

JOHN F. KENNEDY SAFE ROUTES PROGRAM
Project No. STPY-155(864)EC, J.P.# 28469(05)
SRA # 1028

AGREEMENT
FOR PROFESSIONAL
ENGINEERING SERVICES

THIS IS AN AGREEMENT effective as of October 11, 2011 ("Effective Date") between

City of Norman ("Owner") and

Jackson & Jackson Engineering, Inc. ("Engineer").

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

John F. Kennedy Safe Routes Program ("Project").

Engineer's services under this Agreement are generally identified as follows:

Design sidewalk along the west right-of-way of Biloxi Drive from Brooks Street to Louisiana Street; and along the north and south rights-of-way of Beaumont Drive from Albany Place to 12th Avenue SE; and at the intersection of Shiloh and Village Drives; two (2) speed tables; and numerous ramps

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

- A. Owner shall pay Engineer as set forth in Exhibit C.
- B. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

- A. Engineer is authorized to begin design services as of the Effective Date.

3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – ENGINEER'S ESTIMATE

4.01 *Engineer's Estimate*

- A. Engineer's estimate is to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from Engineer's Estimate.

ARTICLE 5 – GENERAL CONSIDERATIONS

5.01 *Standards of Performance*

- A. *Standard of Care:* 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, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical

accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

- C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. **Compliance with Laws and Regulations, and Policies and Procedures:**
 - 1. Engineer and Owner shall comply with applicable Laws and regulations.
 - 2. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
- E. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.

Use of Documents

- A. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.
- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.

- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. Engineer grants Owner a limited license to use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such limited license to Owner shall not create any rights in third parties.

Insurance

- A. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- B. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.

5.02 *Suspension and Termination*

A. Suspension:

1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
2. By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

B. *Termination*: The obligation to provide further services under this Agreement may be terminated:

1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By Engineer:

- 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
- 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
- 3) Engineer shall have no liability to Owner on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 5.02.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. Payments Upon Termination:

1. In the event of any termination under Paragraph 5.02, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination.
2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

5.03 *Controlling Law*

A. This Agreement is to be governed by the law of the State of Oklahoma.

5.04 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 - 3. Owner agrees that the substance of the provisions of this Paragraph 5.04.C shall appear in the Contract Documents.

5.05 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages recoverable under applicable law on account of negligence arising out of or relating to the Project, provided that any such claim, cost, loss, or damage 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.
- B. *Indemnification by Owner:* Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against reasonable claims, costs, losses, and damages recoverable under applicable law on account of negligence to the extent caused by the negligent acts, errors, or omissions of the City or persons for whom the Owner is legally liable, provided that nothing herein shall require that the Owner indemnify for the negligence of any person indemnified hereunder.
- C. *Environmental Indemnification:* To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other

professionals, and all court, arbitration, or other dispute resolution costs) 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, or damage 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.

Miscellaneous Provisions

- A. *Notices*: Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival*: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability*: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. *Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

ARTICLE 6 – DEFINITIONS

6.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
 - 1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 - 2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 7.01 and any duly executed amendments.
 - 3. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.

4. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.
5. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
6. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
7. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
8. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
9. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
10. *Engineer* – The individual or entity named as such in this Agreement.
11. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
12. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
13. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
14. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
15. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

16. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
17. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
18. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
19. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
20. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
21. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

6.02 *Equal Employment Opportunity*

- A. 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.

6.03 *Dispute Resolution*

- A. 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 7 – EXHIBITS AND SPECIAL PROVISIONS

7.01 Exhibits Included:

- A. Exhibit A, Engineer's Services.
- B. Exhibit B, Payments to Engineer for Services.
- C. Exhibit C, Standard Hourly Rates Schedule
- D. Exhibit D, Notice of Acceptability of Work.
- E. Exhibit E, Amendment to Owner-Engineer Agreement.
- F. Exhibit F, Insurance

7.02 Total Agreement:

- A. This Agreement, (together with the exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit E to this Agreement.

