

AGREEMENT
FOR
ENGINEERING SERVICES

This AGREEMENT, between the Norman Utilities Authority (OWNER) and Small Arrow Engineering, LLC (CONSULTANT);

WITNESSETH

WHEREAS, OWNER intends to construct Two (2) Dual DC Fast Charging Electric Vehicle Stations at Norman City Hall using CMAQ Grant #R1-2022 funds from Association of Central Oklahoma Governments (ACOG) (the PROJECT);

WHEREAS, OWNER requires certain professional survey, design, analysis and engineering series in connection with the PROJECT (SERVICES);

WHEREAS, CONSULTANT is prepared to provide said SERVICES; and

NOW THEREFORE, 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 4/27/2022.

ARTICLE 2 - COMPLETION DATE

CONSULTANT shall complete the SERVICES in accordance with Attachment A, Project Schedule.

ARTICLE 3 - GOVERNING LAW

The laws of the state of Oklahoma shall govern this AGREEMENT.

ARTICLE 4 - SERVICES TO BE PERFORMED BY CONSULTANT

CONSULTANT shall perform the SERVICES described in Attachment B, Scope of Services.

ARTICLE 5 - COMPENSATION

OWNER shall pay CONSULTANT in accordance with Attachment C, Compensation. CONSULTANT will submit invoices in a manner necessary to the agreement with ACOG so that the OWNER can receive reimbursement. 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

- 6.1. OWNER-Furnished Data: Upon request, OWNER will provide to CONSULTANT all data in OWNER's possession relating to CONSULTANT 's SERVICES on the PROJECT. Such data may include records, reports, studies, plans, record drawings, other data which may be useful in the PROJECT that is available in the OWNER's files, and equipment manuals for the EV Charging Station. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by OWNER. OWNER's data is provided for temporary use or copying by CONSULTANT.
- 6.2. Access to Facilities and Property: OWNER will make its facilities accessible to CONSULTANT as required for CONSULTANT's performance of its SERVICES
- 6.3. Timely Review: OWNER will examine CONSULTANT's studies, reports, sketches, drawings, estimates, specifications, proposals, and other documents; and transmit OWNER comments or other decisions to CONSULTANT in a timely manner.

- 6.4. Staff Assistance: OWNER will provide services of at least one of OWNER's staff who has right of entry to and knowledge of OWNER's facilities relating to this PROJECT in order to furnish legal assistance in preparation, review and approval of construction documents and to assist in locating existing utilities and in expediting their relocation.
- 6.5. Record Drawings: OWNER will provide CONSULTANT the construction information required to prepare recode drawings at the conclusion of construction.

ARTICLE 7 - STANDARD OF CARE

CONSULTANT shall exercise the same degree of care skill and diligence in the performance of the SERVICES as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. CONSULTANT shall correct the SERVICES that fail to satisfy this standard of care. No warranty, express or implied is included in this AGREEMENT or in any drawing, specifications, report or opinion produced pursuant to this AGREEMENT.

ARTICLE 8 - LIABILITY AND INDEMNIFICATION

- 8.1 General. Having considered the potential liabilities that may exist during the performance of the SERVICES, the benefits of the PROJECT, CONSULTANT's fee for the SERVICES and in consideration of the promises contained in this AGREEMENT, OWNER and CONSULTANT agree to allocate and limit such liabilities in accordance with this Article.
- 8.2 Indemnification and Liability. CONSULTANT agrees to indemnify, and hold harmless the OWNER, its officers, servants, and employees, from and against legal liability for all third party tort claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees recoverable under applicable law) from bodily injury (including death) or tangible property damage caused by a negligent act, error, or omission of CONSULTANT in the performance of services under this Agreement. OWNER agrees to indemnify, and hold harmless CONSULTANT, its officers, servants, and employees, from and against legal liability for all claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees recoverable under applicable law) caused by a negligent act, error, or omission 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. 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 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 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.
- 8.3 Employee Claims. CONSULTANT shall indemnify OWNER against legal liability for damages arising out of claims by CONSULTANT's employees. OWNER shall indemnify CONSULTANT against legal liability for damages arising out of claims by OWNER's employees.
- 8.4 Consequential Damages. To the fullest extent permitted by law, CONSULTANT shall only be be liable to OWNER for any special, indirect or consequential damages resulting from performance of SERVICES, where CONSULTANT'S behavior was negligent or willful misconduct.
- 8.5 Survival. Upon completion of all SERVICES obligations and duties provided for in this AGREEMENT or if this AGREEMENT is terminated for any reason the terms and conditions of this Article shall survive.

