

RESOLUTION NO. 2016-3-24A

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF OVERTON, TEXAS
AUTHORIZING THE MAYOR TO
EXECUTE AN ENGINEERING SERVICES
AGREEMENT WITH SCHAUMBURG &
POLK INC.; EFFECTIVE 3-24-2016 WITH
AN INITIAL TERM OF THREE YEARS.**

WHEREAS, The City of Overton is committed over the next several years to use all available financial and human resources to improve a variety of major deficiencies that have been identified in its infrastructure network; and

WHEREAS, The City initiated a program in December 2015 to recruit a highly qualified Engineering firm to provide these services and established an Engineering Services evaluation and selection committee made up of two members each of the City Council, Overton Economic Development Board and the Overton Municipal Development District; and

WHEREAS, the Committee reviewed Statements of Qualifications and interviewed the top two firms that submitted Statements of Qualifications to provide such services and recommended to the City Council the firm of Schaumburg and Polk Inc.; and

WHEREAS, the terms and conditions of a draft agreement were negotiated between the City and SPI to arrive a completed document to be considered and approved by the City Council, OEDC Board and OMDD Committee;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OVERTON, TEXAS:

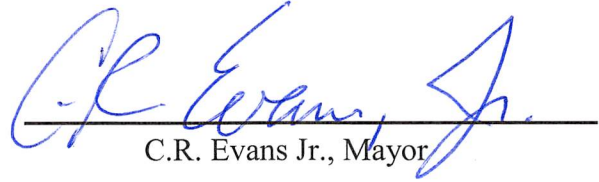
SECTION 1: THAT the Mayor of the City of Overton is authorized to execute the Agreement attached as Exhibit A and incorporated into this Resolution for all purposes.

AND IT IS SO RESOLVED.

APPROVED AND ADOPTED by the City Council of the City of Overton, Texas on this **24th** day of **March**, 2016.

CITY OF OVERTON

By:

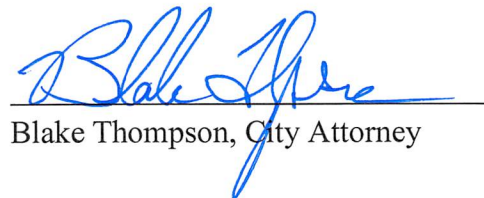

C.R. Evans Jr., Mayor

ATTEST:


Rachél Gafford, City Secretary



APPROVED AS TO FORM AND LEGALITY:


Blake Thompson, City Attorney

ENGINEERING SERVICES AGREEMENT



Schaumburg & Polk, Inc.



For:
City of Overton
1200 S. Commerce St.
Overton, Texas 75684



For:
Overton Economic
Development Corp.
P.O. Box 6
Overton, Texas 75684



For:
Overton Municipal
Development District
1200 Commerce Street
Overton, Texas 75684

AGREEMENT FOR ENGINEERING SERVICES

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ATTACHMENT- SCHEDULE OF FEES

Notary's Printed Name

STATE OF TEXAS §
RUSK COUNTY §

AGREEMENT FOR ENGINEERING SERVICES

This AGREEMENT is entered into by and between the City of Overton (CITY) , the Overton Economic Development Corporation (OEDC) and the Overton Municipal Development District (OMDD) in Rusk County, Texas, either collectively or individually hereinafter called OWNERS, acting therein by and through their duly authorized representative, the City Manager of the City of Overton; and Schaumburg & Polk, Inc. a corporation of Beaumont, Jefferson County, Texas (hereinafter called the ENGINEER) acting herein by and through one of its officers, who is duly authorized to act for and on behalf of said ENGINEER.

SECTION 1. EMPLOYMENT OF THE ENGINEER

OWNERS hereby employ ENGINEER and ENGINEER agrees to perform professional services in connection with planning, designing and/or constructing various water, wastewater, drainage, roads and/or other infrastructure features hereinafter called the Services. Consulting or Engineering Services provided for any specific project will be documented by a Work Order. A Work Order may be issued to the City or OEDC or OMDD or any combination of the three organizations depending on the funding of the project for which the Services are being provided. This Agreement sets forth the general terms and conditions which shall apply to all Work Orders duly executed under this Agreement.

