

ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (Assignment Agreement) made this 1st day of November, 2019, by and between the Association of Central Oklahoma Governments (ACOG or Assignor), having its principal office at 4205 N. Lincoln Blvd., Oklahoma City, OK, 73105, and the Regional Transportation Authority of Central Oklahoma (RTA or Assignee), having its principal office at 4205 N. Lincoln Blvd., Oklahoma City, OK, 73105, in consideration of the mutual covenants herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged:

RECITALS

WHEREAS, ACOG is an Oklahoma public agency designated as a Metropolitan Planning Organization for the Central Oklahoma region and governed by its Regional Council, which is made up of officials from various local governments in the region; and

WHEREAS, on September 22, 2015, ACOG created a Regional Transit Authority Task Force (Task Force) comprised of interested Central Oklahoma municipalities for the purpose of developing a Regional Transportation Authority pursuant to the authority found in Title 68, Oklahoma Statutes §68 -1370 .7 (2014); and

WHEREAS, on April 18, 2017, ACOG, on behalf of the Task Force, did publicly issue a Request for Proposal (RFP) Defining and Creating a Regional Transit Authority in Central Oklahoma, seeking interested parties to submit statements of qualifications to provide legal and technical assistance and planning support (the Work) as described in the RFP; and

WHEREAS, upon ACOG's evaluation of the proposers' project understanding, approach to work, statement of qualifications, and experience working with metropolitan planning organizations and state departments of transportation, ACOG did select Holmes & Associates LLC (Consultant) as the preferred entity and entered into a contract with Consultant to perform the Work (Contract), which Contract is included as an attachment to this Agreement and incorporated herein by reference; and

WHEREAS, the Contract has an expiration date of September 19, 2020, which may be extended as permitted therein; and

WHEREAS, Consultant satisfactorily performed the initial scope of the Work as described in the RFP and led the Task Force to create the RTA as a public trust pursuant to the authority of Title 60 OS §176, as authorized by Title 68 OS §1370.7, for the purposes of planning, financing, constructing, maintaining, and operating transportation projects located within the boundaries of a regional transportation district; and

WHEREAS, the RTA is governed by its Board of Directors (the RTA Board) comprised of appointed representatives of beneficiaries of the trust; and

WHEREAS, subsequent to its creation, Consultant is continuing to perform additional tasks in the scope of the Work under the supervision and direction of the RTA Board; and

WHEREAS, ACOG and RTA acknowledge and agree that the ongoing work under the Contract is

for the benefit of the RTA and, therefore, appropriately supervised and directed by the RTA Board rather than the ACOG Regional Council; and

WHEREAS, ACOG wishes to assign all its rights and obligations under the Contract to RTA.

NOW THEREFORE, ACOG and RTA agree as follows:

1. ACOG and RTA hereby agree that ACOG shall assign all its right, title, and interest, and delegate all its obligations, responsibilities, and duties, in and to the Contract, to RTA.
2. RTA hereby accepts the assignment of the Contract and agrees to assume all of ACOG's obligations, responsibilities, and duties under the Contract and all of ACOG's rights, title, and interest in and to the Contract.
3. From and after the effective date of this Assignment Agreement, "ACOG" shall be replaced with "RTA" in all places ACOG appears in the original Contract as if the RTA were a party to the original Contract.
4. Notwithstanding the foregoing, ACOG agrees to defend and indemnify RTA from any and all claims, actions, judgments, liabilities, proceedings, and costs, including reasonable attorneys' fees and other costs of defense and damages, resulting from ACOG's performance prior to the assignment of the Contract.
5. RTA agrees to defend and indemnify ACOG from any and all claims, actions, judgments, liabilities, proceedings, and costs, including reasonable attorneys' fees and other costs of defense and damages, resulting from RTA's performance after the assignment of the Contract.
6. This agreement may be executed in counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

IN WITNESS WHEREOF, this Assignment Agreement is entered into the date and year first above written:

Association of Central Oklahoma Governments

**Regional Transportation Authority of
Central Oklahoma**

_____, Chair


_____, Chair

By: Matt Dukes

By: Brad Henry

AGREEMENT FOR PROFESSIONAL SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made effective the 19th day of September 2018 (the "Effective Date"), by and between Holmes & Associates LLC (Consultant), and Association of Central Oklahoma Governments (ACOG). Consultant and ACOG may be referred to individually as "Party" and collectively as "Parties."

