

CONTRACT FOR ENGINEERING SERVICES

For

LYONS ATP FACILITY UTILITY IMPROVEMENTS 2021

This **Contract** is made and executed in duplicate this ____ day of _____, 2021 by and between the **CITY OF LYONS, KANSAS**, hereinafter called **OWNER**, party of the first part; and **EVANS, BIERLY, HUTCHISON & ASSOCIATES, P.A.**, Consulting Engineers, Pratt, Kansas, hereinafter called **ENGINEER**, party of the second part.

As used hereinafter, **PROJECT** shall consist of the extension of city utilities to serve the proposed ATP Facility as follows:

- Install looped water distribution line from Main St. to North end of Miles St. to provide fire protection and water service.
- Extend sanitary gravity sewer in Miles St. corridor to serve proposed facility.
- Define easement boundaries to facilitate water, sewer, and gas system improvements to facility.

Witnesseth: That in consideration of the mutual covenants contained herein, **OWNER** hereby agrees to employ **ENGINEER** to perform the Engineering Services hereinafter outlined, and to make payment for these services as set forth below:

SECTION 1 – ENGINEERING SERVICES

1.1 DESIGN

- 1.1.1 Prepare necessary working Drawings and Specifications.
- 1.1.2 Prepare Opinion of Probable Costs as required.
- 1.1.3 Review Preliminary Plans with **OWNER**.
- 1.1.4 Obtain the required state approvals of the Plans and Specifications prior to construction.
- 1.1.5 Assist **OWNER** in advertising the **PROJECT** to contractors. Provide bid documents to interested contractors at cost. Attend the bid letting, assist and advise **OWNER** in opening bids and in awarding a construction contract. All printing and publishing costs shall be paid by **OWNER**.
- 1.1.6 Schedule bid letting to complement additional work being let by **OWNER**, and provide means for contractor to tie multiple bids.

1.2 SURVEY AND EASEMENT BOUNDARY DESCRIPTION

- 1.2.1 Conduct field topography and boundary survey for the **PROJECT**.
- 1.2.2 Define up to three (3) access and utility easement boundaries and prepare draft easement documents for review by **OWNER**.

1.3 CONSTRUCTION ENGINEERING AND OBSERVATION

- 1.3.1 Conduct pre-construction conference with **OWNER** and contractor.
- 1.3.2 Check all equipment/shop drawings and other submittals by the construction contractor.

- 1.3.3 Prepare any change orders for approval by **OWNER**.
 - 1.3.4 Review the contractor's monthly payment requests and forward payment requests to **OWNER**.
 - 1.3.5 Provide contract document interpretations.
 - 1.3.6 Make final inspection of the completed **PROJECT** with the **OWNER**.
 - 1.3.7 Prepare "As Constructed Drawings" and provide two sets of prints to **OWNER**.
 - 1.3.8 **ENGINEER** will provide a competent part time Resident Project Representative who will observe the work while construction is in progress. The **ENGINEER** will make periodic on-site observations during and at the completion of the **PROJECT**. Such construction observation does not guarantee the work of the contractor nor provide any control over the contractor's work methods. The presence or absence of a construction observer does not relieve the contractor of sole responsibility for safety at the work site.
- 1.4 CONSTRUCTION STAKING
- 1.4.1 **ENGINEER** shall perform construction staking for this project.
- 1.5 KDOT RIGHT-OF-WAY PERMIT PREPARATION
- 1.5.1 Prepare KDOT Right-of-Way permit and submit to KDOT for review.
- 1.6 CHANGES IN SERVICES
- 1.6.1 **OWNER** may request changes in the scope of the services of **ENGINEER**. Such changes, including any increase or decrease in the amount of the **ENGINEER'S** compensation, which are mutually agreed upon by and between **OWNER** and **ENGINEER**, shall be incorporated in written amendments to this Contract.

SECTION 2 –OWNER’S RESPONSIBILITIES

- 2.1 **OWNER** shall provide full information to **ENGINEER** concerning the **PROJECT** including all available plans, maps, plats, proposed construction plans, other reports and correspondence, and the **OWNER’S** recommendations. **OWNER** shall provide labor and equipment necessary to assist in locating existing lines owned by the City.
- 2.2 **OWNER** shall examine and review the plans and specifications and inform **ENGINEER** regarding any decision thereto.
- 2.3 Permit and publishing fees shall be paid by **OWNER**.
- 2.4 **OWNER** shall pay **ENGINEER** at monthly intervals for Engineering Services under this Contract based on the percentage of work completed according to the following fee schedule and Labor Rate Table included as **ATTACHMENT 2**:

A.	For services under Paragraph 1.1 (Design)	Lump Sum	\$	14,400
B.	For services under Paragraph 1.2 (Survey & Esmt. Boundary Desc.)	Lump Sum	\$	6,500
C.	For services under Paragraph 1.3 (Cons. Engineering and Observation)	Per Hour & Expense Basis	\$	Not to Exceed: 16,000

D.	For services under Paragraph 1.4 (Construction Staking)	Lump Sum	\$	2,300
E.	For services under Paragraph 1.5 (KDOT ROW Permit Preparation)	Lump Sum	\$	1,000
F.	For services under Paragraph 1.6 (Changes in Services)	As set forth in the agreement for Changes in Services.		

SECTION 3 - MUTUAL CONSIDERATIONS

- 3.1 This **Contract**, and all contracts entered into under the provisions of this **Contract**, shall be binding upon the parties hereto and their successors and assigns.
- 3.2 The **Standard Terms and Conditions (Attachment 1)** attached hereto are incorporated in and form a part of this Contract.
- 3.3 The **Labor Rate Table (Attachment 2)** attached hereto are incorporated in and form a part of this Contract.