- A. This Agreement is not a commitment by OWNERS to ENGINEER, to issue any Work Orders. ENGINEER shall not be obligated to perform any prospective Work Order unless and until OWNERS and ENGINEER agree as to the particulars of a Specific Project, including the scope of ENGINEER's services, time for performance, ENGINEER's compensation, and all other appropriate matters. The time of performance shall be specified in each Work Order.

SECTION 2. BASIC SERVICES OF ENGINEER

A. General

1. ENGINEER agrees to perform professional services in connection with the Project as hereinafter stated as required for each project issued Work Order.

2. ENGINEER shall serve as OWNER's professional representative in all authorized phases of the Project and shall give consultation and advice to OWNERS during the performance of his services.

3. 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, expressed or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. Preliminary Report Phase

During the preliminary phase, ENGINEER shall:

- 1. Consult with OWNERS to determine the requirements of the Project.

2. Prepare a preliminary engineering study and report on the Project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to OWNERS, to include schematic layouts and sketches and a general opinion of probable cost for the Project, and to set forth the ENGINEER's recommendations.

3. Provide consultation and advice as to the necessity of OWNERS providing or obtaining other services such as property, boundary, right-of-way, topographic and utility surveys; core borings, auger borings, soil tests or other subsurface explorations; laboratory testing and inspection of samples or materials; other special consultation; and act as OWNERS's representative in connection with any such services.

4. Assist OWNERS in identifying and securing financial assistance through grants or loans as may be available for the Project.

5. Furnish OWNERS copies of a preliminary report as required in Work Order.

C. Design Phase

Following authorization from OWNERS to proceed with design phase, the ENGINEER shall:

1. On the basis of the approved preliminary design documents prepare detailed construction drawings and specifications for the Project.

2. Furnish to OWNERS engineering data for and assist in the preparation of the required documents so that OWNERS may secure approval of such governmental authorities as have jurisdiction over design criteria applicable to the Project and prepare documents for alternate bids as required by OWNERS.

3. Advise OWNERS of any adjustment of the opinion of probable cost for the Project caused by changes in scope, design requirements or construction costs and furnish a revised opinion of probable cost for the Project based on the completed drawings and specifications.

4. Prepare proposal forms, notice to bidders and contract documents for submission to OWNER's legal counsel for approval as to content, form and legality.

5. Furnish OWNERS sets of copies of the contract documents consisting of the plans, specifications and contract documents as required by Work Orders.

6. Prepare or assist in the preparation of application forms for routine highway and country right-of-way permits made by OWNERS in connection with the Project, including the preparation of submittal drawings.

D. Construction Phase

1. Assist OWNERS in securing bids including notification to perspective bidders and plan rooms.

2. Assist OWNERS in the opening, tabulating and analyzing bids, and furnishing information gathered from references to aid in the award of contracts.

3. Assist in the engineering phases of the preparation of formal contract documents for award of contracts.
4. Attend preconstruction conference with OWNERS, other utility owners, contractors and other interested parties to determine and coordinate construction scheduling and responsibilities.
5. Make periodic visits to the site (as distinguished from the continuous services of a resident Project Representative) to observe the progress and quality of work, and to determine in general if the work is proceeding in accordance with the Contract Documents. In performing these services, the ENGINEER will endeavor to protect OWNERS against defects and deficiencies in the work of contractors, but he will not be required to guarantee the performance of their contracts, nor will he be responsible for the actual supervision of construction operations.
6. Check samples, catalog data, shop drawings, laboratory, shop and mill tests of materials and equipment and other data which the Contractor is required to submit, only for the conformance with the design concept of the Project and compliance with the information given by the plans, specifications, and contract documents; and accept or reject all such submittal data furnished by the contractors, materials used and work performed by the contractors as either complying or not complying with the intent of the plans, specifications and contract documents.
7. Coordinate core borings, probing or subsurface explorations, issue orders for necessary laboratory tests and inspect samples or materials submitted for laboratory testing.
8. Consult and advise with OWNERS, act as OWNERS' representative at the project site, issue all instructions of OWNERS to the construction contractors that do not conflict with good engineering practice and prepare routine change orders as required.
9. Approve monthly and final payments to contractors.
10. Based on his on-site observations as an experienced and qualified design professional and on his review of the contractors' applications for payment, determine the amount owing to the contractors and recommend in writing payment to the contractors in such amounts; such recommendations of payment to constitute a representation to OWNERS, based on such applications, that the work has progressed to the point indicated and that, to the best of his knowledge, work is in accordance with the plans, specifications and contract documents, subject to the specifications and contract documents and any qualifications stated in his approval.
11. Conduct, in company with OWNER's representative, a final inspection of the Project for conformance with the design concept of the Project and compliance with the plans, specifications and contract documents, and recommend in writing final payment to the Contractor.
12. Revise contract drawings, with the assistance of the Resident Project Representative and based on record drawings prepared by the Contractor, to show the work as actually constructed, and furnish one (1) set of the revised reproducible drawings and one set of drawings in pdf format to OWNERS.

