
SecondaryConductor	Polyline	Electric Secondary Line	
TransformerBank	Point	Electric Transformer	
PowerPole	Point	Power Pole	
LightPole	Point	Light Pole	
(1) At the Engineer's request, Owner will provide digital data schema conforming to and expanding Table 1.			
(2) Additional attributes are available in Owner's digital data schema.			

Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

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

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 - 5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 - 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

- D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.
- E. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 - 2. Legal services with regard to issues pertaining to the Project as Owner requires. ~~Contractor raises, or Engineer reasonably requests.~~
 - 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
- J. Place and pay for advertisement for Bids in appropriate publications.
- K. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, facilitating/partnering, value engineering, and constructability review.
- L. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- M. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment

to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

- N. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- O. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.
- P. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.
- Q. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.
- R. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- S. Perform or provide the following additional services: *None identified.*

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Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 *Compensation For Basic Services And Additional Services (other than Resident Project Representative) – Standard Hourly Rates Method of Payment*

A. Owner shall pay Engineer for Basic Services and Additional Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants' charges, if any.
2. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
3. The total compensation for services under Paragraph C2.01 is estimated to be \$630,000 for Basic Services and \$27,000 for Additional Services based on the following estimated distribution of compensation:

a. Conceptual Design Phase	<u>\$144,300</u>
1) Roadway (Lump Sum)	\$83,600
2) Street Scape (Lump Sum)	\$11,500
3) Electrical (Lump Sum)	\$4,000
4) Survey Services (Lump Sum)	\$37,500
5) Geotechnical Services (Lump Sum)	\$7,700
b. Preliminary Design Phase	<u>\$133,500</u>
1) Roadway (Lump Sum)	\$118,000
2) Street Scape (Lump Sum)*	\$9,500
3) Electrical (Lump Sum)*	\$6,000
c. Final Design Phase	<u>\$72,800</u>
1) Roadway (Lump Sum)	\$51,000
2) Street Scape (Lump Sum)*	\$15,800
3) Electrical (Lump Sum)*	\$6,000

d. Bidding or Negotiating Phase	<u>\$64,000</u>
1) Roadway (Lump Sum)	\$64,000
e. Water Utility Design	<u>\$52,900</u>
1) Knoblock (Lump Sum)	\$9,600
2) 3 rd Avenue (Lump Sum)	\$13,200
3) 4 th Avenue (Lump Sum)	\$30,100
f. Construction Phase	<u>\$154,000</u>
1) Roadway Construction Administration (Hourly, Not-to-Exceed)	\$14,000
2) Streetscape Construction Administration (Hourly, Not-to-Exceed)	\$6,000
3) Electrical Construction Administration (Hourly, Not-to-Exceed)	\$4,000
4) Resident Engineering (Hourly, Not-to-Exceed)	\$130,000
g. Post-Construction Phase	<u>\$8,500</u>
1) Roadway (Hourly, Not-to-Exceed)	\$8,500
h. Additional Services (Hourly, Not-to-Exceed Amount)	<u>\$27,000</u>
1) Survey Services (as needed, previously surveyed)	\$27,000

Items marked with a * indicate a fee whose phase is contingent on approval from the Owner to proceed with scoped services at the completion of the previous phase.

4. Engineer may, upon written approval by the Owner, alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.
5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer's Consultants' charges.
6. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
- ~~7. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of _____) to reflect equitable changes in the compensation payable to Engineer.~~

C2.02 *Compensation For Reimbursable Expenses*

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of 1.0.

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.0.
- B. Factors. The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. Estimated Compensation Amounts:
 - 1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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This is **Appendix 1 to EXHIBIT C**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 20____.

Reimbursable Expenses Schedule

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

No reimbursable expenses are anticipated.

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This is **Appendix 2 to EXHIBIT C**, consisting of
 2 page(s), referred to in and part of the
Agreement between Owner and Engineer for
Professional Services dated
_____, 20____.

Standard Hourly Rates Schedule

A. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C 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 Article C2.

B. Schedule:

Hourly rates for services performed on or after the date of the Agreement are:

Roadway/Utility Design and Construction Administration

- applicable to Exhibit C, Article C2.01.A.3, items f.1, f.3, g, h.2, and h.3
- based on 2024 CEC Municipal Rate Schedule

Practice Leader	\$248.00/hr
Department Manager	\$245.00/hr
Senior Engineer (PE)	\$245.00/hr
Project Engineer (PE)	\$169.00/hr
Engineer Intern (EI)	\$126.00/hr
Senior Design Technician	\$142.00/hr
Design Technician	\$104.00/hr
Senior Assistant	\$113.00/hr
Administrative Assistant	\$ 96.00/hr

Resident Engineering During Construction

- applicable to Exhibit C, Article C2.01.A.3, item f.4
- based on 2024 CEC Construction Engineering and Inspection Rate Schedule

Practice Leader	\$322.00/hr
Lead Engineer	\$308.00/hr
Resident Engineer	\$270.00/hr
Department Manager	\$225.00/hr
Engineer Intern (EI)	\$136.00/hr
Senior Inspector	\$130.00/hr
Inspector	\$108.00/hr
Auditor	\$157.00/hr
Site Manager	\$189.00/hr

Team Leader	\$176.00/hr
Lab Manager	\$129.00/hr
Testing Specialist	\$116.00/hr
Testing Technical Team Leader	\$211.00/hr
Testing Field Technician	\$ 90.00/hr
Testing Lab Technician	\$ 92.00/hr
Construction Material Testing	Available on Request

Streetscape Design and Construction Administration (Alaback Design Associates)

- applicable to Exhibit C, Article C2.01.A.3, item f.2

Principal	\$160.00/hr
Landscape Architect	\$130.00/hr
Landscape Designer	\$100.00/hr
Administrative	\$ 55.00/hr

This is **Appendix 3** to **EXHIBIT C**, consisting of
2 page(s), referred to in and part of the
Agreement between Owner and Engineer for
Professional Services dated
_____, 20____.

Basis of Fee

Task	Practice Leader	Department Manager	Senior Engineer (PE)	Project Engineer (PE)	Engineer Intern (EI)	Senior Design Tech	Design Tech	Senior Assistant	Admin. Assistant	Total Hours	Cost	Contract Cost "Lump Sum + Hourly (NTE)"
	\$248.00	\$245.00	\$245.00	\$169.00	\$126.00	\$142.00	\$104.00	\$113.00	\$96.00			\$ 83,612.00 *
CONCEPTUAL DESIGN PHASE												
Scope/Design Workshop		4		8	12	12		2		38	\$ 5,774.00	
Coordinate Survey/Geotech		2		8	12	12				34	\$ 5,058.00	
Client Coordination		20		22						42	\$ 8,618.00	
Review Utilities		2		8	16	16				42	\$ 6,130.00	
Drainage Analysis		4		24	20	20				68	\$ 10,396.00	
Concept Plans		8		60	48	48				164	\$ 24,964.00	
Concept Quantities/Estimate				16	20	20				56	\$ 8,064.00	
Concept - Streetscape/Walnut SW				8	8					16	\$ 2,360.00	
Concept - Stakeholder Meetings		15		15						30	\$ 6,210.00	
Concept Review Meeting		6		8	12	12				38	\$ 6,038.00	
PRELIMINARY DESIGN PHASE												
Preliminary Plans		40		160	240	260		2		702	\$ 104,226.00	
Preliminary Quantities				12	20	20				52	\$ 7,388.00	
Preliminary Review Meeting		6		8	12	12				38	\$ 6,038.00	
FINAL DESIGN PHASE												
Final Plans		18		60	100	100		1		279	\$ 41,463.00	
Final Quantities				6	8	8				22	\$ 3,158.00	
Final Review Meeting		6		8	12	12				38	\$ 6,038.00	
UTILITY RELOCATIONS												
Waterline - Knoblock		2		24	40					66	\$ 9,596.00	\$ 9,600.00 *
Waterline - 3rd Ave		2		30	60					92	\$ 13,120.00	\$ 13,200.00 *
Waterline - 4th Ave		4		60	60	80				204	\$ 30,040.00	\$ 30,100.00 *
BID PHASE												
Bid PS&E		16		48	48	48		4		164	\$ 25,348.00	
Bidding Services		16		80	96					192	\$ 29,536.00	
Attend Bid Opening		16			16					32	\$ 5,936.00	
Bid Tabulation				8	8					16	\$ 2,360.00	
CONSTRUCTION PHASE												
Construction Administration		8						2		10	\$ 2,186.00	
Submittals				10	20					30	\$ 4,210.00	
Project Meetings (4)		10		20	10					40	\$ 7,090.00	
Inspection Services										0	\$ -	
POST CONSTRUCTION PHASE												
Record Drawings					40					40	\$ 8,274.00	\$ 8,500.00 *
Project Close-out		4		12				2		18	\$ 5,040.00	
TOTAL HOURS	0	209	0	723	938	680	0	13	0	2,563	\$ 389,609.00	

Page 1

Exhibit C – Appendix 3: Basis of Fee

EJCDC E-500 Agreement Between Owner and Engineer for Professional Services.

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Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Engineer:

- | | |
|-------------------------------------|-------------------------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability: | \$1,000,000 Aggregate Comprehensive |
| c. General Liability | |
| 1) Bodily Injury; each occurrence | \$500,000 |
| 2) Property Damage; each occurrence | \$500,000 |
| 3) General Aggregate: | \$1,000,000 |
| d. Professional Liability- | |
| 1) Annual Aggregate | \$1,000,000 |
| e. Automobile liability | |
| 1) Bodily Injury; each person | \$300,000 |
| 2) Property Damage; each occurrence | \$1,000,000 |

The City of Stillwater/Stillwater Utilities Authority shall be named an additional insured on the Comprehensive General Liability policy in amounts equal to the liability limits for political subdivisions set forth in the Oklahoma Governmental Tort Claims Act, 51 O.S. §151, et seq. Provided, however, this shall not preclude the Insured from carrying insurance in amounts exceeding said liability limits so long as the City/SUA is not named as an additional insured in any amount in excess of said statutory liability limits.