In Witness Whereof, the parties hereto have caused this **Contract** to be executed on the date written above.

ENGINEER

OWNER

**EVANS, BIERLY, HUTCHISON
& ASSOCIATES, P.A.**
*Consulting Engineers
Pratt, Kansas*

CITY OF LYONS, KANSAS

By: 

By: _____

Michael A. Younger, P.E.
Vice President

Attest: _____

ATTACHMENT 1

STANDARD TERMS AND CONDITIONS *EVANS, BIERLY, HUTCHISON & ASSOCIATES, P.A.*

SECTION 1: Scope of Work

Evans, Bierly, Hutchison & Associates, P.A. (hereinafter referred to as **EBH**) shall perform the services defined in the contract for the stated fee arrangement. **Client** may request incidental or additional services not specified in the contract which change the Scope of Work and **EBH** will provide these additional services at the contract fee schedule rate; provided, that if such additional services are beyond the scope of the contract, the fee arrangement will be negotiated at the time such services are requested.

SECTION 2: Access to Site

Unless otherwise stated, **EBH** will have access to the site for activities necessary for the performance of the services. **EBH** will take reasonable precautions to minimize damages due to these activities, but has not included in the fee the cost of restoration of any resulting damage.

SECTION 3: Dispute Resolution

Claims or disputes between **Client** and **EBH** arising during design, construction, or post-construction shall be submitted to non-binding mediation. **Client** and **EBH** agree to include a similar mediation agreement with all contractors, subcontractors, sub-consultants, suppliers, and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

SECTION 4: Billings and Payments

Invoices for **EBH**'s services shall be submitted, at **EBH**'s option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. Payment shall not be contingent upon actions or participation of any party other than **Client**. In the event of a disputed or contested invoice, only the portion so contested shall be withheld from payment.

Interest at a rate of 1.5% per month, or the maximum allowed by law, will be charged on past due amounts starting 60 days after the date of the invoice. Payments will first be credited to interest and then to principal. No interest will accrue on any reasonably contested portion of an invoice until mutually resolved. If **Client** fails to make payment in full within 60 days after the date of an undisputed invoice, **EBH** may, without waiving any claim or right against **Client** and without liability whatsoever to **Client**, terminate the performance of services. In the event any portion of an account remains unpaid 90 days after billing, **Client** shall pay all costs of collection, including reasonable attorney's fees.

SECTION 5: Ownership of Documents

All reports, plans, specifications, calculations, estimates, documents, and other work products, including all work products on electronic media, prepared by **EBH** as instruments of service shall remain the property of **EBH**. **Client** agrees to hold harmless, indemnify, and defend **EBH** against all damages, claims, and losses arising out of the reuse of or changes made to plans and specifications without the written authorization of **EBH**. All documents produced by **EBH** are copyrighted by Evans-Bierly-Hutchison & Associates, P.A. Documents may not be photocopied, traced, distributed or reproduced in any form or by any means, or stored in a database or retrieval system, without the expressed written permission of Evans-Bierly-Hutchison & Associates, P.A.

SECTION 6: Standard of Care

Services provided by **EBH** under the contract will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. No other warranty, express or implied, is made or intended by the contract for services.

SECTION 7: Construction Methods and Job Site Safety

EBH will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, nor for safety precautions and programs in connection with the work.

SECTION 8: Certifications, Guarantees, and Warranties

EBH shall not be required to execute any document that would result in **EBH**'s having to certify, guarantee, or warrant the existence of conditions whose existence **EBH** cannot ascertain.

SECTION 9: Termination of Services

Either **Client** or **EBH** may terminate the contract at any time with or without cause upon giving the other party 7 days prior written notice. In the event of termination, **Client** shall pay **EBH** for all services rendered and all reimbursable expenses up to the date of termination, plus reasonable termination expenses.

SECTION 10: Limitation of Liability

In recognition of the relative risks, rewards, and benefits of the project to both **Client** and **EBH**, the risks have been allocated such that **Client** agrees, to the fullest extent permitted by law, to limit **EBH**'s liability to **Client** and to all construction contractors and subcontractors on the project for any and all claims, losses, expenses, or damages arising out of the contract from any cause or causes, so that the total aggregate liability of **EBH** to all those named shall not exceed \$50,000 or **EBH**'s total fee for services rendered on the project, whichever is greater. Such causes include, but are not limited to **EBH**'s professional negligent acts, errors, omissions, strict liability, breach of contract or warranty.

ATTACHMENT 2

EVANS, BIERLY, HUTCHISON & ASSOCIATES, P.A.

I. Labor Rate Table:

These rates and fees are subject to change on a semi-annual basis or as necessary due to changes in fuel prices and/or other economic conditions.			
Labor Rates:			
Principal	\$135.00/hour	Surveyor I	\$75.00/hour
Project Manager	\$125.00/hour	Surveyor I- GPS	\$95.00/hour
Project Supervisor	\$100.00/hour	Surveyor I - Staking	\$110.00/hour
Project Supervisor- GPS	\$120.00/hour	Surveyor II	\$85.00/hour
Project Supervisor- Staking	\$135.00/hour	Surveyor II- GPS	\$105.00/hour
Design Engineer	\$85.00/hour	Surveyor II- Staking	\$120.00/hour
Technician I	\$65.00/hour	Secretary	\$45.00/hour
Technician II	\$75.00/hour		
Expenses:			
Mileage	Government rate + \$ 0.02/mile		
Meals	\$ 37.00/diem		
Lodging	At Our Cost		
Direct Expenses	At Our Cost		
Survey crew rates include vehicle, electronic surveying equipment, and associated equipment. The hourly rate is from portal to portal . Special documentation required would be charged out at our cost, supported by copies of materials invoices.			