SECTION 3. ADDITIONAL SERVICES OF THE ENGINEER

A. General.

In addition to the Basic Services to be performed by the ENGINEER for the payment of the standard engineering fee, the ENGINEER shall furnish additional services of the following types, if authorized by OWNERS, to be paid for by OWNERS as set out in Section 5B and as required by each project issued a Work Order:

1. Additional services due to significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity or character of construction.
2. Revised previously approved studies, reports, design documents, drawings or specifications.
3. Furnish additional copies of reports and additional prints of drawings, specifications and contract documents.
4. Investigations involving detailed consideration of operation, maintenance and overhead expenses; and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals and valuations, detailed quantity surveys of material and labor; and material audits or inventories required for certification of force account construction performed by OWNERS.
5. Additional or extended services during the construction made necessary by (1) work damaged by fire or other cause during construction, (2) prolongation of the construction contract time by more than 25 percent, (3) acceleration of work schedules involving service beyond normal working hours, and (4) construction contract default due to delinquency or insolvency of the construction contractor.
6. Serving as expert witness for OWNERS in any litigation or other proceeding involving the Project.
7. Additional services in connection the Project not otherwise provided for in this Agreement.
8. Preparation of design surveys, construction staking, plats, legal descriptions, easements or deeds; record search, abstracting of ownership or other related surveying work.
9. Applications for federal or state grants or loans, water permits, waste disposal permits, solid waste permits, environmental permits, cultural resources permits, railroad permits and any other type permits.
10. Preparation of operation and maintenance manuals.
11. Providing the services of outside consultants or ENGINEER's staff for the performance of specialized work including but not limited to geotechnical investigation, materials testing, and environmental studies.
12. Perform an inspection of the Project prior to the expiration of the guarantee period and report observed discrepancies related to guarantees provided by the construction contract.

B. Resident Project Representative Services.

1. If requested by OWNERS or the ENGINEER and approved by the other, one or more full-time Resident Project Representatives will be furnished and directed by the ENGINEER in order to provide more extensive representation at the Project site during the construction phase. Such resident project representation will be paid for by OWNERS as indicated in Section 5B.

2. The duties and responsibilities on the authority of the Resident Project Representative shall be as follows:

a. Schedule. Review construction schedule prepared by the contractor and give written advice to ENGINEER concerning its acceptability.

b. Liaison.

(1) Serve as OWNER's and ENGINEER's liaison with the contractor working through the contractor's field superintendent.

(2) Cooperate with the contractor in dealings with the various local agencies having jurisdiction over the Project in order to complete service connections to public utilities and facilities.

(3) Assist the ENGINEER in obtaining from the contractor additional details and information when required at the job site for proper execution of the work.

(4) Consult with the ENGINEER and Owner in advance of scheduled major tests or start-up of phases of the project.

c. Acceptance. When required, assist the ENGINEER in obtaining from the Contractor a list of his proposed materials, supplier and subcontractor.

d. Samples. Assist the ENGINEER in obtaining field sample of materials to be delivered to the site which are required to be furnished and keep records of actions taken by the ENGINEERS.

e. Shop Drawings.

(1) Receive accepted shop drawings and other submissions from the ENGINEERS; record data received, maintain a file of the drawings and submissions and check construction for compliance with them.

(2) Alert the contractor's field superintendent when he observes materials or equipment being installed before acceptance of shop drawings and samples, where such are required, and advise the ENGINEER when he believes it is necessary to reject work and/or materials as failing to conform to the plans, specifications and contract documents.

f. Review of Work, Inspection and Tests.

