

**AGREEMENT SUMMARY
CITY OF BROKEN ARROW
ASPEN POND RETAINING WALL IMPROVEMENTS
PROFESSIONAL CONSULTANT AGREEMENT
PROJECT NO. SW25070**

1.0 Professional Consulting Firm:

- 1.1 Name: Freese and Nichols, Inc.
- 1.2 Telephone No.: 539.444.8677
- 1.3 Address: 5100 E. Skelly Dr., Suite 602
Tulsa, OK 74135

2.0 Project Name/Location: Aspen Pond on Aspen Ave. near 4200 S. Aspen Ave. Broken Arrow, OK

3.0 Statement of Purpose: CONSULTANT understands that the OWNER has retained their professional services in order to prepare Construction Documents for bidding purposes for improvements to the existing retaining wall near 4200 S. Aspen Ave. where seepage has been observed within the side from the adjacent pond, Broken Arrow, OK. These documents shall include, but not be limited to, the following: provide the bid document quantities; construction plans detailing the intent of the project; standard details and standard drawings associated with the project specifics; construction specifications; general conditions, and special conditions.

4.0 Agreement Summary:

4.1 Agreement Amount:	
Design Fees	\$ 62,375.00
Bidding & Construction	<u>\$ 12,184.00</u>
TOTAL AGREEMENT AMOUNT	\$ 74,560.00

4.2 Agreement Time: 236 calendar days

5.0 Agreement Approved by the Owner on: _____ 2025

**AGREEMENT
FOR
PROFESSIONAL CONSULTANT SERVICES
BETWEEN
CITY OF BROKEN ARROW
AND
FREESE AND NICHOLS, INC.
FOR
ASPEN POND RETAINING WALL IMPROVEMENTS
PROJECT SW25070**

This AGREEMENT, including Attachment A through Attachment E, between the City of Broken Arrow (OWNER) and Freese and Nichols, Inc., (CONSULTANT);

WITNESSETH:

WHEREAS, OWNER intends to create the Aspen Pond Retaining Wall Improvements (PROJECT) for which, OWNER has requested that CONSULTANT provide certain professional services as required and,

WHEREAS, CONSULTANT is qualified and capable to provide the professional services required;

NOW, therefore, in consideration of the promises contained in this AGREEMENT, OWNER and CONSULTANT agree as follows:

ARTICLE 1 - EFFECTIVE DATE

This AGREEMENT shall be effective upon signature of both parties.

ARTICLE 2 - GOVERNING LAW

This AGREEMENT shall be governed by the laws of the State of Oklahoma and venue for any action concerning this Agreement shall be in the District Court of Tulsa County, Oklahoma.

ARTICLE 3 - SERVICES TO BE PERFORMED BY CONSULTANT

CONSULTANT shall perform the SERVICES described in Attachment A, Scope of Services. CONSULTANT and OWNER agree CONSULTANT'S work performed under this AGREEMENT are performed as an independent contractor. If construction phase services are included, the CONSULTANT shall be the OWNER'S agent and representative to observe, record and report with respect to all services that are required or authorized by the construction documents. OWNER and CONSULTANT agree that the services to be performed under this Agreement by the CONSULTANT shall be as an independent contractor.

ARTICLE 4 – ORGANIZATION OF SUBMITAL DOCUMENTS

CONSULTANT shall prepare the documents as described in Attachment B as part of this Agreement.

ARTICLE 5 - COMPENSATION

OWNER shall pay CONSULTANT in accordance with Attachment C, Compensation.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

OWNER shall be responsible for all matters described in Attachment D, OWNER'S Responsibilities and Special Conditions.

ARTICLE 7 - STANDARD OF CARE

CONSULTANT shall perform the SERVICES undertaken in a manner consistent with the prevailing accepted standard for similar services with respect to projects of comparable function and complexity, and with the applicable state laws, as well as the specific codes, regulations, design criteria and construction specifications adopted by the owner and other governing policies published and generally considered authoritative by CONSULTANT'S profession that are in effect at the time of performance of these SERVICES. CONSULTANT is obligated to perform professional services in accordance with the foregoing standard with respect to the laws, codes, regulations, design criteria and construction specifications that are applicable pursuant to this AGREEMENT.

