



SERVICE AGREEMENT BETWEEN OWNER AND ENGINEER

OWNER INFORMATION:

Owner (company) name: City of Norman
Address: 201 West Gray
City: Norman State: Oklahoma Zip: 73069
Contact: Jason Murphy Title: Stormwater Program Manager
Telephone: (405) 366-5455 Email: jason.murphy@normanok.gov

Nature of Owner:

☐ Individual/Sole Proprietorship ☐ Corporation ☐ Limited Liability Company ☐ Limited Partnership ☐ Partnership ☒ Other: Municipality
State of formation (if an entity) or residence (if an individual): Oklahoma
Tax ID/SSN _____

ENGINEER INFORMATION:

Engineer (company) name: Meshek & Associates, LLC
Address: 1437 South Boulder Avenue, Suite 1550
City: Tulsa State: OK Zip: 74119
Contact: Harris Wilson, PE Title: Design Project Manager
Telephone: 918-392-5620 Fax: 918-392-5621 Email: hwilson@meshekengr.com

Nature of Engineer:

☐ Individual/Sole Proprietorship ☐ Corporation ☒ Limited Liability Company ☐ Limited Partnership ☐ Partnership ☐ Other: _____
State of formation (if an entity) or residence (if an individual): Oklahoma
Tax ID/SSN: 73-1322397

All invoices must be addressed and delivered to "Attn: Accounts Payable" at the appropriate address.

TERM/TERMINATION:

THIS IS AN AGREEMENT effective as of _____ ("Effective Date") between
 _____ ("Owner") and
 _____ ("Engineer").
 City of Norman
 Meshek & Associates, LLC

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

_____ See Exhibit C: Scope of Services _____ ("Project").

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

_____ See Exhibit C: Scope of Services _____.

AGREEMENT:

Owner and Engineer further agree as follows:

1.01 Basic Agreement and Period of Service

- A. Engineer shall provide, or cause to be provided, the services set forth in this Agreement. If authorized by Owner, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth above. Owner shall pay Engineer for its services as set forth in Paragraphs 7.01 and 7.02.
- B. Engineer shall complete its services within a reasonable time.

2.01 Payment Procedures

- A. *Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt. If Owner fails to make any payment due Engineer for services and expenses within 90 days after receipt of Engineer's invoice, Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

3.01 Termination**A. The obligation to continue performance under this Agreement may be terminated:****1. For cause,**

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party.

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 for more than 90 days for reasons beyond Engineer's control.

Engineer shall have no liability to Owner on account of a termination by Engineer under Paragraph 3.01.A.1.b.

c. By Owner:

1) upon seven days written notice if the Owner's services for the Project are delayed for more than 90 days for reasons beyond Owner's control.

Owner's only liability to Engineer on account of a termination by Owner under Paragraph 3.01.A.1.b will be to pay for services completed up to the time of termination.

d. Notwithstanding the foregoing, this Agreement will not terminate as a result of a substantial failure under Paragraph 3.01.A.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt of notice.

2. For convenience, by Owner effective upon Engineer's receipt of written notice from Owner.

B. The terminating party under Paragraph 3.01.A may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer 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.

C. In the event of any termination under Paragraph 3.01, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all reimbursable expenses incurred through the effective date of termination.

4.01 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 3.01.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, 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. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.

5.01 ***General Considerations***

- A. The standard of care for all professional consulting 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. Subject to the foregoing standard of care, Engineer and its engineers may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- B. Engineer shall not at any time supervise, direct, control, or have authority over any contractor's 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 Project 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.
- C. This Agreement is to be governed by the law of the State of Oklahoma.
- D. 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, 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 (other than the Work itself), 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. Owner shall indemnify and hold harmless Engineer and its officers,

directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations.