(1) Conduct on-site observations of the work in progress for the ENGINEER as a basis for determining that the Project is proceeding in accordance with the plans, specifications and contract documents.

(2) Verify that tests, including equipment and start-up, which are required by the specifications and contract documents, are conducted and that the contractor maintains adequate records thereof; observe, record and report to the ENGINEER appropriate details relative to the test procedures and start-ups.

g. Interpretation of Contract Documents. Transmit to the contractor the ENGINEER's interpretation of the plans, specifications and contract documents.

h. Modifications. Consider and evaluate contractor's suggestions for modifications in drawings or specifications and report them with recommendations to the ENGINEER.

i. Records.

(1) Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings and other submissions, reproductions or original contract documents including all addenda, change order and additional drawings issued subsequent to the award of the contract, the ENGINEER's interpretation of the plans, specifications and contract documents, progress reports and other project-related documents.

(2) Keep a diary or log book, recording hours on the job site, weather conditions, list of visiting officials, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures.

(3) Record names, addresses and telephone numbers of all contractors, field superintendents and foremen, subcontractor and major material suppliers.

(4) Maintain a set of drawings on which authorized changes are noted and deliver to the ENGINEERS at the completion of the project.

j. Payment Certifications. Review applications for payment with the contractor for compliance with the established procedure for their submission and forward them with recommendations to the ENGINEER, noting particularly their relation to work completed and materials on hand at the site.

k. Guarantees, Certificates, Maintenance and Operation Manuals: During the course of the work, assemble guarantees, certificates, installation and maintenance operation manuals and other required data to be furnished by the Contractor and upon acceptance of the project, deliver this material to the ENGINEER for his approval and forwarding to OWNERS.

l. Completion.

(1) Prior to final inspection, submit to the contractor a list of observed items requiring correction and verify that each correction has been made.

(2) Conduct final inspection in the company of the ENGINEERS and Owner and prepare a final list of items to be corrected.

(3) Verify that all items on the final list have been corrected and make recommendations to the ENGINEER concerning acceptance.

3. Except upon written instruction of the ENGINEER, the Resident Project Representative:
 - a. Shall not authorize any deviation from the plans, specifications and contract documents.
 - b. Shall not undertake any of the responsibilities of the contractor, the subcontractors or the contractor's field superintendent.
 - c. Shall not expedite the work for the Contractor.
 - d. Shall not advise on or issue directions relative to any aspect of the construction technique or sequence unless a specific technique or sequence is called for in the specifications and contract documents.
 - e. Shall not participate in specialized field or laboratory tests.
4. Through continuous on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative (if one is to be furnished) the ENGINEER will endeavor to provide further protection for OWNERS against defects and deficiencies in the work of the contractors. However, ENGINEER shall not, during such Resident Project Representative services, supervise, direct, or have control over Contractor's work, nor shall the ENGINEER have authority over or responsibility for means, methods, techniques, sequences, or procedures of construction, security or safety at the site selected by the Contractor. The ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for Contractor's failure to perform the work in accordance with the Contract Documents.

SECTION 4. OWNER'S RESPONSIBILITIES

OWNERS shall:

1. Provide full information as to his requirements for the project.
2. Assist the ENGINEER by placing at his disposal all available information pertinent to the site of the Project including all previous reports and any other data relative to design of construction of the Project in a timely fashion.
3. Guarantee access to and make all provisions for the ENGINEER to enter upon public and private lands as required for the ENGINEER to perform his work under this Agreement.
4. Examine all studies, reports, sketches, estimates, drawings, specifications, proposals and other documents presented by the ENGINEER and shall render in writing decisions pertaining thereto within a reasonable time so as not to delay the work of the ENGINEER.
5. Advertise for proposals from bidders, open the proposals at the appointed time and place, and pay for all costs incident thereto.
6. Provide legal and accounting services as may be required for the Project.
7. Designate in writing a person to act as Owner's representative with respect to the work to be performed under this Agreement; and such person shall have complete authority to transmit

instructions, receive information, interpret and define Owner's policies and decisions with respect to materials, equipment elements and systems pertinent to the work covered by this Agreement.

