

AGREEMENT

This agreement made and entered into by and between the Board of County Commissioners of the Thomas County hereinafter referred to as the County, and Penco Engineering, P.A., of Plainville, Kansas hereinafter referred to as the Consultant.

WITNESSETH: That the County desires to engage said Consultant for the preparation of plans for the following: KDOT Project No. 97 KA-4772-01 – Reconstruction of County Club Drive between I-70 and E. College Drive to include a new 36' width roadway with a center turn lane and reconstruction of all side street entrances within the project limits in Thomas County, Kansas. This contract to expire on the completion of the program as contracted for construction.

For the engineering services described above the Consultant shall receive a fee of \$95,000.00 which amount shall be complete and sufficient compensation to the Consultant for services rendered in connection with the work herein set forth thusly (*)

Reconnaissance Survey ()	Balanced Grading Plans (*)	Surfacing Plans (*)
Normal Field Survey (*)	Linear Grading Plans ()	Contour Maps ()
Topographical Survey (*)	Bridge Layouts ()	Culvert Details ()
Geological Survey ()	R/W Descriptions (*)	Detailed Bridge Plans ()
Bridge Soundings ()	Construction Cost Est. (*)	Bridge Inspection ()
Others (*)	<u>Seeding and Traffic Control</u>	

The payment of the fee for preparation of plans shall be made by the County to the Consultant as follows: monthly as plan development progresses.

NOW THEREFORE, in consideration of the premises and covenants herein contained, the County and the Consultant agree as follows.

THE CONSULTANT AGREES:

- 1) To make the necessary surveys and prepare the required plans for the improvement hereinbefore mentioned, for the fee as stipulated, which fee shall be complete and sufficient payment for all work performed, equipment or materials used, and services rendered in connection with such work.

The Project will be designed in conformity with the state and federal design criteria appropriate for the Project in accordance with the current Local Projects LPA Project Development Manual, Bureau of Local Project's (BLP) project

memorandums, the current KDOT Design Manual, Geotechnical Bridge Foundation Investigation Guidelines, Bureau of Design's road memorandums, the current version of the KDOT Standard Specifications for State Road and Bridge Construction with Special Provisions, and with any necessary Project Special Provisions required by the Secretary or by the County with the Secretary's concurrence, A Policy on Geometric Design of Highways and Streets of the American Association of State Highway and Transportation Officials Policy, the KDOT Access Management Policy, the KDOT Access Management Construction Project Guidelines, and the latest version, as adopted by the Secretary, of the Manual on Unified Traffic Control Devices (MUTCD), as applicable.

- 2) To furnish one set of Field Check Plans and a complete set of Final Plans to the County and KDOT's Secretary of Transportation for approval no later than the official project schedule's due date as issued by the KDOT's Secretary of Transportation, exclusive of time required for reviews by the approving parties and delays beyond the Consultant's control.

Project plans will meet development stage due dates as outlined in the project schedule, exclusive of delays beyond the Consultant's control.

- 3) Provide to the County and KDOT's Secretary of Transportation (upon request) progress reports at monthly or at a mutually agreed intervals in conformity with the official project schedule.
- 4) To save the County harmless against injury, loss, or damage arising out of the negligent acts, errors, or omissions of the Consultant.
- 5) To comply with all state and local laws, ordinances, and regulations in effect at the time services are rendered by Consultant applicable to the work.

THE COUNTY AGREES:

- 1) That the Consultant has been duly authorized to make the surveys and prepare the plans including the performance of all necessary services and the furnishing of all labor, equipment, materials, and engineering essential thereto, for the fee as stipulated, and that said County hereby agrees to make payment to the Consultant as hereinbefore set forth.
- 2) It is further understood and agreed by said County that this agreement as all contracts entered into under the provisions of this agreement shall be binding upon the Board of County Commissioners of said Thomas County, Kansas.

THE PARTIES HERETO MUTUALLY AGREE:

- 1) That the services to be performed by the Consultant under the terms of this agreement are personal and cannot be sublet or transferred without written consent of the County.

- 2) The design engineers will not have control over the charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work.
- 3) That the right is reserved to the County to terminate this agreement at any time, upon written notice, in the event the improvement is to be abandoned or indefinitely postponed: provided, however, that in any such case the Consultant shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the payment provisions of this agreement.
- 4) That an adjustment of the Consultant's fee as stipulated in said agreement, may be made if, for some reason, the scope of the work as set forth in said agreement is materially changed.
- 5) When an adjustment is to be made in accordance with said agreement, the reasonable value for such adjustment shall be negotiated between the County and the Consultant prior to any expenditure of time and material as may be required by said adjustment.

THIRD PARTY BENEFICIARY

- 1) Because of the Secretary of Transportation of the State of Kansas' (Secretary's) obligation to administer state funds, federal funds, or both, the Secretary shall be a third party beneficiary to this agreement between the County and the Consultant. This third party beneficiary status is for the limited purpose of seeking payment or reimbursement for damages and costs the Secretary or the County or both incurred or will incur because the Consultant failed to comply with its contract obligations under this Agreement or because of the Consultant's negligent acts, errors, or omissions. Nothing in this provision precludes the County from seeking recovery or settling any dispute with the Consultant as long as such settlement does not restrict the Secretary's right to payment or reimbursement.

BE IT THEREFORE AGREED that the County hereby engages said Consultant to make surveys and prepare plans all as set forth hereinbefore, and said Consultant agrees to perform the same.

[SIGNATURE PAGE FOLLOWS]

IT WITNESS WHEREOF, said parties have caused this agreement to be signed by their authorized officers this 16 day of April, 2018.

COUNTY OF THOMAS, KANSAS

CONSULTANT

PENCO ENGINEERING, P.A.
Plainville, Kansas 67663

By: _____

Jerol J. DeBoer, P.E.
President

COUNTY:

By: _____
Mayor

Mike Bayliff
Commissioner

ATTEST:

Shelly A. Harms
COUNTY Clerk



IT WITNESS WHEREOF, said parties have caused this agreement to be signed by their authorized officers this 16 day of April, 2018.

THOMAS COUNTY, KANSAS

CONSULTANT

PENCO ENGINEERING, P.A.
Plainville, Kansas 67663

By: *Jerol J. DeBoer*
Jerol J. DeBoer, P.E.
President

COUNTY:

By: *Will Bayne*
Chairman-Board of County Commissioners

Francis Britton
Member-Board of County Commissioners

Byron Lowery
Member-Board of County Commissioners

ATTEST:

Shue A. Harms
County Clerk

