



**Bentonville Utility Board
Meeting Agenda
July 21, 2026
11:30 AM
Bentonville City Hall**

Call to Order

Pledge of Allegiance

Attendance

Approval of Minutes: June 16, 2026

I. New Business

**1. Resolution Approving the Vaughn/Old
Farm Lift Station, Force Main, & Gravity
Sewer Agreement**

Resolution

Staff is requesting approval of a resolution authorizing the Mayor and City Clerk to enter into an agreement with Halff Associates, Inc. in the amount of \$792,230.00 for engineering services related to the Vaughn/Old Farm Lift Station, Force Main, and Gravity Sewer project. No budget adjustment is needed.



City of Bentonville, Arkansas Agenda Item Form

Item Details

Council Meeting Date:		Submitted By:	
Phone:		For Department(s):	
Email:			

Item Type (Check all that apply)

Informational	Bid Award	Enter into an Agreement	Change Order
Recognizing Funds	Budget Adjustment	Waiver of Bid	Emergency Clause
Ordinance	Resolution		Informational

Title, Recommendation & Justification

Title:	
Action Recommendation & Justification:	
Additional Comments for Consideration (Optional):	

Amount for Approval:	\$
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Budget Impact

Is this Item Budgeted? YES NO ITEM HAS NO COST OTHER: _____

Budget Adjustment (to be completed by Finance when applicable)

Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue
Account Number (ORG-OBJECT)	Account Description	\$	\$
		Expense	Revenue

Fund(s) Impacted

(check all that apply)

General Fund

Utility Fund

Street Fund

Other(s): _____

Budget Impact Notes for Consideration (Optional):



Memo

To: Mayor Stephanie Orman, Bentonville City Council
From: Beau Thompson
CC: Preston Newbill
Date: July 28, 2026
Re: Vaughn / Old Farm Gravity Sewer, Lift Station, & Forcemain Design with Halff

The agreement authorizes Halff Associates, Inc. to provide professional engineering services for the Vaughn/Old Farm Gravity Sewer, Lift Station, and Forcemain project. The project includes the design of a new lift station to be located near W Hwy 12 and SW Old Farm Blvd, approximately 4,600 LF of new force main, and gravity sewer improvements consisting of upsizing approximately 3,350 LF of 8-inch pipe to 12-inch pipe and 3,450 LF of 12-inch pipe to 18-inch pipe. The project will also extend the gravity sewer system to the northwest corner of SW Regional Airport Blvd and S Vaughn Rd.

The scope of services includes a preliminary planning study to evaluate gravity sewer alignment alternatives and lift station siting options, surveying, geotechnical investigations, environmental permitting, real estate acquisition support, detailed engineering design, preparation of construction plans and specifications, and bidding assistance. These services will advance the project through final design and prepare the project for construction.

The engineering agreement is structured as a phased contract with a total not-to-exceed amount of \$792,230. Major task allocations include:

Preliminary Planning Study – \$17,540
Surveying Services – \$135,990
Design Engineering Services – \$303,485
Real Estate Acquisition Services – \$238,060
Permitting & Environmental Services – \$32,745
Geotechnical Services – \$32,290
Bidding Services – \$32,120

This project includes projects WWM08 and WW03 referenced in the Comprehensive CIP. The total engineering budget identified in the Comprehensive CIP is \$612,000, with an estimated total project cost of \$6,220,000. The Halff engineering services agreement of \$792,230, represents approximately 12.7% of the overall project cost. The agreement exceeds the original engineering budget due to additional services that were not included in the initial estimate, primarily real estate acquisition and right-of-way support. These additional services are necessary to secure required easements, secure a location for a new lift station, and keep the project on schedule.

**EJCDC E-500
AGREEMENT BETWEEN OWNER AND ENGINEER
FOR PROFESSIONAL SERVICES**

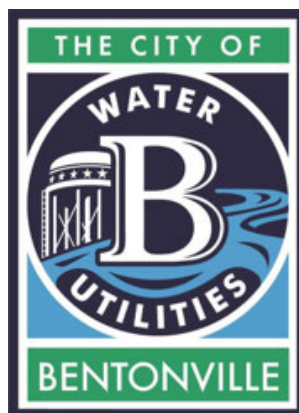
PREPARED BY

**Halff Associates, Inc.
1465 East Joyce Boulevard, Suite 200
Fayetteville, Arkansas 72703**



PREPARED FOR

**The City of Bentonville
Water Utilities
1901 NE A Street
Bentonville, Arkansas 72712**



AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

TABLE OF CONTENTS

	Page
Article 1— Services Of Engineer	1
1.01 Scope	1
Article 2— Owner’s Responsibilities	1
2.01 Project Information	1
2.02 Owner’s Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents	2
2.03 Owner-Furnished Services	3
2.04 Owner’s General Responsibilities	3
2.05 Payment	5
Article 3— Schedule For Rendering Services	5
3.01 Commencement	5
3.02 Time for Completion	5
Article 4— Invoices And Payments	6
4.01 Invoices	6
4.02 Payments	6
Article 5— Opinions Of Cost	6
5.01 Opinions of Probable Construction Cost	6
5.02 Opinions of Total Project Costs	7
Article 6— General Considerations	7
6.01 Standards of Performance	7
6.02 Ownership and Use of Documents	9
6.03 Electronic Transmittals	10
6.04 Insurance	10
6.05 Suspension and Termination	12
6.06 Successors, Assigns, and Beneficiaries	13
6.07 Dispute Resolution	14
6.08 Controlling Law; Venue	14
6.09 Environmental Condition of Site	14
6.10 Indemnification and Mutual Waiver	15
6.11 Records Retention	16
6.12 Miscellaneous Provisions	16
Article 7— Definitions	17
7.01 Defined Terms	17
Article 8— Exhibits And Special Provisions	21
8.01 Exhibits to Agreement	21
8.02 Total Agreement	22
8.03 Designated Representatives	22
8.04 Engineer’s Certifications	22
8.05 Conflict of Interest	22

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

This is an Agreement between **Bentonville Water Utilities (BWU)** (Owner or Utility) and **Halff Associates, Inc.** (Engineer or Halff). Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as the **Old Farm Lift Station, Forcemain, and Gravity Sewer** (Project). Other terms used in this Agreement are defined in Article 7. Engineer's services under this Agreement are generally identified as Projects WW03 and WWM08 as identified in the City of Bentonville Water Utilities Capital Improvement Plan (CIP), dated January 2026.

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.
- B. All phases of service will include Management of Engineering Services as shown in Exhibit A.

ARTICLE 2—OWNER'S RESPONSIBILITIES

2.01 Project Information

- A. To the extent Owner has not already provided the following, or has new, additional, or revised information from that previously provided, Owner shall provide Engineer with information and data needed by Engineer in the performance of Basic and Additional Services, including Owner's:
 - 1. design objectives and constraints;
 - 2. space, capacity, and performance requirements;
 - 3. flexibility and expandability needs;
 - 4. design and construction standards;
 - 5. budgetary limitations; and
 - 6. any other available information pertinent to the Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site.
- B. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, Owner shall obtain, furnish, or otherwise make available (if necessary through retention of specialists or consultants) such additional Project-related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services; or, with consent of Engineer, Owner may authorize the Engineer to obtain or provide all or part of such additional information as Additional Services.
- C. Owner shall examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

- D. Owner shall furnish to Engineer data as to Owner's anticipated costs for services to be provided to Owner by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) so that Engineer may assist Owner in collating the various cost categories that comprise Total Project Costs, if required.
 - E. Owner shall advise Engineer if any invention, design, process, product, or device that Owner has requested, required, or recommended for inclusion in the Drawings or Specifications will be subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights.
 - F. Owner shall inform Engineer as to whether Engineer's assistance is requested with respect to Owner's evaluation of the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.
 - G. Owner shall inform Engineer as to whether Engineer's assistance is requested in identifying opportunities for enhancing the sustainability of the Project.
- 2.02 Owner's Instructions Regarding Bidding/Proposal and Front-End Construction Contract Documents
- A. Owner shall give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable) and Owner's construction contract practices and requirements, and furnish to Engineer (or give specific directions requesting Engineer to use copies already in Engineer's possession) the following:
 - 1. Owner's standard contract forms, general conditions (if other than the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract), supplementary conditions, text, and related documents and content for Engineer to include in the draft Bidding/Proposal Documents, and in draft Front-End Construction Contract Documents;
 - 2. insurance and bonding requirements;
 - 3. protocols for electronic transmittals during bidding and construction;
 - 4. Owner's safety and security programs applicable to Contractor and other Constructors;
 - 5. diversity and other social responsibility requirements;
 - 6. bidding and contract requirements of funding, financing, or regulatory entities;
 - 7. other specific conditions applicable to the procurement of construction or contract documents;
 - 8. any other information necessary for Engineer to assist Owner in preparing its Bidding/Proposal Documents and Front-End Construction Contract Documents.
 - B. Owner shall have responsibility for the final content of (1) such Bidding/Proposal Documents, and (2) such Front-End Construction Contract Documents, other than content furnished by Engineer concerning the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters.
 - 1. Owner shall seek the advice of Owner's legal counsel, risk managers, and insurance advisors with respect to the drafting and content of such documents.

