



MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF TONTITOWN AND THE
NORTHWEST ARKANSAS CONSERVATION AUTHORITY

Job Location: Tontitown Lift Station [ADDRESS]

THIS MEMORANDUM OF UNDERSTANDING (“MOU”), made and entered into this _____ day of September, 2022, by and between the City of Tontitown, (the "City") and the Northwest Arkansas Conservation Authority (the “Utility”) both acting by and through their respective duly authorized representatives.

WITNESSETH:

WHEREAS, at the above referenced Job Location, the parties acknowledge the need to make certain improvements on the Utility’s property, which lift station serves the City (“Project”); and

WHEREAS, the improvements needed include a flood protection wall and the installation of a bypass pumping attachment to the force main; and

WHEREAS, the parties acknowledge that typically the Utility would pay the cost of the improvements contemplated hereby but that the parties’ Service Contract typically would result in the Utility including the costs of design and construction of this Project, as well other costs uniquely related to providing services to the City, in setting the rates it charges the City for treatment of its sewage; and

WHEREAS, the parties desire to work together to achieve certain cost savings and efficiencies by coordinating design and construction of the Project and have determined it will be more cost effective to have the City contract and pay for both the design and construction of the Project with the Utility providing certain oversight.

In exchange for valuable consideration and the mutual covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

1. ENGINEERING SERVICES. Because the City has Garver LLC on retainer, the parties agree that Garver will be the consulting engineering firm asked to design the improvements contemplated at the job location. For purposes of this project only, the City hereby assigns to the Utility all rights and remedies it may have pursuant to its agreement with Garver.

2. COOPERATION. The parties pledge their mutual cooperation. The Utility shall share information with the City regarding its requirements for the Project. The design of the improvements shall be developed by the consulting engineer retained by the City with the input of the Utility and the collaboration of the parties. The design shall be approved by the Utility

prior to advertising for bids for the construction of the improvements by the City. The City shall observe all statutes regarding bidding for public projects. Any proposed change orders must be submitted in advance for approval by the Utility, which approval shall be provided in writing.

3. TIME. Upon completion of the design, the time for construction shall be as agreed by the parties and then set forth in the resulting construction contract documents.

4. COST. The cost of the design and construction of the Project shall be entirely borne by the City.

5. OWNERSHIP. Upon completion of the construction of the Project and acceptance by the Utility, all improvements shall become the property of the Utility. Thereafter, the Utility shall be responsible for maintenance thereof. The City agrees to assign to Utility any and all warranties provided by the contractor(s) and supplier(s) regarding any component of the Project. Any contract executed by the City related to the Project shall include a provision allowing such assignment.

6. RECORDS. Upon completion of the Project and acceptance by the Utility, the City shall provide to the Utility copies of written materials related to the Project, including documentation regarding payments, change orders, design and as-built plans and operating manuals.

7. NON-WAIVER. Notwithstanding anything contained herein, neither the City nor the Utility, by execution of this MOU, waives or relinquishes any rights which either may legally have by the provisions of state law or Constitution, either State or Federal, including without limitation, the tort immunity available pursuant to Ark. Code Ann. §21-9-301.

IN WITNESS WHEREOF, each of the parties hereto have hereunto set their hands and seals the day and year first above written.

UTILITY:

NORTHWEST AUTHORITY CONSERVATION
AUTHORITY

By 

Larry Fletcher, Vice-Chairman

Attest:


Secretary

CITY:

CITY OF TONTITOWN

By: _____
Mayor

Attest:

City Clerk