

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into between The City of Norman (OWNER) and Cabbiness Engineering, LLC (CONSULTANT) for the following reasons:

1. OWNER intends to construct the Legacy Trail Extension (the Project); and,
2. OWNER requires certain professional survey, design, analysis and engineering services in connection with the Project (the Services); and,
3. CONSULTANT is prepared to provide the Services.

In consideration of the promises contained in this Agreement, OWNER and CONSULTANT agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this Agreement shall be ___th day of _____, 200__.

ARTICLE 2 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Oklahoma.

ARTICLE 3 - SCOPE OF SERVICES

CONSULTANT shall provide the Services described in Attachment A, Scope of Services.

ARTICLE 4 - SCHEDULE

CONSULTANT shall exercise its reasonable efforts to perform the Services described in Attachment A according to the Schedule set forth in Attachment B.

ARTICLE 5 -COMPENSATION

OWNER shall pay CONSULTANT in accordance with Attachment C, Compensation. Invoices shall be due and payable upon receipt. OWNER shall give prompt written notice of any disputed amount and shall pay the remaining amount.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

OWNER shall be responsible for all matters described in Attachment D, OWNER'S Responsibilities. OWNER hereby represents that it owns the intellectual property rights in any plans, documents or other materials provided by OWNER to CONSULTANT. If OWNER does not own the intellectual property rights in such plans, documents or other materials, prior to providing same to CONSULTANT, OWNER shall obtain a license or right to use, including the right to sublicense to CONSULTANT. OWNER hereby grants CONSULTANT the right to use the intellectual property associated with plans, documents or other materials it owns or has the right to use for the limited purpose of performing the Services. OWNER represents that CONSULTANT'S use of such documents will not infringe upon any third parties' rights.

ARTICLE 7 - STANDARD OF CARE

The same degree of care, skill, and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. No other warranty, express or implied, is included in this Agreement or in any drawing, specification, report, opinion, or other instrument of service, in any form or media, produced in connection with the Services.

ARTICLE 8 – INDEMNIFICATION AND LIABILITY

Indemnification. The CONSULTANT agrees to defend, indemnify, and hold harmless the OWNER, its officers, servants, and employees, from and against any and all liability, loss, damage, cost, and expense (including attorneys' fees and accountants' fees) caused by an error, omission, or negligent act of the CONSULTANT in the performance of services under this Agreement. OWNER agrees to defend, indemnify, and hold harmless the CONSULTANT, its officers, servants, and employees, from and against any and all liability, loss, damage, cost, and expense (including attorneys' fees and accountants' fees) caused by an error, omission, or negligent act of the OWNER in the performance of services under this Agreement, provided such indemnification shall be applicable only to the extent sovereign immunity has been waived pursuant to Oklahoma law. The CONSULTANT and the OWNER each agree to promptly service notice on the other party of any claims arising hereunder, and shall cooperate in the defense of such claims. The acceptance by OWNER or its representatives of any certification of insurance providing for coverage other than as required in this Agreement to be furnished by the CONSULTANT shall in no event be deemed a waiver of any of the provisions of this indemnity provision. None of the foregoing provisions shall deprive the OWNER of any action, right, or remedy otherwise available to OWNER at common law.

Survival. The terms and conditions of this Article shall survive completion of the Services, or any termination of this Agreement.

ARTICLE 9 - INSURANCE

During the performance of the Services under this Agreement, CONSULTANT shall maintain the following insurance:

- (a) General Liability Insurance, with a limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- (b) Automobile Liability Insurance, with a combined single limit of \$1 ,000,000 for each person and \$1,000,000 for each accident.
- (c) Workers' Compensation Insurance in accordance with statutory requirements and Employers' Liability Insurance, with a limit of \$500,000 for each occurrence.
- (d) Professional Liability Insurance, with a limit of \$1,000,000 per claim and annual aggregate.

CONSULTANT shall, upon written request, furnish OWNER certificates of insurance which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to OWNER. OWNER shall require all Project contractors to include OWNER, CONSULTANT, and its parent company, affiliated and subsidiary entities, directors, officers and employees, as additional insureds on their General and Automobile Liability insurance policies, and to indemnify both OWNER and CONSULTANT, each to the same extent