- C. If there will be an advertisement soliciting bids for construction, Owner shall place and pay for such advertisement.

2.03 Owner-Furnished Services

- A. Recognizing and acknowledging that Engineer's services and experience do not include the following services, Owner shall obtain, as required for the Project:
 - 1. Accounting, bond and financial advisory services (including, if applicable, "municipal advisor" services as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) and the municipal advisor registration rules issued by the Securities and Exchange Commission), independent cost estimating, and insurance counseling services.
 - 2. Legal services, including attorney review of proposed Construction Contract Documents, legal services required by Owner, legal services needed as a result of issues raised by Contractor, and Project-related legal services reasonably requested by Engineer.
 - 3. Auditing services, including those needed by Owner to ascertain how or for what purpose Contractor has used money paid to it.
- B. Owner shall provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Construction Contract Documents (other than those required to be furnished or arranged by Contractor, or explicitly listed under Engineer's Scope of Services provided in Exhibit A), or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof. Owner shall provide Engineer with the findings and reports generated by testing laboratories, including findings and reports obtained from or through Contractor.
 - 1. Owner-Furnished Services described within Paragraph 2.03.B shall not include Geotechnical Services required for design (as described under Section 6 of Exhibit A – Engineer's Scope of Services).
- C. With respect to the portions or phases of the Project designed or specified by Engineer, Owner shall provide, obtain, or arrange for:
 - 1. all required reviews, approvals, consents, and permits from governmental authorities having jurisdiction, not explicitly listed under the Engineer's Scope of Work provided in Exhibit A, and
 - 2. such reviews, approvals, and consents from others, not explicitly listed under the Engineer's Scope of Work provided in Exhibit A, as may be necessary for completion of each portion or phase of the Project.
- D. Owner may delegate to Contractor or others the responsibilities set forth in Section 2.03.

2.04 Owner's General Responsibilities

- A. Owner shall inform Engineer of the policies, procedures, and requirements of Owner that are applicable to Engineer's performance of services under this Agreement.

- B. Owner shall provide Engineer with Owner's budget for the Project, including type and source of funding to be used, and will promptly inform Engineer if the budget or funding sources change.
- C. Owner shall inform Engineer in writing of any safety or security programs that are applicable to the personnel of Engineer, its Subconsultants, and Engineer's Subcontractors, as they visit the Site or otherwise perform services under this Agreement.
- D. Owner shall 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 this Agreement.
- E. Owner shall provide necessary direction and make decisions, including prompt review of Engineer's submittals, and carry out its other responsibilities in a timely manner so as not to delay Engineer's performance of its services.
- F. Owner shall be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items.
- G. Owner shall give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of:
 - 1. any development that affects the scope or time of performance of Engineer's services;
 - 2. the presence at the Site of any Constituent of Concern; or
 - 3. any relevant, material defect or nonconformance in: (a) Engineer's services, (b) the Work, (c) the performance of any Constructor, or (d) Owner's performance of its responsibilities under this Agreement.
- H. Owner shall 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, value engineering, and constructability review.
- I. If Owner designates a construction manager, site representative, or any individual or entity other than, or in addition to, Engineer to represent Owner at the Site, Owner shall define and set forth as an exhibit to this Agreement the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
- J. Owner shall:
 - 1. Attend and participate in the pre-construction conferences, construction progress and other job-related meetings, and Site visits to determine Substantial Completion and readiness of the completed Work for final payment.
 - 2. Primarily communicate with Engineer's Subcontractors and Subconsultants through the Engineer.

- a. Promptly inform Engineer of the substance of any communications between Owner and Engineer's Subcontractors or Subconsultants.
 - b. Refrain from directing the services of Engineer's Subcontractors or Subconsultants.
3. Authorize Engineer to provide Additional Services as set forth in Section 8 of Exhibit A of the Agreement, as required.

2.05 Payment

- A. Owner shall pay Engineer as set forth in Article 4 and Exhibit J.
- B. Engineer's compensation is summarized as follows; if there is a conflict between the following summary and the contents of Exhibit J, then Exhibit J will prevail.

Description of Service		Amount	Basis of Compensation
1.	Preliminary Planning Study (Phase 1 of Exhibit A)	\$17,540.00	Lump Sum
2.	Surveying Services (Phase 2 of Exhibit A)	\$135,990.00	Lump Sum
3.	Design Engineering Services (Phase 3 of Exhibit A)	\$303,485.00	Lump Sum
4.	Real Estate Acquisition Services (Phase 4 of Exhibit A)	\$238,060.00	Lump Sum
5.	Permitting & Environmental Services (Phase 5 of Exhibit A)	\$32,745.00	Lump Sum
6.	Geotechnical Services (Phase 6 of Exhibit A)	\$32,290.00	Lump Sum
7.	Bidding Services (Phase 7 of Exhibit A)	\$32,120.00	Lump Sum
8.	Additional Services		Per Owner's Request

1. Lump sum amounts incorporate Engineer's labor, overhead, profit, and Engineer's Subcontractor and Subconsultants' charges.

ARTICLE 3—SCHEDULE FOR RENDERING SERVICES

3.01 Commencement

- A. Engineer is authorized to begin rendering services as of the Effective Date.

3.02 Time for Completion

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services, or specific dates by which services are to be completed, are provided in Exhibit B, 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, will be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, will be adjusted equitably.
- D. If Engineer fails, for reasons within control of Engineer, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages to the extent, if any, resulting from such failure by Engineer.

ARTICLE 4—INVOICES AND PAYMENTS

4.01 Invoices

- A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with the Engineer's and/or Owner's standard invoicing practices, and the terms of Exhibit J. Engineer shall submit its invoices to Owner via Procore software on a monthly basis, no later than the 1st of each month. 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. Disputed Invoices: If Owner disputes an invoice, either as to amount or entitlement, then Owner shall promptly advise Engineer in writing of the specific basis for doing so; may withhold only that portion so disputed; and must pay the undisputed portion, subject to the terms of Paragraph 4.01. After a disputed item has been resolved, Engineer shall include the agreed-upon amount on a new invoice.
- C. Failure to Pay: If Owner fails to make any undisputed payment due Engineer 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. Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement until Owner has paid in full amounts due. Owner waives any and all claims against Engineer for any such suspension.
- D. Sales or Use Taxes: If after the Effective Date any governmental entity takes an action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional sales or use taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional sales or use taxes; such reimbursement will be in addition to the compensation to which Engineer is entitled under the terms of Exhibit J.

ARTICLE 5—OPINIONS OF COST

5.01 Opinions of Probable Construction Cost

- A. Engineer's opinions of probable Construction Cost (if any) are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.02 Opinions of Total Project Costs

- A. The services, if any, of Engineer with respect to Total Project Costs will be limited to assisting the Owner in tabulating the various categories that 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 any services performed or furnished by Engineer.
- 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. **Engineer's Subcontractors and Subconsultants:** Engineer may retain such Engineer's Subcontractors and Subconsultants 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 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. Engineer shall comply with the policies, procedures, and instructions of Owner that are applicable to Engineer's performance of services under this Agreement and that Owner provides to Engineer in writing, 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. The following may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation:
 - a. changes after the Effective Date to Laws and Regulations,
 - b. the receipt by Engineer after the Effective Date of Owner-provided written policies and procedures, and
 - c. changes after the Effective Date to Owner-provided written policies or procedures.