ARTICLE 8 - LIABILITY

8.1 General. Having considered the potential liabilities that may exist during the performance of these SERVICES, the benefits of the PROJECT, and 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 Article 10.

8.2 Indemnification. CONSULTANT agrees to defend, indemnify, and hold harmless OWNER, and its agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by the negligent or intentional acts, errors, or omissions of CONSULTANT, its agents or employees. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of OWNER and CONSULTANT, or their agents or employees, then they shall be borne by each party in proportion to each entity's own negligence.

8.3 Consequential Damages. OWNER shall not be liable to CONSULTANT for any special, indirect, or consequential damages resulting in any way from the performance of the SERVICES such as, but not limited to, loss of use, loss of revenue, or loss of anticipated profits.

8.4 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 8 shall survive.

ARTICLE 9 - INSURANCE

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

- (1) General Liability Insurance, with a combined single limit of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate;
- (2) Automobile Liability Insurance, with a combined single limit of not less than \$1,000,000 for each person, not less than \$1,000,000 for each accident and not less than \$1,000,000 for property damage; and
- (3) Professional Liability Insurance, with a limit of \$1,000,000 annual aggregate.

CONSULTANT shall furnish OWNER certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days written notice to OWNER. All PROJECT sub-consultants shall be required to name OWNER and CONSULTANT as certificate holders on their certificate of insurance for the PROJECT, and shall be required to indemnify OWNER and CONSULTANT to the same extent. CONSULTANT shall be held responsible to submit certificates of insurance for sub-consultants to OWNER prior to the sub-consultant's release to commence work.

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

CONSULTANT shall not be responsible for: (1) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the construction

of the PROJECT; or (2) procuring permits, certificates, and licenses required for any construction unless such responsibilities are specifically assigned to CONSULTANT in Attachment A, Scope of Services.

ARTICLE 11 - LIMITATIONS OF RESPONSIBILITIES FOR ACTS OF OTHERS

CONSULTANT shall not at any time supervise, direct, control or have authority over any work performed by any employee, contractor or other agent of OWNER. CONSULTANT shall not be responsible for the acts or omissions of any employee, contractor or other agent associated with the PROJECT except for its own employees, subcontractors and other agents.

ARTICLE 12 - 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. CONSULTANT does not guarantee that proposals, bids, or actual PROJECT costs will conform to OWNER'S cost estimates or that actual schedules will conform to OWNER'S projected schedules.

ARTICLE 13 - REUSE OF DOCUMENTS

All documents, including, but not limited to, drawings, specifications, and details, reports, etc. prepared by CONSULTANT pursuant to this AGREEMENT are instruments of service in respect to the PROJECT. They are not intended or represented to be suitable for reuse by CONSULTANT or others on extensions of the PROJECT or on any other project. Any reuse or adaptation without prior written verification by the OWNER for the specific purpose intended will be at CONSULTANT'S sole risk and without liability or legal exposure to the OWNER. CONSULTANT shall defend, indemnify, and hold harmless the OWNER against all claims, losses, damages, injuries, and expenses, including attorney's fees, arising out of or resulting from such reuse.

ARTICLE 14 - OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, engineering documents, drawings, and specifications prepared by CONSULTANT as part of the SERVICES shall become the property of OWNER. CONSULTANT shall retain its rights in its standard drawing details, specifications, data bases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the SERVICES shall remain the property of CONSULTANT, but shall be provided to the OWNER, at no additional expense to the OWNER.

ARTICLE 15 - TERMINATION

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by the either 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 suspend performance of this AGREEMENT for OWNER'S convenience upon written notice to CONSULTANT. Upon restart, an equitable adjustment may be made to CONSULTANT'S compensation, if the period of suspension has created an economic hardship for the CONSULTANT.

ARTICLE 16 - 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 such as floods, earthquakes, fire; civil disturbances such as war, riots, or other civil epidemic; power outages, strikes, lockouts, work slowdowns, or 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 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 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.

ARTICLE 20 - SUCCESSORS AND ASSIGNS

To the extent permitted by Article 22, OWNER and CONSULTANT each binds itself and its successors and assigns to the other party to this AGREEMENT.