RECITALS

WHEREAS, on April 18, 2017, ACOG did publicly issue a Request for Proposal (RFP) Defining and Creating a Regional Transit Authority in Central Oklahoma seeking interested parties to submit statements of qualifications to provide legal and technical assistance and planning support (the "Work") as described in the RFP;

WHEREAS, upon ACOG's evaluation of the proposers' project understanding, approach to work, statement of qualifications, and experience working with metropolitan planning organizations and state departments of transportation, ACOG did select Consultant as the preferred entity to negotiate a contract to perform the Work;

WHEREAS, Consultant has satisfactorily completed the initial Term of the Agreement;

WHEREAS, ACOG desires to extend the Agreement with Consultant for an additional Term to perform the Work set forth in the Scope of Services; and

WHEREAS, Consultant and ACOG have agreed on all terms and conditions set forth below and both Parties agree to abide by this Agreement;

NOW, THEREFORE, based on the foregoing, the Parties agree as follows:

AGREEMENT

1. Scope of Services.

- a. Consultant agrees to provide services to ACOG as set forth in Exhibit A during the Term of this Agreement. New services may be added to this Agreement by the attachment of new Exhibits signed by both Parties. For purposes hereof, the "Term" of this Agreement shall commence on the Effective Date and continue for a period of two (2) years thereafter. Upon the expiration of the Term, this Agreement may be extended by written agreement of the Parties for an additional Term for a period as agreed upon by the parties.

- b. Consultant agrees to serve as Owner's Representative to assist ACOG in the development, review, and assessment of requests for proposals that may be issued by ACOG, and to supervise and manage the development, construction, and implementation of a public transportation system and related improvements.

2. Payment.

- a. In exchange for the services to be provided by Consultant during the Term, ACOG agrees to pay Consultant for wages, costs, and expenses incurred by Consultant in the performance of the Work; provided that, in no event shall such wages, costs, and expenses compensated hereunder during the Term exceed an aggregate amount of \$1,070,000.00.
- b. ACOG will reimburse Consultant for work performed at the rate of \$395 per hour.
- c. ACOG will reimburse Consultant for costs and expenses incurred in connection with subcontracts and consulting agreements entered into with third parties for performance of any of the Work which Consultant agrees to render pursuant to this Agreement. If Consultant subcontracts a portion of the Work, a project management fee equal to 15% of the subconsultants total cost for this work will be paid to the Consultant for administration and management of the project.
- d. ACOG will reimburse Consultant for actual costs of travel and subsistence according to the established policies of ACOG, as may be updated from time to time in ACOG's sole discretion.
- e. ACOG will reimburse Consultant for other direct nonwage costs and expenses incurred by Consultant in connection with its performance of the work which may include, but not be limited to, photocopies, printing, and computerized legal research.
- f. At the end of each month the Consultant shall submit invoices to ACOG for payment in the form specified by ACOG and following the accounting protocols directed by ACOG. Such invoices must be received by ACOG by no later than the fifth (5th) calendar day of that succeeding month to ensure Consultant will be paid within thirty (30) calendar days of receipt. Any invoices received after the fifth (5th) calendar day of that succeeding month, may not be considered for payment until the month following and Consultant may not be paid until thirty (30) calendar days following that later date. The amount invoiced shall cover wages, costs, and expenses incurred by Consultant to perform the Work during the preceding accounting period. Supporting

documentation for all costs contained in the invoice will be submitted with each invoice and in such detail as ACOG may require. ACOG shall have the right to disapprove specific elements of each invoice. ACOG shall provide, in writing, such disapproval to the Consultant within twenty-five (25) working days of invoice submittal. Approval by ACOG shall not be unreasonably withheld. Payment for all invoice amounts not specifically disapproved in writing shall be paid in accordance with the terms above. Invoices that have been timely received and have not been disapproved by ACOG, but which have not been paid within 60 days after the invoice submittal will be assessed a late fee of 5 percent, per annum, calculated on the unpaid balance.

- g. The Consultant shall submit with each Invoice a time sheet showing cost documentation related to the performance of labor services under this Agreement, as well as receipts or other adequate documentation for non-labor expenses. Upon the request of ACOG, written or electronic data supporting the labor services shall be made available within a reasonable time during the Term and for a period of three (3) years thereafter. Consultant agrees that it shall require (as a matter of written contract) that similar records be maintained by all sub-Consultants at any tier utilized in the performance of this Work.

3. Independent Consultant. Consultant acknowledges and agrees that it is an independent Consultant and neither it nor its employees are employees, partners or part of a joint venture with ACOG.

4. Licensing. Consultant agrees that it has all of the necessary and appropriate experience and licensing required by law or that is standard in the industry for the nature of the services being rendered. Consultant further agrees to maintain such licensure throughout the term of this Agreement.

5. Insurance. Consultant agrees to maintain: a) occurrence type Commercial General Liability Insurance in the minimum amount of \$ 1 Million at all times during the Term; b) automobile insurance covering owned, non-owned, and hired automobile with limits not less than \$1,000,000 combined single limit of coverage; and c) Workers' Compensation in the minimum amount of \$1 Million at all times during the Term, insurance or a waiver conforming to the appropriate states' statutory requirements covering all employees of Consultant, and any employees of its sub-Consultants, representatives, or agents as long as they are engaged in the work covered by this Agreement or such sub-Consultants, representatives, or agents shall provide evidence of their own Worker's Compensation insurance.