8. Give prompt written notice to the ENGINEER whenever OWNERS observes or otherwise becomes aware of any defect in the Project.

9. Obtain approval of all governmental authorities having jurisdiction over the Project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the Project.

10. Furnish, or direct the ENGINEER to provide at OWNER's expense, necessary additional service as stipulated in Section 3 of this Agreement, or other services as required.

SECTION 5. PAYMENT FOR ENGINEERING SERVICES

A. Basic Engineering Fee.

1. OWNERS hereby agree to pay to the ENGINEER for performance of all services as set out in Section 2a. a basic engineering fee as presented in a Work Order which shall be prepared and negotiated for each individual project for which engineering services by the ENGINEER were authorized by the City Council of the City of Overton, Texas, the Overton Economic Development Corporation and/or the Overton Municipal Development District.

Said payment shall be made monthly on the basis of a clear and detailed invoice reflecting items being billed. ENGINEER's statement of services shall show the percent of work completed to date by activity or task and the amount and/or percentage billed broken down by activity or task.

SECTION 6. GENERAL CONSIDERATIONS

A. Termination

This AGREEMENT may be terminated by either party hereto, with or without cause, upon ten (10) days written notice thereof. If this AGREEMENT is terminated by OWNERS without cause or by the ENGINEER with cause, the ENGINEER shall be paid his compensation for service performed to termination date, including Reimbursable Expenses then due. This AGREEMENT shall be in force for a period of 3 years from the date of execution and may be extended thereafter upon written agreement executed by OWNERS and ENGINEER for maximum of two additional annual extensions.

B. Ownership of Documents

Drawings and specifications are and shall remain the property of the ENGINEER until payment of the ENGINEER in full. Upon payment of the ENGINEER in full, said drawings and specifications shall pass to and become the property of OWNERS without restriction as to their subsequent uses. Any re-use of documents other than for what they were originally intended shall be at OWNERS sole risk. If the project is terminated prior to completion, all drawings and specifications and calculations which have been completed by the ENGINEER through the date of termination, shall be transmitted to OWNERS and shall be OWNER's property.

C. Opinions of Probable Cost

The opinions of probable cost are to be made on the basis of the ENGINEER's experience and judgment, but the ENGINEER does not guarantee that such opinions of probable cost will accurately reflect the amount of the contractor's bids or the Project cost.

D. ENGINEER'S Insurance Requirements.

ENGINEER agrees, at its sole expense, to maintain on a primary basis during the life of the AGREEMENT and the performance of Work, required insurance coverage, limits, and endorsements. ENGINEER further agrees that with respect to the insurance required by this AGREEMENT the OWNERS shall be named as additional insured on all policies except professional liability and worker's compensation and be provided with a waiver of subrogation. Insurance required by the AGREEMENT shall be primary insurance and not contributing with any other insurance available to OWNERS. ENGINEER agrees to provide evidence of the required coverages at execution of contract. In the event the ENGINEER performs any site work, other than testing, then all the insurance required will need to be evidenced prior to commencement of said site work.

The ENGINEER shall include in the certificates of the required insurance policies the words, "In all services performed involving the project, the OWNERS are an additional primary insured. The insurance company waives any subrogation claims against OWNERS." The ENGINEER, before starting work must furnish to OWNERS certificates of insurance from reputable insurance companies licensed to write insurance in the State of Texas, showing that the ENGINEER is covered by the required insurance.

In the event any work is sublet, the ENGINEER shall require its sub-contractors to similarly provide the same coverage and shall him/her-self acquire evidence of such coverage on behalf of the City. Generally, the ENGINEER shall obtain insurance in the following amounts and types:

1. Commercial General Liability Insurance: Limits for bodily injury of not less than \$1,000,000 each occurrence and for general aggregate of not less than \$2,000,000 per project. The policy shall be on the commercial general liability form and include contractual liability coverage.
2. Business Automobile Liability Insurance: Limits for bodily injury liability of not less than \$1,000,000 (each occurrence) and for property damage of not less than \$1,000,000, (each occurrence), on all self-propelled vehicles not covered by the General Liability Insurance used in connection with the contract, whether owned, non-owned or hired.
3. Professional Errors and Omissions Liability Insurance: Limits of not less than \$1,000,000 (each claim) and an annual aggregate of not less than \$2,000,000. Policy shall include (but not limited to) the following: a) a minimum three (3) year Discovery (tail) Reporting period, and b) a Retroactive Date that equals or precedes the effective date of the Contract, or the performance of services hereunder.
4. Commercial Umbrella / Excess Liability Insurance: Limits of not less than \$5,000,000 for Each Occurrence and limits not less than \$5,000,000 for General Aggregate.
5. Statutory Workers Compensation Insurance.
6. Employer's Liability Insurance: Limits of not less than \$1,000,000 Bodily Injury by Accident, limits not less than \$1,000,000 Bodily Injury by Disease (each occurrence), and limits not less than \$1,000,000 Bodily Injury by Disease (general aggregate).

The OWNERS shall be notified by the ENGINEER and Insurance Company at least 30 days prior to any cancellation or non-renewal affecting this contract. Should coverage be canceled or reduced below the required limits the ENGINEER shall immediately stop work until coverage can be reinstated and new certificates of coverage provided.

E. Laws and Ordinances.

ENGINEERS shall comply with all federal, state and local laws, including but not limited to all ordinances of the City of Overton.

F. Venue.

Venue for any action arising hereunder shall lie exclusively in Rusk County, Texas for actions in state court and in the Eastern District of Texas, Tyler Division, for actions in federal court. This provision shall supersede any other references in the Agreement.

G. INDEMNIFICATION AND MUTUAL WAIVER

1. *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, consultants and employees, from losses, damages and judgements (including reasonable consultants' and attorneys' fees and expenses) arising from third-party claims or actions relating to the Project, provided that any such claim, action, loss, damages, or judgement is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants.

2. *Indemnification by Owner:* To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Engineer and Engineer's officers, directors, members, partners, agents, consultants and employees from losses damages and judgements (including reasonable consultant's and attorney's fees and expenses) arising from third party claims or actions relating to the Project, provided that any such claim, action, loss, damages or judgement is attributable to bodily injury, sickness, disease, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Owner or Owner's officers, directors, members, partners, agents, employees or Consultants.

3. *Environmental Indemnification:* To the fullest extent permitted by Laws and Regulations, owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees and Consultants from all claims, costs, losses, damages, actions, and judgments (including reasonable consultant's and attorney's fees and expenses) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, damages, action, or judgement 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, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

4. *No Defense Obligation:* The indemnification commitments in this Agreement do not include a defense obligation by the indemnitor unless such obligation is expressly stated.

5. *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, shall 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.

6. *Mutual Waiver:* To the fullest extent permitted by Laws and Regulations, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners; and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

H. Protection against Accidents to Employees and the Public.

The ENGINEER shall at all times exercise reasonable precautions for the safety of employees and others on or near the Work and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building and construction codes.

I. OSHA Requirements.

The ENGINEER shall be required to adhere to all applicable requirements of the Federal Occupational Safety and Health Act of 1930 (OSHA) which is made a part of this contract by reference.

J. Losses from Natural Causes.

Unless otherwise specified, all loss or damage to the ENGINEER arising out of the nature of the Work to be done, or from the action of the elements, or from any unforeseen circumstance in the prosecution of the same, or from unusual obstructions or difficulties which may be encountered in the prosecution of the Work, shall be sustained and borne by the ENGINEER at the ENGINEER'S own cost and expense.

K. Public Information.

The Parties acknowledge that the Texas Public Information Act governs public information maintained by the City and that disclosure of information by the City under the Texas Public Information Act or as a matter of law may be required.

L. Severability and No Assignment.

If any provision herein is held by a court to be void or unconstitutional, such holding shall not affect the remaining provisions of this Agreement which shall remain in full force and effect. ENGINEER shall not assign this agreement without prior written approval of OWNERS.