B. *Additional Insureds:*

1. The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.04.A.

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This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 20__.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. {Draft Format}

1. *Background Data:*

- (original agreement date)
- a. Effective Date of Owner-Engineer Agreement: _____
- b. Owner: City of Stillwater, Oklahoma / Stillwater Utilities Athority
- c. Engineer: CEC Corporation
- d. Project: (25TR04 & ~~25WL04~~) Roadway and Utility Improvements for Knoblock Street, 4th Avenue and Lincoln Street

2. *Description of Modifications:*

[NOTE TO USER: Include the following paragraphs that are appropriate and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform or furnish the following Additional Services:
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows:
- c. The responsibilities of Owner are modified as follows:
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:
- e. The schedule for rendering services is modified as follows:
- f. Other portions of the Agreement (including previous amendments, if any) are modified as follows:

[List other Attachments, if any]

5. Agreement Summary (Reference only)

a. Original Agreement amount:	\$	_____
b. Net change for prior amendments:	\$	_____
c. This amendment amount:	\$	_____
d. Adjusted Agreement amount:	\$	_____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

OWNER:

City of Stillwater, Oklahoma

ENGINEER:

CEC Corporation

By: _____

Title: Kimberly Meek, City Manager

Date Signed: _____

By: _____

Title: Shannon Hanks, P.E. CFM, EOMDM

Date Signed: _____

REPORT TO: STILLWATER UTILITIES AUTHORITY**MEETING DATE: OCTOBER 7, 2024**

Agenda Item:	2.e. SUA-24-58
Previous/Related Action:	CC 22-37; ARPA Funds CC 24-54; Task Order Agreement with Black and Veatch for Engineering Services for FY25 Water and Sewer Capital Projects
Background/Issue:	On April 4, 2022, the City Council adopted Resolution No. CC-2022-8 which authorized the acceptance of ARPA funds. The ARPA funds must be encumbered by December 31, 2024 and expended by December 31, 2026. Currently, there is \$1,026,735 remaining to be encumbered by the end of 2024. On September 23, 2024, SUA Trustees authorized a Task Order Agreement with Black and Veatch to provide engineering services for the FY25 Water and Sewer Capital Program. For this Program, a budget amendment was approved appropriating funds for Task Orders 1 and 2 from the Water Fund. Task Order 2 (TO2), totaling \$1,658,431, includes design of improvements to water storage tanks and the water treatment plant. Utilizing the remaining ARPA funds to fund a portion of TO2 is in the best interest of the City.
Proposal/Solution:	Staff has prepared a budget amendment returning a portion of the funding for TO2 to the Water Fund. An equal amount was allocated to the project from available ARPA funds during the City Council meeting earlier this evening.
Financial Source/Impact:	There is no new appropriation with this request.
Related Strategic Priority:	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
Recommended Action/Motion:	Approve the attached budget amendment reducing appropriations in the Water Fund for a portion of Engineering Services for FY2025 water projects being funded with Coronavirus Local Fiscal Recovery Funds (ARPA Funds).
Prepared By:	David Barth, Engineering Manager of Water Utilities
Reviewed By:	Candy Staring Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, General Manager

Attachments

1. SUA ARPA BA David

Budget Amendment Request

For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

SUA

Date: 09/27/2024

Department: Water Resources

Requested by: Candy Staring

Explanation:

Expenditures:

Appropriate funds for Task Order Agreement with Black and Veatch for Engineering Services for year 1 Water Capital Projects and Execution Plan and correct previously approved budget amendments to show partial funding from ARPA Grant Funds. See related budget amendment on 10/7/2024 City Council agenda.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Lagoon Dredging	9129216 - 54009	23WT07912		\$ 12.800	\$ 12,800
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:	CIP-Engineering and Execution Plan	9129216 - 54009	25WL03912	\$ 3,860,008	(\$ 1,026,735)	\$ 2,833,273
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

(\$ 1,013,935)

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Ching Ching

Date: 9-30-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request
For Budget Year 2025

SA C.D.

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Waste Management

Requested by: Matt Faulkner

Explanation:

Revenue:
Increase revenue projections for receipt of insurance proceeds as a result of traffic accident.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Insurance Proceeds	9184818 - 62001		\$ 0	\$ 699	\$ 699
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 699

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Chuy Chuch

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Waste Management

Requested by: Matt Faulkner

Explanation: Expenditures:
Appropriate funds for repair of damage to vehicle as a result of traffic accident. Repairs funded by insurance proceeds received in FY25.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Repair Vehicles	9184819 - 53018		\$ 0	\$ 699	\$ 699
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 699

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Cheryl Cluck

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request
For Budget Year 2025

54A P.D.

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Electric Utility

Requested by: Loren Smith

Explanation:

Revenue:
Increase revenue projections for receipt of insurance proceeds.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Misc Revenue	9009000 - 48700		\$ 87,000	\$ 5,306	\$ 92,306
	Insurance Proceeds	9009000 - 62001		\$ 0	\$ 3,534	\$ 3,534
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 8,840

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Ching Cluck

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Electric Utility

Requested by: Loren Smith

Explanation: Expenditures:
Appropriate funds for repair of damage to vehicle as a result of traffic accident. Repairs funded by insurance proceeds received in FY25.

Account Name	Account Number (xxxxxxx-xxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase: Repair Vehicles	9009010 - 53018		\$ 0	\$ 8,840	\$ 8,840
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 8,840

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Ching Chuch

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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PURSUANT TO THE LEGAL NOTICE AS IS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT INCLUDING THE POSTING OF NOTICE AND AGENDA AS IS REQUIRED BY THE TERMS THEREOF, THE TRUSTEES OF THE STILLWATER UTILITIES AUTHORITY, PAYNE COUNTY, OKLAHOMA, MET IN REGULAR SESSION ON THIS 7TH DAY OF OCTOBER, 2024, AT 5:30 P.M.

PRESENT:

ABSENT:

(OTHER PROCEEDINGS)

Thereupon, the following resolution was introduced and caused to be read by title by the Secretary. Trustee _____ moved passage of the Resolution and Trustee _____ seconded the motion. The motion carrying with it the approval of said Resolution was approved by the following vote:

AYE:

NAY:

The Resolution so approved is as follows:

RESOLUTION NO. SUA-2024-7

A RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AMENDED TRUST INDENTURE CREATING AND RECREATING THE STILLWATER UTILITIES AUTHORITY; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Stillwater Utilities Authority (the “Authority”) was organized under Title 60, Oklahoma Statutes 2021, Sections 176-180.4, as amended, for the purpose of furthering the public functions of the City of Stillwater, Oklahoma (the “City”); and

WHEREAS, the City and the Authority desire to amend and restate the provisions governing the Authority for the benefit of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE STILLWATER UTILITIES AUTHORITY:

Section 1. Amended Trust Indenture. The Trustees of the Authority hereby approve an Amended Trust Indenture to be dated as of October 7, 2024 (the “Amended Trust Indenture”) which

replaces and supersedes in all respects that certain Trust Indenture dated as of April 1, 1979, as amended by that certain Amendment to Trust Indenture dated as of November 1, 1980, and as further amended by a Second Amendment to Trust Indenture dated as of March 24, 2014 (collectively, the “Prior Trust Indenture”), which previously created the Authority; provided however, said Amended Trust Indenture shall only become effective upon (i) consent of the Oklahoma Water Resources Board, as a lender secured by a portion of the Trust Estate established under the Prior Trust Indenture, and (ii) the refunding of the Authority’s Utility System and Sales Tax Revenue Bonds, Series 2014A dated August 12, 2014, and issued in the aggregate principal amount of \$61,830,000; and provided further, the Prior Trust Indenture shall remain in effect until the Amended Trust Indenture becomes effective. The City is hereby declared to be beneficiary of the trust as created and recreated by the Amended Trust Indenture and the Trustees of the Authority hereby authorize the execution of any and all documentation necessary or attendant to delivery of the same.

[Remainder of Page Left Blank Intentionally]

PASSED AND APPROVED THIS 7TH DAY OF OCTOBER, 2024.

STILLWATER UTILITIES AUTHORITY

(SEAL)

By: _____
Chairman

ATTEST:

By: _____
Secretary

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

I, the undersigned, Secretary of the Stillwater Utilities Authority, do hereby certify that the above and foregoing is a true, full and correct copy of an excerpt from the minutes of a meeting of the Trustees of said Authority held on the date above stated, all as recorded in the official minutes of such meeting. I further certify that the “Open Meeting Law” was complied with for such meeting.

GIVEN UNDER MY HAND THIS 7TH DAY OF OCTOBER, 2024.

(SEAL)

Secretary

**AMENDED TRUST INDENTURE
CREATING AND RECREATING THE
STILLWATER UTILITIES AUTHORITY**

KNOW ALL MEN BY THESE PRESENTS:

This Amended Trust Indenture dated as of the 7th day of October, 2024, by William H. Joyce, hereinafter referred to as the Trustor, and William H. Joyce, Amy M. Dzialowski, Christie Hawkins, Kevin Clark, and Tim Hardin, and their respective successors as provided herein, to be known as the Trustees of the Stillwater Utilities Authority, who shall be and are hereinafter referred to as Trustees of the said Authority, hereinafter referred to as “Authority” or “Trust”, replaces and supersedes that certain Trust Indenture dated as of April 1, 1979, duly recorded in the office of the Payne County Clerk at Book 541, Page 795, as amended by that certain Amendment to Trust Indenture dated as of November 1, 1980, duly recorded in the office of the Payne County Clerk at Book 541, Page 815, and as further amended by a Second Amendment to Trust Indenture dated as of March 24, 2014, duly recorded in the office of the Payne County Clerk at Book 2172, Page 297 (collectively, the “Original Trust Indenture”), which Original Trust Indenture initially created the Authority.