6. Ownership of Materials. All data, including but not limited to, maps, drawings, sketches, renderings, software, hardware, and specifications, including the original thereof, hereinafter referred to as data and materials developed by the Consultant as a part

of its Work under this Agreement are the property of ACOG and upon completion of this Agreement, or upon the termination or cancellation of this Agreement shall be delivered to ACOG prior to final payment. All other materials provided to Consultant by ACOG to perform this Agreement shall be retained by ACOG at completion, termination, or cancellation.

7. Applicable Laws.

- a. Consultant shall obey all laws, ordinances, regulations, and rules of the federal, state, county, and municipal governments that may be applicable to Consultant's operations.
- b. This Agreement shall be construed under and in accordance with the laws of the State of Oklahoma.

8. Representatives. ACOG hereby appoints Mark W. Sweeney or if he so designates, John M. Sharp, Deputy Director, as the representative to assist in the administrative management of this Agreement, to ensure that the work to be performed is timely and adequately performed, and to provide for any approvals as may be required by this Agreement. ACOG's representative shall assist in monitoring, and evaluating this Agreement to completion. Consultant's representative is Kathryn A. Holmes. Consultant shall be responsible to complete the work as described in its response to the RFP and Exhibit A.

9. Notices. Any notice required by this Agreement may be served by mailing or delivering such notice to the following addresses:

If to the Consultant: Holmes & Associates LLC
ATTN: Kathryn A. Holmes
P.O. Box 526057
Salt Lake City, Utah 84152
Email: kathryn@holmesassociatesllc.com

If to ACOG: Association of Central Oklahoma Governments
ATTN: Mark W. Sweeney
4205 N. Lincoln Boulevard
Oklahoma City, OK 73105
Email: msweeney@acogok.org

Either Party may change their address upon written notice to the other Party.

10. Event of Default. The material breach or failure of either party to pay any amount required hereunder or perform any other covenant, condition, agreement or

provision contained herein within ten (10) days after receipt by that party of written notice of such breach or failure shall each constitute an "Event of Default" hereunder. Upon the occurrence and continuance of an Event of Default, the non-defaulting party may, at its option and without any obligation to do so, terminate this Agreement and/or pursue any remedy now or hereafter available under the laws or judicial decisions of the State of Oklahoma.

11. Attorney's Fees. In the event of any arbitration or litigation arising out of this Agreement or an Event of Default, the non-prevailing party shall reimburse the prevailing party for out of pocket costs through arbitration, trials and appeals, including without limitation, its reasonable attorney fees, court costs, bonds, and witness fees.

12. Termination.

- a. Without Cause. ACOG may terminate this Agreement for any reason or for no reason upon at least sixty (60) days' prior written notice to Consultant.
- b. For Cause. ACOG shall have the right to immediately terminate this Agreement upon notice to Consultant in the event that Consultant: (i) triggers an Event of Default by failing to comply with any of the covenants, representations or warranties set forth in this Agreement or as set forth in the RFP and to cure same within a reasonable period of time; (ii) is convicted of or pleads guilty or no contest to any crime (other than a minor traffic violation) or commits or participates in an injurious act of any person, any act of fraud or dishonesty, or a willful or grossly negligent act that causes or may cause harm to ACOG or its business.
- c. If the Agreement is terminated for any reason other than as described in Section 7(b), then ACOG shall pay to Consultant in accordance with the final terms and conditions of this Agreement all sums actually due and owing from ACOG for all Work performed and expenses incurred up to the day written notice of termination is given, plus costs reasonably and necessarily incurred by Consultant to affect such suspension or termination.

13. Taxes and Assessments. Consultant shall pay all lawful taxes, assessments, or charges which at any time may be levied any tax or assessment levying body upon its interest in this Agreement.

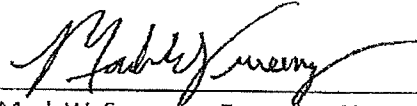
14. Entire Agreement. This Agreement contains the entire agreement between the Parties, and no statement, promise, or inducements made by either Party or agents for either Party, which are not contained in this written Agreement, shall be binding or valid; and this Agreement may not be enlarged, modified, or altered, except in writing signed by both Parties.