ARTICLE 21 - ASSIGNMENT

Neither OWNER nor CONSULTANT shall assign its duties under this AGREEMENT without the prior written consent of the other party. 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 employing independent sub-consultants, associates, and sub-contractors to assist in the performance of the SERVICES. However, third party entities must comply with Article 9.

ARTICLE 22 - THIRD PARTY RIGHTS

Nothing in this AGREEMENT shall be construed to give any rights or benefits to anyone other than OWNER and CONSULTANT.

ARTICLE 23 - COMPLETION

CONSULTANT shall complete the services within the time frame outlined on Attachment E, Schedule, subject to conditions which are beyond the control of the CONSULTANT.

ARTICLE 24 - IMMIGRATION COMPLIANCE

24.1 Consultant shall demonstrate that he:

- 24.1.1 Has complied, and shall at all times during the term of this Contract, comply in all respects with all immigration-related laws, statutes, ordinances and regulations including without limitation, the Immigration and Nationality Act, as amended, the Immigration Reform and Control Act of 1986, as amended, and the Oklahoma Taxpayer and Citizen Protection Act of 2007 (Oklahoma HB 1804) and any successor laws, ordinances or regulations (collectively, the Immigration Laws”); and
- 24.1.2 Has properly maintained, and shall at all times during the term of this Contract, maintain any and all employee records required by the U.S. Department of Homeland Security (“DHS”), including, without limitation, properly completed and maintained Form I-9s for each of the Consultants employees; and
- 24.1.3 Has verified the employment eligibility for all employees hired on or after July 1, 2008 through DHS’s E-Verify system, and shall at all times continue to verify the employment eligibility of all employees hired during the term of this Contract; and
- 24.1.4 Has required, and will at all times during the term of this Contract, require any sub-contractor utilized, hired or sub-contracted for by Consultant for the completion or undertaking of any duties, tasks or responsibilities under this Contract, to comply the requirements and obligations imposed by the Immigration Laws and set forth in Paragraph (l), parts (a), (b) and (c), above, with regards to each of the sub-contractor’s employees.
- 24.2 Consultant will indemnify, defend and hold harmless City against any loss, cost, liability, expense (including, without limitation, costs and expenses of litigation and reasonable attorney’s fees) demands, claims, actions, causes of action, liabilities, suits, damages, including special and consequential damages that arise from or in connection with, directly or indirectly, Consultants failure, deliberate or negligent, to fulfill its obligations and representations regarding verifying the employment eligibility of its employees and the employees of any subcontractor utilized by Consultant as set forth more fully in Paragraph 24.1 above.

ARTICLE 25 - COMMUNICATIONS

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

OWNER: City of Broken Arrow
485 N. Poplar Avenue
Broken Arrow, OK 74012
Contact: Charlie Bright, P.E.
Director of Engineering and Construction

CONSULTANT: Freese and Nichols, Inc.
5100 E. Skelly Dr., Suite 602
Tulsa, OK 74135
539.444.8677

Contact Name: Austin Dugger, P.E.
Project Manager

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

REMAINDER OF PAGE INTENTIONALLY BLANK

IN WITNESS WHEREOF, the City Manager of the City of Broken Arrow, Oklahoma has hereunto set his hand, for and on behalf of the City of Broken Arrow and the CONSULTANT has signed, or caused his name to be signed, and seal affixed by proper authority, the day and year first above written and these presents have been executed in triplicate counterparts.

OWNER:

City of Broken Arrow, a Municipal Corporation

By: _____

Michael L. Spurgeon, City Manager

Date: _____

CONSULTANT:

Freese and Nichols, Inc.

By: SAEL _____

Scott Hubley, P.E., Principal & Vice President

Date: 3/18/25 _____

(CORPORATE SEAL, IF APPLICABLE)

Attest:

City Clerk [Seal]

Date: _____

Attest:

Jeremy Rice

Jeremy Rice, Project Manager

Date: 3/18/25 _____

Approved as to form:

D. Graham Parker

Assistant City Attorney

VERIFICATION

State of Oklahoma)

County of Oklahoma) §

Before me, a Notary Public, on this 18 day of March, 2025, personally appeared Scott Hubley, known to be to be the (President, Vice-President, Corporate Officer, Member, or Other: _____) of Freese and Nichols, Inc., and to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

My Commission Expires:

3-21-2026

[Signature]

Notary Public



**ATTACHMENT A
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW (OWNER)
AND
FREESE AND NICHOLS, INC.
FOR
ASPEN POND RETAINING WALL IMPROVEMENTS
PROJECT SW25070**

SCOPE OF SERVICES

The following scope of services shall be made a part of the AGREEMENT dated the ____ day of _____, 2025.