- E. All documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed. Owner shall have a limited license to use the 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 engineers; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and engineers from 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 shall not create any rights in third parties.
- F. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste as defined by the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq., or radioactive materials). If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist engineers or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- G. Owner and Engineer agree to negotiate each dispute between them in good faith during the 30 days after notice of dispute. If negotiations are unsuccessful in resolving the dispute, then the dispute shall be mediated. If mediation is unsuccessful, then the parties may exercise their rights at law.

6.01 Total Agreement

- A. This Agreement (including any expressly incorporated attachments), 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.

7.01 Basis of Payment—Lump Sum

- A. Using the procedures set forth in Paragraph 2.01, Owner shall pay Engineer as follows:
 - 1. A Lump Sum amount of \$ 100,000.00.
- B. The portion of the compensation amount billed monthly for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period.

SIGNATURES:

By signing below, each undersigned acknowledges that it has read and understands, and agrees to be legally bound by this Professional Services Agreement. If a person is signing below on behalf of an entity or another person, the person signing represents and warrants that he or she has been properly authorized and empowered to sign this Professional Services Agreement on behalf of that entity or other person and to bind that entity or other person to this Professional Services Agreement. This Agreement may be executed in any number of counterparts, each of which will be considered an original but all of which will constitute one and the same instrument.

<u>City of Norman</u>	<u>Meshek & Associates, LLC</u>
By: _____	By: <u>Bj W Fletcher</u>
Printed Name: <u>Larry Heikkila</u>	Printed Name: <u>Benjamin W. Fletcher</u>
Title: <u>Mayor</u>	Title: <u>Manager</u>
Date: _____	Date: <u>9-7-2022</u>
Consultant's License No.: _____	Engineer's License No.: <u>1487 (OK)</u>

CITY OF NORMAN

Approved as to form and legality this 7 day of September, 2022.

Chisabeth Hockala

City Attorney

Approved by the Council of the City of Norman this _____ day of _____, 20____.

ATTEST:

City Clerk

Exhibit A Consultant's Standard Hourly Rates

A. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Exhibit A 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 Paragraphs 7.01 and 7.02, and are subject to annual review and adjustment.

B. Schedule of Hourly Rates:

Hourly rates for services performed on or after the Effective Date are:

Standard Hourly Rates			
Project Principal II	\$ 280.00	GIS Project Principal	\$ 210.00
Project Principal I	\$ 245.00	GIS Project Manager II	\$ 195.00
Project Manager II	\$ 225.00	GIS Project Manager I	\$ 150.00
Project Manager I	\$ 150.00	GIS Specialist II	\$ 130.00
Project Engineer II	\$ 145.00	GIS Specialist I	\$ 100.00
Project Engineer I	\$ 125.00	GIS Analyst	\$ 85.00
Engineering Intern	\$ 110.00	GIS Technician	\$ 75.00
Engineering Technician II	\$ 125.00	GPS Field Technician	\$ 75.00
Engineering Technician I	\$ 85.00	ROW Project Manager II	\$ 180.00
CAD Designer	\$ 100.00	ROW Project Manager I	\$ 140.00
3 Man Survey Crew	\$ 295.00	Assistant ROW Project Manager	\$ 115.00
2 Man Survey Crew	\$ 200.00	Acquisition/Relocation Agent	\$ 95.00
Survey CAD Technician	\$ 90.00	Real Estate Trainee	\$ 85.00
Survey Crew Chief I	\$ 95.00	Planning Project Manager II	\$ 155.00
Survey Crew Chief II	\$ 120.00	Planning Project Manager I	\$ 115.00
Survey Crew Technician	\$ 80.00	Planner II	\$ 110.00
Survey Project Manager	\$ 185.00	Planner I	\$ 90.00
LIDAR Survey Crew	\$ 250.00	Contract Administrator	\$ 155.00
LIDAR Data Specialist	\$ 120.00	Administrative	\$ 100.00
Standard Rates for Travel			
Mileage	Billed at Current IRS Rate		
Per Diem	Billed at Current IRS Rate		
Per Diem	Billed at Current GSA Rate		
Standard Rates for Printing			
8-1/2"x11" print	\$ 0.15	Billed per page printed	
8-1/2"x14" print	\$ 0.20		
11"x17" print	\$ 0.30		
Black and White Plots	\$ 3.00		
Color Plot	\$ 6.00		
Mylars	\$ 9.00		
Standard Rates for Other Services and Fees			
Outside Direct Project Expenses	Passthrough at Cost		
Subconsultant Services	Cost plus 5% management fee		

