

AGREEMENT FOR PROFESSIONAL SERVICES

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

1. OWNER intends to construct a multi-modal path along S.H. 9 beginning near the intersection of 36th Avenue SE and S.H. 9 and extending east along S.H. 9. Terminating approximately 15' east of the intersection of 48th Avenue SE and S.H. 9 (the PROJECT); and,

2. OWNER requires certain professional survey, design, analysis and engineering services in connection with the PROJECT; 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 ____ day of _____, 201__.

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 and the OWNER each hereby agree to defend, indemnify, and hold harmless the other party, 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 indemnifying party in the performance of services under this Agreement. The CONSULTANT and the OWNER each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims. In any and all claims asserted by any employee of the CONSULTANT against any indemnified party, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT or any of the CONSULTANT'S employees under workers' compensation acts, disability benefit acts, or other employee benefit acts. 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 the 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:

Mike Rayburn, P.E.
Traffic Engineer
City of Norman
P.O. Box 370
Norman, OK 73070

CONSULTANT:

William R. Swain, P.E., P.L.S.
Senior Vice President
Cardinal Engineering, LLC.
3700 W. Robinson, Suite 200
Norman, OK 73072

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.

This space intentionally left blank.

IN WITNESS WHEREOF, OWNER and CONSULTANT have executed this Agreement.

DATED this ____ day of _____, 201__.

The City of Norman
(OWNER)

Cardinal Engineering, LLC.
(CONSULTANT)

Signature _____

Signature 

Name _____

Name Michael C. Salmon

Title _____

Title CEO

Date _____

Date 11/7/17

Attest:

Attest:

City Clerk



Secretary

Approved as to form and legality this ____ day of _____ 201__.

City Attorney

ATTACHMENT A SCOPE OF SERVICES

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

PART I – DESCRIPTION OF PROJECT

CONSULTANT is to provide SERVICES in connection with the concept development of design, bidding, and construction documents for the following improvements located within the City of Norman, Oklahoma:

Construction of a multi-modal path along S.H. 9 beginning near 36th Avenue SE and extending east along S.H. 9 terminating approximately 15' east of 48th Avenue SE.

PROJECT Extents:

The beginning of PROJECT (BOP) shall be near the intersection of 36th Avenue SE and S.H. 9 near STA 297+90 of ODOT State Job No. 20266(04). The PROJECT shall extend approximately 5280' feet east (1.0 miles) past 48th Avenue SE to the End of PROJECT (EOP) near STA 350+70 of stated ODOT project.

PROJECT Exceptions:

Project is assumed to be designed entirely within the proposed ODOT right of way or existing right of way of City of Norman. Therefore, no right-of-way acquisition services are included in the scope of services.

At contract time, it is assumed that the environmental clearance for the PROJECT will be prepared by ODOT. Therefore, no environmental clearance services are included in the scope of services.

It is anticipated that no utility relocations will be required. Therefore, no utility relocation services are included in the scope of services.

Traffic signal modification design and multi-modal path lighting design are not anticipated. Therefore, no traffic engineering or lighting designs are included in the scope of services.

Geotechnical services are excluded from the scope of services.

Section 404 permitting or flood plain activity permitting is not included in the current scope of services.

The multi-modal path will be designed based on a design survey for the PROJECT that is included in the scope of services.

Construction Administration is not included in the scope of services and will be provided by the OWNER.

Incidental Construction:

The PROJECT shall include grading, paving, drainage structures, and any other ancillary construction as required, tying the proposed construction to adjacent improvements.

Specific PROJECT Requirements:

Design criteria and other requirements specific to this PROJECT include:

- The design shall meet the design requirements of the contributing funding mechanisms.
- The design shall meet appropriate PROWAG guidelines as required.
- The design shall meet City of Norman standards as desired and ODOT standards as required.
- The design shall include all associate drainage structures. It is assumed the drainage calculations provided in the recent ODOT State Job will be used for sizing drainage structures. In most instances, the existing ODOT structures will be simply extended.
- Engineering reports, bidding, construction, and supporting documents developed by CONSULTANT shall comply with the established requirements of OWNER, the Oklahoma Department of Transportation (ODOT), and Federal Highway Administration (FHWA) for the purpose of seeking/securing federal construction funds by OWNER.

CONSULTANT makes no representations, warranties, or guarantees with regard to the success of OWNER in securing said funds.

In addition, 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 unless added to the scope of services by contract amendment:

- Utility relocation design
- Certificates of title and Right-of-Way Appraisals & Acquisitions
- Easement Acquisition Legal Descriptions and/or Right of Way Plans
- Environmental Clearance
- Construction Inspection & Construction Administration Services
- Geotechnical Services
- Wetlands & Flood Plain Permitting

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;
- Standard Specifications for Highway Construction, and Supplementals, Oklahoma Department of Transportation, 2009;
- 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, 2014 Edition;
- Roadway Design Manual, Oklahoma Department of Transportation, 1992 Edition;

PART IV – GENERAL PERFORMANCE REQUIREMENTS

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. The design survey and available ODOT plans will be the basis of design of the multi-modal path. The construction documents will require the contractor to verify critical elevations and locations prior to construction.
4. The ODOT drainage calculations for the S.H. 9 reconstruction project will be the basis for sizing drainage structures associated with the PROJECT. In most cases, the ODOT structure will simply be extended or slightly modified.
5. Geotechnical services are not anticipated to be required. The loads on the multi-modal path are small and the path sections are anticipated to be based on the soil conditions required in the ODOT construction documents and other OWNER standards.
6. To furnish any additional plan sheets identified in the scope of services and as required by the OWNER.