1.0 PROJECT UNDERSTANDING

- 1.1 CONSULTANT understands that the OWNER has retained their professional services in order to prepare construction documents for bidding purposes for improvements to the existing retaining wall owned by the City near 4200 S. Aspen Ave. where seepage has been observed within the side from the adjacent pond. These documents shall include, but not be limited to, the following: survey and providing the basis for bid documents quantities; construction plans detailing the intent of the project; standard details and standard drawings associated with the project specifics; construction specifications; general conditions, and special conditions.
- 1.2 The CONSULTANT is required to keep the OWNER apprised of the PROJECT costs and advise the OWNER of necessary cost reduction measures, if required, during the course of the PROJECT.
- 1.3 Furthermore, the CONSULTANT understands that the OWNER has (\$TBD) budgeted for this PROJECT that includes all professional consultant fees and project construction monies.

2.0 PROJECT SCOPE

- 2.1 CONSULTANT shall perform civil design of approximately 200 linear feet (LF) of internal wall drainage design to stop seepage along the existing retaining wall. It is understand an existing sheetpile wall is located between the existing modular block wall and pond. As-built documents of the wall are unable to be located by the OWNER. Design is limited to internal drainage to protect the existing retaining wall at the headwall to the south of the site. The design will include topographic survey, internal drainage design, and outfall headwall protection.
- 2.2 OWNER shall provide existing roadway and development plans within the project area and any other pertinent information regarding the Aspen Pond retaining wall.

- 2.3 CONSULTANT shall provide consulting services as follows:
Review available data (as-builts, models, reports, GIS data, etc.)
Survey Services
Project Coordination
Internal Drainage Design
Limited Bidding and Construction Support

3.0 SCOPE OF SERVICES

- 3.1 ADMINISTRATIVE/MANAGERIAL DUTIES: CONSULTANT shall be responsible to perform the following tasks throughout the course of the PROJECT:
- 3.1.1 Document all meetings, conferences, coordination, phone conversations, etc. and send documentation to OWNER within three (3) calendar days.
 - 3.1.2 Meet with the Owner in a Pre-Design Conference in order to determine design criteria, requirements and codes and other critical design features of the Project such as preferred alignment as well as project schedule and milestone dates.
 - 3.1.3 Provide Owner with a list of all proposed sub-consultants and tasks sub-consultants are responsible to perform.
 - 3.1.4 Meet with the Owner (total 4 meetings) to discuss review comments on each phase of the project, and incorporate appropriate comments into following phase.
 - 3.1.5 Routine project controls includes administration of contract, prepare invoices and progress reports, maintain project schedule, on-going management and coordination of FNI task leads and subconsultants, and coordinate with grant administrator, if applicable.
 - 3.1.6 Quality Assurance/Quality Control (QA/QC) – Implement quality review program and perform QA/QC activities for internal and subconsultant deliverables. FNI shall engage senior staff to perform detailed QA/QC reviews of the design and supporting documents, including all models and reports.
- 3.2 LAND SURVEY: Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the schedule provided in Attachment E:
- 3.2.1 Check horizontal control and vertical control necessary for the design and construction of the project including the establishment of reference points and benchmarks at each end and at interim points of the project and setting PK nails, at distances no greater than 500 feet between PK nails and at offset locations sufficient as to not be disturbed during construction, throughout the project. Control shall be in accordance with the OWNER's Engineering Design Criteria.
 - 3.2.2 Review all field surveys, including topographical, boundary, and aerial surveys, as necessary, for design of the project.
 - 3.2.3 Perform Level B SUE.
 - 3.2.4 Submit one (1) drawing on electronic media (AutoCAD 2024 version preferred) and one (1) PDF file of the final survey review. This document provided to the City will be regarded as the Design Survey.
 - 3.2.5 City to provide Right of Entry to the site.
- 3.3 PRELIMINARY DESIGN PHASE (60%): Upon receiving the written Notice to

Proceed, CONSULTANT shall perform the following tasks in accordance with the schedule provided in Attachment E:

3.3.1 Consultant to review site information and coordinate with the OWNER to obtain the most current and appropriate data for the site as needed.

