

**BROKEN ARROW MUNICIPAL AUTHORITY
PROFESSIONAL SERVICES AGREEMENT
WINDSOR LIFT STATION INSTALLATION/CONSTRUCTION
PROJECT NUMBER: 2454410**

1. Professional Service Provider:

- a. Name: Automatic Engineering
- b. Telephone No.: 918-720-1714
- c. Address: 412 N. Redbud Ave – Broken Arrow, OK 74012

2. Project Title and Location: WINDSOR LIFT STATION INSTALLATION/CONSTRUCTION, PROJECT #2454410. LOCATED AT WINDSOR OAKS SUBDIVISION LIFT STATION.

3. Contract for: Providing professional installation/construction services associated with public works projects for the Broken Arrow Municipal Authority & its private partners. Professional services to include providing labor and related support services to city personnel constructing the city project. The Professional Service Provider shall perform all duties, responsibilities and requirements set out in Attachment A hereto. The Professional Service Provider agrees that this professional service shall be treated as an important service to the BAMA and also agrees to commit the time necessary to perform the professional services in a professional manner.

4. Compensation: Professional Service Provider shall be compensated as a lump sum total for the services rendered and the total compensation under this contract is Not to Exceed Sixty-Seven Thousand Seven Hundred and Forty-Six and 16/100 (\$67,746.16) for the entire Scope of the Professional Services rendered. The parties agree that the Professional Service Provider's position is not a traditional BAMA employee position; therefore, the foregoing constitutes all the benefits and other forms of compensation due the Professional Service Provider, acting in the role of an independent contractor, and therefore ineligible for all other benefits paid to regular full-time BAMA employees. The Professional Service Provider shall be responsible for his own vehicle expenses and any other indirect costs incurred in fulfilling the stated contract requirements. The Professional Service Provider agrees to abide by and comply with all of the BAMA's Administrative Policies.

5. Invoicing and Payment: The Professional Service Provider shall submit invoices requesting payment for services rendered to the BAMA monthly in accordance with actual progress of the work on each work item. The invoices shall be in a format satisfactory to the BAMA. Payment will be made within 30 days following the first eligible BAMA meeting occurring after the date on the invoice.

6. Time for Performance: These duties, responsibilities and requirements shall begin upon the execution of this Contract and shall be completed within ten (30) calendar days after the date the Notice to Proceed is issued. The BAMA will issue a Notice to Proceed for each item of work identified under this agreement, following mutual agreement between the Professional Service

Provider and the BAMA on the hours required for the work item.

7. Insurance: The Professional Service Provider shall acquire all insurance policies required for professional liability insurance, general liability, auto insurance, workers' compensation and/or health insurance. The Professional Service Provider shall provide proof of general liability and professional liability insurance coverage to the BAMA on or before the effective date of this Agreement.

During the performance of the services under this Professional Services Contract, the Professional Service Provider shall maintain the insurance coverage required below and the BAMA shall be named as an Additional Insured on each required policy:

- (1) General Liability Insurance, with a combined single limit of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate;
- (2) Automobile Liability Insurance, with a combined single limit of not less than \$1,000,000 for each person, not less than \$1,000,000 for each accident and not less than \$1,000,000 for property damage; and
- (3) Professional Liability Insurance, with a limit of \$1,000,000 annual aggregate.

8. Indemnification: The Professional Services Provider agrees to defend, indemnify, and hold harmless the BAMA, and its agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by the negligent or intentional acts, errors, or omissions of The Professional Services Provider, its agents or employees.

9. Immigration Compliance: The Professional Service Provider shall comply in all respects with all immigration-related laws, statutes, ordinances and regulations including without limitation, the Immigration and Nationality Act, as amended, the Immigration Reform and Control Act of 1986, as amended, and the Oklahoma Taxpayer and Citizen Protection Act of 2007 (Oklahoma HB 1804) and any successor laws, ordinances or regulations (collectively, the Immigration Laws”).

10. Governing Documents: The parties agree to perform this contract in strict accordance with the clauses, provisions, and the documents identified as follows, all of which are made part of this contract. In the event of conflict, these documents shall be interpreted in the following order:

- a. This Contract
- b. Attachment A to this Contract
- c. Duly Authorized Amendments arising out of this Contract

11. Electronic Signatures:

The Parties agree this transaction may be completed by electronic means and an electronic signature on this Contract will be given the same legal effect as a handwritten signature and cannot be denied enforceability solely because is it in electronic form. If the Professional Services

Provider signs this Contract electronically and/or submits documents electronically, the Professional Services Provider agrees to comply with the BAMA's requirements for submission of electronically signed and/or submitted documents.