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

CONSULTANT shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (b) the failure of any contractor, subcontractor, vendor, or other Project participant, not under contract to CONSULTANT, to fulfill contractual responsibilities to OWNER or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to CONSULTANT in Attachment A, Scope of Services. In the event the OWNER requests CONSULTANT to execute any certificates or other documents, the proposed language of such certificates or documents shall be submitted to CONSULTANT for review at least 15 days prior to the requested date of execution. CONSULTANT shall not be required to execute any certificates or documents that in any way would, in CONSULTANT's sole judgment, (a) increase CONSULTANT'S legal or contractual obligations or risks; (b) require knowledge, services or responsibilities beyond the scope of this Agreement; or (c) result in CONSULTANT having to certify, guarantee or warrant the existence of conditions whose existence CONSULTANT cannot ascertain.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Because CONSULTANT has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet Project schedules, CONSULTANT's opinion of probable costs and of Project schedules shall be made on the basis of experience and qualifications as a practitioner of its profession. CONSULTANT does not guarantee that proposals, bids, or actual Project costs will not vary from CONSULTANT'S cost estimates or that actual schedules will not vary from CONSULTANT'S projected schedules.

ARTICLE 12 - REUSE OF DOCUMENTS

All documents, including, but not limited to, plans, drawings, and specifications prepared by CONSULTANT as deliverables pursuant to the Scope of Services are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by OWNER or others on modifications or extensions of the Project or on any other project. Any reuse without prior written verification or adaptation by CONSULTANT for the specific purpose intended will be at OWNER'S sole risk and without liability or legal exposure to CONSULTANT. OWNER shall indemnify and hold harmless CONSULTANT and its subconsultants against all judgments, losses, damages, injuries, and expenses, including reasonable attorneys' fees, arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle CONSULTANT to additional compensation at rates to be agreed upon by OWNER and CONSULTANT.

ARTICLE 13 - OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by CONSULTANT and furnished to OWNER as part of the Services shall become the property of OWNER; provided, however, that CONSULTANT shall have the unrestricted right to their use. CONSULTANT shall retain its copyright and Ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CONSULTANT.

ARTICLE 14 - TERMINATION AND SUSPENSION

This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. OWNER may terminate or suspend performance of this Agreement for OWNER'S convenience upon written notice to CONSULTANT. CONSULTANT shall terminate or suspend performance of the Services on a schedule acceptable to OWNER, and OWNER shall pay CONSULTANT for all the Services performed. Upon restart of suspended Services, an equitable adjustment shall be made to CONSULTANT'S compensation and the Project schedule.

ARTICLE 15 - DELAY IN PERFORMANCE

Neither OWNER nor CONSULTANT shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either OWNER or CONSULTANT under this Agreement. CONSULTANT shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances. Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 16 - NOTICES

Any notice required by this Agreement shall be made in writing to the address specified below:
OWNER:

Angelo A. Lombardo, P.E.
Transportation Engineer
City of Norman
P.O. Box 370
Norman, OK 73070

CABBINESS ENGINEERING, LLC:

J. Bret Cabbiness
President
333 12th Avenue SE, Suite 200
Norman, OK 73071

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of OWNER and CONSULTANT.

ARTICLE 17 - DISPUTES

In the event of a dispute between OWNER and CONSULTANT arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation.

Should such negotiation or mediation fail to resolve the dispute, either party may pursue resolution of the dispute by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association; provided, however, in the event the parties are unable to reach agreement to arbitrate under terms reasonably acceptable to both parties, either party may pursue resolution in any court having jurisdiction. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

ARTICLE 18 - EQUAL EMPLOYMENT OPPORTUNITY

CONSULTANT hereby affirms its support of affirmative action and that it abides by the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246 and other applicable laws and regulations. CONSULTANT affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status. It is CONSULTANT'S policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment. CONSULTANT further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-1 00 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

ARTICLE 19 - WAIVER

A waiver by either OWNER or CONSULTANT of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 20 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

ARTICLE 21 - INTEGRATION

This Agreement, including Attachments A, B, C, and D incorporated by this reference, represents the entire and integrated agreement between OWNER and CONSULTANT. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

ARTICLE 22 - SUCCESSORS AND ASSIGNS

OWNER and CONSULTANT each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other party in respect to all provisions of this Agreement.

ARTICLE 23 - ASSIGNMENT

Neither OWNER nor CONSULTANT shall assign any rights or duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, CONSULTANT may assign its rights to payment without OWNER'S consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent CONSULTANT from engaging independent CONSULTANTS, associates, and subcontractors to assist in the performance of the Services.

ARTICLE 24 - NO THIRD PARTY RIGHTS

The Services provided for in this Agreement are for the sole use and benefit of OWNER and CONSULTANT. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OWNER and CONSULTANT.