- F. General Conditions of Construction Contract: The general conditions for any Construction Contract Documents prepared hereunder are to be the current edition of EJCDC® C-700, Standard General Conditions of the Construction Contract, prepared by the Engineers Joint Contract Documents Committee, unless expressly indicated otherwise.
- G. Copies of Drawings and Specifications: If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one complete electronic copy of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations, and one complete printed copy, duly signed and sealed.
- H. Engineer shall not be required to sign any document, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant conditions whose existence Engineer cannot ascertain within the authorized scope of Engineer's services. Owner agrees not to make resolution of any dispute with Engineer or payment of any amount due to Engineer in any way contingent upon Engineer signing any such document.
- I. Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor will Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- J. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- K. Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer.
- L. Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- M. Engineer's services do not include providing legal advice or representation.
- N. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- O. While at the Site, Engineer, its Subconsultants, and Engineer's Subcontractors, and their employees and representatives will comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 Ownership and Use of Documents

- A. All Documents are instruments of service, and Engineer owns the Documents, including all associated copyrights and the right of reuse at the discretion of the Engineer. Engineer shall continue to own the Documents and all associated rights whether or not the Project is completed.
 - 1. Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Project.
 - 2. Engineer grants Owner 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 due and owing for all services relating to preparation of the Documents, and subject to the following limitations:
 - a. 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;
 - b. 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 Subconsultants;
 - c. Engineer and its officers, directors, members, partners, agents, employees, and Subconsultants shall not be liable for any and 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
 - d. such limited license to Owner shall not create any rights in third parties.
- B. 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.
- C. Engineer shall inform Owner if Engineer is aware of any invention, design, process, product, or device specified in the Drawings, Specifications, or other Documents that is subject to payment (whether by Owner or Contractor) of any license fee or royalty to others, as required by patent rights or copyrights. If Engineer's good-faith inclusion in the Drawings, Specifications, or other Documents of new, innovative, or non-standard technologies, for the benefit of Owner and the Project, results in third-party claims of infringement or violation of intellectual property rights, then Owner and Engineer shall share equally the costs of defending against, settling, or paying such claims.
- D. Engineer will obtain Owner's consent, which will not be unreasonably withheld, prior to releasing any publicity, including news and press releases, promotional publications, award and prize competition submittals, and other advertising regarding the subject matter of this Agreement. Nothing herein will limit the Engineer's right to include information in statements of qualifications and proposals to others accurately describing its participation and participation of employees in the Project.

6.03 Electronic Transmittals

- A. To the fullest extent practical, Owner and Engineer agree to transmit, and accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with Exhibit F, Electronic Documents Protocol (EDP).
 - 1. Compliance with the EDP by Engineer shall be considered a Basic Service and no direct or separate compensation will be paid to Engineer for such compliance, unless provisions for separate compensation are expressly set forth in the EDP.
 - 2. Engineer's costs directly attributable to changes in Engineer's Electronic Documents obligations, after the effective date of this Agreement, necessitated by revisions to Exhibit F, delayed adoption of Exhibit F, or implementation of other Electronic Documents protocols, will be compensated as Additional Services.
- B. If this Agreement does not include Exhibit F or otherwise does not establish or include protocols for transmittal of Electronic Documents by Electronic Means, then Owner and Engineer may operate without specific protocols or may jointly develop such protocols at a later date.
- C. Except as stated otherwise in Exhibit F (if included in this Agreement), when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents, or from those established in applicable protocols.
- D. This Agreement (including the EDP) is not intended to create obligations for Owner or Engineer with respect to transmittals to or from third parties, except as expressly stated in the EDP.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G.
- B. Additional Insureds: The Engineer's commercial general liability, automobile liability, and umbrella or excess liability policies, must:
 - 1. include and list as additional insureds Owner, and any individuals or entities identified as additional insureds in Exhibit G;
 - 2. include coverage for the respective officers, directors, members, partners, and employees of all such additional insureds;
 - 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations); and
 - 4. not seek contribution from insurance maintained by the additional insured.
- C. Owner shall procure and maintain insurance as set forth in Exhibit G.
- D. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, 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, its Subconsultants, and Engineer's Subcontractors to be listed as additional insureds with respect to such liability insurance purchased and maintained by Contractor for the Project. Owner shall give Engineer access to any certificates of insurance and copies of endorsements and policies obtained by Owner from Contractor.

- E. Owner and Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates must be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
 - 1. Upon request by Owner or any other insured, Engineer shall also furnish other evidence of such required insurance, including but not limited to redacted copies of policies and endorsements, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subconsultants and Engineer's Subcontractors. In any documentation furnished under this provision, Engineer may redact (a) any confidential premium or pricing information and (b) any wording specific to projects or jurisdictions other than those applicable to this Agreement.
- F. All construction contracts entered into by Owner with respect to the Project must require builder's risk or similar property insurance.
- G. All policies of property insurance relating to the Project, including but not limited to any builder's risk or similar policy, must allow for waiver of subrogation rights and contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insured thereunder or against Engineer, its Subconsultants, or Engineer's Subcontractors. Owner and Engineer waive all rights against each other, Contractor, Engineer's Subcontractors and Subconsultants, and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by any such builder's risk or similar policy and any other property insurance relating to the Project. Owner and Engineer shall take appropriate measures in other Project-related contracts to secure waivers of rights consistent with those set forth in this paragraph.
- H. All policies of insurance must contain a provision or endorsement that the coverage afforded will not be canceled, and that renewal will not be refused, until at least 10 days' prior written notice has been given to the primary insured. Upon receipt of such notice, the primary insured must promptly forward a copy of the notice to the other party to this Agreement and replace the coverage being cancelled or reduced to conform to the requirements of this Agreement.
- I. At any time, Owner may request that Engineer, or Engineer's Subcontractors or Subconsultants, 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 Engineer's Subcontractors or Subconsultants 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 Engineer's services for up to 90 days upon 7 days' written notice to Engineer.
2. By Engineer: Engineer may, after giving 7 days' written notice to Owner, suspend services under this Agreement:
 - a. if Owner has failed to pay Engineer for invoiced services and expenses, as set forth in Paragraphs 4.02.B and 4.02.C;
 - b. in response to the presence of Constituents of Concern at the Site, as set forth in Paragraph 6.09.D; or
 - c. if persistent circumstances beyond the control of Engineer have prevented it from performing its obligations under this Agreement.

B. Termination for Cause

1. Either party may terminate the Agreement for cause upon 30 days' written notice in the event of substantial failure by the other party to perform in accordance with the terms of the Agreement, through no fault of the terminating party.
 - a. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1 if the party receiving such notice begins, within 7 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 will extend up to, but in no case more than, 60 days after the date of receipt of the notice.
2. In addition to its termination rights in Paragraph 6.05.B.1, Engineer may terminate this Agreement for cause upon 7 days' written notice:
 - a. if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional;
 - b. if Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control; or
 - c. as the result of the presence at or adjacent to the Site of undisclosed Constituents of Concern, as set forth in Paragraph 6.09.E.
3. Engineer will have no liability to Owner on account of any termination by Engineer for cause.

- C. Termination for Convenience: Owner may terminate this Agreement for convenience, effective upon Engineer's receipt of written notice from Owner. If Engineer is terminated for convenience by the Owner, then Engineer shall have no liability for any damages that stem from such termination, including damages that are liquidated or consequential in nature.

- D. Extension of Effective Date of Termination: If Owner terminates the Agreement for cause or convenience, Owner 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. Engineer shall be entitled to compensation for such tasks.
- E. Payments Upon Termination: 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 will have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.02.A.
 - 1. If Owner has terminated the Agreement for cause and disputes Engineer's entitlement to compensation for services and reimbursement of expenses, then Engineer's entitlement to payment and Owner's rights to the use of the Documents will be resolved in accordance with the dispute resolution provisions of this Agreement or as otherwise agreed in writing.
 - 2. If Owner has terminated the Agreement for convenience, or if Engineer has terminated the Agreement for cause, then Engineer will be entitled, in addition to the payments identified above, to invoice Owner and receive 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 Subcontractors or Subconsultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit J.

6.06 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 6.06.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, claims arising out of this Agreement or money that is due or may become due) in this Agreement without the written consent of the other party, except to the extent that any assignment, subletting, or transfer is mandated by law. 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. 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.
 - 2. Nothing in this Agreement will be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Constructor, other third-party individual or entity, or to any surety for or employee of any of them.

3. Owner agrees that the substance of the provisions of this Paragraph 6.06.C will appear in the Construction Contract Documents.