7. 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.
8. 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 CONSULTANT's office.
9. 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.
10. To prepare and/or update CONSULTANT's Opinion of Probable Cost at each submittal milestone.
11. 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.

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 CONSULTANT's fee and PROJECT schedule. The WBS is an expansion on the general requirements presented in PARTS I through IV. All requirements set forth in 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.

PHASE I – PRE-DESIGN SERVICES

The tasks to be performed by CONSULTANT include:

Task 1 – Design Survey

All design documents are to be based on the design survey. The project is anticipated to be entirely within the existing ODOT right-of-way.

- a. CONSULTANT will use the design survey to identify horizontal and vertical control within PROJECT limits necessary to serve as survey control for construction staking by the Construction Contractor.
- b. CONSULTANT will obtain, or create, contours and a digital terrain model based on the design survey.
- c. CONSULTANT will coordinate construction plans with ODOT as required.

PHASE 2 – DESIGN SERVICES

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

Task 2A – Concept Design (30% Design)

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

- a. Review existing adopted trail master plans and City Standards.
- b. Site visit for photographic inventory.
- c. Meet with City as necessary to refine the concept, desires, and project preferences.
- d. Meet with ODOT to discuss coordination of projects and exchange of design files and data.
- e. Adapt ODOT construction documents into the “base conditions” for the PROJECT plans.
- f. Prepare preliminary horizontal & vertical alignments and set up associated Plan & Profile Sheets.

- g. Develop proposed typical sections and concept details for the path.
- h. Identify critical design issues.
- i. Develop alternatives to resolve critical design issues.
- j. Prepare a Preliminary Engineers Estimate of Probable Cost.
- k. Facilitate a 30% concept plan review with the City and ODOT.

Task 2B – 60% Design

The CONSULTANT shall complete design analysis and prepare all design documents necessary to conduct a Plan-in-Hand PROJECT review with ODOT and the OWNER. These tasks are anticipated to include the following:

- a. Confirm horizontal and vertical alignments
- b. Confirm Typical Sections
- c. Identify and initiate any permitting required.
- d. Identify outstanding issues
- e. Identify any Right-of-Way needs and Utility Conflict
- f. Revise P & P Sheets
- g. Prepare Cross Section Sheets
- h. Prepare Drainage Structure Tables
- i. Prepare Summary Tables
- j. Prepare Driveway Schedules
- k. Prepare Pay Items & Notes
- l. Prepare Signing & Striping Plan Sheets
- m. Prepare Detail Sheets
- n. Revise Engineer's Estimate of Probable Cost.
- o. Prepare Geometric Control Sheets.

Task 2C – Final Plans

Upon receiving Plan-in-Hand comments from the OWNER and ODOT, the CONSULTANT shall prepare final Construction Documents suitable for City

Bidding. 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 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. Prepare front end bid documents.

PHASE 3 – CONSTRUCTION SERVICES

Task 3A – Bid Administration

CONSULTANT will serve OWNER in a support role during the bidding/award process. CONSULTANT shall also provide the specific services outlined herein.

- a. CONSULTANT shall prepare a signed/sealed Engineer's Estimate based on the final construction documents, pay items, and quantities.
- b. CONSULTANT shall attend the Pre-Bid Conference conducted by OWNER to discuss the PROJECT and answer questions from possible contractors. CONSULTANT shall provide written responses to questions.
- c. CONSULTANT shall correspond with the contractor and OWNER for any necessary clarifications to the plan documents provided by the CONSULTANT.

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:

- a. Full Size – 7
- b. Half-Size – 30

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

OWNER and CONSULTANT mutually agree:

- a. SERVICES to be performed by CONSULTANT shall include and encompass those services identified in “PART V – WORK BREAKDOWN STRUCTURE & WORK PRODUCT REQUIREMENTS”.
- b. CONSULTANT shall hold the OWNER as a confidential client. 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. CONSULTANT shall refer all questions regarding this AGREEMENT and the work defined herein to the OWNER.
- c. Because CONSULTANT has no control over the cost of labor, materials, or equipment furnished by others, CONSULTANT’S Opinion of Probable Cost shall be made on the basis of its experience and qualifications as a professional engineer. CONSULTANT does not guarantee that proposals, bids, or actual PROJECT construction costs will not vary from CONSULTANT’S construction cost estimates.
- d. When the plans are completed to the field review stage, representatives of the OWNER will accompany 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. 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 or would otherwise not have been reasonably anticipated.
- g. 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. 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. CONSULTANT and it’s 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 ODOT.