Exhibit B

Required Insurance Limits and Coverages for Engineers

Before commencing work, Engineer must provide a Certificate of Insurance certifying that the insurance limits and coverages, with the appropriate endorsements, all as outlined below are in effect.

Commercial General Liability	\$1,000,000 Each Occurrence \$1,000,000 General Aggregate * Must include coverage for blanket contractual liability for the obligations assumed under contract
Comprehensive Automobile Liability	\$1,000,000 Combined Single Limit Each Occurrence * Coverage must extend to all owned, non-owned, leased, hired or borrowed vehicles and must include coverage for blanket contractual liability for the obligations assumed under contract
Workers' Compensation	Statutory Limits where Services are to be performed * Must include coverage for Longshoremen's and Harbor Workers' Compensation, if applicable, and coverage for Federal Employers' Liability Act, if applicable
Employer's Liability	\$1,000,000 Each Occurrence \$1,000,000 Disease per Employee * * An Umbrella liability policy, which follows form, may be used to obtain the aforementioned limits
Professional Liability (If applicable)	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate

Certificate Holder and Endorsement Requirements

- Owner shall be listed as Certificate Holder.
- Engineer and the Consultants identified in the Purchase Order for a Specific Project shall be listed on Owner's general liability policies of insurance as additional insureds.

Other Requirements

- All policies required shall be written by a reputable insurance company reasonably acceptable to Company or with a Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which Engineer is performing for Company.
- Failure to provide evidence as required shall entitle, but not require, Owner to terminate immediately. Acceptance of a certificate that does not comply with this document shall not operate as a waiver of Engineer's obligations hereunder.



Exhibit C

City of Norman

Project Scoping Services for a Flood Warning System

Scope of Services



Project Management and Coordination

Meshek will provide Project Management coordination with the city. The Project Manager is responsible for general project management, the coordination of project meetings, and the facilitation of information exchanges between the project participants.

General Project Management

Provide coordination between the various disciplines involved in the project, tracking of task status and completion, maintenance of the project schedule and updates. Meshek will assist with preparing a detailed schedule with client review and input that includes project benchmarks. Benchmarks will include:

- Documenting the current Emergency Management Process and recommendations for integration of the Flood Warning System.
- Documenting flood warning location recommendations and justifications.
- Documenting flood warning mapping system requirements
- Flood warning gauge site ranking and prioritization & report
- Final Report and Implementation Plan

Progress Meetings

Key members of the team will meet with the client as necessary to discuss the project. A regularly scheduled progress meeting will be held with the City and Meshek's PM to discuss the project status, critical milestones, and to review progress submittals. Progress meetings including the project team will be as needed.

Task 1: Develop Assessment Standards

The consultant's team will meet with the city to develop assessment standards. These standards are to ensure consistency and completeness of the data gathered. The data to be gathered is outlined below and will be used to support the choice of the equipment purchased by the city and the sites chosen for their location.

Task 2: Document Current Emergency Management Processes and develop and understanding of the City's approach to disaster response

The Meshek Planning team will meet with the City of Norman Emergency Management Coordinator and staff. The purpose of the meeting is to review current policies, plans and procedures in relation to disaster response and damaging flood events. Points of interest are to determine where actions, triggers, and warnings can be incorporated into current practices by first responders and City personnel. The team will also consider how data collected from the new gauge system can best be included. The Meshek team will recommend updates to the current Emergency Operations Plan using the information gathered. The recommendations will be based on the information gathered and can be added to the current plan as a hazard specific annex. Upon completing the review of the information gathered, a public education outreach strategy will be developed to inform City of Norman citizens of the new Flood Warning System.

