
TULSA COUNTY

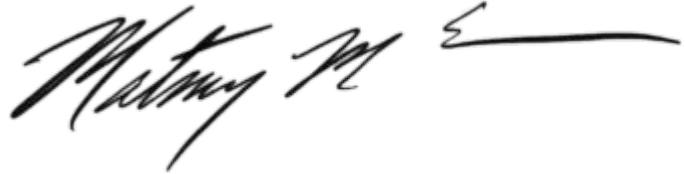
PURCHASING
DEPARTMENT

APPROVED
11/25/19

MEMO

DATE: November 20, 2019

FROM: Matney M. Ellis
Purchasing Director



TO: Board of County Commissioners

SUBJECT: Right-Of-Way Services Agreement- Meshek & Associates

Submitted for your approval and execution is the attached Right-Of-Way Services Agreement between the Board of County Commissioners on behalf of the Tulsa County Engineers and Meshek & Associates for various task orders through June 30, 2020.

MME / arh

SUBMITTED FOR: The November 25, 2019 agenda.

CMF# 20191143

APPROVED
11/25/19

AGREEMENT FOR RIGHT OF WAY SERVICES

FOR

MISCELLANEOUS ROADWAY AND BRIDGE PROJECTS

This AGREEMENT is made and entered into on this 25th day of November, 2019, by and between the Board of County Commissioners of the County of Tulsa in the State of Oklahoma, hereinafter referred to as COUNTY, and Meshek & Associates, LLC., hereinafter referred to as CONSULTANT;

WITNESSETH:

WHEREAS, COUNTY plans to purchase RIGHT OF WAY for miscellaneous roadway and bridge projects, hereinafter referred to as the PROJECT; and

WHEREAS, the COUNTY requires certain professional services in connection with the PROJECT, hereinafter referred to as the SERVICES; and

WHEREAS, CONSULTANT is prepared to provide such SERVICES; and

WHEREAS, funding is available for the payment of the CONSULTANT for providing the SERVICES under this AGREEMENT.

NOW THEREFORE, in consideration of the promises contained herein, the parties hereto agree as follows:

- 1.0 SCOPE OF PROJECT:** The scope of this PROJECT is described in Attachment A, SCOPE OF SERVICES, which is attached hereto and incorporated by reference as part of this AGREEMENT.
- 2.0 SERVICES TO BE PERFORMED BY CONSULTANT:** CONSULTANT shall perform the SERVICES described in Attachment A, SCOPE OF SERVICES, which is attached hereto and incorporated by reference as part of this AGREEMENT.
- 3.0 COMPENSATION:** The COUNTY shall pay CONSULTANT in accordance with Attachment C, COMPENSATION, which is attached hereto and incorporated by reference as part of this AGREEMENT.
- 4.0 TIME FOR COMPLETION:** The CONSULTANT shall provide the necessary SERVICES and complete all work required for the PROJECT within the times stated in Attachment A, TIME FOR COMPLETION, which is attached hereto and incorporated by reference as part of this AGREEMENT. The term of the PROJECT will run until the earlier of its completion or Jun. 30, 2020, subject to renewal by written agreement signed by the parties.
- 5.0 STANDARD OF PERFORMANCE:** The CONSULTANT shall perform the SERVICES in a manner consistent with the prevailing accepted standard for similar services with respect to projects of comparable function and complexity

CMF# 20191143

and with the applicable laws and regulations published and in effect at the time of performance of the SERVICES. The PROJECT shall be completed in a good and workmanlike manner and in strict accordance with this AGREEMENT. All ROW work shall be performed by or under the supervision of an ODOT-certified ROW Project Manager licensed in the State of Oklahoma, and properly qualified to perform such consulting services, which qualification shall be subject to review by COUNTY. The CONSULTANT shall have the obligation to the COUNTY to perform in accordance with the foregoing standard, but no warranty, either express or implied, shall apply to the SERVICES to be performed by the CONSULTANT pursuant to this AGREEMENT or to the suitability of CONSULTANT'S work product for a particular use.