**ATTACHMENT B
 PROJECT SCHEDULE**

Article 4 of the AGREEMENT is amended and supplemented to include the following agreement of the 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 OWNER & CONSULTANT and after receipt of a written Notice to Proceed from OWNER. The parties mutually agree that time is of the essence in the performance of this AGREEMENT in order for OWNER to have advantage of existing funding. SUBCONSULTANT agrees to provide SERVICES for each phase of PROJECT as stated in Attachment A – Scope of Services, in accordance with the time frame as stated below:

<u>TASK/MILESTONE</u>	<u>ANTICIPATED COMPLETION DATE</u>
Notice to Proceed	November 15, 2017
Pre-Design Services	December 15, 2017
Concept Design (30% Design)	February 15, 2018
60% Design (Plan-in-Hand)	April 15, 2018
Final Plans (95% - Not Bid Set)	June 15, 2018
	Notc: Schedule includes assumed 30 day OWNER and other government agency review comment period.

The parties further agree that CONSULTANT will meet this schedule using standards and procedures for their submissions consistent with those currently used by Engineers practicing in Oklahoma. This schedule excludes governing agency review time in excess of 30 days and anytime lost while CONSULTANT is waiting for direction either by government agency or OWNER, and any excusable delays as described in Article 15 of the AGREEMENT.

**ATTACHMENT C
COMPENSATION**

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

I. PAYMENTS FOR SERVICES AND EXPENSES OF CONSULTANT

A. Types of Services

1. FOR BASIC SERVICES (as described in Attachment A – Scope of Services)

The CONSULTANT shall be paid a fee of **seventy-one thousand, sixty-eight dollars (\$71,068)** with the following breakdown..

Phase 1	Pre-Design Services	\$10,828	Lump Sum
Phase 2	Design Services		
	Task 2A - Concept Design (30%)	\$17,606	Lump Sum
	Task 2B - 60% Design (Plan-in-Hand)	\$18,460	Lump Sum
	Task 2C - Final Design (95% - not bid set)	\$19,040	Lump Sum
Phase 3	Construction Services		
	Task 3A - Bid Administration	\$5,134	Lump Sum
		\$71,068	Total Fee

B. Times of Payment

1. CONSULTANT shall submit monthly statements for services rendered in accordance with the paragraphs below:
 - a. For BASIC SERVICES, the compensation will be based on CONSULTANT's estimate of the proportion of the total services actually completed at the time of billing and agreed upon by OWNER.
 - b. For ADDITIONAL SERVICES compensation will be based on the CONSULTANT's actual number of man hours rendered at the time of billing plus itemized reimbursable expenses (multiplied as set forth in the Fee Schedule below).
2. OWNER shall make prompt monthly payments in response to CONSULTANT's monthly statements.

II. LABOR RATES FOR ADDITIONAL SERVICES:

**CARDINAL ENGINEERING, LLC.
2017 HOURLY RATE SCHEDULE**

Principal	\$175
GIS Consultant	\$ 85 – \$108
Professional Engineer	\$113 – \$155
Hydrogeologist	\$129
Professional Land Surveyor	\$120 – \$129
Staff Professional	\$ 82 – \$113
Civil Designer	\$ 72 – \$108
Environmental Planner	\$119
Environmental Specialist	\$ 72 - \$ 77
Construction Manager/Inspector	\$ 93
Field Technician	\$ 52 - \$ 77
CADD Technician	\$ 82
Data Reduction/Office Calculations	\$ 93 - \$103
Office Tech/Engineering Assistant	\$ 57 - \$ 62
Intern	\$ 42 - \$ 52
Expert Testimony	\$319

CARDINAL SURVEY RATES

Two-Man Survey Party	\$113 - \$129
Subcontracted Services	Cost + 15%
Mileage	\$0.65
Per Diem (overnight stays only)	\$135/person/day
GPS/RTK-Robotic Equipment	\$45
ATV (4-wheel)	\$40/half day
Monuments/Stakes/Marking Materials (extra charge on high volume projects only.	Quoted per project

**ATTACHMENT D
OWNER'S RESPONSIBILITIES**

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

I. OWNER RESPONSIBILITIES

1. OWNER shall furnish to CONSULTANT all available information pertinent to PROJECT including previous reports, and any other data relative to design and construction of PROJECT.
2. OWNER shall be responsible for all permit fees.
3. 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 SERVICES of CONSULTANT.
4. 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 OWNER's policies and decisions with respect to materials, equipment, elements, and systems pertinent to the services covered by this AGREEMENT.
5. OWNER shall furnish legal assistance as required in the preparation, review, and approval of construction documents.
6. OWNER shall furnish assistance in locating existing OWNER-owned underground utilities and expediting their relocation in preparation for construction.
7. OWNER shall provide for meeting facilities (or arrange for meeting facilities) for all PROJECT meetings with OWNER or Public Meetings in connection with PROJECT.

II. SPECIAL RESPONSIBILITIES