IN WITNESS WHEREOF, OWNER and CABBINESS ENGINEERING,LLC have executed this Agreement.

DATED this __th day of _____, 200__.

The City of Norman
(OWNER)

CABBINESS ENGINEERING, LLC
Corporation

Signature _____

Signature_____

Name _____

Name_____

Title _____

Title_____

Date _____

Date_____

Attest:

Attest:

City Clerk

Secretary

Approved as to form and legality this ____ day of _____ 200__.

City Attorney

ATTACHMENT A SCOPE OF SERVICES

ARTICLE 3 of the AGREEMENT is amended and supplemented to include the following agreement of the parties. The CONSULTANT shall, except as otherwise provided for herein, furnish all engineering services, labor, equipment and incidentals (SERVICES) as required for this AGREEMENT.

PART 1- DESCRIPTION OF PROJECT

The CONSULTANT is to provide SERVICES in connection with the development of design, right-of-way acquisition, utility coordination and relocations, bidding, and construction documents for the following improvements located within the City of Norman, Oklahoma:

The Legacy Trail Multimodal Path Extension is located in Northwest Norman along 24th Avenue NW and 36th Avenue NW. The proposed improvements will fill critical gaps along the existing trail that is utilized by pedestrians and bicyclists alike. The project will include the construction of a like themed concrete trail (approximately 10' wide) matching the existing trail configurations. The approximate 6,100 linear feet of trail gaps are located in three (3), undeveloped segments: two along 24th Avenue NW between Robinson Street and Rock Creek Road, and on along 36th Avenue NW between Rock Creek Road and Cascade Boulevard.

Project Extents:

The project will be constructed at three (3) separate undeveloped locations in Northwest Norman where there are gaps left between previously constructed segments. The approximate 6,100 linear feet of trail gaps are located in three (3) segments: two along 24th Avenue NW between Robinson Street and Rock Creek Road, and on along 36th Avenue NW between Rock Creek Road and Cascade Boulevard.

Project Exceptions:

There are no anticipated construction exceptions within the PROJECT extents.

Incidental Construction:

The PROJECT shall include grading, drainage, cross drains, storm sewer and other drainage appurtenances, paving, sidewalks and any other ancillary construction as required to tie the proposed construction to adjacent improvements.

Specific Project Requirements:

Design criteria and other requirements specific to this PROJECT include:

- Design a ten foot (10') wide, multimodal trail concrete trail matching existing segments of Legacy Trail.
- Trail design will need to meet current American with Disabilities Act (ADA) guidelines for Public Rights-of-Way Accessibility Guidelines (PROAG).
- Design new street lights that match the existing decorative lighting theme of the existing Legacy Trail where applicable.
- The design shall include all associated signage, striping, drainage structures and accompanying design calculations.
- Engineering reports, construction documents, and supporting design calculation developed by the CONSULTANT shall comply with

the established requirements of the OWNER, the Association of Central Oklahoma Governments (ACOG), Oklahoma Department of Transportation (ODOT), and the Federal Highway Administration (FHWA) for the purpose of seeking/securing federal construction funds by the OWNER. The CONSULTANT makes no representations, warranties, or guarantees with regard to the success of the OWNER in securing said funds.

In addition, the PROJECT shall be designed in accordance with the general criteria identified in **PART III - Design Criteria**.

PART II - SERVICES PROVIDED BY OTHERS

Engineering and ancillary services including but not limited to those identified below, shall be the responsibility of others:

Utility Relocation Design - Relocation design for utility systems in conflict with the proposed construction are not included in CONSULTANT's scope of services. Relocation designs shall be the responsibility of each utility owner. Design of the OWNER-owned utilities (such as water and sanitary sewer services), services may be provided by the CONSULTANT if authorized by the OWNER in writing within this AGREEMENT or in the form of an executed Amendment to this AGREEMENT.

Certificates of Title and Right-of-Way Appraisals & Acquisitions - Certificates of Title and Right-of-Way Appraisals & Acquisitions required for the proposed construction and/or utility relocations are

not included in the CONSULTANT's scope of work. Certified title information provided by the OWNER to the CONSULTANT prior to the Plan-in-Hand review shall be incorporated into the right-of-way drawings, plats, misery reports and other instruments as required at no additional cost to the OWNER.

Environmental Clearance – The CONSULTANT's responsibility for environmental clearance shall be limited to preparing/completing ODOT's National Environmental Policy Act (NEPA) Checklist Form in collaboration with OWNER. The NEPA clearance necessary to acquire right-of-way and construct the PROJECT shall be submitted & obtained by ODOT as is the ordinary practice for ACOG/ODOT/FHWA funded projects. The CONSULTANT is responsible for facilitating and assisting the OWNER in conducting and documenting any associated public meeting(s) for this PROJECT.