6.0 LIMITATIONS OF RESPONSIBILITY: CONSULTANT shall not be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the PROJECT.

7.0 OPINIONS OF COST AND SCHEDULE:

7.1 Because the CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over contractors', subcontractors' or vendors' methods of determining prices, or over competitive bidding or market conditions, the CONSULTANT'S opinions of the probable cost of the PROJECT as for herein are to be made on the basis of his experience and qualification. Such opinions represent his best judgment as experienced and qualified ROW Project Manager familiar with the industry. The CONSULTANT does not guarantee that the proposals, bids or actual construction costs will not vary from the opinions of probable cost prepared by him.

7.2 Because the CONSULTANT has no control over the resources provided by others to meet construction contract schedules, the CONSULTANT'S opinion of the probable construction schedule for the PROJECT is to be made on the basis of his experience and qualifications. Such opinion represents his best judgment as an experienced and qualified ROW Project Manager familiar with the industry. The CONSULTANT does not guarantee that the construction schedule will not vary from the opinion prepared by him.

8.0 LIABILITY AND INDEMNIFICATION:

8.1 The CONSULTANT shall indemnify the COUNTY from and against legal liability for damages arising out of the performance of the SERVICES for the COUNTY including, but not limited to any claims, costs, attorney fees, or other expenses of whatever nature where such liability is caused by the negligent act, error, or omission of CONSULTANT or any employee, sub-consultants or agents for whom CONSULTANT is legally liable. Nothing in this paragraph shall make the CONSULTANT liable for any damages caused by the COUNTY or any other contractor of the COUNTY.

8.2 The CONSULTANT shall not be liable to the COUNTY for any special, indirect or consequential damages, such as, but not limited to, loss of revenue, or loss of anticipated profits.

9.0 COMPLIANCE WITH LAWS:

- 9.1 In performance of the SERVICES, the CONSULTANT will comply with applicable regulatory requirements including federal, state, and local laws, rules, regulations, orders, codes, criteria and standards. The CONSULTANT shall procure the permits, certificates, and licenses necessary to allow CONSULTANT to perform the SERVICES. CONSULTANT shall not be responsible for procuring permits, certificates, and licenses required for any construction unless such responsibilities are specifically assigned to CONSULTANT in Attachment A, SCOPE OF SERVICES.
- 9.2 The CONSULTANT shall take steps within its authority to verify the project is in compliance with the United States Department of Justice guidelines for Title II and III of the Americans With Disabilities Act. It is understood that the program of the CONSULTANT is not a program or activity of the COUNTY. The CONSULTANT agrees that its program or activity will comply with the requirements of the Americans with Disabilities Act. Any cost of such compliance will be the responsibility of the CONSULTANT.

10.0 INSURANCE:

- 10.1 During the performance of the SERVICES under this AGREEMENT, the CONSULTANT shall keep and carry in force policies of insurance in the minimum amount as set forth herein or as required by the laws of the State of Oklahoma, whichever is greater.
 - 10.1.1 General Liability Insurance with bodily injury limits of not less than \$1,000,000 for each occurrence and not less than \$1,000,000 in the aggregate, and with property damage limits of not less than \$100,000 for each occurrence and not less than \$100,000 in the aggregate.
 - 10.1.2 Automobile Liability Insurance with bodily injury limits of not less than \$1,000,000 for each person and not less than \$1,000,000 for each accident and with property damage limits of not less than \$100,000 for each accident.
 - 10.1.3 Worker's Compensation Insurance in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than \$100,000 for each occurrence.
 - 10.1.4 Professional Liability Insurance with limits of not less than \$500,000 with prior acts endorsement for the insurance to remain in effect for a minimum of two years after acceptance of the PROJECT by the COUNTY.
- 10.2 The CONSULTANT shall furnish to the COUNTY certificates of insurance showing he is carrying insurance in at least the specified minimum amounts. Said certificates shall further provide that said insurance will not be cancelled by the Insurer without the Insurer first giving the COUNTY thirty (30) days written notice of cancellation.