NOW, THEREFORE, in consideration of the payment by the Trustor to the Trustees of the sum of Ten Dollars (\$10.00), receipt of which is hereby acknowledged, the mutual covenants herein set forth, and other valuable considerations, the said Trustees agree to hold, manage, invest, assign, convey and distribute as herein provided, authorized and directed, such property as Trustor, or others may heretofore or from time to time hereafter assign, transfer, lease, convey, give, bequeath, devise or deliver unto this Trust or the Trustees hereof.

TO HAVE AND HOLD such property and the proceeds, rents, profits, and increases thereon unto said Trustees and said Trustees’ successors and assigns, but nevertheless in trust, for the use and benefit of the City of Stillwater, State of Oklahoma, such City being hereby designated and hereinafter referred to as “Beneficiary” and upon the trusts, terms and conditions hereinafter stated.

**ARTICLE I
Creation of Trust**

The undersigned Trustor recreates, creates and establishes a Trust for the use and benefit of the Beneficiary for the public purposes hereinafter set forth, under the provisions of Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, inclusive, as amended and supplemented, the Oklahoma Trust Act and other applicable statutes and laws of the State of Oklahoma.

The undersigned Trustor hereby forever irrevocably conveys, relinquishes and assigns to the Trustees of the Authority any and all right, title and interest he may have in and under this Amended Trust Indenture and the trust created hereunder, including, without limitation, the right to consent to and approve any further changes, amendments or supplements to this Amended Trust Indenture.

ARTICLE II
Name and Effective Date of Trust

The Trustees of this Trust shall continue to conduct all business and execute or authorize the execution of all instruments in the name of this Trust, which shall be the “Stillwater Utilities Authority” and otherwise perform the duties and functions required in the execution of this Trust, and hereby authorize the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Trust to execute instruments on behalf of the Trust as directed by duly enacted resolutions of the Trust. This Amended Trust Indenture shall be in full force and effect from and after the date of execution by the Trustees of the Trust and acceptance of the beneficial interest herein by the Beneficiary.

ARTICLE III
Definitions

“Act” shall mean the Oklahoma Public Trust Act, being Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, as amended and supplemented.

“Amended Trust Indenture” shall mean this Amended Trust Indenture dated as of October 7, 2024.

“Authority” shall mean the Stillwater Utilities Authority created and recreated pursuant to this Amended Trust Indenture, and the Trustees thereof, acting on behalf of and in the name of said Authority.

“Beneficiary” shall mean the City of Stillwater, State of Oklahoma, acting by and through its Board of Trustees.

“Bonds” or “Notes” shall mean respectively the bonds and notes of the Authority that are contemplated under this Amended Trust Indenture.

“By-Laws” shall mean the By-Laws, if any, duly adopted by the Authority as the same may be amended from time to time.

“Governmental Agency” shall mean the United States of America and the State or any department, division, public corporation, public agency, political subdivision or other public instrumentality of either.

“Lending Institution” shall mean any bank or trust company, Federal National Mortgage Association, mortgage banker, mortgage company, national banking association, savings bank, savings and loan association and any other financial institution or Governmental Agency or person.

“Mortgage” shall mean a mortgage, mortgage deed, deed of trust, security agreement or other instrument creating a lien on a fee interest in real and/or personal property located with the Beneficiary or a leasehold on such fee interest.

“Mortgage Loan” means an interest bearing obligation secured by a Mortgage.

“State” shall mean the State of Oklahoma.

“Trustees” shall mean the Trustees of the Authority.

ARTICLE IV Purposes of Trust

The purposes of this Trust are:

- (1) To assist the Beneficiary, the State of Oklahoma, Governmental Agencies, municipalities and private entities, agencies and citizens in making the most efficient use of all of their economic resources and powers in accord with the needs and benefit of the State of Oklahoma and the Beneficiary in order to lessen the burdens on government and to stimulate economic growth and development, specifically including, but not limited to, the power to conduct studies and prepare comprehensive plans relating to the future economic growth and development of the Beneficiary; to inventory the services, facilities and resources of the Beneficiary; to promote, stimulate, encourage and finance the growth and development of the utility, agricultural, commercial, health care and industrial resources of the Beneficiary, all in order to achieve maximum utilization of the Beneficiary’s human, economic and natural resources and tourist attractions; to foster and promote an improved industrial climate within the Beneficiary and to otherwise promote its general economic welfare and prosperity and to finance any and all programs, utilities, facilities or resources promoting or intending to promote any of the foregoing and, without restriction, in furtherance of the foregoing general objectives, the following specific powers or purposes, to wit:
 - (a) To promote and develop any and all utility and public works projects or facilities of any type or description including, but not limited to, those for water, sewer, electric, solid waste, natural gas or other public utilities of any type or description.
 - (b) To promote, finance and develop projects or facilities relating to the development of energy of any sort or description including, but not limited to those relating to the development of oil, gas, coal, gravel, lead, zinc or other minerals or hydro-carbons, the financing of oil and gas equipment, refineries, drilling and pumping rigs and equipment, or other energy development of any sort or description and synthetic fuel facilities.

- (c) To plan, establish, develop, construct, finance, enlarge, remodel, acquire, improve, alter, extend, maintain, equip, operate, lease, furnish and regulate any facilities related to any of the foregoing and, if desired, to lease such facilities and to operate the same in connection therewith and to do, perform, own, acquire, construct or engage in or finance any other enterprise or activity, project or facility to such extent and in such manner as now is or may be considered a proper and lawful function of public trust entities within the State of Oklahoma.
- (2) To hold, maintain and administer any leasehold rights in and to physical properties heretofore or hereafter demised to the Beneficiary or the Authority and to comply with the terms and conditions of any such lease.
- (3) To acquire by lease, purchase, production, reduction to possession or otherwise, and to plan, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, furnish, provide, supply, regulate, hold, store and administer any and all physical properties (real, personal or mixed), rights, privileges, immunities, benefits and any other thing of value, designated or needful for utilization in furnishing, providing or supplying the aforementioned services, utilities, buildings and facilities; to finance and refinance and to enter into contracts of purchase, lease-purchase or other interest in or operation and maintenance of said properties, and revenues thereof, and to comply with the terms and conditions of any such contracts, leases or other contracts entered into in connection with the acquisition, equipping, maintenance and disposal of any of said property; and to relinquish, dispose of, rent or otherwise make provisions for properties owned or controlled by the Trust, but no longer needful for Trust purposes.
- (4) To acquire, construct, reconstruct, extend, lease, purchase, install, equip, maintain, repair, enlarge, remodel and operate any property, improvements, buildings and other facilities of every nature for use by the State of Oklahoma, the United States of America, or the Beneficiary, or for use by authorities or agencies of the State of Oklahoma, the United States of America or the Beneficiary or for the use of corporations, individuals, partnerships, associations or proprietary companies for industrial development; maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer property, buildings, improvements and facilities of every nature, within the territorial boundaries of the Beneficiary which may be useful in securing, developing and maintaining such facilities, functions or activities.
- (5) To perform, on behalf of the Beneficiary, all functions, activities and powers authorized by industrial and economic development statutes as they from time to time exist.
- (6) To provide funds for the cost of financing, refinancing, acquiring, constructing, purchasing, equipping, maintaining, leasing, repairing, improving, extending, enlarging, remodeling, holding, storing, operating and administering any or all aforesaid property, improvements, buildings, facilities and all properties (real, personal or mixed) necessary or desirable for executing and fulfilling the Trust

purposes, as set forth in this instrument, and all other charges, costs and expenses necessarily incurred in connection therewith and in so doing, to incur indebtedness, either unsecured or secured by all or any part of the Trust Estate and its revenues.

- (7) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for the purposes specified herein, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly chargeable against the Trust Estate, and to distribute the residue and remainder of such funds to the Beneficiary.

ARTICLE V Duration of Trust

This Trust shall have duration for the term of duration of the Beneficiary and until such time as its purposes shall have been fully fulfilled and all indebtedness of the Authority is paid, or until it shall be terminated as hereinafter provided.

ARTICLE VI The Trust Estate

The Trust Estate shall consist of:

- (1) The funds and property presently in the hands of the Trustees or to be hereafter acquired or constructed by the Trustees and dedicated by the Trustor, the Beneficiary and others to be used for trust purposes.
- (2) Any and all leasehold rights heretofore or hereafter remised to the Trustees by the Beneficiary, and others as authorized and empowered by law.
- (3) Any and all money, property (real, personal or mixed), rights, choses in action, contracts, leases, privileges, immunities, licenses, franchises, benefits, Mortgages, Mortgage Loans, collateral and all other things of value heretofore or hereafter coming into the hands of the Trustees under this Amended Trust Indenture.
- (4) Cash in the sum of \$10.00 paid by the Trustor to the Trustees, receipt of which is hereby specifically acknowledged by the Trustees.

ARTICLE VII The Trustees

- (1) The Trustees of this Trust shall be citizens and residents of the Beneficiary, who are the persons presently constituting the Mayor and members of the Board of Trustees

of the Beneficiary, and the persons who shall be their successors as Mayor, and members of said Board of Trustees of said Beneficiary, and each such successor in office shall, upon taking the Oath of Office, but without any further act, deed or conveyance, automatically become Trustees of this Trust and become fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder with like effect as if originally named as a Trustee herein.