7.03 Designated Representatives:

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Address for giving notices:

201-A West Gray

Norman, OK

73070

Address for giving notices:

3125 SW 97th Street

Oklahoma City, OK

73159

Designated Representative (Paragraph 8.03.A):

Mike Rayburn

Title: Staff Engineer, Traffic Division

Phone Number: 405.217.7713

Facsimile Number: 405.366.5418

E-Mail Address: mike.rayburn@normanok.gov

Designated Representative (Paragraph 8.03.A):

John Derek Jackson

Title: President

Phone Number: 405.378.7222

Facsimile Number: 405.378.7444

E-Mail Address: joyfuljacksons@sbcglobal.net

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 JACKSON & JACKSON ENGINEERING have executed this Agreement.

DATED this 11th day of October 20 11

The City of Norman
(OWNER)

Signature [Signature]

Name DAN QUINN

Title MAYOR PRO TEM

Date 10/11/11

Attest:

[Signature]
City Clerk



Jackson & Jackson Engineering, inc.
(CONSULTANT)

Signature [Signature]

Name John D. Jackson

Title President

Date 09/13/2011

Attest:

[Signature]
Secretary

Approved as to form and legality this 29
day of Sept. 20 11.

[Signature]
City Attorney

This is **EXHIBIT A**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, _____.

Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

A1.01 Survey Phase (Field Crew Approx 5.5 Hrs @ \$448.62)

A. Engineer shall:

1. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.

A1.02 Environmental Request Form (\$1,532.59)

- A. Engineer will prepare and submit Oklahoma Department of Transportation's Environmental Request Form for the project. Engineer will provide additional information as requested by the Oklahoma Department of Transportation to achieve environmental clearance for the project with the assistance of Owner's personnel.

A1.03 Design Phase

A. Preliminary Field Review(\$4,000.00)

The preliminary field review plans will include the following items:

- Title Sheet
- Site Map
- Plan sheets depicting the location of improvements
- Construction Details

B. Preliminary Field Review Plans Cost Estimate(\$500.00)

- Engineer will prepare a pay item list with itemized cost estimate

C. Preliminary Field Review Meeting(\$500.00)

- Engineer will meet with the Owner and Oklahoma Department of Transportation staff to discuss review comments and walk through the project.

- Engineer's services under the Preliminary Design Phase will be considered complete on the date when the revised Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables have been delivered to Owner.

D. Final Field Review (\$5,500.00)

The Final Field Review Plans will include the following items:

- Title Sheet
- Typical Section Sheets/Detail Sheet
- Pay Items Lists and Notes
- Stormwater Pollution Prevention Plan
- Erosion Control Plan
- Traffic Control Plan
- Site Map
- Plan and Profile Sheets
- Cross Sections for driveways as needed
- Construction Details and Standards

E. Final Field Review Meeting (\$750.00)

F. Final Plan Review

G. Final Plans Cost Estimate (\$750.00)

A1.04 *Right-of-Way and Utility Clearance*(\$1,500.00)

- A. Engineer will coordinate with the Right-of-Way and Utilities Division to obtain clearance for the project.
- B. Engineer's services under the Final Design Phase will be considered complete on the date when the submittals required by Paragraph A1.03 have been delivered to Owner.

A1.05 *Bidding and Negotiating Phase* (\$2,000.00)

- A. After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:
 1. Assist Owner in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the bidding documents.
 2. *Pre-Construction Conference:* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
 3. Issue addenda as appropriate to clarify, correct, or change the bidding documents.

4. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.
5. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.
6. If bidding documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders.
7. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.

B. The Bidding Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors.

A1.06 Post-Construction Phase(\$2,500.00)

A. Upon written authorization from Owner during the Post-Construction Phase Engineer shall:

1. Together with Owner, visit the Project to observe any apparent defects in the Work, assist Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if any.
2. Together with Owner or Owner's representative, visit the Project within one month before the end of the correction period to ascertain whether any portion of the Work is subject to correction.

B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

C. Provide electronic as-built plans in dwg format.

Schedule of Services

1. Furnish 3 review copies of the Preliminary Field Review documents and any other deliverables to Owner within 180 calendar days of Notice to Proceed with this phase, and review them with Owner. Also provide the required number of copies of documents to the Oklahoma Department of Transportation.
2. Furnish 3 review copies of the Final Field Review documents and any other deliverables to Owner within 240 calendar days of Notice to Proceed with this phase, and review them with Owner. Also provide the required number of copies of documents to the Oklahoma Department of Transportation.
3. Prepare Bidding documents and attend Pre-bid, Bid Opening, and Preconstruction meetings within 285 calendar days of Notice to Proceed.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below.
1. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing.
 2. Providing renderings or models for Owner's use.
 3. Furnishing services of Consultants for other than Basic Services.
 4. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructibility review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
 5. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by Owner for the Work or a portion thereof.
 6. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
 7. Preparing to serve or serving as a consultant or witness for Owner in any litigation, arbitration, or other dispute resolution process related to the Project.
 8. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

This is **EXHIBIT B**, consisting of 1 page, referred to in and part of the Agreement between Owner and Engineer for Professional Services dated _____, _____.