11.0 COUNTY'S RESPONSIBILITIES: The COUNTY shall be responsible for all matters described in Attachment B, RESPONSIBILITIES OF THE COUNTY, which is attached hereto and incorporated by reference as part of this agreement.

12.0 OWNERSHIP AND REUSE OF DOCUMENTS:

12.1 All documents, including original drawings, estimates, specifications, field notes and data shall become and remain the property of the COUNTY.

12.2 The COUNTY'S use of such documents other than the specific purpose for which they were intended without written verification or adaptation by CONSULTANT shall be at COUNTY'S risk and responsibility.

13.0 TERMINATION OF CONTRACT:

13.1 At any time prior to completion of all SERVICES under this AGREEMENT and in the event of substantial failure by one party to perform in accordance with the terms of this AGREEMENT through no fault of the terminating party, the terminating party may terminate this AGREEMENT by giving written notice by registered mail at least fifteen days prior to the effective date of termination.

13.2 The COUNTY shall have the right to terminate this AGREEMENT, or suspend performance thereof, for COUNTY'S convenience by giving written notice to CONSULTANT. In the event of termination or suspension of the AGREEMENT for COUNTY'S convenience, COUNTY shall make prompt payment to the CONSULTANT for all SERVICES performed in accordance with provisions of Attachment C, COMPENSATION. Upon receipt of written notice by the CONSULTANT to resume the SERVICES under this AGREEMENT, compensation shall continue in accordance with Attachment C, COMPENSATION.

14.0 NOTICE:

14.1 Any notice demand, or request required by or made pursuant to this AGREEMENT shall be considered properly made if personally delivered in writing or if delivered by the United States Postal Service, postage prepaid, to the address specified below.

14.1.1 To CONSULTANT: Meshek & Associates, LLC
1437 S. Boulder Ave., Suite 1550
Tulsa, OK 74119

14.1.2 To COUNTY: Tulsa County Engineer's Office
500 South Denver, Room 312
Tulsa, Oklahoma 74103

- 14.2 Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONSULTANT and COUNTY.
- 15.0 UNCONTROLLED FORCES:** Neither the COUNTY nor CONSULTANT shall be considered to be in default of this AGREEMENT if failures or delay of performance shall be due to forces which are beyond the control of the parties; including, but not limited to: fire, flood, earthquakes, storms, lightning, epidemic, war, riot, civil disturbance or sabotage; inability to procure permits, licenses, or authorizations from any state, local, or federal agency or person for any of the supplies, materials, accesses, or services required to be provided by either COUNTY or CONSULTANT under this AGREEMENT; strikes, work slowdowns or other labor disturbances, and judicial restraint.
- 16.0 SEVERABILITY:** If any portion of the AGREEMENT shall be construed by a court of competent jurisdiction as unenforceable, such portion shall be severed here from, and the balance of this AGREEMENT shall remain in full force and effect.
- 17.0 INTEGRATION AND MODIFICATION:** This AGREEMENT includes Attachments A, B, and C and represents the entire and integrated AGREEMENT between the Parties; and supersedes all prior negotiations, representations, or agreements pertaining to the SCOPE OF SERVICES contained herein, either written or oral. This AGREEMENT may be amended only by a written instrument signed by each of the Parties.
- 18.0 ASSIGNMENT:**
- 18.1 The CONSULTANT shall not assign its obligations undertaken pursuant to this AGREEMENT, to another party, provided that nothing contained in this paragraph shall prevent CONSULTANT from employing such independent consultants, associates, and subcontractors as CONSULTANT may deem appropriate to assist CONSULTANT in the performance of the SERVICES hereunder.
- 18.2 It is understood and agreed that all work performed under this AGREEMENT shall be subject to inspection and approval by the County Engineer and any plans or specifications not meeting the terms set forth in this AGREEMENT will be replaced or corrected at the sole expense of the CONSULTANT. The CONSULTANT will meet with the COUNTY staff initially and monthly thereafter and will be available for public hearings and or County Commission presentations.
- 18.3 DISPUTE RESOLUTION PROCEDURE: In the event of a dispute between the CONSULTANT and the COUNTY over the interpretation or application of the terms of this AGREEMENT, the matter shall be referred to the County Engineer for resolution. If the County Engineer is unable to resolve the dispute, the matter may be referred to the County Commission for resolution. Regardless of these procedures, neither party shall be precluded from exercising any rights, privileges or opportunities permitted by law to resolve any dispute.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT in multiple copies on the respective dates noted herein, said AGREEMENT to be effective on the date executed by the Chairman of the Board of County Commissioners.