CONSULTANT to review available existing data provided including:

- Obtain and review pertinent data that may impact the project including, but not limited to, existing water, wastewater, storm drainage, and paving as-builts, existing CCTV data, GIS data, existing and future land use/zoning data, historical photos, and aerial imagery.
- Any available storm drain and utility flow data and models.

3.3.2 CONSULTANT will conduct one (1) site visit to visually assess site conditions. Permission to access the site will be provided by the City. Detailed geotechnical design is not included in this scope.

3.3.3 Development of Preliminary Design Drawings shall include the following:

- Cover Sheet
- General Notes
- Overall Project Layout
- Internal Drainage Plan and Profile
- Design Details
- General Details

3.3.4 CONSULTANT will prepare a preliminary opinion of probably construction cost and outline of project specifications.

3.3.5 Draft plan sheet will be formatted for 22" x 34" sheets. Plan set will be set up using Consultant CAD Standards and City of Broken Arrow title block. CAD files will not be submitted as part of the 60% Design.

3.4.3 This scope includes addressing one (1) round of comments to the 60% Design Documents and such comments, if any, will be incorporated into the 90% Design Documents. The Consultant will attend one (1) meeting with the Owner to review the 60% Design Documents. Consultant will provide written responses to comments provided by the Owner.

3.4 FINAL DESIGN PHASE (90%): Upon receiving the written Notice to Proceed, CONSULTANT shall perform the following tasks in accordance with the schedule provided in Attachment E:

3.4.1 Development of Final Design Drawings shall include the following:

- Cover Sheet
- General Notes
- Overall Project Layout
- Erosion Control
- Design Details
- General Details

3.4.2 Consultant will final a preliminary opinion of probable construction cost and project specifications.

3.4.3 This scope includes addressing one (1) round of comments to the 90% Design Documents and such comments, if any, will be incorporated into the 100% Construction Documents. The Consultant will attend one (1) meeting with the Owner to review the 90% Design Documents. Consultant will provide written responses to comments provided by the Owner.

3.5 BID DOCUMENTS (100%).

3.5.1 Consultant will incorporate comments from final design to develop the 100% Construction Documents, include a final construction plan set, technical specifications and an opinion of probably cost. Stamped construction plans and specifications shall be submitted to the Owner per the approved Project Schedule. Each plan sheet shall be stamped, dated, and signed by the ENGINEER registered in the State of Oklahoma.

3.6 BID ASSISTANCE PHASE:

The CONSULTANT will provide bidding phase services, as requested by the OWNER. The following tasks will be completed on an as-requested/as-needed basis with total effort not to exceed the proposed fee for this task in the proposal. The CONSULTANT will work on tasks requested by the OWNER and will notify the OWNER when the allotted budget is nearing completion.

3.6.1 Serve as the technical question point of contact to answer requests for information during bidding and draft any necessary addenda to clarify contract documents.

3.6.2 Assist in preparing addenda and addenda plan sheets as required.

3.7 CONSTRUCTION ASSISTANCE PHASE:

The CONSULTANT will provide construction assistance phase services, as requested by the OWNER. The following tasks will be completed on an as-requested/as-needed basis with total effort not to exceed the proposed fee for this task in the proposal. The CONSULTANT will work on tasks requested by the OWNER and will notify the OWNER when the allotted budget is nearing completion.

- Attend Pre-Construction Meeting
- Perform site observations during construction
- Review Construction submittals
- RFI's provided by the Contractor
- Other items related to construction during project duration
- Upon completion of construction provide the OWNER with As-Built drawings for the site in .pdf, .TIF, and AutoCAD format.

[The remainder of this page intentionally left blank]

**ATTACHMENT B
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW (OWNER)
AND
FREESE AND NICHOLS, INC.
FOR
ASPEN POND RETAINING WALL IMPROVEMENTS
PROJECT SW25070**

ORGANIZATION OF SUBMITTAL DOCUMENTS

The CONSULTANT shall prepare the following documents as described as a part of the AGREEMENT dated the ___ day of _____, 2025.