6.07 Dispute Resolution

- A. Unless otherwise required by Exhibit H, Owner and Engineer shall resolve all disputes in the following manner:
 1. 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 invoking mediation.
 2. Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation. Owner and Engineer agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
 3. If the parties fail to resolve a Dispute through negotiations under Paragraph 6.07.A.1 or mediation under Paragraph 6.07.A.2, then:
 - a. either or both may invoke the applicable dispute resolution procedures of Exhibit H for final resolution of Disputes.
 - b. If Exhibit H is not included, or if no final dispute resolution method is specified in Exhibit H, then the parties may exercise their rights at law.

6.08 Controlling Law; Venue

- A. This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.
- B. Venue for any exercise of rights at law will be the state court having jurisdiction at the location of the Project; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which the Project is located.

6.09 Environmental Condition of Site

- A. Owner represents to Engineer that, as of the Effective Date, to the best of Owner's knowledge, no Constituents of Concern, other than those disclosed in writing to Engineer, exist at or adjacent to the Site.
- B. Undisclosed Constituents of Concern: For purposes of this Paragraph 6.09, the presence at or adjacent to the Site of Constituents of Concern that were not disclosed to Engineer pursuant to Paragraph 6.09.A, in such quantities or circumstances that such Constituents of Concern may present a danger to persons or property exposed to them, will be referred to as "undisclosed" Constituents of Concern.
 1. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of this Agreement or the Construction Contract, are not undisclosed Constituents of Concern.
 2. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under this Agreement are not undisclosed Constituents of Concern.

3. Constituents of Concern that are to be located, identified, studied, removed, or remediated as part of the services under another professional services contract for Owner, or as part of the work under a construction or remediation contract, are not undisclosed Constituents of Concern if Engineer has been informed of the general scope of such contract.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate authorities having jurisdiction 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 undisclosed Constituents of Concern. If Engineer or any other party encounters, uncovers, or reveals an undisclosed Constituent of Concern, or if encountered, uncovered, or revealed Constituents of Concern are present in substantially greater quantities or substantially different locations than disclosed or anticipated, or if investigative or remedial action, or other professional services, are necessary or required by applicable Laws and Regulations with respect to such Constituents of Concern, then Engineer may, at its option and without liability for direct, consequential, or any other damages, suspend performance of services on the portion of the Project adversely affected thereby until such portion of the Project is no longer so affected; and Owner shall promptly determine whether to retain a qualified expert to evaluate such condition or take any necessary corrective action.
 - E. If the presence at the Site of undisclosed Constituents of Concern, or of Constituents of Concern in substantially greater quantities or in substantially different locations than disclosed or anticipated, adversely affects the performance of Engineer's services under this Agreement, then:
 1. if the adverse effects do not preclude Engineer from completing its Project services in general accordance with this Agreement on unaffected or marginally affected portions of the Project, Engineer may accept an equitable adjustment in its compensation or in the time of completion, or both; and the Agreement will be amended to reflect changes necessitated by the presence of such Constituents of Concern; or
 2. if the adverse effects are of such materiality to the overall performance of Engineer that it cannot complete its services without significant changes to the scope of services, time of completion, and compensation, then Engineer may terminate this Agreement for cause on 7 days' written notice.
 - F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and will 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 Laws and Regulations, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, and employees, from losses, damages, and judgments (including reasonable attorneys' fees and expenses) to the extent arising from third-party claims or

actions relating to the Project, provided that any such claim, action, loss, damages, or judgment 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 the negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors. 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. Environmental Indemnification: Not used.
- C. No Defense Obligation: The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.
- D. Percentage Share of Negligence: To the fullest extent permitted by Laws and Regulations, 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, will 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.
- E. Mutual Waiver: Not used.

6.11 Records Retention

- A. Engineer shall maintain on file in legible form, for a period of five years following completion or termination of its services, or such other period as required by Laws and Regulations, all Documents, records (including cost records), and design calculations related to Engineer's services or pertinent to Engineer's performance under this Agreement. Upon Owner's request, Engineer shall provide a copy of any such item to Owner at cost.

6.12 Miscellaneous Provisions

- A. Notices: Any notice required under this Agreement will be in writing, and delivered: in person (by commercial courier or otherwise); by registered or certified mail; or by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line. All such notices are effective upon the date of receipt.
- B. Survival: Subject to applicable Laws and Regulations, 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 will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Engineer.
- D. No Waiver: A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Agreement.
- E. Accrual of Claims: To the fullest extent permitted by Laws and Regulations, all causes of action arising under this Agreement will be deemed to have accrued, and all statutory periods of limitation will commence, no later than the date of Substantial Completion; or, if

Engineer's services do not include Construction Phase services, or the Project is not completed, then no later than the date of Owner's last payment to Engineer.

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 definitions:
1. **Addenda**—Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.
 2. **Additional Services**—The services to be performed for or furnished to Owner by Engineer in accordance with Part 8 of Exhibit A of this Agreement.
 3. **Agreement**—This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 4. **Application for Payment**—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Construction Contract.
 5. **Basic Services**—The services to be performed for or furnished to Owner by Engineer in accordance with Article 1 of Exhibit A of this Agreement.
 6. **Bidding/Proposal Documents**—Documents related to the selection of the Contractor, including advertisements or invitations to bid; requests for proposals; instructions to bidders or proposers, including any attachments such as lists of available Site-related documents; bid forms; bids; proposal forms; proposals; bidding requirements; and qualifications documents.
 7. **Change Order**—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Construction Contract Price or the Construction Contract Times, or other revision to the Construction Contract, issued on or after the effective date of the Construction Contract.
 8. **Change Proposal**—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth in the Construction Contract, seeking an adjustment in Construction Contract Price or Construction Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Construction Contract Documents or the acceptability of Work under the Construction Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Construction Contract.
 9. **Constituents of Concern**—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations

regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

10. Construction Contract—The entire and integrated written contract between Owner and Contractor concerning the Work.
11. Construction Contract Documents—Those items designated as “Contract Documents” in the Construction Contract, and which together comprise the Construction Contract. See also definition of “Front-End Construction Contract Documents” below.
12. Construction Contract Price—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Construction Contract Documents.
13. Construction Contract Times—The number of days or the dates by which Contractor must: (a) achieve milestones, if any, in the Construction Contract; (b) achieve Substantial Completion; and (c) complete the Work.
14. Construction Cost—The cost to Owner of the construction of those portions of the entire Project designed or specified by or for Engineer under this Agreement, including construction labor, services, materials, equipment, insurance, and bonding costs, and allowances for contingencies. 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 property; 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. Construction Cost is one of the items comprising Total Project Costs.
15. Constructor—Any person or entity (not including the Engineer, its employees, agents, representatives, or Subconsultants, or Engineer’s Subcontractors), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner’s work forces, utility companies, other contractors, construction managers, design-builders, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.
16. Contractor—The entity or individual with which Owner enters into a Construction Contract.
17. Documents—All documents expressly identified as deliverables in this Agreement, whether in printed or Electronic Document form, required by this Agreement to be provided or furnished by Engineer to Owner. Such specifically required deliverables may include, by way of example, Drawings, Specifications, data, reports, building information models, and civil integrated management models.
18. Drawings—That part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. 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.
20. Electronic Document—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.

21. **Electronic Means**—Electronic mail (e-mail), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Agreement. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
22. **Engineer**—The individual or entity named as such in this Agreement.
23. **Engineer's Subcontractor**—An individual, firm, vendor, or other entity having a contract with Engineer to furnish general services, equipment, or materials with respect to the Project as an independent contractor.
24. **Field Order**—A written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price or the Construction Contract Times.
25. **Front-End Construction Contract Documents**—Those Construction Contract Documents whose primary purpose is to establish legal and contractual terms and conditions, typically including the Owner-Contractor agreement, bonds, general conditions, and supplementary conditions. The term excludes the Drawings and Specifications, and any Construction Contract Documents delivered or issued after the effective date of the Construction Contract.
26. **Laws and Regulations; Laws or Regulations**—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
27. **Owner**—The individual or entity named as such in this Agreement and for which 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.
28. **Project**—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.
29. **Record Drawings**—Drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer and based 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.
30. **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 (RPR) includes any assistants or field staff of the RPR.

31. **Samples**—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
32. **Shop Drawings**—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.
33. **Site**—Lands or areas to be indicated in the Construction Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
34. **Specifications**—The part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
35. **Subconsultant**—An individual, design firm, consultant, or other entity having a contract with Engineer to furnish professional services with respect to the Project as an independent contractor.
36. **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.
37. **Submittal**—A written or graphic document, prepared by or for Contractor, which the Construction Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Construction Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Construction Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
38. **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 Construction 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.
39. **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 a Subcontractor.