ATTEST: (SEAL)



TULSA COUNTY, OKLAHOMA
Board of County Commissioners

[Signature]

County Clerk

[Signature]

Chairman

APPROVED AS TO FORM:

James G. Rea

Digitally signed by James G. Rea
Date: 2019.11.20 09:06:28 -06'00'

Assistant District Attorney

MESHEK & ASSOCIATES, LLC

[Signature]
Janet K. Meshek, PE, CFM, SR/WA
Manager, Meshek & Associates, LLC

State of Oklahoma)
County of Tulsa) ss

Subscribed and sworn to before me on the 19th day of November, 2019.

My Commission Expires:
07-09-2022

[Signature]
Notary Public



ATTACHMENT A
SCOPE OF SERVICES

A. SCOPE OF SERVICES. In accordance with the direction issued by the County for various TASK ORDERS within Tulsa County, the SCOPE OF SERVICES for the PROJECTS shall consist of:

- a. ROW Staking
- b. Appraisal Project Management
- c. Appraisals
- d. Appraisal Reviews
- e. Acquisition Project Management
- f. Acquisition
- g. Relocation
- h. Related services required to accomplish the work

The TASK ORDERS will be selected individually by the County. Detailed SCOPE OF SERVICES will be addressed in the individual TASK ORDERS.

The TIME OF COMPLETION per TASK ORDER will be addressed in the individual TASK ORDERS.

ATTACHMENT B
RESPONSIBILITIES OF THE COUNTY

B. RESPONSIBILITIES OF THE COUNTY: THE COUNTY shall provide the information and services as provided herein in a manner that causes no undue delays in the performance of the SERVICES by the CONSULTANT.

B.1. INFORMATION: The COUNTY shall furnish, as requested and required by the CONSULTANT and at no expense to the CONSULTANT, information relative to the design and construction of the PROJECT.

1. Records, reports, studies, plans, drawings, and any other data available in the files of the COUNTY which may be useful in the work involved under this AGREEMENT.
2. Standard drawings, contract documents and specifications.
3. Geotechnical investigation and pavement design.
4. Traffic data, design speed, and other relevant roadway design criteria.

B.2. ACCESS: The COUNTY shall furnish and make all provisions for the CONSULTANT to enter upon public or private property as required for the CONSULTANT to perform his services under this AGREEMENT.

B.3. STAFF ASSISTANCE: The COUNTY shall designate in writing one person to act as its representative with respect to the SERVICES to be provided under this AGREEMENT and such person shall have complete authority to transmit instructions, receive information and interpret and define COUNTY policies and decisions with respect to materials, equipment and systems pertinent to the SERVICES covered by this AGREEMENT. Additional staff assistance may be provided as necessary to assist and expedite the PROJECT in those areas outside of the CONSULTANT's areas of responsibility, to specifically include:

1. Preparation, review and approval of ROW documents.
2. Furnish staff assistance to coordinate with the utility companies in locating, exposing and relocating existing utilities and/or their proposed future extensions.