- 1.0 LAND SURVEY:** The CONSULTANT shall submit in-full, topographic survey with proposed plans in accordance with City requirements.
- 2.0 PRELIMINARY DESIGN DOCUMENTS (60%):** The CONSULTANT shall submit in-full, Preliminary (60%) design documents in accordance with City requirements.
- 3.0 FINAL DESIGN DOCUMENTS (90%):** The CONSULTANT shall submit in-full, Final (90%) design documents in accordance with City requirements.
- 4.0 CONSTRUCTION DESIGN DOCUMENTS (100%):** The CONSULTANT shall submit in-full, Construction (100%) design documents in accordance with City requirements.
- 5.0 BIDDING AND CONSTRUCTION PHASE DOCUMENTS:** This phase is separate from the project scope and shall be an hourly not to exceed, on an as-needed basis.
- 6.0 RECORD DRAWINGS:** The CONSULTANT shall submit in-full, the contractor's red-line markups of the construction drawings and submit one (1) set of record drawings on electronic media (AutoCAD 2024 or earlier version).

**ATTACHMENT C
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW (OWNER)
AND
FREESE AND NICHOLS, INC.
FOR
ASPEN POND RETAINING WALL IMPROVEMENTS
PROJECT SW25070**

COMPENSATION AND ADDITIONAL SERVICES

The following compensation and hourly rates shall apply as described in Attachment D and shall be made a part of the AGREEMENT dated the ___ day of _____, 2025.

1.0 BASIC COMPENSATION

The basic compensation for the Professional Consultant to perform all duties and responsibilities associated with the Scope of Services as described in Attachment A shall be in accordance with the following payment breakdown:

- 1.1 Preliminary (60%) Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 37,664.07 for the completion of the Preliminary Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.2 Final (90%) Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 19,479.50 for the completion of the Final Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.3 Construction (100%) Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 5,232.00 for the completion of the Construction Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.4 Land Survey Phase: The OWNER shall pay the CONSULTANT an hourly not to exceed amount of \$ 6,290.00 for this phase as described in Sections 3.2 of this Agreement.
- 1.5 Bidding and Construction Assistance Phase: The OWNER shall pay the CONSULTANT an hourly not to exceed amount of \$ 5,894.00 for this phase as described in Sections 3.6 and 3.7 of this Agreement.
- 1.6 The OWNER may negotiate other professional services fees with the CONSULTANT at the OWNER'S discretion.

2.0 ADDITIONAL SERVICES BASED ON TIME

The hourly rates set forth in Appendix 1 include all salaries, benefits, overhead and other indirect costs including federal, state, and local taxes, plus profit and effective as of January 1, 2025 for engineering services.

3.0 REPRODUCTION

All charges for reproduction shall be included in Basic Compensation Fee of the Professional Consultant. No separate payment will be made for these expenses.

4.0 MILEAGE

All direct costs shall be included in the Basic Compensation of the Professional Consultant. No separate payment will be made for these expenses.

5.0 DIRECT COSTS

All direct costs shall be included in the Basic Compensation of the Professional Consultant. No separate payment will be made for these expenses.

6.0 ADJUSTMENT CLAUSE

The rates and costs described in this AGREEMENT shall not be revised annually, unless mutually agreed upon by both parties.

**ATTACHMENT D
TO
AGREEMENT FOR CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW (OWNER)
AND
FREESE AND NICHOLS, INC.
FOR
ASPEN POND RETAINING WALL IMPROVEMENTS
PROJECT SW25070**

OWNER'S RESPONSIBILITIES AND SPECIAL CONDITIONS

The following list of special OWNER'S responsibilities and contract special conditions shall be made a part of this AGREEMENT dated the ___ day of _____, 2025.

1.0 OWNER'S RESPONSIBILITIES

- 1.1 OWNER shall furnish to CONSULTANT all available information pertinent to the PROJECT including previous reports and any other data relative to design and construction of the PROJECT;
- 1.2 OWNER shall furnish to CONSULTANT all public utility information available relative to the design and construction of the PROJECT. Consultant topographical survey shall locate all utilities above and below ground for exact location;
- 1.3 OWNER shall furnish to CONSULTANT list of codes adopted by the municipality as well as subdivision regulations, design criteria and construction standards and specifications that may be pertinent to the design and construction of the PROJECT;
- 1.4 OWNER shall be responsible for all permit fees and for all reproduction costs associated with the bidding of the final approved construction documents required for the construction of this PROJECT;
- 1.5 OWNER shall be responsible for all land/easement acquisition costs and filing of the required legal documents, if necessary; and
- 1.6 OWNER shall examine all studies, reports, sketches, estimates, specifications, plan drawings, proposals, and other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable time so as not to delay the SERVICES of the CONSULTANT.