ARTICLE 9 - INSURANCE

During the performance of the SERVICES under this AGREEMENT CONSULTANT shall maintain the following insurance:

- 9.1 Worker's compensation insurance for CONSULTANT's employees as required by Oklahoma Workers Compensation Statutes.
- 9.2 Comprehensive general liability insurance with a minimum of \$125,000 per accident for bodily injury or death and \$25,000 per occurrence for property damage.
- 9.3 Comprehensive automobile liability insurance with a minimum of \$125,000 per accident for bodily injury or death and \$25,000 for property damage.
- 9.4 Professional Liability (errors and omissions) insurance with a minimum policy value of \$1,000,000.

CONSULTANT shall furnish OWNER certificates of insurance that shall include a provision that such insurance shall not be canceled without at least thirty days written notice to OWNER. All PROJECT contractors shall be required to include OWNER and CONSULTANT as additional insured on their General Liability Insurance policies.

CONSULTANT and OWNER each shall require its insurance carriers to waive all rights of subrogation against the other and its directors, officers, partners, commissioners, officials, agents and employees for damages covered by property insurance during and after the SERVICES. A similar provision shall be incorporated into all contractual arrangements entered into by OWNER and shall protect OWNER and CONSULTANT to the same extent.

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

CONSULTANT shall not be responsible for: (1) construction means, methods, techniques, sequences, procedures or safety and security precautions and programs in connection with the PROJECT; (2) the failure of any contractor, subcontractor, vendor or other PROJECT participant, not under contract to CONSULTANT, to fulfill contractual responsibilities to the OWNER or to comply with federal, state or local laws, regulations, and codes; or (3) procuring permits, certificates and licenses required for any construction unless such responsibilities are specifically assigned to CONSULTANT in Attachment B, Scope of Services.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Since 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 professional engineer. CONSULTANT does not guarantee that proposals, bids, or actual PROJECT costs will not vary from CONSULTANT's cost estimates.

ARTICLE 12 - REUSE OF DOCUMENTS

Upon OWNER's request CONSULTANT shall furnish OWNER with deliverables and/or other data on electronic media. All documents, including but not limited to, drawings, specifications and computer software prepared by CONSULTANT pursuant to this AGREEMENT are instruments of Service in respect to the PROJECT. Said documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the PROJECT or on any other PROJECT.

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

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. The non-performing party shall have fifteen

(15) calendar days from the date 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. If termination or suspension is for OWNER's convenience, OWNER shall pay CONSULTANT for all the SERVICES performed to date, amount not to exceed the normal fee amount due for the SERVICES rendered and termination or suspension expenses. Upon restart, an equitable adjustment shall be made to CONSULTANT's compensation.

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 non-performing party. For purposes of this AGREEMENT, such circumstances include, but are not limited to abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riot and other civil disturbances; strikes, work slowdowns and other labor disturbances; sabotage; judicial restraint; and 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.

Should such circumstances occur the non-performing party shall, within a reasonable period after 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 - COMMUNICATIONS

Any communication required by this AGREEMENT shall be made in writing to the address specified below:

CONSULTANT: John H. Bolte, P.E.
Small Arrow Engineering, LLC
Principal
1302 S. Main Street
Joplin, MO 64801
jbolte@smallarrow.com

OWNER: Michele Loudenback, RPES
Norman Utilities Authority (NUA)
201-C West Gray
P.O. Box 370
Norman OK 73070
405-307-7130
michele.loudenback@normanok.gov

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

ARTICLE 17 - 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 18 - 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 this AGREEMENT 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 19 - INTEGRATION

This AGREEMENT 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. This AGREEMENT, including its attachments and schedules, may only be changed by a written amendment executed by both parties. The following attachments and schedules are hereby made a part of this AGREEMENT:

Attachment A – Schedule
Attachment B – Scope of Services
Attachment C – Compensation

ARTICLE 20 - SUCCESSORS AND ASSIGNS

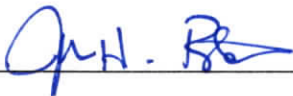
OWNER and CONSULTANT each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to this AGREEMENT and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this AGREEMENT.