Bidding and Project Management Services – Bidding and normal engineering project management services ordinarily provided to assist the OWNER and ODOT will be provided. Construction Inspection and construction administered by the OWNER or ODOT are not included in the CONSULTANT's scope of services.

PART III - DESIGN CRITERIA

The design and plans shall conform to current State and AASHTO policies and standards (as modified under the direction of OWNER in writing) including:

- Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation, FHWA, 2009 Edition;

- An International Guide for Roadway Lighting, American Association of State Highway and Transportation Officials, (latest revision);
- AASHTO's LRFD Bridge Design Specifications for Highway Bridges, 5th Edition, 2012 and all current interim specifications with S.I. Units;
- ANSI/AASHTO/AWS D1.5 Bridge Welding Code (latest revision);
- A Policy on Geometric Design of Highways and Streets, American Association of State Highway and Transportation Officials, 2011 Edition;
- Standard Specifications for Highway Construction, and Supplemental, Oklahoma Department of Transportation, 2009;
- Highway Capacity Manual, Transportation Research Board, 2010 Edition;
- Policy on Driveway Regulations for Oklahoma Highways, Oklahoma Department of Transportation, 1996 Edition;
- Roadside Design Guide, American Association of State Highway and Transportation Officials, 2011 Edition;
- Right-of-way Specifications Manual for Preparation of Plans and Documents, Oklahoma Department of Transportation, (latest revision);
- Oklahoma Administrative Code (OAC), Title 730;
- Drainage Design Manual, Oklahoma Department of Transportation, 1988 Edition;
- Roadway Design Manual, Oklahoma Department of Transportation, 1992 Edition;
- Roadway Safety and Convenience Design Guide for Oklahoma Cities, Oklahoma Department of Transportation, 1991 Edition;

- Checklist for Local Government Urban Plans, Oklahoma Department of Transportation, 2001 Edition.

PART IV - GENERAL PERFORMANCE REQUIREMENTS

The CONSULTANT agrees to the following as appropriate and when applicable SERVICES included in this AGREEMENT:

1. To compute and place upon the construction plans, right-of-way ties to the survey line or a construction reference line, whichever is the most feasible, for the purpose of staking the right-of-way line for construction operations.
2. To prepare and furnish complete detailed final construction plans as called for in "DESCRIPTION OF PROJECT".
3. To prepare and furnish all field surveys and mapping, including topographic survey of the PROJECT area, control survey to establish section corners and section lines, ties to local coordinate system, horizontal location of existing utilities, and monumentation for construction staking.
4. To prepare and furnish complete structural design, hydrologic and hydraulic design (including drainage maps and design data for any storm sewer systems and other drainage appurtenances included in this AGREEMENT), geometric design and pay quantity computations, as follows:
 - a. The CONSULTANT shall ensure that these computations are independently checked in detail by competent personnel and shall

- provide a written statement to that effect when the plans are submitted.
- b. All computations shall be neat, legible, identified, indexed, and bound in a manner that is easy to follow by someone unfamiliar with the PROJECT. They shall be considered a part of the work done under this AGREEMENT and shall become the sole property of the OWNER.
 - c. The CONSULTANT shall furnish drainage maps and design data with computations for any storm sewer systems and other drainage involved in this AGREEMENT.
5. To furnish any additional plan sheets identified in the scope of services and as required by the OWNER.
 6. That all preliminary designs, final plans and reports submitted for review by the OWNER shall be accompanied by a written statement signed and sealed by a professional engineer attesting that a detailed check has been made of the plans and reports.
 7. To prepare the right-of-way plans, legal descriptions and instruments of conveyance for partial and total take parcels in accordance with the ODOT "Right-of-Way Specifications Manual and Associated Materials".
 8. To provide public involvement participation, coordination and support between the OWNER, the effected local business owners, residents and community based organizations. Such services shall include, but not limited to, attendance and participation at meetings, gatherings, assemblies or hearings as requested by the OWNER.
 9. To be available for such conferences as the OWNER may deem necessary in connection with the work. The OWNER shall have the right to inspect the work at all reasonable times at the CONSULTANT's office.
 10. To coordinate its CONSULTANT's work with other consultants on adjoining projects, if any, and to furnish and share survey and plan data identified in the scope of services in such a manner as to facilitate and expedite the completion of AGREEMENTS for adjacent work.
 11. To prepare and/or update CONSULTANT's Opinion of Probable Cost at each submittal milestone.
 12. To furnish a legible copy of all computations used in developing cost estimates which are neatly arranged, bound and are properly identified and indexed. The computations shall be submitted when the documents are submitted to the OWNER.
 13. To furnish bi-monthly progress reports to the OWNER and attend bi-monthly progress meetings with the OWNER. These monthly reports shall be prepared in accordance with the OWNERS requirements. In the event of any delay in performing the work and/or increase in anticipated construction costs of the resulting PROJECT provided for in this AGREEMENT, the CONSULTANT shall immediately notify the OWNER and shall fully explain the nature, time and reason for the delay.
- PART V – WORK BREAKDOWN
STRUCTURE & WORK PRODUCT
REQUIREMENTS**