12. Governing Law: This agreement shall be governed by the laws of the State of Oklahoma and venue for any action concerning this Agreement shall be in the District Court of Tulsa County, Oklahoma.

13. Entirety of Agreement: The foregoing Professional Services Contract supersedes all previous negotiations and may not be modified except by a written order executed by the parties hereto.

14. Effective Date: This Contract is effective shall be effective upon signature of both parties.

REMAINDER OF PAGE INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized officers or representatives on the dates set forth below.

Broken Arrow Municipal Authority:

Professional Service Provider:

Automatic Engineering

By: Michael L. Spurgeon

By: Joe Holbrook

Date: Michael Spurgeon, City Manager
11/28/2023

Title: Outside Sales

Attest: Curtis Green

Date: 11-28-2023

Date: Secretary [Seal]

Attest: Rick Ramsey

Date: 11/29/2023

By: Service Manager

Title: 11-28-2023

Date: 11-28-2023

Approved as to form:

Graham Parker

Assistant City Attorney

VERIFICATIONS

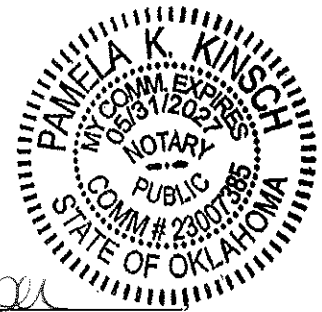
State of Oklahoma)

County of Tulsa) §

Before me, a Notary Public, on this 28th day of November

personally appeared Joe Holbrook, known to me to be the (President, Vice-President, Corporate Officer, Member, Partner or Other: _____ (Please circle or specify) of Automatic Engineering Inc. to be the identical person who executed the within and foregoing instrument, and acknowledged to me that s/he executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

Pamela K. Kinloch
Notary Public



BROKEN ARROW MUNICIPAL AUTHORITY

**PROFESSIONAL SERVICES AGREEMENT
WINDSOR LIFT STATION INSTALLATION/CONSTRUCTION
PROJECT NUMBER: 2454410**

ATTACHMENT A

SP - 1.0 SCOPE OF THE PROJECT:

1.1. Providing Professional Construction Consulting and Related Support Services associated with Windsor Lift Station installation/construction project for the Broken Arrow Municipal Authority. This project is being constructed primarily by Automatic Engineering, Inc. Staff in coordination with the BAMA staff. Services performed to include installation/construction: BAMA will perform the removal of the existing internal components and Automatic Engineering, Inc. will perform the installation of the new internal components for the existing Windsor lift station to become operational. Work performed under the contract shall be performed on a not to exceed contract as requested by the BAMA.

SP- 2.0 SERVICES OF THE BAMA: THE BAMA WILL:

2.1. Furnish to Professional Service Provider all data in its possession and needed engineering guidance as necessary for the service provider to complete the contract requirements.

2.2. Designate in writing a person to act as its representative in respect to the work to be performed under this agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define the BAMA's policies and decisions with respect to materials, equipment, elements and systems pertinent to the services covered by this agreement.

SP - 3.0 SCOPE OF SERVICES: THE PROFESSIONAL SERVICE PROVIDER SHALL:

3.1 The Professional Service Provider shall include construction consulting for BAMA portions work and facilitation of installation/modification of the internal components of the existing Windsor control panel and electric services such to facilitate the repair of the Windsor lift station operation. BAMA staff will provide removal of existing equipment to facilitate installation of this equipment.

3.2 Work will be a not to exceed contract all costs associated with the performance of the work, including any support and supervision cost required from the Professional Service Provider.