Deliverables: Technical Memorandum of Findings

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City of Norman
Project Scoping Services for a Flood Warning System
Scope of Services



Task 3: Assess Traffic and Development Information

The consultant will review traffic data available from the city and ACOG and information regarding building permit applications. The city documents that will be reviewed include the following:

- Go Norman Transit Plan
- Norman 2025 Land Use Transportation Plan
- Preferred areas of growth

The conclusions of this review will be summarized with applicable information used in the prioritization of the equipment locations. A Technical Memorandum of findings will be included at the completion of this task.

Task 4: Written Analysis that includes all monitoring locations and Justifications...

Data Review

Consultant will perform a review of available data to support the planning for the City of Norman Flood Warning / Inundation Mapping system. This data review will consist of the following:

- Effective FEMA Modeling
- Norman Watershed Studies
- Historic Flood Review
- GIS Data Review: Consultant will review all available data required to support the flood warning / inundation mapping system including:
 - Topographic / LIDAR Data
 - Hydrography
 - Street Centerlines
 - Parcel Information
 - Building Footprint data
 - FEMA Elevation Certificates
- Existing Gage Station Review
- Lake Thunderbird TMDL Gage Station review

Deliverables: Technical memorandum of data available

Flood Warning / Inundation Mapping System Requirements Development

Consultant will conduct two (2) requirements meetings with the City of Norman Staff and other stakeholders. An important step in the planning of a flood warning system is the conducting of stakeholder meetings that define the requirements and constraints for the gauge station location, data feeds, telemetry, tool functionality, mapping accuracy and other variables. The requirements meetings will outline the overall goals and aims of the flood warning system and discuss various use case scenarios and functionality. The first meeting will develop the high-level system goals, objectives, and minimum functionality and include discussions on sensor types (traditional, low-cost, radar, PT, cameras, etc.). The second meeting will develop a prioritized ranking system for gauge locations for the top 25 sites city wide.

Deliverables:

- Meeting Materials and Minutes





City of Norman
Project Scoping Services for a Flood Warning System
Scope of Services



- Requirements Report for the flood warning system. This requirements report will also serve as the basis for scope/ level of effort determination for future phases of this project.

Flood Warning Gauge Site Ranking, Prioritization, and Report

Based on the information obtained as part of Tasks 1 and 2, The Meshek team will develop a gauge location risk scoring system. The purpose of this system will be to assign an objective "score" to each possible potential location for a flood warning gage sensor installation. Assigning this objective score to each possible location will allow for ranking and prioritizing installation locations and allow for future efficient system expansion.

The Meshek team recommends the following ranking criteria. Additional ranking criteria discovered as part of Task 2 will also be included:

#	Factor	Description
1	Drainage Area	The drainage area of proposed gage location. This will be used to evaluate the peak timing order of magnitude at each location.
2	Current Condition of Existing Crossings	The current condition of potential crossing locations will be determined based on viability for installations. Characteristics considered include (shoulder, railing, sidewalks, etc.)
3	Crossing Freeboard	This factor will include scoring based on the amount of Freeboard that is available from the road surface to the FEMA 1% annual chance flood or the flood of record in Norman.
4	AADT	Annual Average Daily Traffic
5	Critical Facilities	The number (if any) of critical facilities that could be impacted in the vicinity of the potential gauge location,
6	Impacted Buildings	The number of buildings that could be impacted in the vicinity of the potential gauge location.
7+	Other factors determined by Norman during Task 2	

Deliverables:

- Prioritization ranking methodology (Technical Memo)
- Prioritization Report
- GIS Deliverables
- Online Web Mapping Prioritization Site

Task 5: Final Report and Implementation Plan – Flood Warning System

Consultant will develop an implementation plan for the future phases of the Flood Warning System including gauge installation procurement, installation locations and planning level cost estimates for the actual system implementation.

- Presentations
- This will also include the "detailed scope" for Phase 2: Implementation