The following Work Breakdown Structure (WBS) and Work Product Requirement are an outline and understanding of the scope of services that supports the CONSULTANT's fee and project schedule. The WBS is an expansion on the general requirements presented **PARTS I** through **IV**. All requirements set forth **PARTS I** through **IV** shall be met regardless of whether or not more specific requirements are stipulated herein. A list of the sizes and number of sets of plans included in the AGREEMENT is provided in **PART VI - PLAN REQUIREMENTS**.

TASK I - PRE-DESIGN SERVICES

Pre-Design services include field surveying and geotechnical exploration and analysis necessary to commence the design. The tasks to be performed by CONSULTANT include:

Task 1A - Design Survey

Surveying shall be in accordance with the minimum standards for land surveying as stipulated by the Oklahoma State Board of Professional Engineers and Land Surveyors. Tract ownerships are to be based on observable evidence and reasonable public record research. Ownerships shown will not be conclusive to actual land title certificates.

- a. The CONSULTANT shall establish horizontal and vertical control within the PROJECT limits necessary to collect all topographic and planimetric features, boundaries, right-of-way/easement information, etc. and to serve as survey control for construction staking by the Construction Contractor.
- b. The CONSULTANT shall provide field surveying in order to develop existing roadway cross sections at 50' intervals as well as at intersections and driveways throughout the PROJECT.
- c. The CONSULTANT shall create contours and digital terrain model from the collected data to support the design.
- d. The CONSULTANT shall collect topographic data including, but not limited to, surface features such as utilities, signs, (including type and reference marker, if any), headwalls, retaining walls, curb and grate inlet locations, pipe and box culvert flowlines, driveway locations and profile, and other pertinent data.
- e. The CONSULTANT shall tie any soil borings and pavement cores along the PROJECT to the survey control and be shown in the plans.
- f. The CONSULTANT shall develop survey data and information in a format suitable to be incorporated into the Final Plan Set. The survey sheets shall be submitted to the OWNER for review no later than the 30% Design Submittal.
- g. The CONSULTANT shall provide survey in the Oklahoma State Plane Coordinate System, South Zone. The ground/grid combined scale factor shall be computed for the PROJECT and noted on the survey sheets.
- h. The CONSULTANT shall establish adequate monumentation for construction staking including horizontal control points and vertical bench marks. The monumentation

shall cover the PROJECT area with inter-visible control points set on prominent ground, avoiding short back sights. Points should be set where likelihood of disturbance by construction is minimized. Primary control should be brass cap in concrete. Secondary control should be iron pins with plastic cap identifying the survey company when practical.

- i. The CONSULTANT shall include survey sheets in the plan set or as a separate set of drawings (at the OWNER's discretion). Survey sheets shall include contours and boundary information. Survey sheets shall be sealed by Licensed Surveyor in the State of Oklahoma.
- j. The CONSULTANT shall contact the Oklahoma One Call System "CALL OKIE" via the "Web Ticket" system and maintain records of reported utility holders. Information on Utility holders received from OKIE shall be shown on plan sheets. Utility drawings based on surface features, flagging, and record drawings shall be included in the plan sets. Any additional information received directly from the utility companies shall be included in the plan sets and identified.

TASK 2 - ADDITIONAL DESIGN SERVICES

The CONSULTANT services identified in **Task 2** are services anticipated to be required. However, the specific required level of effort by the CONSULTANT will be unknown until additional information becomes better defined during the course of the PROJECT. The identified SERVICES and anticipated level of effort are educated

estimates only. SERVICES will be provided on and "as needed" and "as requested" basis according to the identified unit cost.