40. Total Project Costs—The total cost of planning, studying, designing, constructing, testing, commissioning, and start-up of the Project, including Construction Cost and all other Project labor, services, materials, equipment, insurance, and bonding costs, 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 and private utilities (including relocation if not part of Construction Cost), 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.
41. Underground Facilities—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.
42. Work—The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.
43. Work Change Directive—A written directive to Contractor issued on or after the effective date of the Construction Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

B. Terminology

1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 8—EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits to Agreement

The following exhibits are incorporated by reference and included as part of this Agreement:

- A. Exhibit A, Engineer's Scope of Services.
- B. Exhibit B, Deliverables Schedule.
- C. Exhibit C, Amendment to Owner-Engineer Agreement (form).
- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative – **NOT USED**
- E. Exhibit E, EJCDC® C-626, Notice of Acceptability of Work (form) – **NOT USED**

- F. Exhibit F, Electronic Documents Protocol (EDP). – **NOT USED**
- G. Exhibit G, Insurance.
- H. Exhibit H, Dispute Resolution. – **NOT USED**
- I. Exhibit I, Limitations of Liability.
- J. Exhibit J, Payments to Engineer for Services and Reimbursable Expenses.

8.02 Total Agreement

- A. This Agreement (which includes the exhibits listed above) constitutes the entire contractual 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 written instrument duly executed by both parties. Amendments should be based whenever possible on the format of Exhibit C to this Agreement.

8.03 Designated Representatives

- A. With the execution of this Agreement, Engineer and Owner shall each designate a specific individual to act as representative under this Agreement. Such an individual must have authority to transmit instructions, receive information, and render decisions with respect to this Agreement on behalf of the party that 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 anything 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.

8.05 Conflict of Interest

- A. Nothing in this Agreement will be construed to create or impose any duty on the part of Engineer that would be in conflict with Engineer's paramount obligations to the public health, safety, and welfare under the professional practice requirements governing Engineer, its Subconsultants, and all licensed professionals employed by Engineer or its Subconsultants.
- B. If during the term of this Agreement a potential or actual conflict of interest arises or is identified:
 - 1. Engineer and Owner together will make reasonable, good faith efforts to avoid or eliminate the conflict of interest; to mitigate any adverse consequences of the conflict of interest; and, if necessary and feasible, to modify this Agreement to address the

conflict of interest and its consequences, such that progress under the Agreement may continue.

2. Such efforts will be governed by applicable Laws and Regulations and by any pertinent Owner's policies, procedures, and requirements (including any conflict of interest resolution methodologies) provided to Engineer under Paragraph 2.04.A of this Agreement.

This Agreement's Effective Date is _____.

Owner:

(name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Attach evidence of authority to sign, if required.

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address: _____

Phone: _____

Email: _____

Engineer:

Halff Associates, Inc.
(name of organization)

By: _____
(individual's signature)

Date: 7/13/2026
(date signed)

Name: Ashley Pifer, PhD, PE
(typed or printed)

Title: Vice President, Director of Water/Wastewater
(typed or printed)

Attach evidence of authority to sign, if required.

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

1465 E. Joyce Blvd.
Suite 200
Fayetteville, AR 72703

Designated Representative:

Name: Garrett McMichael, PE
(typed or printed)

Title: Water/Wastewater Team Leader
(typed or printed)

Address: 1465 E. Joyce Blvd.
Suite 200
Fayetteville, AR 72703

Phone: 501-653-7529

Email: gmcmichael@halff.com

EXHIBITS TO AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

TABLE OF CONTENTS

EXHIBIT A—ENGINEER’S SCOPE OF SERVICES

EXHIBIT B—DELIVERABLES SCHEDULE

EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT

EXHIBIT D—DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT
REPRESENTATIVE - **NOT USED**

EXHIBIT E—EJCDC® C-626, NOTICE OF ACCEPTABILITY OF WORK - **NOT USED**

EXHIBIT F—ELECTRONIC DOCUMENTS PROTOCOL (EDP) - **NOT USED**

EXHIBIT G—INSURANCE

EXHIBIT H—DISPUTE RESOLUTION - **NOT USED**

EXHIBIT I—LIMITATIONS OF LIABILITY

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES: COMPENSATION
PACKET BC-1: BASIC SERVICES—LUMP SUM



Exhibit A – Engineer’s Scope of Services

Old Farm Lift Station, Forcemain, and Gravity Sewer CIP Projects WW03 & WWM08 Bentonville Water Utilities

Bentonville Water Utilities (Owner) operates a municipally-owned wastewater collection system for the City of Bentonville, Arkansas. Additional capacity is required to meet current and future projected sanitary sewer flows within the Vaughn and Spring Creek Sewer Basins. This Project consists of concurrent design of Projects WW03 and WWM08 as identified in the City of Bentonville Water Utilities Capital Improvement Plan (CIP), dated January 2026. The purpose of this Project is to increase system capacity to accommodate projected growth within the Spring Creek - Vaughn Sewer Basin.

Project WW03 includes construction of a new lift station at the southern end of the basin (intercepting all of the Owner’s wastewater that is currently directed through the XNA lift station), a new force main, and downstream gravity improvements between the new lift station discharge point at MH 562-832 and point of connection to the upstream end of the new SW Regional Airport Blvd gravity main recently constructed as part of CIP Project WWM01. Project WWM08 includes replacing segments of the existing 8-inch gravity sewer line upstream of the proposed lift station with a 12-inch gravity line.

The Scope of Services contained herein is inclusive of the following sewer infrastructure:

1. New Old Farm Lift Station & Forcemain
 - a. New, approximately 50’x50’ site, located near the intersection of W Hwy 12 and SW Old Farm Blvd.
 - b. New Lift Station with Four (4) 35 HP Submersible Pumps – Three (3) Operating, One (1) Standby.
 - c. Design Firm Lift Station Capacity = 1,717± GPM.
 - d. Approximately 4,600± LF of new SDR 21 PVC forcemain from Old Farm Lift Station to existing MH 562-832.
2. Gravity Sewer Upgrades
 - a. Abandon approximately 3,350± LF of existing 8” gravity sewer from MH 562-809 to the Old Farm Lift Station site and replace with 12” SDR 26 PVC.
 - b. Abandon approximately 3,450± LF of existing 12” gravity sewer from MH 562-832 to the upstream end of Project WWM01 (decommissioned Vaughn Creek Lift Station site) and replace with 18” SDR 26 PVC. A new gravity sewer main shall also be extended from the replaced section to the NW corner of the Intersection of SW Regional Airport Blvd. and S Vaughn Road.

The estimated pre-design quantities and requirements listed above are based upon preliminary information provided by the Owner. These assumptions will be revised, as required, upon completion and acceptance of recommendations determined in the Preliminary Planning Study Phase of this Contract.

The Scope of Services for this Project is divided into seven (7) Phases, as follows:

- 1) Preliminary Planning Study**, to include Alternatives Analyses for Lift Station Site Selection and general Utility Alignments, and verification of the Target Design Capacity for the Lift Station.
- 2) Surveying Services**, to include Topographical and Boundary Design Surveys, Easement Document Preparation, and Real Estate Acquisition Document Preparation.
- 3) Design Engineering Services**, to include Project Management, Preliminary (30%), Intermediate (60%), and Final Design services, Material and Construction Specifications, and Contract Documents.
- 4) Real Estate Acquisition Services**, to include Preparation and Delivery of Initial Acquisition Offers, and Subsequent Negotiation(s) with Landowners, as required.
- 5) Permitting and Environmental Services**, to include Arkansas Department of Health (ADH) approval, Arkansas Department of Transportation (ArDOT) utility permitting (as required), impact screening for any potentially effected aquatic features under United States Army Corps of Engineers (USACE) jurisdiction, and Nationwide No. 58 Permitting (as required).
- 6) Geotechnical Services**, to include Geotechnical Investigation and Reporting Performed by a Sub-Consultant to Halff.
- 7) Bidding Services**, to include Preparation of Advertisement, General Management of the Construction Bid Process, Issuance of Certified Bid Tabulation and Award Recommendation, and Facilitation of Construction Contract Execution and Pre-Construction Conference.