[END OF ATTACHMENT A]



To: David Marlow

Date: 11-27-2023

Proposal: OP-580581 Windsor Lift Station Rehab

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

QTY- (2) Flygt Concertor Submersible Pumps

- Concertor NX6020.181 10HP 4" DIA discharge 50' power cable

QTY- (2) Wet Well P-Installation Kit, 4" MT, CI

QTY- (2) Discharge Connection 4x4"

QTY- (2) Discharge Connection Hardware Assembly, SS

QTY- (2) Upper Guide Bar Bracket, 2", SS

QTY- (2) Safety Hook Assembly, SS

QTY- (40) Chain, 3/16" 316L

QTY-(2) Chain Fitting Kit 316SS

QTY-(1) Concertor XPC Duplex Retrofit Kit- 480V

- XPC Duplex Kit- (1) XPC Gateway, (1) DP Gateway, (1) Power Supply + Battery, (1) Flygt Surge Protect Pro (FSPP) 3PH, (1) FOP402 HMI Touchscreen

QTY-(1) Access Hatch Cover

QTY- (2) HDL Ball Check Valve- 4"

QTY-(1) Labor- The customer is responsible for the removal of the existing equipment. Automatic Engineering will be responsible for the installation of the new equipment listed above

***Freight is Prepay and Add. ***

Total: \$67,746.16

Terms: Net 30 Days

Shipment: 12-14 Weeks After Receipt of P.O.

F.O.B.- Factory

Quote Validity- 30 Days

Quoted by: Joe Holbrook (918)-720-1714

STANDARD TERMS AND CONDITIONS

Price is FOB factory. Price does not include any freight charges. Price does not include any applicable duties or sales tax, use tax, excise tax, value-added or other similar taxes that may apply to this equipment and/or project. Unless specifically stated, price does not include manual or automatic controls, starters, protective or signal devices, wiring, anchor bolts, gauges, vibration isolation devices, installation, startup or testing.

If the price is included in a proposal, the price is firm for receipt of an order within 30 days of the date shown on the proposal. Any additional terms and conditions included in the proposal are specifically included in these terms and conditions.

Payment is due upon receipt of the invoice. An interest charge of 1-1/2% per month will be added to past due balances. Retainage of any invoiced amount is unacceptable unless specifically agreed to by Company at the time of order, and shall in no case exceed a period of 120 days. If payments are not timely received by Company, and this account is turned over to an attorney for collections, Customer agrees to pay all reasonable costs and attorney fees incurred in collection of the past due amounts.

Payment of "commercial transaction" invoices by credit card will be charged a fee based upon Cogent's average discount rate for credit card transactions for the prior calendar year. This fee will change annually and is currently 2.55%.

All equipment either rented from or through Company is subject to all of the terms and conditions listed on the back of the rental contract. Pricing does not include any overtime running of power equipment.

In no event shall Company's obligations and liabilities under this Agreement include any direct, indirect, punitive, special, incidental or consequential damages or losses that Customer may suffer or incur in connection with this sale, service or rental,

including, but not limited to, loss of revenue or profits, damages or losses as a result of Customer's inability to operate, perform its obligations to third persons or injuries to goodwill; nor shall Company's liability extend to damages or losses Customer may suffer or incur as a result of such claims, suits or other proceedings made or instituted against Customer by third parties. Customer remises, releases and discharges Company from any and all liability or damages which might be caused by failure to deliver any equipment within the agreed time by Company.

Customer shall be responsible for determining the good operating condition of all materials and equipment prior to accepting the materials and equipment. NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE IS MADE UNLESS THE SAME IS SPECIFICALLY SET FORTH IN WRITING AND ACCEPTED IN WRITING BY COMPANY, BUT IN SUCH CASE THE WARRANTY OR GUARANTEE IS LIMITED AS ABOVE PROVIDED. Notwithstanding the foregoing, Company will pass through to the Customer any warranty provided by the manufacturer of any equipment supplied by Company.

Customer covenants and agrees to defend, indemnify and hold Company harmless from any claims, damages or liability arising out of the use, maintenance or delivery of the equipment or materials purchased or rented hereunder. Customer shall further defend, indemnify and hold Company harmless from any and all damages to third persons or to property caused by Customer's use or possession of the equipment or materials, to the fullest extent allowable by law.

In connection with a proposal, if Customer has any further questions or comments regarding the proposal, please feel free to contact Company. If the proposal meets with Customer's approval, please sign, date and mail or fax a copy of the proposal back to Company's office, and the identified equipment will be ordered and/or scheduled for delivery.

This agreement shall be governed by the laws of the state where the Company's branch office is located from which the equipment is rented or purchased. Customer further agrees that venue and jurisdiction shall be appropriate in the county in which Company's branch office is located from which the equipment was rented or purchased. Any provisions hereof which may prove unenforceable under any law shall not affect the validity of any other provision hereof.

Revised February 2019