Task 2A - Utility Research and Due Diligence

Underground utility research and due diligence to supplement the topographical survey will be contracted by the CONSULTANT to identify the utility and existing construction parameters. An estimate of 28 man-hours for this task was assumed for purposes of determining the contract base budget. The OWNER will be invoiced on an "as used" basis at cost plus 15%.

Task 2B – Supplemental Survey Needs

The OWNER and the CONSULTANT will have several needs for additional survey services after the initial design survey is complete. The level of effort required is unknown. An estimate of required man hours is included in the contract amount to be used "as needed" and "as requested". The anticipated items are listed below:

- a. Survey underground utility locates
- b. Survey previously unmarked utilities
- c. Survey additional development changes
- d. Stake existing right-of-way
- e. Stake proposed right-of-way
- f. Additional legal descriptions & exhibits
- g. Other miscellaneous surveys required by the OWNER or the CONSULTANT

The OWNER will be invoiced on an "as used" basis at Standard Rates plus 5%.

TASK 3 - DESIGN SERVICES

The following Design SERVICES will be provided by the CONSULTANT as necessary to complete the PROJECT as defined above:

Task 3A - Preliminary Design & Report

The CONSULTANT shall conduct the following preliminary design functions during the Preliminary Design task:

- a. Prepare preliminary horizontal & vertical alignments and associated Plan & Profile Sheets.
- b. Prepare a Preliminary Engineers Estimate of Probable Cost and Budget Review.
- c. Document existing utilities and possible design conflicts.
- d. Identify significant design issues.
- e. Document existing drainage characteristics in a drainage report indicating all existing drainage boundaries, areas, runoff coefficients, flow quantities, flow velocities, etc, for all points of concentrated drainage entering and exiting the existing and proposed PROJECT right-of-ways for each design storm event.
- f. Document existing FEMA Floodplains/ Floodway conditions within the PROJECT extents.

No FEMA CLOMR/LOMRs and no COE 404 Applications/Permits are anticipated for PROJECT.

Task 3B - 65% Complete Design Plans (Right-of-Way and Utility Submittal)

The CONSULTANT shall complete all design analysis and prepare all design documents necessary to conduct a Plan-in-

Hand project review with ODOT and the OWNER once the design and construction plans reach 65% complete. Additionally the CONSULTANT shall provide assistance for the OWNER's TIP application with ACOG. These tasks are anticipated to include the following:

- a. Verify the project scope
- b. Confirm horizontal and vertical alignments
- c. Confirm Typical Sections
- d. Field verify survey
- e. Initiate environmental clearance
- f. Identify drainage issues
- g. Identify construction sequencing needs
- h. Identify preliminary Right-of-Way needs and utility conflicts
- i. Revise P & P Sheets
- j. Prepare Cross Section Sheets
- k. Revise Drainage Structure Tables
- l. Prepare Summary Tables
- m. Prepare Driveway Schedules
- n. Prepare Pay Items & Notes
- o. Prepare Signalization Plan Sheets
- p. Prepare Signing & Striping Plan Sheets
- q. Prepare Detail Sheets
- r. Revise Engineer's Estimate of Probable Cost.
- s. Prepare Right of Way Sheets
- t. Prepare Survey Data Sheets

Task 3D - Final Plans

Upon receiving Plan-in-Hand comments from the OWNER and ODOT, the CONSULTANT shall prepare final Construction Plans suitable for ODOT bid letting. These tasks are anticipated to include the following:

- a. Finalize P & P Sheets
- b. Finalize Cross Section Sheets
- c. Finalize Drainage Structure Tables

- d. Finalize Summary Tables
- e. Finalize Driveway Schedules
- f. Finalize Pay Items, Bid Quantities & Pay Item Notes
- g. Prepare any Special Provisions
- h. Finalize Signing & Striping Plan Sheets
- i. Finalize Detail Sheets
- j. Finalize Construction Sequence Plans
- k. Finalize Engineer's Estimate of Probable Cost
- l. Finalize Right of Way Sheets

TASK 4 – ENVIRONMENTAL CLEARANCE SUPPORT

The CONSULTANT will provide assistance to the OWNER as necessary to assist in obtaining the Environmental Clearance to be performed by ODOT. Specifically, the CONSULTANT will perform the following:

- a. Conduct the required Public Meeting at a location to be determined by the OWNER and ODOT.
- b. Prepare Power Point Presentation for the OWNER and revise as requested.
- c. Attend and present at the Public Meeting as request by the OWNER.
- d. Prepare responses to questions raised at the Public Meeting.
- e. Prepare Public Meeting minutes.
- f. Coordinate with ODOT as necessary.
- g. Prepare various meeting exhibits.
- h. Provide one (1) set of full-size preliminary construction plans to be available at the Public Meeting.
- i. Take site pictures of the PROJECT route.