1. Preliminary Planning Study

1.1. Site Selection and Alignment Evaluation

- i) Identify up to three (3) potential locations for the new lift station site, and provide an alternative analysis evaluating:
 - (1) General Site Suitability and Accessibility
 - (2) Estimated Construction Cost
 - (3) Hydraulic Impact(s) to Lift Station Design
 - (4) Environmental or Regulatory Impacts
- ii) Provide preliminary Exhibit(s) for each evaluated alternative, including preliminary routing of forcemain and gravity sewer.
- iii) Provide a formal site selection recommendation.
 - (1) **Note:** All Subsequent Phases (2 through 7) within this Scope of Services, including Surveying, Design, Permitting, etc., will be based upon the Owner's selected alternative for the site location and general utility alignment. Substantial changes to the selected site location or general utility alignment requested after completion of this Phase may incur Additional Services.

1.2. Lift Station Capacity Requirement

- i) Halff will review supporting calculations for the Old Farm Lift Station design capacity requirements included within the Bentonville Spring Creek Interceptor Preliminary Engineering Report (May 2024) and any other pertinent information provided by the Owner.
- ii) Halff will perform a desktop analysis for upstream sanitary sewer flows within the Vaughn sewer basin and will develop a proposed firm capacity requirement for the new Old Farm Lift Station.

1.3. Planning Study Report

- i) Halff will prepare and submit a report summarizing the findings and recommendations from Sections 1.1 and 1.2 above.



2. Surveying Services

Halff will perform the following Surveying Services:

2.1. Boundary and Topographic Survey

- i) Horizontal and Vertical Control established at locations determined by the survey project manager and survey field crews being based on the City of Bentonville control monuments at a linear distance of approximately 500 feet.
- ii) Ground level surface topography shall include:
 - (1) All geographic data will be in grid and based upon the City of Bentonville control monuments.
 - (2) Up to a total of 10,000 linear feet of a 100' wide corridor topography adjacent to W Hwy 12, SW Old Farm Blvd, and SW Regional Airport Blvd. Elevations will be acquired at locations frequent enough to establish an existing grade surface sufficient for utility design.
 - (3) Road crossing will include back of curb (if applicable), gutter, edge of asphalt (or gravel), and centerline data where applicable.
 - (4) All above ground appurtenances within the corridor will be located.
 - (5) Existing Storm and Sanitary Sewer manholes, inverts, and pipe sizes within corridor will be located.
 - (6) One-call request will be made, and any locate flags will be acquired within corridor.
 - (7) Any buildings within the corridor will be acquired.
- iii) Boundary resolution for up to twenty-five (25) parcels.
 - (1) Halff will utilize a third-party title company to conduct an easement search for all parcels within scope of work and will show all existing easements and rights-of-way found in the search. The cost for this item is included within the fee for the scope of the contract.
 - (2) Halff will establish parcel boundaries for all parcels within the corridor.
- iv) Deliverable
 - (1) Electronic CADD deliverable in Civil 3D format.
 - (2) PDF Deliverable in 34"x22" size to include at a minimum:
 - (a) North Arrow
 - (b) Title Bar and Block
 - (c) General Project Layout
 - (d) Control & Benchmark Information
 - (e) Basis of Bearing and other necessary geodetic information as determined by the survey project manager.

1. Arkansas North Zone (0301) – NAD 83



2. NAVD88
3. GEOID18

- (f) Topographic Data to include contour lines.
- (g) Roadway and Street locations with names.
- (h) Solved boundary and right of way locations within the corridor.

2.2. Easement Development

- i) Easement exhibits and legal descriptions will be provided for acquisition for new easements on up to twenty-five (25) parcels.
 - (1) Assumed not to exceed a total of twenty-five (25) easements.
 - (2) It is assumed that Halff is responsible for providing permanent and temporary construction easement documents for each affected parcel.
- ii) Legal Descriptions and Exhibits will be delivered for each proposed easement following the Owner's standard document format.
- iii) If a standard document format is not provided by the Owner, exhibits and legal descriptions will be delivered in PDF format under the following criteria:
 - (1) Size: 8.5x11 or 11x17 as decided by the survey project manager.
 - (2) Contents (at minimum): Property owner name, property owner address, parcel address (if available), visual representation of easement to scale, and legal description.
 - (3) Legal Descriptions will be provided within the PDF exhibit and in a Microsoft Word document.
- iv) **Note:** Easement and Real Estate negotiations and acquisitions are included within Phase 4 of this Scope of Services.

2.3. **Exclusions** from Surveying Services, include, but are not limited to:

- i) Setting of boundary corners.
- ii) Signed and sealed boundary/survey plats.
- iii) Construction staking or layout.
- iv) Anything not explicitly stated in the Phase 2 Scope of Services contained herein.

3. Design Engineering Services

The following Design Engineering Services shall be performed:

3.1. Project Management

- i) Attend Owner kick-off meeting, and document Owner's project parameters in a Project Design Memorandum.
- ii) Conduct an initial project site visit prior to starting the design phase.
- iii) Conduct routine status update meetings with Owner.
 - (1) Halff will conduct up to eight (8) routine status update meetings with the Owner throughout the duration of the project. These meetings may be held virtually or in-person.
- iv) Conduct Owner Design Review Workshops.
 - (1) Halff will conduct three (3) in-person design review workshops to discuss project progress, and gather design related review comments from the Owner.
 - (a) One (1) Workshop will be held following delivery of the preliminary (30%) design documents.
 - (b) One (1) Workshop will be held following delivery of the intermediate (60%) design documents.
 - (c) One (1) Workshop will be held following the delivery of the final (90%) design documents.
- v) Conduct one (1) pre-application meeting at the completion of the intermediate (60%) design phase prior to submission to the City of Bentonville review portal.
- vi) Provide meeting agendas to Owner a minimum of two (2) business days prior to all scheduled meetings.
- vii) Provide meeting minutes to Owner a maximum of five (5) business days following all scheduled meetings.
- viii) Provide general project management including preparation of status reports, routine invoicing, quality assurance and quality control (QA/QC) reviews, and general management of the design team including any sub-consultants.

3.2. Preliminary Design (30%)

- i) Prepare 30% design Plans.
- ii) Prepare 30% Technical Specifications.
- iii) Prepare project takeoffs and preliminary opinion of probable construction cost (OPCC).
- iv) Submit the above documents to the Owner for review in digital PDF format.

3.3. Intermediate Design (60%)

- i) Prepare 60% design Plans.
- ii) Prepare 60% Technical Specifications.



- iii) Prepare project takeoffs and intermediate OPCC.
- iv) Submit the above documents to the Owner for review in digital PDF format.

3.4. Final Design

- i) Prepare 90% design Plans.
- ii) Prepare 90% Technical Specifications.
- iii) Prepare project takeoffs and final OPCC.
- iv) Submit the above documents to the Owner for review in digital PDF format.
- v) Halff will prepare and submit 100% design Plans, Technical Specifications, and front-end contract documents for construction upon receipt of final Owner and Regulatory approvals.

3.5. Contract and Bid Documents

- i) Halff will prepare and submit up to two (2) separate sets of front-end contract documents necessary for public bid and award for construction. These documents will be submitted to the Owner simultaneously with 90% design documents.
 - (1) If the Owner elects to divide the Work into two (2) standalone Contracts to be bid and awarded separately, the Engineer shall provide up to two (2) complete sets of front-end contract documents.
 - (2) Front-End and Construction Contract Documents will utilize EJCDC C-990 standard format. Alternatively, the Owner may elect to provide a complete template of contract documents to be modified for this Project.
 - (3) **Note:** It is assumed that this Project will not utilize any State or Federal funding and will not be subject to contracting and recordkeeping requirements including, but not limited to, American Iron and Steel (AIS), Build America Buy America (BABA), Disadvantaged Business Enterprise (DBE), and Davis-Bacon Wage Rate requirements.



4. Real Estate Acquisition Services

Halff will perform the following Real Estate Acquisition Services:

4.1. Initial Appraisal/Valuation Services

- i) Review the Owner's easements and construction plans.
- ii) Perform field inspection of the proposed project and collect limited market information in order to determine estimated land and improvements value.
- iii) Conduct appraisal of up to twenty (20) properties.
 - (1) The appraiser/valuator will contact property owners and conduct property owner's inspections.
 - (a) This includes inviting the property owners, preferably in writing, to accompany the appraiser/valuator during the appraiser's/valuator's inspection of the property and maintain record of contact in file.
- iv) Determine need for specialty report and advise the Owner of the recommendation.
 - (1) The Owner will determine extent of report needed and most efficient and cost-effective method of preparation.
- v) Prepare written notification to the Owner of any environmental concerns associated with the acquisition that could require environmental remediation.
- vi) Appraisal/Valuation Updates includes:
 - (1) Revise, update, or obtain new appraisals/valuations, up to five (5) properties.