- (2) The person who shall be the Mayor of the Beneficiary, shall become automatically the Chairperson of the Trustees and shall preside at all meetings and perform other duties designated by the Trustees. The Trustees shall designate the time and place of all regular meetings. All actions by the Trustees pursuant to the provisions of this Amended Trust Indenture shall be approved by the affirmative vote of at least a majority of the Trustees qualified to act as such under the provisions of this Amended Trust Indenture. The Trustees shall select one of their members to be Vice-Chairperson who shall act in the place of the Chairperson during the latter's absence or incapacity to act.
- (3) The person who shall be the Clerk of the Beneficiary, shall become automatically the Secretary of the Trustees. The Trustees shall appoint an Assistant Secretary who shall act in the place of the Secretary during the latter's absence or incapacity to act. The Secretary or Assistant Secretary shall keep minutes of all meetings of the Trustees and shall maintain complete and accurate records of all their financial transactions, all such minutes, books and records to be on file in the office of the Trust. All meetings of the Trustees shall be open to the public, and the books, records and minutes of the Trustees shall be considered as public records and available for inspection at all times by any interested party.
- (4) The person who shall be the Treasurer of the Beneficiary, shall become automatically the Treasurer of the Trustees. The duties of the Treasurer shall be prescribed by the Trustees.
- (5) The Trustees may appoint a General Manager and/or Executive Director for the Trust Estate, and the Trustees may employ such other clerical, professional, legal and technical assistance as may be deemed necessary in the discretion of the Trustees to properly operate the business of the Trust, and may fix their duties, terms of employment and compensation from the Trust Estate. All Trustees shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. In the event a General Manager and/or Executive Director for the Trust Estate is appointed by the Trustees, the said General Manager and/or Executive Director shall administer the business of the Trust Estate as directed from time to time by the Trustees. Nothing herein shall prohibit one of the Trustees from being selected and serving as General Manager. Provided, in the event one of the Trustees is employed as the General Manager, such Trustee shall not take part in any discussion or vote on any action of the Trustees pertaining to employment of the General Manager, or the salary or duties thereof.

- (6) The Trustees are authorized to contract, in connection with the incurrence of any funded indebtedness secured by the Trust Estate and/or its revenues, or any part of either or both, that in the event of a default in the fulfillment of any contractual obligation undertaken on behalf of the Trust Estate or in the payment of any indebtedness incurred on behalf of the Trust Estate, that a Temporary Trustee or Trustees or Receiver shall be appointed to succeed to the rights, powers and duties of the Trustees then in office. Any such contract, if made, may set forth the terms and conditions under which such Temporary Trustee or Trustees or Receiver may be appointed to operate the Trust Estate and may provide for compensation to be paid, and may provide for such appointment to be vacated and permanent Trustees to be automatically reinstated upon termination of all defaults by which their appointment was authorized.
- (7) Bonds or other evidences of indebtedness to be issued by the Trustees shall not constitute an indebtedness or obligation of the State or the Beneficiary nor personal obligations of the Trustees, but shall constitute obligations of the Trust only, payable solely from the Trust Estate.
- (8) The Trustees, the State, and the Beneficiary shall not be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in good faith or in the exercise of their honest discretion in the performance of such Trust or in the operation of the Trust Estate; but any act or liability for any omission or obligation of the Trustees in the execution of such Trust, or in the operation of the Trust Estate, shall extend to the whole of the Trust Estate or so much thereof as may be necessary to discharge such liability or obligation.
- (9) Notwithstanding any other provision of this Amended Trust Indenture which shall appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind or obligate any other Trustee, or the Beneficiary, in his or its capacity, nor can the Beneficiary bind or obligate the Trust or any individual Trustee.
- (10) The Trust shall cause to be prepared annually at the close of each fiscal year of the Trust an audit of the funds, financial affairs and transactions of the Trust including, but not limited to, all fees, salaries and expenditures in exact amounts and specifying to whom such expenditures were paid. Such audit is to be certified with an unqualified opinion of an independent, certified public account. A copy of the annual audit of the Trust shall be filed within the time period and in conformity with the provisions of Oklahoma law related thereto. Unless hereafter changed by specific resolution of the Trustees, the fiscal year of the Trust shall be July 1 to June 30 of the following year. All expense incurred in connection with the annual audits shall be paid from the Trust Estate.
- (11) Every person becoming a Trustee shall first take the Oath of Office required of an elected public officer. The Oath of Office shall be administered by any person authorized to administer oaths in the State, and shall be filed with the Clerk or Deputy Clerk of the Beneficiary. Every officer and employee who handles funds of the Trust shall furnish a good and sufficient fidelity bond in an amount and with

surety as may be specified and approved by the Trustees; the Trustees may, but shall not be obligated to, obtain bonds relating to the performance of their duties as Trustees. Such bonds shall be in a surety company authorized to transact surety business in the State and the cost thereof shall be paid from the Trust Estate.

ARTICLE VIII

Powers and Duties of the Trustees

To accomplish the purposes of the Trust, the Trustees shall have, in addition to the usual powers incident to their office and the powers granted to them otherwise by law or in other parts of this Amended Trust Indenture, the following rights, powers, duties, authority, discretion and privileges, all to be exercised on behalf of and in the name of the Authority:

- (1) To sue and be sued.
- (2) To have a seal and alter same at pleasure.
- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions hereunder.
- (4) To make and alter by-laws for its obligations and internal management as provided herein.
- (5) To make and alter rules and regulations pertaining to any loan or other program developed by the Authority.
- (6) To acquire, lease, convey, or otherwise hold and dispose of real and personal property for its Trust purposes; provided that, no purchaser at any sale or lessee under a lease made by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such sale or lease or to see or be liable for the application of the purchase or rental monies arising therefrom.
- (7) To enter into contracts for sale of Bonds, Notes or other evidences of indebtedness, interim Notes or Bonds or other obligations of the Trust and to issue the same for any of the purposes of the Trust authorized hereby including, but not limited to: the acquisition, construction, reconstruction, equipping or otherwise financing facilities discussed in Article IV hereof or for any other lawfully permitted facilities which may be secured with Mortgages, security interests or other collateral satisfactory to the Trustees; making Mortgage loans or purchasing Mortgage notes secured by Mortgages on dwellings; acquiring real or personal property or facilities at foreclosure of any loan or obligation or authorized to be acquired pursuant to the terms of this Amended Trust Indenture or other purposes authorized under any instrument securing any indebtedness of the Trust; refunding or advance refunding any outstanding indebtedness of the Trust; creating any reserves or replacement funds, loan funds or other funds or accounts deemed advisable by the Trustees in the furtherance of the Trust purposes or in connection with the securing of any of the

Trust's debts or in the administration of Trust programs; and for any other purpose authorized by law and/or by Article IV hereof; and for those purposes the Trustees may:

- (a) Sell all Bonds, Notes or other evidences of indebtedness or obligations of the Trust at public or private sale in whole or in installments or series and on such terms and conditions and in such manner as is prescribed by law and as the Trustees shall deem to be in the best interest of the Trust Estate; and
- (b) Appoint and compensate attorneys, paying agencies and corporate trustees in connection with the issuance of any such Bonds, Notes, evidences of indebtedness or other obligations of the Trust; and
- (c) Pay all expenses incident to the creation of any indebtedness or the issuance of any Bonds, Notes or other evidences of indebtedness including, but not limited to, printing expenses, feasibility studies, special consultants, travel expenses or reproduction expenses; and
- (d) Create any reserve fund and any and all other funds and accounts as the Authority shall deem necessary or desirable in connection with the issuance of any Bonds, Notes or other evidences of indebtedness.

Any such indebtedness shall be deemed to be incurred or issued on behalf of the Beneficiary and may be general or special obligations of the Trust as the Trustees may from time to time determine.

- (8) To purchase or redeem their Bonds, Notes or other evidences of indebtedness in whole or in part prior to the stated maturity thereof as specified in any instrument authorizing the issuance or securing the payment of any such indebtedness.
- (9) To pledge any or all of the Trust's revenues or assets to secure the payment of any of its indebtedness.
- (10) To enter into agreements with or participate in any programs of the Beneficiary, the State of Oklahoma, or any agency or instrumentality thereof, the United States of America, or any agency or instrumentality thereof.
- (11) To enter into and execute, purchase, lease or otherwise acquire property, real, personal or mixed, contracts, leases, rights, privileges, benefits, choses in action or other things of value and to pay for the same in cash, with bonds or other evidences of indebtedness or otherwise.
- (12) To fix, demand and collect charges, rentals and fees for the services and facilities of the Trust and to discontinue the furnishing of services and facilities to, and foreclose on any collateral of, any person, firm, or corporation, or public instrumentality delinquent in the payment of any indebtedness to the Trust; to purchase and sell such supplies, goods and commodities as are incident to the operation of its properties.

- (13) To make and perform contracts of every kind including, management contracts, with any person, firm, corporation, association, joint venture, trusteeship, municipality, government, sovereignty or other entity; and without limitation as to amount, to draw, make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or non-negotiable instruments, obligations and evidences of unsecured indebtedness, or of indebtedness secured by mortgage, deed of trust or otherwise upon any or all income of the Trust, in the same manner and to the same extent as a natural person might or could do. To collect and receive any property, collateral, money, rents, or income of any sort and distribute the same or any portion thereof for the furtherance of the authorized Trust purposes set out herein.
- (14) To exercise or to request of, arrange or contract with the Beneficiary or any governmental unit, agency or political subdivision thereof for the exercise of the power of eminent domain as necessary in establishing, operating, administering and maintaining any Trust facilities, systems, projects or programs.
- (15) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for purposes specified herein, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly chargeable against the Trust Estate, to from time to time transfer any surplus funds to the Beneficiary as the Authority in its sole discretion may determine and, upon termination of the Trust, to distribute the residue and remainder of such funds to the Beneficiary.
- (16) To contract for services with firms or persons or other units and entities of government or private entities or agencies to carry out the purposes of the Trust; to apply for, contract for, receive and expend for its purposes, funds or grants from any governmental or non-governmental agency or entity, the Beneficiary, the State, the Federal Government or any agency or department thereof, or from any other source.
- (17) To receive funds, money, property, collateral, services, rights and choses in action from any source to finance the programs and operations of the Trust; to receive grants, gifts, contributions and donations to carry out the purposes for which the Trust is formed; to receive and accept from any Federal, State or private agencies or entities, grants or loans for or in aid of the construction of any facility or system and to receive and accept aid or contributions of money, labor or any other valuable things from any source.
- (18) To plan, coordinate, implement, administer or otherwise carry out public works or other projects or programs for public purposes for the benefit of the Beneficiary.
- (19) To make, or commit to make, or participate in the making of Mortgage Loans whether for construction, for acquisition, financing or purchasing of housing.

