

**AGREEMENT
FOR
ENGINEERING SERVICES**

This AGREEMENT, between the Norman Municipal Authority (OWNER)
and
Plummer (CONSULTANT);
WITNESSETH

WHEREAS, OWNER requires hydraulic modeling and related services associated with the delivery of reclaimed, non-potable water to existing and potential new customers;

WHEREAS, CONSULTANT is prepared to provide said SERVICES; and

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

ARTICLE 1 - EFFECTIVE DATE

The effective date of this AGREEMENT shall be _____ **December 2021**.

ARTICLE 2 - COMPLETION DATE

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

ARTICLE 3 - GOVERNING LAW

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

ARTICLE 4 - SERVICES TO BE PERFORMED BY ENGINEER

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

ARTICLE 5 - COMPENSATION

OWNER shall pay CONSULTANT in accordance with **Attachment C, Compensation**.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

- 6.1. OWNER-Furnished Data: Upon request, OWNER will provide to CONSULTANT all data in OWNER's possession relating to CONSULTANT 's SERVICES on the PROJECT. Such data may include operations reports, record drawings, and equipment manuals for the Sanitation Office Building. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by OWNER. OWNER's data is provided for temporary use or copying by CONSULTANT.
- 6.2. Access to Facilities and Property: OWNER will make its facilities accessible to CONSULTANT as required for ENGINEER's performance of its SERVICES
- 6.3. Timely Review: OWNER will examine CONSULTANT's studies, reports, sketches, drawings, specifications, proposals, and other documents; and transmit OWNER comments or other decisions to CONSULTANT in a timely manner.
- 6.4. Meetings and Workshops: OWNER will participate in progress meetings and workshops with CONSULTANT or contractor(s) defined in Attachment B, Scope of Services.
- 6.5. Advertisements, Permits, and Access: Unless otherwise agreed to in the Scope of Services, OWNER will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for CONSULTANT 's SERVICES or PROJECT construction.

- 6.6. Hazardous Substances: If hazardous substances in any form are encountered or suspected, CONSULTANT will stop its own work in the affected portions of the PROJECT to permit testing and evaluation. CONSULTANT will, if requested by OWNER, conduct tests to determine the extent of the problem and will perform the necessary studies and recommend necessary remedial measures at an additional fee with contract terms to be negotiated. CONSULTANT shall not assume any role in the identification, evaluation, treatment, storage, disposal, or transportation of any hazardous substance or waste.

ARTICLE 7 - STANDARD OF CARE

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

ARTICLE 8 - LIABILITY AND INDEMNIFICATION

- 8.1 General. Having considered the potential liabilities that may exist during the performance of the SERVICES, the benefits of the PROJECT, CONSULTANT's fee for the SERVICES and in consideration of the promises contained in this AGREEMENT, OWNER and CONSULTANT agree to allocate and limit such liabilities in accordance with this Article.
- 8.2 Indemnification and Liability. CONSULTANT agrees to indemnify, and hold harmless the OWNER, its officers, servants, and employees, from and against legal liability for all third party tort claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees recoverable under applicable law) from bodily injury (including death) or tangible property damage caused by a negligent act, error, or omission of CONSULTANT in the performance of services under this Agreement. OWNER agrees to indemnify, and hold harmless CONSULTANT, its officers, servants, and employees, from and against legal liability for all claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees recoverable under applicable law) caused by a negligent act, error, or omission of the OWNER in the performance of services under this Agreement, provided such indemnification shall be applicable only to the extent sovereign immunity has been waived pursuant to Oklahoma law. CONSULTANT and the OWNER each agree to promptly service notice on the other party of any claims arising hereunder, and shall cooperate in the defense of such claims. The acceptance by OWNER or its representatives of any certification of insurance providing for coverage other than as required in this Agreement to be furnished by CONSULTANT shall in no event be deemed a waiver of any of the provisions of this indemnity provision. None of the foregoing provisions shall deprive the OWNER of any action, right, or remedy otherwise available to OWNER at common law.
- 8.3 Employee Claims. CONSULTANT shall indemnify OWNER against legal liability for damages arising out of claims by CONSULTANT's employees. OWNER shall indemnify CONSULTANT against legal liability for damages arising out of claims by OWNER's employees.
- 8.4 Consequential Damages. To the fullest extent permitted by law, CONSULTANT shall not be liable to OWNER for any special, indirect or consequential damages resulting in any way from the performance of the SERVICES.
- 8.5 Survival. Upon completion of all SERVICES obligations and duties provided for in this AGREEMENT or if this AGREEMENT is terminated for any reason the terms and conditions of this Article shall survive.