M. Notices.

Any notices provided under this agreement shall occur in writing, by certified or registered mail delivery, receipt requested. For purposes of such notice, the addresses of the parties, until changed by written notice, shall be:

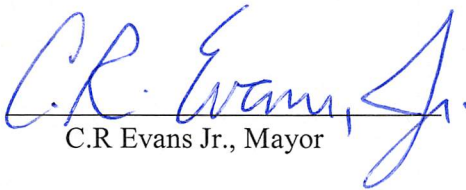
ENGINEER : Allen R. Ross, PE Executive Vice President
Schaumburg & Polk Inc.
320 S Broadway Ave, Ste. 200
Tyler, Texas 75702
(903) 595-3913

CITY, OEDC and OMDD: Charles L, Cunningham, City Manager
Drawer D
1200 S. Commerce Street
Overton, TX 75684
(903) 834-3171

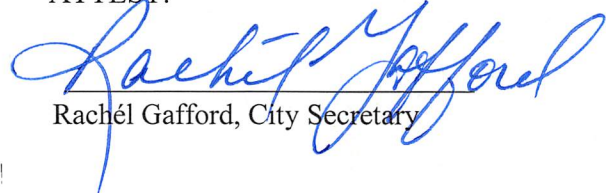
OWNERS and ENGINEER hereby bind themselves, their heirs, successors and assigns and representatives for the faithful and full performance of the terms and provisions of this contract, jointly and severally.

IN WITNESS WHEREOF, the parties to these presents have executed *this Engineering Contract* on the ____ day of _____, 2016

FOR THE CITY OF OVERTON, TEXAS:

By: 
C.R. Evans Jr., Mayor

ATTEST:


Rachel Gafford, City Secretary

FOR THE OVERTON ECONOMIC DEVELOPMENT CORPORATION:

ATTEST:

By: _____
Philip Cox, Chairman of Board


By: _____
Jeannie Barber, Executive Secretary

FOR THE OVERTON MUNICIPAL DEVELOPMENT DISTRICT:

ATTEST:

By: _____
Robert Heath, Chairman of Board

By: _____
Rachél Gafford, City Secretary

By: 
Blake Thompson, City Attorney

FOR THE ENGINEER:

Schaumburg & Polk, Inc.

By: _____
Allen R. Ross P.E., Executive Vice-President

THE STATE OF TEXAS
COUNTY OF SMITH §

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ENGINEER'S ACKNOWLEDGEMENT

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day, personally appeared Allen R. Ross who is known to me, or who was proved to me through to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ___ day of _____, 2016.

Notary Public In and For The State of Texas

My Commission Expires:

Notary's Printed Name

ATTACHMENT



2016 SCHEDULE OF HOURLY RATES and EXPENSES

ENGINEER IX	\$245.00 /HOUR
ENGINEER VIII	\$200.00 /HOUR
ENGINEER VII	\$175.00 /HOUR
ENGINEER VI	\$155.00 /HOUR
ENGINEER V	\$140.00 /HOUR
ENGINEER IV	\$125.00 /HOUR
ENGINEER III	\$105.00 /HOUR
ENGINEER II	\$95.00 /HOUR
ENGINEER I	\$85.00 /HOUR
DESIGN TECHNICIAN IV	\$110.00 /HOUR
DESIGN TECHNICIAN III	\$95.00 /HOUR
DESIGN TECHNICIAN II	\$75.00 /HOUR
DESIGN TECHNICIAN I	\$55.00 /HOUR
SURVEYOR III	\$95.00 /HOUR
SURVEYOR II	\$75.00 /HOUR
SURVEYOR I	\$55.00 /HOUR
ADMINISTRATIVE ASSISTANT	\$60.00 /HOUR
CONSTRUCTION REPRESENTATIVE III	\$95.00 /HOUR
CONSTRUCTION REPRESENTATIVE II	\$85.00 /HOUR
CONSTRUCTION REPRESENTATIVE I	\$70.00 /HOUR

REIMBURSABLE EXPENSES	
Mileage	IRS Allowable Rate
Travel and Meals	Actual Cost x 1.10
Misc. Reimbursable Expenses	Actual Cost x 1.10
Color Plots	\$3.00 per Square Foot

OUTSIDE CONSULTANT RATES		
Associate Engineer	Civil, Electrical, Environmental, Mechanical, etc.	up to \$175.00/HOUR
Subconsultants		Actual Cost x 1.10

Schaumburg & Polk, Inc. furnishes General Liability Insurance, Professional Liability Insurance and State of Texas mandatory limits of Worker's Compensation insurance.

Preparation for and furnishing expert witness testimony will be billed at three times the hourly rates shown above for the various classifications.

Rates Effective: January 1, 2016 (adjusted annually)