- (20) To invest monies of the Authority not required for immediate use, including proceeds from the sale of any Bonds or Notes, in accordance with the laws of the State.
- (21) To sell any Mortgages or other personal property acquired by the Authority at public or private sale and at such price or prices as it shall determine.
- (22) To renegotiate, refinance or foreclose, or contract for the foreclosure of any Mortgage, security interest or other obligation in default; to waive any default or consent to the modification of the terms of any Mortgage; to commence any action to protect or enforce any right conferred upon it by any law, Mortgage, security interest, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; to operate, manage, rehabilitate, improve, lease, dispose of, and otherwise deal with such property, in such manner as may be necessary to protect the interests of the Trust and the holders of its Bonds, Notes or other obligations.
- (23) To renegotiate or refinance any loan in default; waive any default or consent to the modification of the terms of any loan, and commence any action or proceedings to protect or enforce any right conferred upon it by law, loan agreement, contract or other agreement.
- (24) To make and execute contracts and appoint agents for the administration or servicing of any loan made or acquired by the Trust and pay the reasonable value of services rendered to the Trust pursuant to such contracts.
- (25) To sell any loans made or acquired by the Trust at public or private sale and at such price or prices and on such terms as the Trust shall determine.
- (26) To collect and pay reasonable fees and charges in connection with making, committing to make, purchasing or committing to purchase and servicing its Mortgage Loans, Notes, Bonds, commitments and other evidences of indebtedness.
- (27) To procure insurance against any type loss in such amounts, and from such insurers, as it may deem necessary or desirable.
- (28) To consent, whenever it shall be deemed necessary or desirable in the fulfillment of its Trust purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any Mortgage Loan, Mortgage Loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the Trust is a party.
- (29) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted herein, and to do all other acts in their judgment necessary or desirable, for the proper and advantageous management, investment and distribution of the Trust Estate and income therefrom.
- (30) To exercise exclusive management and control of the properties of the Trust Estate.

- (31) To contract for the furnishing of any services or the performance of any duties that they may deem necessary or proper and pay for the same as they see fit.
- (32) To select depositories for the funds and securities of this Trust.
- (33) To compromise any debts or claims of or against the Trust Estate, and adjust any dispute in relation to such debts or claims against the Trust Estate upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring any suit or action which in their judgment is necessary or proper to protect the interest of the Trust Estate, or to enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit against the Trust, or the Trustees or employees, agents or servants thereof. They may compromise and settle any suit or action, and discharge the same out of assets of the Trust Estate, together with court costs and attorney's fees. All such expenditures shall be treated as expenses of executing this Trust.
- (34) To do each and all things necessary to implement the purposes of this Trust as set out herein, and to that end Article IV "Purposes of Trust" is incorporated in its entirety under this "Powers" Article for the purpose of insuring that all appropriate power is granted to the Trustees to accomplish the purposes hereof without inhibition.

ARTICLE IX Supervisory Control

The Trust created hereby and the Trustees appointed hereunder are subject to such supervision and control as may be determined from time to time by the Legislature of the State or by regulations that may be issued by departments or agencies of the United States of America, to insure the tax exempt status of any Bonds, Notes or other evidences of indebtedness issued by the Authority.

ARTICLE X Beneficiary of Trust

- (1) The Beneficiary of this Trust shall be the municipality designated in Article III herein, under and pursuant to Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, inclusive, as amended and supplemented, and other applicable statutes of the State presently in force and effect.
- (2) The Beneficiary shall have no legal title, claim or right to the Trust Estate, its income, or to any part thereof or to demand or require any partition or distribution thereof. Neither shall the Beneficiary have any authority, power or right whatsoever, to do or transact any business for, or on behalf of or binding upon the Trustees or upon the Trust Estate, nor the right to control or direct the actions of the Trustees

pertaining to the Trust Estate or any part thereof, except as herein provided. The Beneficiary shall be entitled solely to the benefits of this Trust as administered by the Trustees hereunder, and at the termination of the Trust, as provided herein, and only then, the Beneficiary shall receive the residue of the Trust Estate.

ARTICLE XI

Adoption and Amendment of By-Laws; Amendment and Termination of Trust

This Amended Trust Indenture may be amended by an affirmative vote of at least two-thirds (2/3) of all Trustees and any such proposed amendment shall be further approved by the affirmative vote of two-thirds (2/3) of the governing body of the Beneficiary before becoming effective.

The Trustees, by an affirmative vote of a majority of all Trustees, may adopt, alter and amend By-Laws of the Trust.

PROVIDED, HOWEVER, that this Amended Trust Indenture shall not be subject to revocation, alteration, amendment, revision, modification or termination in any manner which would be adverse to the interest of the holders of any evidence of indebtedness of the Trust without the consent of holders of indebtedness who would be adversely affected, which consent may be given by less than all of such holders, if so provided in any resolution, indenture or agreement relating to such indebtedness.

This Trust shall terminate -

- (1) When the purposes set out in Article IV of this instrument shall have been fully executed; or
- (2) In the manner provided by Oklahoma law. Provided, however, that this Trust shall not be terminated by voluntary action while there be outstanding indebtedness or fixed obligations of the Trustees, unless all owners of such indebtedness or obligations shall have consented in writing to such termination.

Upon the termination of this Trust, the Trustees shall proceed to wind up the affairs of this Trust, and after payment of all debts, expenses and obligations out of the monies and properties of the Trust Estate to the extent thereof, the Trustees shall distribute the residue of the money and properties of the Trust Estate to the Beneficiary hereunder. Upon final distribution, the powers, duties and authority of the Trustees hereunder shall terminate.

ARTICLE XII

The Trustees accept the Trust herein created and provided for, and agree to carry out the provisions of this Amended Trust Indenture on their part to be performed.

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IN WITNESS WHEREOF, the Trustor and the Trustees have hereunto set their hands on the day and year indicated.

William H. Joyce, Trustor

William H. Joyce, Trustee

Amy M. Dzialowski, Trustee

Christie Hawkins, Trustee

Kevin Clark, Trustee

Tim Hardin, Trustee

[Remainder of Page Intentionally Left Blank]

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for the above County and State, on the 7th day of October, 2024, appeared William H. Joyce, and further known to me to be the identical person who subscribed said person's name to the foregoing instrument, as Trustor, and acknowledged to me that said person executed the same as said person's free and voluntary act and deed, for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

Notary Public

(SEAL)

My Commission Expires: _____.
Commission No.: _____.

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on the 7th day of October, 2024, personally appeared William H. Joyce, Amy M. Dzialowski, Christie Hawkins, Kevin Clark, and Tim Hardin, and further known to me to be the identical persons who subscribed their names to the foregoing instrument, as Trustees, and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

Notary Public

(SEAL)

My Commission Expires: _____.
Commission No.: _____.

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

ACCEPTANCE

KNOW ALL MEN BY THESE PRESENTS:

That the Board of Trustees of the City of Stillwater, State of Oklahoma, hereby accepts the beneficial interest in the Trust created and recreated by the within and foregoing Amended Trust Indenture, for and on behalf of said City in all respects in accordance with the terms of said Amended Trust Indenture.

WITNESS my hand as Mayor of said City, attested by the Clerk of said City, pursuant to direction of the Board of Trustees of said City, as of this 7th day of October, 2024.

CITY OF STILLWATER, OKLAHOMA

WILLIAM H. JOYCE, Mayor

ATTEST:

TERESA KADAVY, City Clerk

(SEAL)

Approved as to form and content this ____ day of _____, 2024.