TASK 5 - RIGHT-OF-WAY ACQUISITION SUPPORT SERVICES AND RECOUPMENT DISTRICT LEGALS & EXHIBITS

The CONSULTANT will prepare and provide the OWNER with all required Right-of-Way acquisition documents necessary to acquire the right-of-way to complete the PROJECT as defined. Additionally, the CONSULTANT will provide the OWNER with Recoupment District legal descriptions and exhibits as necessary.

Task 5A - Right-of-Way Acquisition Support Services

This task is anticipated to include the following:

- a. Prepare legal descriptions
- b. Prepare exhibits
- c. Attend meetings
- d. Revise legal descriptions & exhibits as required per land owner negotiations

PART VI - PLAN REQUIREMENTS

Drawings shall conform to ordinary ODOT drafting standard and shall be 22 x 34-inches (full size) and 11 x 17-inches (half size) prints. CONSULTANT shall provide and submit the required number of plan sets to complete the PROJECT. It is currently unknown the exact number of full size and half size plan sets required, For purposes of this contract, the following numbers of submittal plan sets (Plan-in-Hand & Final Plans) are included in the base fees:

- Full Size – 10 (minimum 1”=30’ scale)
- Half Size - 40

Other required plan set copies will be provided as a reimbursed expense on a cost plus 15% basis. Work in progress sets and progress meeting sets will be half size and included in the base fees.

PART VII - MUTUAL AGREEMENTS

The OWNER and the CONSULTANT mutually agree:

- a. SERVICES to be performed by the CONSULTANT shall include and encompass those SERVICES identified in **PART V - WORK BREAKDOWN STRUCTURE & WORK PRODUCT REQUIREMENTS**.
- b. The CONSULTANT shall hold the OWNER as a confidential client. The CONSULTANT shall make no statements or publish any materials regarding any investigations to any party on behalf of the OWNER without prior written authorization from the OWNER. The CONSULTANT shall refer all questions regarding this AGREEMENT and the work defined herein to the OWNER.
- c. Because the CONSULTANT has no control over the cost of labor, materials, or equipment furnished by others, the CONSULTANT's Opinion of Probable Cost shall be made on the basis of its experience and qualifications as a professional engineer. The CONSULTANT does not guarantee that proposals, bids, or actual PROJECT construction costs will not vary from the CONSULTANT's construction cost estimates.
- d. When the plans are completed to the field review stage, representatives of the OWNER will accompany the CONSULTANT on a field review investigation to mutually determine design features to be incorporated in the final plans.
- e. All tracings, plans, computations, specifications and maps prepared or obtained under the terms of the AGREEMENT shall be delivered to and become the property of the OWNER. All basic survey notes and sketches, charts, computations and other data prepared or obtained under this AGREEMENT shall be made available upon request to the OWNER without restriction or limitation on their use. When an AGREEMENT is for preliminary plans only, no commitment is made or implied that would constitute a limitation on the subsequent use of the plans or the ideas incorporated therein for preparation of construction plans.
- f. The CONSULTANT shall furnish all engineering services, labor, equipment, and incidentals as may be required to perform this AGREEMENT, except as may be otherwise specifically provided for herein.
- g. Then CONSULTANT shall sign the final product of CONSULTANT's efforts submitted to the OWNER and affix the appropriate Oklahoma seal as proof of Professional Engineer registration in the State of Oklahoma.
- h. The CONSULTANT and/or surveyor shall place his professional seal of endorsement and signature on all the documents, survey information and engineering data furnished to the OWNER when such is required by the Level or Type of Service defined by this AGREEMENT and additionally, as may be required by State Law.
- i. The CONSULTANT and its sub-consultants are to maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at its respective offices at all reasonable times, during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT, for

inspection by the OWNER and copies thereof shall be furnished to the

OWNER and if required, to OOOT.

ATTACHMENT B PROJECT SCHEDULE

ARTICLE 4 of the AGREEMENT is amended and supplemented to include the following agreement of tile parties.