ARTICLE 9 - INSURANCE

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

- 9.1 Worker's compensation insurance for CONSULTANT's employees as required by Oklahoma Workers Compensation Statutes.
- 9.2 Comprehensive general liability insurance with a minimum of \$125,000 per accident for bodily injury or death and \$25,000 per occurrence for property damage.
- 9.3 Comprehensive automobile liability insurance with a minimum of \$125,000 per accident for bodily injury or death and \$25,000 for property damage.

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

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

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

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

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

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

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

ARTICLE 12 - REUSE OF DOCUMENTS

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

ARTICLE 13 - TERMINATION

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

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

ARTICLE 14 - DELAY IN PERFORMANCE

Neither OWNER nor CONSULTANT shall be considered in default of this AGREEMENT for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this AGREEMENT, such circumstances include, but are not limited to abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riot and other civil disturbances; strikes, work slowdowns and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or SERVICES required to be provided by either OWNER or CONSULTANT under this AGREEMENT.

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

ARTICLE 15 - COMMUNICATIONS

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

CONSULTANT: **Christopher Ferguson, PE, Project Manager**
Plummer
531 Couch Drive, Suite 202
Oklahoma City, OK 73102
405-440-2725
cferguson@plummer.com

OWNER: **Kenneth Giannone, P.E.**
Norman Municipal Authority (NMA)
201-C West Gray
P.O. Box 370
Norman OK 73070
405-366-5377
kenneth.giannone@normanok.gov

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

ARTICLE 16 - WAIVER

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

ARTICLE 17 - SEVERABILITY

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

ARTICLE 18 - INTEGRATION

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

Attachment A – Schedule
Attachment B – Scope of Services
Attachment C – Compensation

ARTICLE 19 - SUCCESSORS AND ASSIGNS

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

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

DATED this _____ day of _____, 20_____.

Plummer – CONSULTANT

ATTEST

By: Ellen McDonald

Dexter May

Printed Name: Ellen McDonald

Dexter May

Title: Principal

Project Manager

Norman Municipal Authority - OWNER

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

City Attorney

APPROVED by the Trustees of the Norman Municipal Authority this _____ day of December, 2021.

ATTEST

By: _____

Printed Name: Breea Clark

Brenda Hall

Title: Chairman

Secretary

Attachment A – Schedule

Task	Begin Date	End Date
Notice to Proceed	12/15/2021	12/15/2021
Kick-Off Meeting	12/20/2021	12/23/2021
Evaluate Historical Data	12/27/2021	1/07/2021
Identify Potential Additional Customers	12/27/2021	1/21/2021
Progress Meeting No. 1	1/17/2021	1/17/2021
Develop Hydraulic Model	1/07/2022	1/21/2022
Implementation Plan and Financial Analysis	1/21/2022	2/11/2022
Progress Meeting No. 2	2/17/2022	2/17/2022
Regulatory Recommendations and DEQ Meeting	2/28/2022	3/04/2022
Develop Draft Technical Memorandum	3/05/2022	3/18/2022
NUA Review Draft Memorandum	3/21/2022	4/01/2022
Review Meeting	4/04/2022	4/08/2022
Final Technical Memorandum Delivered to NUA	4/22/2022	4/22/2022

**Attachment B – Scope of Services
Norman Utilities Authority
Reclaimed Water Modeling Evaluation
Scope of Work**

The Norman Utilities Authority (NUA) furnishes treated effluent water from NUA's Water Reclamation Facility (WRF) to the University of Oklahoma (OU) who operates a small non-potable water system that they use to irrigate a segment of the campus. This system currently receives effluent pumped directly from NUA's WRF without storage in the distribution system.

The non-potable piping that feed's OU's system runs near the Lindsey Elevated Storage Tank (EST), near the intersection of E. Lindsey St. and Classen Blvd. Due to expansion of Norman's potable water system over many years and resultant changes to the system's gradient, Lindsey EST no longer has the hydraulic characteristics to function as viable potable water storage for the system. As a consequence, the tank has been decommissioned, and it is currently in a deteriorating condition. NUA is, therefore, considering either demolishing the tower or rehabilitating it and repurposing as a non-potable water storage tank either dedicated solely for the supply of OU's existing non-potable system or, perhaps, as part of an expanded non-potable system serving OU and several additional nearby entities identified as potential non-potable water customers in NUA's 2014 Strategic Water Supply Plan, prepared by Carollo Engineers.

NUA has asked Plummer Associates, Inc. to conduct hydraulic modeling of both the existing reclaimed water system and the potential expanded system that would serve additional nearby customers that were identified in NUA's 2014 Strategic Water Supply Plan to determine the feasibility of repurposing the decommissioned Lindsey EST for the reclaimed water storage.