KIMBERLY CARNLEY, City Attorney

RESOLUTION NO. SUA-2024-8

A RESOLUTION OF THE STILLWATER UTILITIES AUTHORITY (THE "AUTHORITY") AUTHORIZING THE ISSUANCE OF ITS UTILITY SYSTEM AND SALES TAX REVENUE BONDS (THE "BONDS") IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$51,325,000, AND AUTHORIZING A CERTIFICATE OF DETERMINATION; APPROVING THE SOLICITATION FOR AND USE OF BOND INSURANCE AND/OR A RESERVE SURETY OR INSURANCE POLICY; DESIGNATING UNDERWRITERS WITH RESPECT TO THE SALE OF THE BONDS; AUTHORIZING THE SALE OF THE BONDS AT NEGOTIATED SALE AND WAIVING COMPETITIVE BIDDING; APPROVING THE FORM OF BOND PURCHASE AGREEMENT; APPROVING A GENERAL BOND INDENTURE AND SERIES SUPPLEMENTAL BOND INDENTURE AUTHORIZING THE ISSUANCE AND SECURING THE PAYMENT OF THE BONDS; PROVIDING THAT THE ORGANIZATIONAL DOCUMENT CREATING THE AUTHORITY IS SUBJECT TO THE PROVISIONS OF THE BOND INDENTURE; RATIFYING AND CONFIRMING A LEASE AGREEMENT, AS AMENDED, PERTAINING TO THE LEASING OF THE CITY'S WATER, SANITARY SEWER, SOLID WASTE, AND ELECTRIC SYSTEMS TO THE AUTHORITY, AND AUTHORIZING AN AMENDED LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT; APPROVING AND AUTHORIZING EXECUTION OF A SALES TAX AGREEMENT BY AND BETWEEN THE CITY AND THE AUTHORITY PERTAINING TO A YEAR-TO-YEAR PLEDGE OF CERTAIN SALES TAX REVENUE; APPROVING THE FORM OF AN OFFICIAL STATEMENT PERTAINING TO THE BONDS, AUTHORIZING THE CHAIRMAN OR VICE CHAIRMAN TO APPROVE ANY CORRECTION TO SAID OFFICIAL STATEMENT, AND AUTHORIZING DISTRIBUTION OF THE SAME; APPROVING THE FORMS OF A CONTINUING DISCLOSURE AGREEMENT AND AN OFFICIAL STATEMENT; RATIFYING AND CONFIRMING A POWER PURCHASE AND SALE AGREEMENT AND A CAPACITY PURCHASE AGREEMENT WITH GRAND RIVER DAM AUTHORITY; AUTHORIZING THE DIRECTING THE MODIFICATION OF COLLATERAL PERTAINING TO CERTAIN OBLIGATION OF THE AUTHORITY TO THE OKLAHOMA WATER RESOURCES BOARD; AUTHORIZING AND DIRECTING THE EXECUTION OF BONDS AND OTHER DOCUMENTS RELATING TO THE TRANSACTION INCLUDING BOND INSURANCE AND/OR SURETY DOCUMENTS, AND PROFESSIONAL SERVICES AGREEMENTS WITH BOND COUNSEL, FINANCIAL ADVISOR, AND DISCLOSURE COUNSEL; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Stillwater Utilities Authority (the "Authority") was created by a Trust Indenture dated as of April 1, 1979, as amended by that certain Amendment to Trust Indenture dated as of November 1, 1980, and as further amended by a Second Amendment to Trust Indenture dated as of March 24, 2014, and as may be further amended as provided therein, all for the use and benefit of the City of Stillwater, Oklahoma (the "City") under authority of and pursuant to the provisions

of Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, inclusive, as amended and supplemented, the Oklahoma Public Trust Act (the “Act”) and other applicable statutes of the State of Oklahoma; and

WHEREAS, the Authority has heretofore issued its Utility System and Sales Tax Revenue Bonds, Series 2014A dated August 12, 2014, in the original principal amount of \$61,830,000.00 (the “2014A Bonds”), for the purpose of financing certain electric system improvements; and

WHEREAS, the Authority desires to grant approval for the issuance of obligations to refinance the 2014A Bonds in order to realize economic savings benefitting the City; and

WHEREAS, the Authority has determined to consider the use of bond insurance and/or a reserve surety or insurance policy with respect to the Bonds from reliable providers (the “Insurance and/or Surety Providers”) if the interest cost savings on all or a portion of the Bonds exceed the cost of such insurance and/or if the reserve surety or insurance policy can be obtained at a cost substantially less than the present value of the projected negative impact of the projected investment of a cash reserve.

NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE STILLWATER UTILITIES AUTHORITY:

SECTION 1. INDEBTEDNESS AUTHORIZED; CERTIFICATE OF DETERMINATION. The Authority is authorized to incur an indebtedness by the issuance of its Utility System and Sales Tax Revenue Bonds for and on behalf of the City, in one or more series, in the aggregate principal amount of not to exceed \$51,325,000.00 (the “Bonds”) for the purpose of (i) refinancing the 2014A Bonds; and (ii) paying certain costs associated with issuance of the Bonds, it being the express intent hereof that any designations herein are merely for convenience and the said bonds may be named and divided by series as deemed appropriate by the Authority. The aggregate principal amount of the Bonds shall not exceed \$51,325,000.00, the true interest cost on the Bonds shall not exceed 4.5% per annum, and the final maturity date shall be not later than October 1, 2042. The exact underwriters’ and original issue discount, if any, original issue premium, if any, interest rates, redemption provisions, size and maturities, the determination based on staff recommendation as to the use of bond insurance and/or a reserve surety or insurance policy, subject to the limitations set forth herein, shall be set forth in a Certificate(s) of Determination signed by the Chairman, or in their absence, the Vice-Chairman at the time of offering and pricing of the Bonds by the Underwriters. Upon signing the Certificate(s) of Determination, the Chairman, or in their absence, the Vice-Chairman, is authorized to execute the Bond Purchase Agreement(s).

SECTION 2. DESIGNATING UNDERWRITERS; SALE OF BONDS, WAIVING COMPETITIVE BIDDING. The Bonds are hereby sold and authorized to be sold and delivered to an underwriting firm(s) as designated in a Certificate of Determination of the Authority to be executed prior to closing the Bonds, as representative of the underwriters (collectively, the “Underwriter”) at negotiated sale at a discount of not to exceed 0.60% representing the Underwriters’ discount (inclusive of Underwriters’ expense reimbursement) and not to exceed 2.00% representing original issue discount as shall be more fully described along with the maturities and interest rates as set forth in a certificate of determination on the day of pricing of the Bonds, provided the true interest cost shall not exceed 5.5% per annum. Competitive bidding

for the Bonds is hereby waived and the Bonds are hereby authorized to be sold and delivered pursuant to the terms of the Bond Purchase Agreement defined in Section 3 herein.

SECTION 3. BOND PURCHASE AGREEMENT. The form of Bond Purchase Agreement between the Authority and the Underwriter (the “Bond Purchase Agreement”), is hereby approved and the Chairman or Vice Chairman of the Authority is authorized to approve any corrections or additions thereto, and is further directed to execute and deliver same for and on behalf of the Authority; such execution and delivery to constitute full approval thereof by the Authority, including any corrections or additions thereto.

SECTION 4. BOND INDENTURE. The General Bond Indenture, as amended by a Series Supplemental Bond Indenture, all by and between the Authority and BOKF, NA, Oklahoma City, Oklahoma, as Trustee (the “Trustee”), authorizing the issuance of and securing the payment of the Bonds approved in Section 1 hereof, is hereby approved and the Chairman or Vice Chairman and Secretary or Assistant Secretary of the Authority are authorized and directed to execute and deliver same for and on behalf of the Authority.

SECTION 5. ORGANIZATIONAL DOCUMENT SUBJECT TO THE BOND INDENTURE. The organizational document creating the Authority is subject to the provisions of the Bond Indenture referenced in Section 4 hereof.

SECTION 6. LEASE AGREEMENT. The Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1979, as amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of December 1, 1980, as further amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1986, as further amended by that certain Amendment No. 1, City of Stillwater, Stillwater Utilities Authority, Extension of Lease Agreement and Operation and Maintenance Contract dated May 13, 2013, as further amended by that certain Amendment No. 2, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated September 19, 2022, and as further amended by that certain Amendment No. 3, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated December 5, 2022 (collectively, the “Existing Lease Agreement”), whereby the City leased its water, sanitary sewer, solid waste, and electric systems to the Authority, is hereby ratified and confirmed, and the term of said Existing Lease Agreement, shall extend until the Bonds are repaid; provided however, the Chairman or Vice-Chairman and Secretary or Assistant Secretary of the Authority are hereby authorized to execute and deliver an Amended Lease Agreement and Operation and Maintenance Contract that will replace and supersede the Existing Lease Agreement, and the term of said Amended Lease Agreement shall extend until the Bonds are repaid.

SECTION 7. SALES TAX AGREEMENT. The Authority hereby approves and authorizes the execution of a Sales Tax Agreement by and between the City and the Authority (the “Sales Tax Agreement”), which Sales Tax Agreement pertains to a year-to-year pledge of certain sales tax revenue as security for the Bonds.

SECTION 8. OFFICIAL STATEMENT. The forms of the Preliminary Official Statement and the Final Official Statement (collectively, the “Official Statement”) outlining the terms, conditions and security for the Bonds are hereby adopted and approved and the Chairman or Vice

Chairman of the Authority is authorized to approve any corrections, additions or deletions thereto for and on behalf of the Authority and is further authorized and directed to execute and deliver same for and on behalf of the Authority. The Chairman or Vice Chairman are authorized to approve any corrections, additions or deletions thereto for and on behalf of the Authority, and thereupon the Chairman or Vice Chairman of the Authority is authorized and directed to execute and deliver for and on behalf of the Authority a certificate deeming the Preliminary Official Statement to be “final” in accordance with the requirements of Rule 15c2-12 of the Securities and Exchange Commission promulgated pursuant to the Securities and Exchange Act of 1934. The Authority authorizes the Underwriter to distribute the Official Statement in connection with the sale of the Bonds.

SECTION 9. CONTINUING DISCLOSURE AGREEMENT. The form of Continuing Disclosure Agreement is hereby approved with such additions, omissions and changes as may be approved by the persons executing the same, and the Chairman or Vice-Chairman and Secretary or Assistant Secretary of the Authority are authorized and directed to execute and deliver same for and on behalf of the Authority.

SECTION 10. RATIFICATION OF GRAND RIVER DAM AUTHORITY AGREEMENTS. The Authority hereby ratifies and confirms that certain (i) Power Purchase and Sale Agreement by and between the Grand River Dam Authority and the Authority effective as of September 1, 2013, and (ii) Capacity Purchase Agreement between the Grand River Dam Authority and the Authority dated as of September 1, 2013; each with such amendments and/or modifications, if any, as may be permitted therein.