Payments to Engineer for Services

COMPENSATION PACKET BC-1: Basic Services – Lump Sum

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

B2.01 Compensation for Basic Services – Lump Sum Method of Payment

A. Owner shall pay Engineer for Basic Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. A Lump Sum amount of \$22,000.00 based on the following estimated distribution of compensation:
 - a. Survey and Environmental \$4,000.00
 - b. Preliminary Design Phase \$5,000.00
 - c. Final Design Phase \$8,500.00
 - d. Bidding and Negotiating Phase \$2,000.00
 - e. Post-Construction Phase \$2,500.00
2. Engineer may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the Owner.
3. The Lump Sum includes compensation for Engineer’s services and services of Engineer’s Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
4. The portion of the Lump Sum amount billed for Engineer’s services will be based upon Engineer’s estimate of the percentage of the total services actually completed during the billing period.

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, _____.

Standard Hourly Rates Schedule

A. *Standard Hourly Rates:*

1. Standard Hourly Rates are set forth in this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Exhibit A, Part 2.

B. Owner shall pay Engineer for Additional Services, if any, as follows:

1. *General:* For services of Engineer's personnel engaged directly on the Project pursuant to Paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under Paragraph A2.01.A.20, (which if needed shall be separately negotiated based on the nature of the required consultation or testimony) an amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all Additional Services performed on the Project, plus related Reimbursable Expenses and Engineer's Consultant's charges, if any.

Standard hourly rates for services performed on or after the date of the Agreement are:

Principal	\$ 147.50/hour
Project Manager	<u>147.50/hour</u>
Project Engineer	<u>115.05/hour</u>
CAD Technician	<u>73.75/hour</u>
Administrative	<u>51.63/hour</u>
Clerical	<u>36.88/hour</u>
Field Crew (2 person)	<u>448.62/hour</u>
Professional Surveyor	<u>429.11/hour</u>

This is **EXHIBIT D**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, _____.

NOTICE OF ACCEPTABILITY OF WORK

PROJECT:

OWNER:

CONTRACTOR:

OWNER'S CONSTRUCTION CONTRACT IDENTIFICATION:

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

NOTICE DATE:

To:

Owner

And To:

Contractor

From:

Engineer

The Engineer hereby gives notice to the above Owner and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents, the Agreement between Owner and Engineer for Professional Services dated _____, _____, and the terms and conditions set forth in this Notice.

By: _____

Title: _____

Dated: _____

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. This Notice reflects and is an expression of the professional judgment of Engineer.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Owner and under the Construction Contract referred to in this Notice, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement and Construction Contract.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract referred to in this Notice, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents.

This is **EXHIBIT E**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, _____.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. _____

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: _____
- b. Owner: _____
- c. Engineer: _____
- d. Project: _____

2. *Description of Modifications:*

- a. Engineer shall perform or furnish the following Additional Services:
- b. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:

3. Agreement Summary (Reference only)

- a. Original Agreement amount: \$ 22,000.00
- b. Net change for prior amendments: \$ _____
- c. This amendment amount: \$ _____
- d. Adjusted Agreement amount: \$ _____

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

OWNER:

ENGINEER:

By: _____

By: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

This is **EXHIBIT F**, consisting of 1 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, _____.

Insurance

1.

- a. Workers' Compensation: Statutory
- b. Employer's Liability --
 - 1) Each Accident: \$500,000.00
- c. General Liability --
 - 1) Each Occurrence (Bodily Injury and Property Damage): \$1,000,000.00
 - 2) Annual Aggregate: \$2,000,000.00
- d. Automobile Liability --Combined Single Limit (Bodily Injury and Property Damage):
 - Each Accident \$1,000,000.00
- e. Professional Liability --
 - 1) Each Claim Made \$1,000,000.00
 - 2) Annual Aggregate \$1,000,000.00