4.2. Negotiation Services & Waiver Valuation Services

- i) Prepare and provide Waiver Valuation Reports, if needed, to the Owner for administrative review and approval.
- ii) Upon completion of easement appraisals, submit to the Owner for approval and concurrence of any reimbursable portion of costs prior to beginning easement negotiations.
- iii) Prepare the appropriate acquisition documents and assemble tract packets for up to twenty (20) properties, in accordance with Owner requirements.
- iv) Prepare an offer letter for signature by the appropriate Owner official or as designated, stating the summary of the basis for the total amount offered. Offer letters shall follow City of Bentonville standard format.
- v) Present offer letter to the property owner, discuss the offer amount and rationale for compensation and address any concerns. Advise the property owner of their full rights under the laws of eminent domain if no agreement can be reached and condemnation action is necessary.
- vi) Maintain a project log indicating, at a minimum, the dates of the following:
 - (1) Waiver valuation or appraisal approved, initiation of negotiations, contract signed and recommendations for condemnation.

- vii) Maintain detailed records of all information pertinent to the job:
 - (1) Ownership addresses, encumbrances, dated and signed negotiator notes, offer letters and contracts.
 - (2) Negotiator notes should include a record of each contact, offers and counteroffers, property owner requests, opinions, proposed solutions, and recommendations for condemnation.
- ii) Provide weekly status updates to the Owner throughout the Real Estate Acquisition process.
- viii) Notify the Owner if a property owner requests an appraisal in lieu of the waiver valuation presented.
- ix) Collect supporting documents from the property owner necessary to complete the transaction including but not limited to trusts, corporate resolutions, partnership agreements, et al.
- x) As negotiations are completed, review tract packets for completeness, prepare acceptance letters for the Owner's execution and distribute tract packets for further handling.
- xi) Submit proposed changes in right of way easements or construction design features arising through negotiations to the Owner.
- xii) Submit counteroffers from property owners to the Owner with recommendations for acceptance or rejection.
- xiii) Recommend tracts for condemnation to the Owner when negotiations prove to no longer be beneficial or when the property owner states they wish to discontinue negotiations.
- xiv) Execute Rights of Entry Agreements with property owners as directed by the Owner.
- xv) Upon completion of easement negotiations, submit to the Owner for approval and concurrence of any reimbursable portion of costs prior to executing any easement documents.
- xvi) Prepare proper instruments of conveyance and releases upon determination of title status.
- xvii) Deliver Owner warrants on negotiated settlements after obtaining proper execution of instruments of conveyance and satisfaction of liens, if needed.
- xviii) Record conveyance documents (excluding temporary construction easement documents) in appropriate county offices or through title company in a timely manner, once payments have been made by Owner.
- xix) Perform title, curative and releases/subordinations, and closing services for fee simple title property acquisitions.

5. Permitting and Environmental Services

The following permits and regulatory approvals will be obtained, as required, for the construction of this Project. Application and review fees for submittals are included within the total lump sum Fee for this Phase.

5.1. Arkansas Department of Health (ADH) Review and Approval

- i) Upon Owner approval of final design Plans and Technical Specifications, Halff will submit design documents to ADH for review and approval.
- ii) Halff will respond to comments and revise design documents, as required, to obtain ADH approval.

5.2. Arkansas Department of Transportation (ArDOT) Utility Permit

- i) Halff will prepare and submit ArDOT Utility Permit application(s) for proposed state highway crossings and access required for the design, as required.

5.3. Railroad Permit

- i) Railroad permitting is **not anticipated** and services for such are **excluded**.

5.4. Floodplain Development Permit

A preliminary review of potentially effected project areas indicates that **no anticipated temporary or permanent disturbances of regulatory floodplain and/or floodway will be required for this Project**. Therefore, the preparation of a Floodplain Development Permit, No-Rise Certificate, or supporting H&H Analyses are **excluded** from this Scope of Services.

5.5. Screening for potential impacts to aquatic features under United States Army Corps of Engineers (USACE) jurisdiction.

- i) Impacts to Waters of the United States (WOTUS) may require permitting under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. Halff assumes that construction activities will seek to avoid impacts to WOTUS wherever possible. To determine whether or not USACE permitting will be required, Halff proposes the following scope of work:
 - (1) Conduct wetland delineation for the project area(s) estimated to fall within WOTUS, following USACE 1987 Manual & 2012 Regional Supplement, and provide findings in a wetland delineation report.
 - (2) Conduct a Threatened and Endangered Species Assessment, including critical habitat assessment, and summarize findings in a summary report.
 - (3) Conduct Cultural Resources Background Review to ensure compliance with Arkansas Historic and Prehistoric Sites Act and Section 106 of NHPA and summarize findings in a report for AHPP and USACE review.
 - (4) Provide summary of impact screening and final determination for any applicable Section 404 or Section 10 permit requirements.

5.6. USACE Nationwide Permitting

- i) If impacts to WOTUS are determined under the impact screening performed under Section 5.5, and reasonable modifications to utility alignment(s) to avoid these impacts

are not feasible, then it is assumed that construction activities required for this Project will qualify to be covered under Nationwide Permit No. 58 within Section 404 of the Clean Water Act. The following scope items are included to complete all necessary environmental services for Nationwide No. 58 Permitting under Section 404 of the Clean Water Act, as required.

- (1) Prepare a Pre-construction Notification (PCN) for a Nationwide Permit (NWP) No. 58. The PCN/NWP submission will include:
 - (a) Permittee details (name, address, contact)
 - (b) Project description (purpose, environmental effects, WOTUS impact)
 - (c) WOTUS delineation data
 - (d) Threatened and endangered species assessment
 - (e) Cultural resources assessment
 - (f) Compensatory mitigation plan (if applicable)
 - (2) Submit PCN to Owner for review prior to final submission to USACE.
- ii) Exclusions and assumptions to Sections 5.5 and 5.6 include:
- (1) Preparation or submittal of documents to support a Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act permit, other than a Nationwide No. 58 Permit, is not included in this Scope.
 - (2) Species-specific surveys that may be required if the proposed work poses potential harm to threatened and endangered species is not included in this Scope.
 - (3) Additional cultural resource field investigations (if needed) shall be conducted as additional services.
 - (4) Field surveys will be completed through a two-day deployment to survey the project area. Delays due to land access, coordination, or weather are not included.

5.7. Stormwater Pollution Prevention Plan (SWPPP)

- i) Prepare up to two (2) SWPPPs to be implemented into the Plans and Construction Documents.
- ii) Prepare up to two (2) Notice of Intent (NOI) documents to be adopted and maintained by the Contractor(s) prior to Construction.
- iii) Note: If a single Construction Contract is utilized covering the entirety of the Project Work, then only one (1) SWPPP and NOI will be prepared.

6. Geotechnical Services

Halff will complete the following Geotechnical Services:

6.1. Geotechnical Bores (via Subconsultant)

- i) Perform up to two (2) bores at the new lift station site with target depths of at least fifty (50) feet.
- ii) Perform up to six (6) bores along the proposed utility alignment(s) with target depths of at least twenty-five (25) feet.

6.2. Geotechnical Report (via Subconsultant)

- i) Issuance of a complete Geotechnical Report, signed and sealed by a Licensed Professional Engineer, summarizing analyses of geotechnical bores and specific structural foundation and pipe bedding and backfill recommendations. The Geotechnical Report will be provided to the Owner for review and acceptance, and to Contractor(s) as an attachment to the front-end contract documents.

6.3. General Management of the Geotechnical Subconsultant

- i) Management of subconsultant agreement including administrative, invoicing/payments, scheduling, work planning, and QA/QC of deliverables.

7. Bidding Services

Halff will perform the following services to support the public advertisement(s), bidding, and award(s) of up to two (2) separate construction contracts for this Project:

7.1. Advertisement, Bid, and Award Process

- i) Prepare up to two (2) advertisements for Bid utilizing City of Bentonville standard template.
 - (1) The Owner shall be responsible for issuance and payment of any fee(s) for the advertisement(s).
 - (2) The Owner shall be responsible for hosting the project(s) within the online “Beacon Bid Portal” which shall include maintaining the construction documents, distribution of documents to potential bidders, and maintenance of a list of plan holders.
- ii) Conduct up to two (2) Pre-Bid meetings.
- iii) Respond to requests for clarifications, as required.
- iv) Prepare addenda, as required.
- v) Conduct up to two (2) Bid Openings.
- vi) Prepare and submit up to two (2) Certified Bid Tabulations.
- vii) Evaluate bids, review Contractor(s) qualifications, check references of low bidder(s), and issue Recommendation of Award(s)
- viii) Prepare Notice to Proceed documents.
- ix) Conduct up to two (2) Pre-Construction Meetings.