SECTION 11. MODIFICATION OF OWRB LOAN COLLATERAL. The Authority hereby authorizes the revenues of the solid waste system of the Authority to be pledged as additional collateral to the Bond Indenture on a senior lien basis, and also to the Oklahoma Water Resources Board on a subordinate basis. The Chairman and Secretary or Assistant Secretary of the Authority are hereby authorized and directed to execute any necessary documentation to effect the addition of the solid waste revenues as additional collateral for the Authority’s outstanding obligations to the Oklahoma Water Resources Board.

SECTION 12. EXECUTION OF NECESSARY DOCUMENTS. The Chairman or Vice Chairman and Secretary or Assistant Secretary of the Authority are hereby authorized and directed on behalf of the Authority to execute and deliver the Bonds to the Underwriter upon receipt of the purchase price and are further authorized and directed to execute all necessary closing and delivery papers required by Bond Counsel and the Financial Advisor including, but not limited to, the Bond forms, tax or tax compliance documents, closing certificates, continuing disclosure or other security or securities-related documents, any required agreements relating to any bond insurance and/or reserve surety or insurance policies, professional services agreements for professional services associated with issuance of the Bonds including but not limited to professional services agreements with The Public Finance Law Group PLLC, as Bond Counsel, BOK Financial Securities, Inc., as Financial Advisor, and Kutak Rock, LLP, as Disclosure Counsel, disbursement orders, or any other letter, representation or certification otherwise necessary and attendant to the issuance and delivery of the Bonds; approve the disbursement of the proceeds of the Bonds, including any costs of issuance; to approve and make any changes to the documents approved by this Resolution, for and on behalf of the Authority, the execution and delivery of such documents being conclusive as to the approval of any changes contained therein by the Authority; and to

execute, record and file any and all the necessary financing statements, security instruments, including but not limited to the documents approved hereby, and to consummate the transaction contemplated hereby.

[Remainder of Page Left Blank Intentionally]

PASSED AND APPROVED THIS 7TH DAY OF OCTOBER, 2024.

(SEAL)

Chairman

ATTEST:

Secretary

CERTIFICATE
OF
AUTHORITY ACTION

I, the undersigned, hereby certify that I am the duly qualified and acting Secretary of the Stillwater Utilities Authority.

I further certify that the Trustees of the Stillwater Utilities Authority held a Regular Meeting at 5:30 P.M., on October 7, 2024, after due notice was given in full compliance with the Oklahoma Open Meeting Act.

I further certify that attached hereto is a full and complete copy of a Resolution that was passed and approved by said Trustees at said meeting as the same appears in the official records of my office and that said Resolution is currently in effect and has not been repealed or amended as of this date.

I further certify that below is listed those Trustees present and absent at said meeting; those making and seconding the motion that said Resolution be passed and approved; and those voting for and against such motion:

PRESENT:

ABSENT:

MOTION MADE BY:

MOTION SECONDED BY:

AYE:

NAY:

WITNESS MY HAND THIS 7TH DAY OF OCTOBER, 2024.

STILLWATER UTILITIES AUTHORITY

(SEAL)

Secretary of Authority

**AMENDED LEASE AGREEMENT AND
OPERATION AND MAINTENANCE CONTRACT**

THIS AMENDED LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT dated as of _____, 2024 (hereinafter called “Agreement”), by and between the City of Stillwater, Oklahoma (hereinafter called “City”), a municipal corporation acting by its Mayor and City Council, and the Stillwater Utilities Authority (hereinafter called “Authority”), a public trust created under the authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 2021, Section 176 to 180.4, as amended and supplemented, and the Oklahoma Trust Act, replaces and supersedes in all respects that certain Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1979, duly recorded in the office of the Payne County Clerk at Book 541, Page 819, as amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of December 1, 1980, duly recorded in the office of the Payne County Clerk at Book 541, Page 833, as further amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1986, duly recorded in the office of the Payne County Clerk at Book 790, Page 059, as further amended by that certain Amendment No. 1, City of Stillwater, Stillwater Utilities Authority, Extension of Lease Agreement and Operation and Maintenance Contract dated May 13, 2013, as further amended by that certain Amendment No. 2, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated September 19, 2022, duly recorded in the office of the Payne County Clerk at Book 2733, Page 881, as further amended by that certain Amendment No. 3, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated December 5, 2022, duly recorded in the office of the Payne County Clerk at Book 2759, Page 451, together with such other lease documents pertaining to the water, sanitary sewer, solid waste, and electric systems which are the subject of this Agreement.

W I T N E S S E T H:

WHEREAS, the Authority was created and recreated pursuant to an Amended Trust Indenture dated as of October 7, 2024 (the “Trust Indenture”), for the use and benefit of the City pursuant to Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4; and

WHEREAS, it has been determined beneficial to the City that the Authority incur indebtedness for the purpose of financing and refinancing the construction of certain additions and improvements to the water, sanitary sewer, solid waste, and electric systems of the City but thereafter for such purposes as may from time to time be determined by the Authority to be beneficial to the City (hereinafter collectively or individually called “Projects”); and

WHEREAS, in consideration of the Authority’s agreement to extend and improve the existing water, sanitary sewer, solid waste, and electric systems and pursuant to Title 11, Oklahoma Statutes 2021, Section 35-201, as amended and supplemented, the City has determined to lease its presently

existing and hereafter acquired water, sanitary sewer, solid waste, and electric systems, together with all additions, betterments and improvements thereto and extensions thereof hereafter constructed or acquired by the Authority or the City (hereinafter called the "Facilities"), together with all appurtenances thereof and incidents thereto, more fully described in Section 1 hereof, to the Authority to enable the Authority to obtain financing secured by a pledge of its leasehold interest in all or a part of the Facilities and the proceeds, fees, charges, revenues, income, rents, receipts, issues and benefits (hereinafter called the "Revenues" and together with the Facilities called the "Trust Estate"); and

WHEREAS, the Authority has determined, in conformity with the desires of the City and to insure the continued efficient operation and maintenance of the Facilities, to operate and maintain the Facilities for and on behalf of the City during the term of this Agreement and to collect the Revenues therefrom.

NOW, THEREFORE:

SECTION 1. The City, in consideration of the agreements of the Authority and the contribution of the projects to the health, safety and welfare of the City's citizens and residents, does by these presents demise, lease and rent to the Authority the following described property, real or personal or both, owned by or under the control of the City as follows:

(1) The real property now owned or hereafter acquired by the City pertaining to the water, sanitary sewer, solid waste, and electric systems, including the real property described in Exhibit "A" attached hereto;

(2) All of the presently existing water, sanitary sewer, solid waste, and electric systems of the City and all appurtenances thereof presently belonging to the City, or under its custody, management or control, located within and without the corporate limits of the City, together with the rights-of-ways, licenses, easements, permits to take and use ground water and other rights and privileges appertaining or related thereto;

(3) The real estate currently owned and utilized by the City for the operation of the existing water, sanitary sewer, solid waste, and electric systems;

(4) All interest of the City in and to all unexpired leases and contracts heretofore or hereafter executed by the City pertaining to all or any part of said Facilities, including revenue and income to be received therefrom and retained by the City;

(5) All interest of the City in and to proceeds, fees, charges, revenues, income, rents, receipts, issues and benefits from the Facilities of the City; and

(6) All property, real, personal or mixed, together with all rights and privileges, appertaining or related thereto which hereafter may be acquired by or in the name of the City for use in connection with furnishing of water, sanitary sewer, solid waste, electric services to persons, firms, corporations and others within and without the corporate limits of the City; it being the intention of this paragraph that any of the foregoing, including income therefrom, immediately upon its acquisition shall be a part of the property demised and leased hereunder.

TO HAVE AND TO HOLD the same to the Authority for a term of approximately one hundred (100) years, commencing _____, 2024, and ending June 30, 2124. Provided, that such term shall be extended beyond June 30, 2124, until all indebtedness payable from the Trust Estate, whenever issued, issued by the Authority and secured by the Trust Estate or payable from revenues derived therefrom, has been retired and paid or provision for the payment thereof has been made.

The City hereby covenants and agrees that all or any part of the leasehold interest in the Facilities herein granted to the Authority may be pledged by the Authority as security for any indebtedness incurred by the Authority.

SECTION 2. In consideration of the agreements of the Authority, the City hereby covenants and agrees during the term of this Agreement set out in Section 1 above, as follows:

(1) To furnish for distribution through the Facilities a supply of water adequate to meet the demand of the users of the Facilities;

(2) To impose or approve such rates, fees and charges which shall be sufficient to satisfy all the provisions of any indenture or other instrument securing and providing for the payment of any indebtedness incurred by the Authority, including the establishment of and maintenance of any funds, reserves or accounts required pursuant to any indenture or other instrument securing such indebtedness;

(3) In accordance with the uniform rates, fees and charges to each and every user of the Facilities and the services thereof, and if legal, to enforce payments of said rates, fees and charges by termination of water, sanitary sewer, solid waste, electric, or other services to users delinquent in payment of the rates, fees and charges, and, in addition, by any other legally available means;

The City will not permit any free use of any of the Facilities of the Trust Estate;

(4) Not to commit or allow any waste with respect to any of the Facilities;

(5) To comply faithfully and fully with and abide by every statute, rule, order and regulation now in force or hereafter enacted by any competent government agency or authority with respect to or affecting the Facilities or the operation and maintenance thereof, and to keep the Facilities and the Revenues and all parts thereof free from judgments, mechanic's and materialmen's liens and free from all other mortgages, liens, claims, demands and encumbrances of whatever nature or character to the end that the priority of the pledge provided for in any indenture or other instrument properly entered into by the Authority may at all times be maintained and preserved free from any claim or liability. The provisions set out in this paragraph (6) of this Section 2 shall not prevent the transfer or possession or control of the Trust Estate or any part thereof to temporary trustees or a receiver for operation therein in accordance with the provisions of any indenture or other instrument securing the payment of any indebtedness incurred by the Authority;