2.0 SPECIAL CONDITIONS

- 2.1 None

**ATTACHMENT E
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW (OWNER)
AND
FREESE AND NICHOLS, INC.
FOR
ASPEN POND RETAINING WALL IMPROVEMENTS
PROJECT SW25070**

PROJECT SCHEDULE

The following schedule shall be made a part of the AGREEMENT dated the ___ day of _____, 2025.

1.0 PRELIMINARY (60%) DESIGN PHASE:

- 1.1 Notice to Proceed: TBD
- 1.2 Topographic Survey: 30 Calendar days from NTP
- 1.3 Prepare Conceptual (60%) Plans: 62 Calendar days from Topographic Survey
- 1.4 Submit Conceptual (60%) Plans: 62 Calendar days from Topographic Survey
- 1.5 Owner Review: 14 days from Conceptual Plan submittal

3.0 FINAL (90%) DESIGN PHASE:

- 3.1 Prepare Final plans and specifications (90%): 55 days from Preliminary Owner Review
- 3.2 Submit Preliminary plans and specifications (90%): 55 days from Preliminary Owner Review
- 3.3 Owner Review: 14 days from Final Plan submittal

4.0 CONSTRUCTION (100%) DESIGN PHASE:

- 4.1 Prepare Construction plans and specifications (100%): 47 days from Final Owner Review
- 4.2 Submit Construction plans and specifications (100%): 47 days from Preliminary Owner Review
- 4.3 Owner Review: 14 days from Final Plan submittal

Task		Basic or Special	Task Description	Labor							Expenses			Subconsultants		Total		
				Austin Dugger	Alyssa Laurel	Chase Steffes	Keith Byrne	Jon Frigg	Tony Boescher	Holy Satz	Total Hours	Total Labor Effort	Tech Charge	Miles	Other		Total Expense Effort	Native Plains
				\$206	\$145	\$125	\$259	\$175	\$330	\$212								
				\$ -										\$ -		\$ -	\$ -	
3.1 Project Management																		
Basic		3.1.1 Project Documentation	4	4							8	\$ 1,460	8		\$ 68	\$ -	\$ 1,528	
Basic		3.1.2 Project Management	6	6							12	\$ 2,190	12		\$ 102	\$ -	\$ 2,292	
Basic		3.1.3 Project QA/QC				4		8			12	\$ 2,534	12		\$ 102	\$ -	\$ 2,636	
Basic		3.1.4 Project Meetings (4 Meetings)	4			4					8	\$ 1,935	8		\$ 68	\$ -	\$ 2,003	
Basic		3.1.4 Project Meeting Prep	4	8							12	\$ 2,063	12		\$ 102	\$ -	\$ 2,165	
3.2 Land Survey																		
Special		Survey QC		1	2						3	\$ 411	3		\$ 26	3,550	\$ 3,905	\$ 4,342
Special		SUE Level B		1	1						2	\$ 281	2		\$ 17	1,500	\$ 1,650	\$ 1,948
3.3 Preliminary Design Phase 60%																		
Basic		3.3.1 Data Collection	2	4							6	\$ 1,032	6		\$ 51	\$ -	\$ 1,083	
Basic		3.3.2 Site Visit	8	8							16	\$ 2,920	16	50	1200	\$ 1,491	\$ -	\$ 4,411
Basic		3.3.3 Design Plans	25	36	40	2	3	4	8		118	\$ 21,024	118		\$ 1,003	\$ -	\$ 22,027	
Basic		3.3.4 OPCC/Spec Outline	8	6	2						16	\$ 2,994	16		\$ 136	\$ -	\$ 3,130	
Basic		3.3.5 Address City Comments	2	4	4						10	\$ 1,615	10		\$ 85	\$ -	\$ 1,700	
3.4 Final Design Phase 90%																		
Basic		3.4.1 Design Plans	12	16	20						48	\$ 7,893	48		\$ 408	\$ -	\$ 8,301	
Basic		3.4.2 OPCC/Spec Outline	8	16	2						26	\$ 4,563	26		\$ 221	\$ -	\$ 4,784	
Basic		3.4.3 Address City Comments	2	2	2						6	\$ 1,030	6		\$ 51	\$ -	\$ 1,081	
3.5 Construction Documents																		
Basic			8	10	12						30	\$ 4,977	30		\$ 255	\$ -	\$ 5,232	
3.6 Bidding Phase																		
Special		3.6.1 Bidding Support	4	2							6	\$ 1,205	6		\$ 51	\$ -	\$ 1,256	
Special		3.6.3 RF1	4	4							8	\$ 1,518	8		\$ 68	\$ -	\$ 1,586	
Special		3.6.4 Addenda	1	1	1						3	\$ 515	3		\$ 26	\$ -	\$ 541	
3.7 Construction Phase Support (As Needed)																		
Special			8	4							12	\$ 2,409	12		\$ 102	\$ -	\$ 2,511	
Total Hours / Quantity				110	133	86	10	11	4	8	362			362	60	1,200	\$ 5,050	
Total Effort				\$ 24,262	\$ 20,671	\$ 11,639	\$ 2,717	\$ 2,024	\$ 1,426	\$ 1,833	\$ 64,573	\$ 3,077	\$ 35	\$ 1,320	\$ 4,432	\$ 5,555	\$ 5,555	\$ 74,560