B.4. DOCUMENT REVIEW: The COUNTY shall examine all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the CONSULTANT and the COUNTY shall render in writing all decisions pertaining thereto within a reasonable time so as not to delay the services of the CONSULTANT.

COMPENSATION
ATTACHMENT C

- C. COMPENSATION. The COUNTY agrees to pay, as compensation for services set forth in Attachment B, the following fees, payable monthly as each Phase of the work progresses; and within 30 calendar days of receipt of invoice. CONSULTANT shall submit monthly invoices based upon actual hours used and deliverables provided at the time of billing. Invoices shall be accompanied by such documentation as the COUNTY may require in substantiation of the amount billed. COUNTY shall have the right to withhold payment to CONSULTANT until updated insurance certificates evidencing the required insurance coverage are submitted in the event that the insurance shown on the insurance certificate submitted with this Agreement expires before completion of the Project.
- C.1 COMPENSATION FOR LABOR COSTS, OVERHEAD COSTS, PROFIT, SUBCONSULTANTS AND SUBCONTRACTORS.
- C.1.1 Labor shall be compensated for actual time spent on the individual TASK ORDERS based on the 2019 Billing Rate Sheet, included herein as Attachment C-1. Billing Rate Sheet will be updated on July 1 of each calendar year.
- C.1.2 Subconsultants and Subcontractors. Services of subcontractors and other professional consultants shall be compensated for based upon the percentage of the work completed at the time of billing. Compensation includes actual cost plus 5%.
- C.2 Other Related Services. Other services not included in the foregoing, when authorized in writing by the COUNTY as part of an executed Amendment to this agreement, shall be paid in accordance with the terms of such amendment.
- C.3 Travel and Subsistence Reimbursement. Travel and subsistence shall be reimbursed at actual costs.
- C.4 Reproduction Reimbursement. Reproduction shall be reimbursed at actual cost, not to exceed budgeted amount and will not include payment of any markup, profit or overhead to the CONSULTANT.
- C.5 Terminated Services. If this AGREEMENT is terminated, CONSULTANT shall be paid for services performed to the effective date of termination.

BILLING RATES
ATTACHMENT C-1

Allowance for Office Work:

Project Principal II	\$	228/hour
ROW Project Manager	\$	152/hour
Acquisition/Relocation Agent II	\$	114/hour
Acquisition/Relocation Agent I	\$	109/hour
Real Estate Trainee	\$	83/hour
Survey Manager	\$	122/hour
Survey Crew Chief II	\$	83/hour
Survey Crew Chief I	\$	76/hour
Survey Crew Technician	\$	79/hour
Survey CAD Technician	\$	96/hour
GIS Project Principal	\$	167/hour
GIS Project Manager	\$	160/hour
GIS Specialist II	\$	125/hour
GIS Specialist I	\$	114/hour
GIS Analyst	\$	86/hour
GIS Technician	\$	82/hour
GPS Field Technician	\$	70/hour
Contract Administrator	\$	122/hour
Clerical	\$	91/hour

Allowance for Travel:

Total mileage traveled for field and office visits
@ Current IRS rate.

Reproduction costs:

In-house reproduction

8-1/2"x11" black/white	\$	0.08/each
8-1/2"x11" color	\$	0.15/each
8-1/2"x14" black/white	\$	0.10/each
8-1/2"x14" color	\$	0.17/each
11"x17" black/white	\$	0.20/each
11"x17" color	\$	0.35/each
Black and White Plots	\$	2.00/each
Color Plot	\$	5.00/each
Mylars	\$	5.00/each
USB Flash Drive	\$	10.00/each
Per Diem – Meals	@	Current GSA Rate
Per Diem – Lodging	@	Current GSA Rate

Miscellaneous outside expenses and fees: Cost plus 5%