(6) To carry, as long as any indebtedness of the Authority secured by a pledge of the Authority's leasehold interest in the Facilities and the Revenues therefrom are outstanding, the

insurance required to be carried by the Authority under the terms of any indenture or instrument relating to such indebtedness and to apply the proceeds of any such insurance in accordance with the terms of such indenture, indentures or other instrument;

(7) To keep proper books of record and account of all transactions relating to the Trust Estate in accordance with the terms established by the Authority and to cause statements and audits to be furnished to the Authority and other designated parties in accordance with the terms to be provided for by the Authority;

(8) To promptly institute and diligently prosecute appropriate proceedings in eminent domain for the condemnation of lands or interest therein necessary for the construction or acquisition of any improvement or betterment to or extension of the properties of the Trust Estate which has been approved by the governing body of the City, the costs and expenses of such proceedings and the award of damages as a result thereof to be paid by the Authority unless otherwise agreed to by the parties hereto, title to all such property to be taken in the name of the City and upon acquisition to become part of the properties leased to the Authority hereunder and to be included in the Trust Estate;

(9) The City and the Authority will agree at any time to amend this Agreement to transfer the responsibility of operation and maintenance of the Facilities or any part thereof from the Authority to the City; provided, that the City hereby agrees that the Authority may provide for the operation and maintenance of the Facilities by a temporary trustee or a receiver in the event there is a default under any indenture or other instrument securing indebtedness incurred by the Authority; and in such event, the City will cooperate fully with such provisions; and

(10) To be bound by and keep and perform all covenants, acts and things by it to be kept and performed according to the true intent and meaning of any indenture or instrument executed by the Authority, the Trust Indenture and this Agreement.

SECTION 3. In consideration of the agreements of the City, the Authority hereby covenants and agrees during the term of this Agreement set out in Section 1 above, as follows:

(1) To procure financing and to expend the proceeds thereof for the maintenance and expansion of the water and/or sanitary sewer and/or solid waste and/or electric services and to procure financing in the future for other approved projects as shall be mutually agreeable by the parties;

(2) To fix, with the consent of the City, a schedule of uniform and non-discriminatory rates, fees and charges for the use of the Facilities and for services supplied by the Facilities such as will provide in any year revenues sufficient to pay monthly debt service requirements including the principal of and interest on all indebtedness incurred by the Authority including the establishment of and maintenance of any funds, reserves or accounts required pursuant to any indenture or other instrument securing such indebtedness;

(3) To adjust the rents, rates, fees and charges for the services supplied by the use of the Facilities to reflect uniform changes in such rents, rates, fees and charges requested from time to time by ordinance or resolution of the governing body of the City, provided that such adjustments and changes in such rents, rates, fees and charges do not in any way impair the ability of the Authority to

comply fully with any covenant contained in any indenture or other instrument securing indebtedness of Authority;

(4) From the Revenues of the Facilities paid by the City to the Authority as hereinafter provided, to maintain and operate in first class condition, keep in good repair and make necessary replacements, extensions and improvements of the Facilities and from said Revenues to protect and hold the City harmless from damages due to injury to persons or property arising by reason of the Authority's operation, maintenance, repair, replacement, extension and improvement of the Facilities;

(5) To submit to the City each month during the term of this Agreement an itemized statement of all costs and expenses of operation, maintenance, repairs, replacements, extensions and improvements of the Facilities including the cost of holding the City harmless from damages to persons or property;

(6) To bill and collect all rates, charges and fees on a monthly basis, derived from the operation of the Facilities, and deposit same in a trustee or depository bank in the manner as may specifically be set out in any indenture or other instrument securing any indebtedness incurred by the Authority;

(7) To receive the monies transferred to it by the City or by direction of the City each month and to use said monies to pay all costs and expenses of operation, maintenance, repairs, replacements, extensions and improvements of the Facilities, including the cost of water and other related fees and expenses and the cost of holding the City harmless from damages to persons or property;

(8) To incur only such indebtedness secured by the Trust Estate as may be authorized in the Trust Indenture, creating the Authority and as may be approved from time to time by ordinance or resolution of the governing body of the City;

(9) To do all things necessary and proper to perform the purposes of the Trust within the scope of the powers and duties set forth in the Trust Indenture and within the scope of any indenture or other instrument securing the payment of any indebtedness incurred by the Authority, including the payment of principal, interest and the accumulation of reserve requirements as may be provided for in such indenture or other instrument securing same;

(10) To do any and all things required to be done by it under the terms of this Agreement, and cooperate with the City to the end that the Facilities may be efficiently operated and maintained.

SECTION 4. The Authority hereby agrees with the City that the full legal title to the Facilities shall be vested in the City and the Facilities shall be operated and maintained by the Authority, provided upon the expiration of this Agreement, all right, title and interest of the Authority in the Facilities shall revert to the City.

SECTION 5. The City and the Authority may, from time to time and at any time, amend this Agreement, provided, any amendment shall not be inconsistent with the terms and provisions hereof

nor with the terms and provisions of any indenture securing the payment of indebtedness incurred by the Authority, for the following purposes:

- (a) To cure any ambiguity or formal defect, inconsistency or omission in this Agreement or to clarify matters or questions arising thereunder; or
- (b) To add additional covenants and agreements for the purpose of securing the payment of indebtedness incurred by the Authority; or
- (c) To confirm as further assurance any pledge of additional revenues, monies, securities or funds; or
- (d) For the purposes set out in Section 2(10) hereof.

From and after the incurrence of any indebtedness, this Agreement shall not be assigned by either party, provided, however, it may be assigned and pledged pursuant to any indenture and/or mortgage securing the payment of indebtedness incurred by the Authority.

SECTION 6. Indebtedness incurred by the Authority shall not constitute an indebtedness of the State of Oklahoma nor of the City, nor be personal obligations of the Trustees of the Authority, but such indebtedness shall be special obligations of the Authority, payable solely from the revenues of the Trust Estate or portions thereof as may be set out in any indenture or other instrument securing the payment of such indebtedness.

SECTION 7. The provisions of this Agreement shall be deemed separable. If it shall ever be held by a court of competent jurisdiction that any one or more sections, clauses or provisions of this Agreement is invalid or ineffective for any reason, such holding shall not affect the validity and effectiveness of the remaining sections, clauses and provisions thereof.

SECTION 8. It is the contemplation of the parties and the City hereby agrees that facilities built with approved sources of financing and any additional financing shall be fully integrated with the existing Facilities of the City, for the purposes of operation, maintenance, repair, replacement, extension and improvements. In the event of the Authority's default under any indenture or other instrument securing indebtedness incurred by the Authority which results in the appointment of temporary or permanent receivers or trustees for the Trust Estate of the Authority, or any part thereof, the City hereby agrees to perform with respect to such receivers or trustees, all covenants and agreements herein undertaken with respect to the Authority.

In the event of the City's default hereunder, the City agrees to continue to perform the agreements of the City set out in Section 2 hereof, and promptly remit all revenues from the Facilities to the Authority.

SECTION 9. CONFIRMATION OF TRANSFER: The value of the property subject to transfer under this Agreement exceeds Two Hundred and Fifty Thousand Dollars (\$250,000.00) in value. This transaction is therefore subject to the provisions of Section 4.2, Stillwater City Charter which provides as follows:

- (1) By authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the city who vote on the question of approving or enacting the ordinance (the ordinance being submitted to the voters by the city council or by initiative of the voters); or
- (2) By authority of a non-emergency ordinance passed by the city council, which shall be published in full in a newspaper authorized by law to publish legal publications within ten (10) days after its passage, and which shall include a section reading substantially as follows:

"Section . If one or more petitions with signatures of registered qualified voters of the city equal to at least twenty-five (25) percent of the total number of votes cast in the last scheduled general municipal election are filed with the city clerk within thirty (30) days after passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question . If no petition with signatures is filed, this ordinance shall go into effect thirty (30) days after its passage and publication."

The Authority acknowledges that this transaction is subject to said Charter provision and that it has no right to seek specific performance or any other remedy to compel the conveyance of the property should the voters reject the sale under this Agreement. The Authority further acknowledges and agrees that it has no right to damages or any other compensation permitted under this Agreement should the voters reject the sale of the property pursuant to this Charter provision.

[Remainder of Page
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IN WITNESS WHEREOF, the City has caused this instrument to be signed by its Mayor and City Clerk and its seal affixed, and the Authority has caused this instrument to be signed by its Chairman and Secretary and its seal affixed, all as of the ____ day of _____, 2024.

CITY OF STILLWATER, OKLAHOMA

(SEAL)
ATTEST:

Mayor

City Clerk

STILLWATER UTILITIES AUTHORITY

(SEAL)
ATTEST:

Chairman

Secretary

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for said State, on the ____ day of _____, 2024, personally appeared William H. Joyce, Mayor, and Teresa Kadavy, City Clerk, of the City of Stillwater, Oklahoma, and to me further known to be the identical persons who subscribed the name of said City as one of the makers thereof, to the foregoing instrument as its Mayor and City Clerk, respectively, and acknowledged to me that they executed the same as their free and entirely voluntary act and deed and as the free and voluntary act and deed of said City, for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

(SEAL)

Notary Public

My Commission Expires: _____.
Commission No.: _____.

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for said State, on the ____ day of _____, 2024, personally appeared William H. Joyce, Chairman, and Teresa Kadavy, Secretary, of the Trustees of the Stillwater Utilities Authority, the makers of the above and foregoing instrument of writing, and to me further known to be the identical persons who subscribed the names of the makers thereof to the foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of said Trustees for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

(SEAL)

Notary Public

My Commission Expires: _____.
Commission No.: _____.

EXHIBIT “A”

Exhibit A-1