8. Additional Services

Additional Services, **not included** within the Scope of Services for Phases 1 through 7 as described herein may be negotiated on an individual basis. These Additional Services shall include, but not limited to, the following:

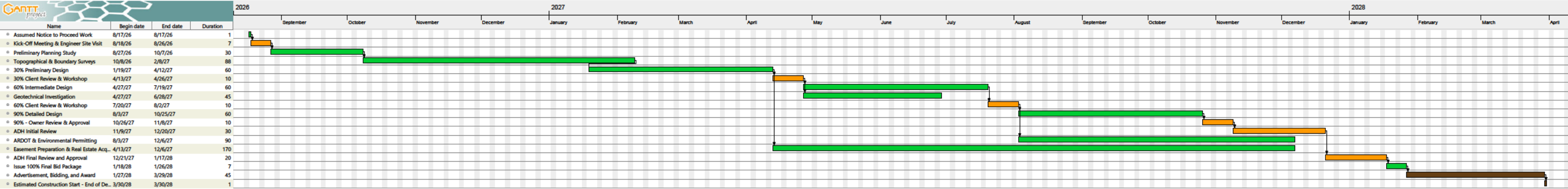
- i) Traffic Control Plan(s).
- ii) Corrosion Control or Surge Analyses.
- iii) Hydraulic Modeling of Existing or Proposed Sanitary Sewer Collection System.
- iv) Construction or ROW Staking.
- v) Construction Phase Services, including Full or Part Time Construction Inspection, Observation and Administration.
- vi) Preparation or submittal of documents to support a Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act permit, other than Nationwide No. 58 Permitting.
- vii) Floodplain Development Permitting or No-Rise Certification(s).
- viii) Additional Permitting Requirements Not Listed Under Phase 5.
- ix) Other Items Not Explicitly Listed Under Phases 1 Through 7.

Tasks

Name	Begin date	End date	Duration
Assumed Notice to Proceed Work	8/17/26	8/17/26	1
Kick-Off Meeting & Engineer Site Visit	8/18/26	8/26/26	7
Preliminary Planning Study	8/27/26	10/7/26	30
Topographical & Boundary Surveys	10/8/26	2/8/27	88
30% Preliminary Design	1/19/27	4/12/27	60
30% Client Review & Workshop	4/13/27	4/26/27	10
60% Intermediate Design	4/27/27	7/19/27	60
Geotechnical Investigation	4/27/27	6/28/27	45
60% Client Review & Workshop	7/20/27	8/2/27	10
90% Detailed Design	8/3/27	10/25/27	60
90% - Owner Review & Approval	10/26/27	11/8/27	10
ADH Initial Review	11/9/27	12/20/27	30
ARDOT & Environmental Permitting	8/3/27	12/6/27	90
Easement Preparation & Real Estate Acquisition	4/13/27	12/6/27	170
ADH Final Review and Approval	12/21/27	1/17/28	20
Issue 100% Final Bid Package	1/18/28	1/26/28	7
Advertisement, Bidding, and Award	1/27/28	3/29/28	45
Estimated Construction Start - End of Design Contract	3/30/28	3/30/28	1

Note: Task durations are based on number of elapsed business days (Monday-Friday) and exclude weekends (Saturday-Sunday).

Gantt Chart



Note: Task durations are based on number of elapsed business days (Monday-Friday) and exclude weekends (Saturday-Sunday).

EXHIBIT C—AMENDMENT TO OWNER-ENGINEER AGREEMENT

AMENDMENT TO OWNER-ENGINEER AGREEMENT

Amendment No. [Enter Amendment Number]

Owner: **Bentonville Water Utilities**

Engineer: **Halff Associates, Inc.**

Project: **Old Farm Lift Station, Forcemain, and Gravity Sewer**

Effective Date of Owner-Engineer Agreement:

Nature of Amendment: (Check those that apply)

- ☐ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☐ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

[Here describe the modifications, in as much specificity and detail as needed. Use an attachment if necessary. Include cost breakdown and documentation, if applicable.]

Agreement Summary:

Original agreement amount: \$

Net change for prior amendments: \$

This amendment amount: \$

Adjusted Agreement amount: \$

Change in time for services (days or date, as applicable):

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. The Effective Date of the Amendment is **[Enter Effective Date of Amendment]**.

Owner

Engineer

(typed or printed name of organization)

(typed or printed name of organization)

By:

(individual's signature)

By:

(individual's signature)

(Attach evidence of authority to sign.)

(Attach evidence of authority to sign.)

Date:

(date signed)

Date:

(date signed)

Name:

(typed or printed)

Name:

(typed or printed)

Title:

(typed or printed)

Title:

(typed or printed)

EXHIBIT G—INSURANCE

ARTICLE 1—INSURANCE

Paragraph 6.04 of the Agreement, Insurance, is supplemented to include the following Exhibit G Paragraph 1.01:

1.01 Insurance

- A. Engineer agrees to maintain during the life of this Agreement, and for a period of four (4) years following the termination or expiration thereafter, the minimum insurance set forth below. Engineer shall submit to Owner a certificate of insurance prior to commencing performance of the Services.
 - 1. Commercial general liability insurance, including personal injury liability, blanket contractual liability, and broad form property damage liability in an amount of \$2,000,000 per occurrence/aggregate.
 - 2. Automobile bodily injury and property damage liability insurance with a limit of \$1,000,000.
 - 3. Workers' Compensation and Employer's Liability: Insurance as required by applicable state and/or federal law. The employer's liability policy limit shall be \$1,000,000.
 - 4. Professional liability insurance (Errors and Omissions) with a limit of \$2,000,000 per claim/annual aggregate.
 - 5. Excess or Umbrella insurance with a limit of \$5,000,000 per occurrence/general aggregate.
 - 6. Engineer shall name Owner, its elected officials, directors, officers and employees as additional insureds for policies 1.01.A.1. and 1.01.a.2. To the extent allowed by each policy, Engineer shall also provide a waiver of subrogation in favor of Owner.

EXHIBIT I—LIMITATIONS OF LIABILITY

ARTICLE 1—LIMITATIONS OF LIABILITY

Paragraph 6.10 of the Agreement is supplemented to include Exhibit I Paragraph 1.02, Limitation of Engineer's Liability:

1.01 **NOT USED**

1.02 Limitation of Engineer's Liability

- A. Engineer's Liability Limited to Amount of Engineer's Compensation: To the fullest extent permitted by Laws and Regulations, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, Subconsultants, and Engineer's Subcontractors, to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever (including but not limited to direct, indirect, special, incidental, punitive, exemplary, or consequential damages) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Engineer or Engineer's officers, directors, members, partners, agents, employees, Subconsultants, or Engineer's Subcontractors, will not exceed the total compensation received by Engineer under this Agreement.

EXHIBIT J—PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

ARTICLE 1—COMPENSATION PACKET BC-1: BASIC SERVICES—LUMP SUM

Article 2 of the Agreement is supplemented to include the following Exhibit J Paragraph 1.01:

1.01 Compensation for Basic Services—Lump Sum Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A (except for Resident Project Representative services, if any) as follows:

1. A Lump Sum amount of **\$792,230** based on the following estimated distribution of compensation:

a. Preliminary Planning Study (Phase 1)	\$17,540
b. Surveying Services (Phase 2)	\$135,990
c. Design Engineering Services (Phase 3)	\$303,485
d. Real Estate Acquisition Services (Phase 4)	\$238,060
e. Permitting & Environmental Services (Phase 5)	\$32,745
f. Geotechnical Services (Phase 6)	\$32,290
g. Bidding Services (Phase 7)	\$32,120

2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but compensation will not exceed the total Lump Sum amount unless approved in writing by the Owner.

3. The Lump Sum includes compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, and expenses. Fee amounts incorporated for services of Engineer's Subcontractors and Subconsultants, if any, shall not exceed the total cost incurred by the Engineer for these services plus 10%.

4. In addition to the Lump Sum, Engineer is also entitled to reimbursement from Owner for the following Reimbursable Expenses (see Appendix 1 for rates or charges): **NONE**

5. The portion of the Lump Sum amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. If any Reimbursable Expenses are expressly allowed, Engineer may also bill for any such Reimbursable Expenses incurred during the billing period.