COMPENSATION

Compensation to FNI for Basic Services in Attachment A shall be the lump sum of Sixty Two thousand Three Hundred Seventy Five Dollars (\$62,375).

Compensation to FNI for Special Services in Attachment A shall be computed on the basis of the following Schedule of Charges, but shall not exceed Twelve Thousand One Hundred Eighty Four Dollars (\$12,184).

If FNI sees the Scope of Services changing so that Additional Services are needed, including but not limited to those services described as Additional Services in Attachment A, FNI will notify OWNER for OWNER's approval before proceeding. Additional Services shall be computed based on the following Schedule of Charges.

Position	Hourly Rate	
	Min	Max
Professional 1	88	175
Professional 2	118	191
Professional 3	134	292
Professional 4	155	319
Professional 5	228	346
Professional 6	232	429
Construction Manager 1	114	161
Construction Manager 2	118	198
Construction Manager 3	148	198
Construction Manager 4	171	258
Construction Manager 5	205	302
Construction Manager 6	272	359
Construction Representative 1	78	91
Construction Representative 2	91	118
Construction Representative 3	124	188
Construction Representative 4	124	188
CAD Technician/Designer 1	84	121
CAD Technician/Designer 2	101	198
CAD Technician/Designer 3	131	252
Corporate Project Support 1	71	158
Corporate Project Support 2	81	232
Corporate Project Support 3	101	335
Intern / Coop	54	94

Rates for In-House Services and Equipment

<u>Mileage</u>	<u>Bulk Printing and Reproduction</u>		<u>Equipment</u>	
Standard IRS Rates		<u>B&W</u>	<u>Color</u>	Valve Crew Vehicle (hour) \$75
	Small Format (per copy)	\$0.10	\$0.25	Pressure Data Logger (each) \$500
<u>Technology Charge</u>	Large Format (per sq. ft.)			Water Quality Meter (per day) \$100
\$8.50 per hour	Bond	\$0.25	\$0.75	Microscope (each) \$150
	Glossy / Mylar	\$0.75	\$1.25	Ultrasonic Thickness Gauge (per day) \$275
	Vinyl / Adhesive	\$1.50	\$2.00	Coating Inspection Kit (per day) \$275
				Flushing / Cfactor (each) \$500
	Mounting (per sq. ft.)	\$2.00		Backpack Electrofisher (each) \$1,000
	Binding (per binding)	\$0.25		
				<u>Survey Grade</u> <u>Standard</u>
				Drone (per day) \$200 \$100
				GPS (per day) \$150 \$50

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office. For other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members, these services will be billed at a cost times a multiplier of 1.10. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

These ranges and/or rates will be adjusted annually in February. Last updated 2024.