The ENGINEER agrees to furnish NUA with the following specific services:

BASIC ENGINEERING SERVICES

ENGINEER agrees to perform BASIC ENGINEERING SERVICES in accordance with the stipulations within this AGREEMENT. The ENGINEER shall perform BASIC ENGINEERING SERVICES necessary for the development of the PROJECT as follows:

Task 1. Project Management and Meetings

- a. Prepare for and facilitate a remote kickoff meeting with NUA.
- b. Facilitate two (2) remote progress meetings.
- c. Prepare for and facilitate a final remote meeting after the draft memo has been developed.

Task 2. Evaluate Historical Data

- a. Obtain one year of hourly influent flows to the WRF, P, and hourly reclaimed water flow and pressure leaving the WRF to OU's system.

- b. Evaluate diurnal supply (WRF effluent) vs diurnal demand (reuse water sent to OU's system) to estimate the effect of storage in the distribution system.

Task 3. Identify Potential Additional Customers

- a. NUA's 2014 Water Master Plan identified approximately fifteen (15) potential additional customers for non-potable water in the vicinity of the existing OU system along with proposed routes for distribution piping. ENGINEER will evaluate five years of potable water demand data for these previously identified sites to confirm the feasibility of expanding NUA's non-potable water system to incorporate these customers.
- b. Develop a planning level opinion of probable construction cost for the conveyance infrastructure required to deliver reclaimed water to the new customers.

Task 4. Develop Hydraulic Model

- a. Construct a hydraulic model of NUA's reclaimed water system using existing available data for pipeline sizes and meter locations. Incorporate the reclaimed water feed pump curves into the hydraulic model. The hydraulic model will use the InfoWater model developed by Innovyze. The model will not be calibrated. Rather, typical friction factors will be used for distribution system piping.
- b. Create an existing maximum day modeling scenario based on maximum day demands for existing reclaimed water customers.
- c. Create a future maximum day scenario with the decommissioned potable EST repurposed and connected to the reclaimed water system. Evaluate the modeled impacts of incorporating the EST into the reclaimed water system, including: changes in pressure, water age, or pump efficiency.
- d. Create a second future maximum day scenario which includes the repurposed EST and additional customers to be added in the future.
- e. Identify recommended projects in the distribution system such as repurposing the Lindsey EST, incorporating additional customers, incorporating the existing 18" non-potable water line on Jenkins between Timberdell and Constitution, adding new pipe loops, or additional pumps at the WRF.

Task 5. Implementation Plan and Financial Analysis

- a. Develop planning level opinions of probable construction cost, operating costs, and a timeline of implementation for projects identified in previous tasks.
- b. NUA currently provides reclaimed water to customers free of charge. Plummer will conduct a high-level financial evaluation to identify the potential impact of charging current and/or future customers for reclaimed water use.

Task 6. Regulatory Recommendations

- a. Summarize reuse treatment requirements and water quality sampling requirements stipulated by the Oklahoma Department of Environmental Quality (DEQ).

- b. Facilitate one (1) remote meeting with the DEQ to discuss repurposing the Lindsey EST for the reuse system and generally discuss regulations governing proposed expanded reuse system if NUA were to pursue such an expansion.
- c. Identify potential locations in the wastewater collection system to flush reclaimed water in the event of low water quality.

Task 7. Technical Memorandum

- a. Prepare a draft technical memorandum summarizing the findings of the tasks listed above. Provide NUA with an electronic copy of the memorandum for review.
- b. Prepare a final technical memorandum after incorporating comments from NUA on the draft document. Deliver one (1) electronic version and two (2) hardcopies of the final memo.

Task 8 Additional Services

- a. Any services requested by NUA that are not otherwise described in this scope.
- b. ENGINEER may only be reimbursed under this task if all of the following conditions are met:
 - i. There is mutual agreement between NUA and ENGINEER on cost and scope of the additional service.
 - ii. Fee for additional service does not exceed the amount allocated to this task or, in case previous additional service(s) has been authorized under this task, fee for additional service does not exceed remaining funds under this task.
 - iii. NUA has furnished a written notice to proceed with additional service that includes both the agreed upon description of the work and the agreed upon fee.
- b. These additional services may include:
 - i. Calibration of hydraulic model using pressure logging devices deployed in the field.
 - ii. In-person meeting with the DEQ.

Attachment C - Compensation

Compensation for the Services described in Attachment B – Scope of Services shall be paid on a lump sum basis:

Task	Task	Fee
1	Project Management and Meetings	\$9,350
2	Evaluate Historical Data	\$2,314
3	Identify Potential Additional Customers	\$6,308
4	Develop Hydraulic Model	\$10,946
5	Implementation Plan and Financial Analysis	\$4,358
6	Regulatory Recommendations	\$4,451
7	Technical Memorandum	\$7,093
-	Total Basic Services	\$44,820
8	Additional Services	\$5,000
-	Total Authorized	\$49,820