It is understood and agreed that the date of beginning, rate of progress, and the time of completion of SERVICES under this AGREEMENT are essential provisions of this AGREEMENT. It is further understood and agreed that the SERVICES under this AGREEMENT shall commence upon execution of the AGREEMENT between the OWNER and the CONSULTANT and after receipt of a written Notice to Proceed from the CONSULTANT. The parties mutually agree that time is of the essence in the performance of this AGREEMENT in order for the OWNER to take advantage of existing funding. The CONSULTANT agrees to provide SERVICES for each phase of the PROJECT as stated in **Attachment A - Scope of Services**, in accordance with the time frame as stated below:

TASK MILESTONE	ANTICIPATED COMPLETION DATE
Notice to Proceed	October 15, 2015
Pre-Design Services	November 20, 2015
Preliminary Design	January 15, 2016
65% Plan-in-Hand (R/W & Utility Submittal)	March 15, 2016
ROW Acquisition Documents Final	April 29, 2016
Final Plans 95% - Not Bid Set	June 1, 2016
Submit TIPs to ACOG	June 15, 2016
Plans, Specifications and Estimate (P,S,& E) Submission	August 1, 2016

The parties further agree that the CONSULTANT will meet this schedule using standards and procedures for their submissions consistent with those currently used by Engineers/Surveyors practicing in Oklahoma. This schedule excludes the governing agency review time (except as provided above) and anytime lost while the CONSULTANT is waiting for direction either by a government agency or the OWNER, and any excusable delays as described in ARTICLE 15 of the AGREEMENT.

Dates indicated are dependent upon timely review by the OWNER and ODOT, environmental clearance, Right-of-Way acquisitions, utility relocations and other factors beyond direct control of the CONSULTANT.

ATTACHMENT C COMPENSATION

ARTICLE 5 of the AGREEMENT is amended and supplemented to include the following agreement of the parties.

The CONSULTANT agrees to perform the SERVICES identified in **Attachment A - Scope of Services**, in accordance with the limitations and conditions set forth in the AGREEMENT. The OWNER agrees, in accordance with the limitations and conditions set forth in the AGREEMENT to pay an amount not to exceed \$65,100.00 unless changed or modified by a mutually executed contact amendment between the OWNER and the CONSULTANT.

The OWNER shall pay the CONSULTANT for completion of the SERVICES of each task identified in **Attachment A - Scope of Services**, in accordance with the amounts stated below:

DESIGN TASK	COMPENSATION
Task 1A – Topographical Survey	\$ 7,500.00
Task 1B – Field Reconnaissance and Project Assessment	\$ 2,200.00
Task 2A – Utility Research and Due Diligence	\$ 3,220.00
Task 2B – Preliminary Design	\$ 12,050.00
Task 3A – 65% Complete Design (R/W and Utility Submittal)	\$ 8,500.00
Task 3B – Street Light Design	\$ 18,000.00
Task 3C – Final Construction Plans (P,S & E Submittal)	\$ 5,000.00
Task 4 – Environmental Clearance Assistance	\$ 1,750.00
Task 4A – Project Administration	\$ 6,880.00
TOTAL COMPENSATION	\$ 65,100.00

Payment claims or invoices for incremental work completed on each task may be submitted by the CONSULTANT to the OWNER for prompt payment on a monthly basis.

Final payment shall not be deemed to waive any rights or obligation of the OWNER or the CONSULTANT to this AGREEMENT.

ATTACHMENT D OWNER'S RESPONSIBILITIES

ARTICLE 6 of the AGREEMENT is amended and supplemented to include the following agreement of the parties.

OWNER RESPONSIBILITIES

1. The OWNER shall furnish to the CONSULTANT all available information pertinent to PROJECT including previous reports, construction plans and any other data relative to design and construction of the PROJECT.
2. The OWNER shall be responsible for all permit fees.
3. The OWNER shall examine all studies, reports, sketches, estimates specifications, plan drawings, proposals and any other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable time so as not to delay the SERVICES of the CONSULTANT.
4. The OWNER shall designate in writing a person to act as its representative in 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 the OWNER's policies and decisions with respect to materials, equipment, elements and systems pertinent to the services covered by this AGREEMENT.
5. The OWNER shall furnish legal assistance as required in the preparation, review and approval of construction documents.
6. The OWNER shall furnish assistance in locating existing OWNER-owned underground utilities and expediting their relocation in preparation for construction.
7. The OWNER shall provide for meeting facilities (or arrange for meeting facilities) for all PROJECT meetings with OWNER or Public Meetings in connection with the PROJECT.

SPECIAL RESPONSIBILITIES

1. The OWNER shall furnish to the CONSULTANT traffic studies as may be required for or by ACOG, ODOT, and/or FHWA for consideration of PROJECT funding and/or the PROJECT letting.
2. The OWNER shall furnish Certificates of Title, Appraisals and Right-of-Way Acquisition necessary for utility relocations and/or proposed construction of the PROJECT.