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

DATED this _____ day of _____ 20_____.


Small Arrow Engineering, LLC – CONSULTANT

ATTEST

By: 

Printed Name: John H. Bolte, P.E.

Title: Principal / Managing Member



Troy E. Dunlap

Sr. Designer / Secretary / member

Norman Utilities Authority- OWNER

APPROVED as to form and legality this 26 day of April, 2022.



City Attorney

APPROVED by the Trustees of the Norman Utilities Authority this 27th day of April, 2022.

ATTEST

By: 

Printed Name: ~~Breca Clark~~ DARREL PULE

Title: ~~Chairman~~ CITY MANAGER



Brenda Hall

Secretary

ATTACHMENT A

SCHEDULE

CONSULTANT shall exercise its reasonable efforts to complete the work in accordance with the schedule below which is based on longer lead times for equipment orders:

	2022																				
Tasks	APR		MAY			JUNE			JULY			AUG		SEPT		OCT		NOV		DEC	
Notice to Proceed	X																				
City Plan Reviews			X		X			X						X		X					
Data Collection	X																				
Evaluate Existing EV Charging Systems		X																			
Evaluate Site for New EV Charging Systems		X																			
Evaluate EV Charging System Equipment			X																		
Evaluate Access to EV Chargers			X																		
Preliminary Plans/Cost Estimate			X																		
Electrical Systems Design			X																		
Control Systems Design			X																		
Construction Plans/Specs/Cost Estimate				X	X																
QA/QC Review				X																	
Prepare Equipment / Installation Bid Docs					X																
Plot & Print Equipment / Installation Package					X																
Bid Cycle for Equipment / Installation Package						X	X	X	X												
Award Bid & Order Equipment under PO							X	O	O	O	O	O	O	O	O	O					
Periodic Construction Phase Services													X	X		X					
Final Inspection / Station Integration																X					
Prepare Record Drawings / Plot Final Plans																X	X				
ACOG Quarterly Reports / Coordination					X								X							X	
Project Closeout																	X	X			

ATTACHMENT B

SCOPE OF SERVICES

General Project Scope:

The general scope of work for this project will be the development of design, construction plans, specifications, and other documents for the installation of two (2) dual DC fast-charging electric vehicle stations at Norman City Hall using CMAG Grant R1-2022 funds from ACOG. All design and construction requirements of the City of Norman will be followed. It is understood the scope of work will encompass, but not be limited to: evaluation of field data; research and investigation of relevant topics; development of a preliminary industrial design; appropriate inspection services; identification of potential construction issues and preliminary estimated construction costs; participation in a preliminary review meeting and pre-construction conference and other review meetings with staff and other stakeholders; conduct utility conferences with all effected utility line owners; completion of final construction plans for review; provision certain grant administration services; provision of bidding phase services; provision of construction administration support services; and the culmination of the project by the delivery of as-built plans.

Phase 1 –Design Phase

The CONSULTANT will provide the following services for the project design phase:

- A. Attend initial design workshop with OWNER officials and other stakeholders to review general requirements, establish critical design parameters, and discuss scheduling for the project.
- B. Perform Site Observation and review of existing systems. Utilize existing Topographic and Boundary Survey, and Geotechnical Investigation for Equipment Pad design.
- C. Evaluate Equipment and make recommendations for installation.
 1. Evaluate existing EV Charging Systems
 2. Evaluate locations for New EV Charging Systems
 3. Evaluate EV Charging System Equipment
 4. Evaluate Siting and Access to EV Chargers
 5. Develop EV Station Construction and Electrical Plans
- D. Coordination with OWNER personnel as to methods of arranging construction work so that a Sequence of Construction can be developed for the contractor.
- E. CONSULTANT will submit the preliminary plans to the OWNER for review along with a preliminary estimate of construction costs.
- F. Furnish three (3) copies of the design, construction plans, specifications, and other documents listed in this Section A.1 to the OWNER.
- G. Representatives of the project team, including the project manager, will be present during the construction documents review meeting and field review with the OWNER. Prepare minutes of the meeting and disseminate to all attendees.
- H. Incorporate OWNER comments, additions, deletions, and/or corrections to the plans and specifications.
- I. Furnish final construction drawings, and final contract documents with bidding proposal to the OWNER for final approval and signatures.
- J. Prepare final estimate for cost of construction.
- K. Furnish construction drawings and contract documents as required during bidding cycles (via contractor deposits).
- L. CONSULTANT shall furnish three (3) ½ -size plan sets and two (2) full size plan sets that contain all addendum changes in paper and 1 electronic copy to the OWNER.

Phase 2 – Bidding Phase

The CONSULTANT will provide the following bidding phase services including:

- A. OWNER will disburse construction documents to prospective bidders via contractor deposits.
- B. Answer questions from prospective bidders and issue interpretations and clarifications in writing to OWNER.
- C. Prepare necessary addenda for distribution to all plan holders by the OWNER.
- D. Attend pre-bid conference with OWNER staff and prospective bidders to present project requirements and answer project related questions.
- E. Attend bid opening. Prepare a tabulation of the bid proposals received and a recommendation for award of the construction contract.

Phase 3 – Construction Phase

The CONSULTANT will provide the following services during the construction phase including:

- A. Attend pre-construction conference.
- B. Engineering surveys for horizontal and vertical controls will be established by the CONTRACTOR. Any necessary adjustments or re-establishment of controls will be by CONTRACTOR.
- C. Respond to requests for information.
- D. Respond to requests for clarifications.
- E. Review and approve, or take other appropriate action on detailed drawings, shop drawings, and material information submitted by the contractor. Such checking shall be only for conformance with the design concept of the Project and compliance with the information given in the contract documents.
- F. CONSULTANT will perform periodic review of construction to observe the work for general conformance with the plans and specifications.
- G. Attend project progress meetings.
- H. CONSULTANT will prepare and submit change orders and time extensions to the OWNER for approval together with the reason for the change order and a recommendation. This shall include detailed backup information and any necessary drawings to resolve actual field conditions encountered.
- I. Attend final inspection. CONSULTANT will prepare a detailed listing of items requiring further attention by the contractor in order to comply with project requirements, prior to making recommendation for final payment.
- J. Prepare for the OWNER a set of drawings suitable for scanning or microfilming showing those changes made during the construction process based on marked-up prints, drawings and other data furnished by the Contractor to CONSULTANT, such information being required of the Contractor in the construction Contract Documents. "Record" drawings shall be submitted in the full size/half size form and on a flash drive in digital format.

Phase 4 – Grant Administration

The CONSULTANT will provide the grant administration services including:

- A. Prepare Reports per ACOG requirements and submit to ACOG staff. Assist CITY staff with development of project cost spreadsheet.
- B. Attend project meetings or Audits with ACOG staff as required.
- C. ACOG Coordination with CITY staff.

ATTACHMENT C

COMPENSATION

The OWNER will compensate the CONSULTANT on a lump sum basis for the SERVICES rendered. The lump sum fee is broken down below by task as defined in the Scope of Services:

Phase	Task Description	Total Fee Amount
1.0	Design Phase Services	\$18,400
2.0	Bidding Phase Services	\$2,520
3.0	Construction Phase Services	\$5,920
4.0	Grant Administration Services	\$1,800
	Other Expenses (Reproduction Services, Travel)	\$1,360
Total		\$30,000

CONSULTANT may submit interim statements, not to exceed one per month, for partial payment for SERVICES rendered. The statements to OWNER will be by task for the percentage of work actually completed. The OWNER shall make interim payments within 30 calendar days in response to CONSULTANT's interim statements.