15. Assignment. This Agreement may not be transferred or assigned by Consultant without the written permission of the ACOG, which may be withheld at its sole discretion.
16. Agreement Binding. Consultant covenants that the provisions of this Agreement shall be binding upon its heirs, successors, representatives, and agents.
17. Severability. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the Parties. One or more waiver of any term, condition, or other provision of this Agreement by either Party shall not be construed as a waiver of a subsequent breach of the same or any other provision.
18. Confidentiality. Consultant acknowledges that during the term of the Agreement and thereafter, it will have access to and become acquainted with confidential information that is valuable, special or a unique asset of ACOG or that is a protected record as defined by Oklahoma law ("Confidential Information") which shall be protected from improper disclosure. Consultant agrees that it will not at any time or in any manner either directly or indirectly, use any Confidential Information for his own benefit, or divulge, disclose, or communicate in any manner any Confidential Information to any third party without the prior written consent of ACOG. Consultant agrees to protect the Confidential Information and treat it as strictly confidential. A violation of this clause shall be material breach of this Agreement. If it appears that Consultant has disclosed (or has threatened to disclose) Confidential Information in breach of this Agreement, then ACOG shall be entitled to an injunction to restrain it from disclosing, in whole or in part, such Confidential Information, or from providing any services to any party to whom such Confidential Information has been disclosed or may be disclosed.
19. Waivers. The failure or delay of any party at any time to enforce this Agreement shall not affect such party's right to enforce this Agreement at any other time. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any case shall entitle such party to any other or further notice or demand in any other circumstance.
20. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which will be deemed to be a single agreement. This Agreement will be considered fully executed when all parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart. A facsimile signature on this Agreement shall be considered as an original signature.

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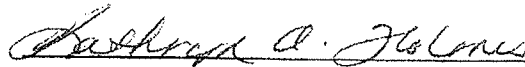
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective authorized representatives as the day, month, and year first written above.

Association of Central Oklahoma Governments

A handwritten signature in black ink, appearing to read "Mark W. Sweeney", written over a horizontal line.

Mark W. Sweeney, Executive Director






Holmes & Associates LLC


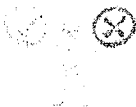


A handwritten signature in black ink, appearing to read "Kathryn A. Holmes", written over a horizontal line.






Kathryn A. Holmes, Owner



EXHIBIT A

Scope of Services

Month 1-2: Finalize Governing Documents		
Project Phase	Key Tasks	Deliverables
	Revise RTA trust indenture	Final RTA trust indenture
	Revise documents necessary to formalize relationship with municipalities (MOU for Interim Administrative Services, resolutions)	Final documents necessary to formalize relationship with municipalities (MOU for Interim Administrative Services, resolutions)
	RTA facilitated meeting to discuss final documents <ul style="list-style-type: none"> • RTA trust indenture • Establishing relationship with municipalities • Operating agreements with existing transit systems 	Agenda Meeting materials Presentation
	Decision <ul style="list-style-type: none"> • Approve RTA trust indenture • Approve documents formalizing relationship with municipalities (MOU, resolutions) 	Meeting summary Documentation of decision process Update timeline/critical path
Months 3-10: BNSF Railroad		
Project Phase	Key Tasks	Deliverables
	Develop conceptual plans of commuter rail alignment in BNSF corridor	Concept level plans at a high level with a goal of defining how allowing commuter rail access will not negatively interfere with BNSF service
	Identify areas to begin discussions on resolutions	
	Identify future industrial expansion areas that may be limited due to proposed project	
	Identify possible improvements for BNSF	
	Begin preliminary discussions with BNSF <ul style="list-style-type: none"> • Review concept plans • Gain understanding of BNSF operations and needs • Identify what type of mitigation may be required 	Summary of discussions and recommended next steps

	<ul style="list-style-type: none"> Determine if BNSF is interested and, if so, next steps 	
	RTA facilitated meeting to report on BNSF discussions <ul style="list-style-type: none"> Review BNSF level of interest Review issues identified by BNSF Discuss possible mitigation and associated estimated costs. 	Agenda Meeting materials Presentation
	Decision <ul style="list-style-type: none"> Based on interest of BNSF and issues identified, determine RTA course of action 	Meeting summary Documentation of decision process
Months 13-14 Transit Operations Update		
Project Phase	Key Tasks	Deliverables
	Develop, review and assess RFP for transit operations update	RFP for consulting services
	Review regional travel model with emphasis on mode choice element.	Technical memorandum documenting observations
	Review future land use assumption inputs into the travel model to understand proposed corridors and compatibility with transit-supportive land uses.	GIS maps showing land use densities by type
	Update assumptions regarding transit operations with likely actual trackage rights and operating scenarios informed by BNSF discussions.	Document results: <ul style="list-style-type: none"> Service headways Modal recommendation for LPAs Operating costs Ridership evaluation using FTA STOPS method
	RTA facilitated meeting to report on transit operations update <ul style="list-style-type: none"> Service headways Modal recommendation for LPAs Operating costs Ridership evaluation using FTA STOPS method 	Agenda Meeting materials Presentation
	Decision	Meeting summary

	<ul style="list-style-type: none"> Determine whether adjustments to operations assumptions are appropriate based on outcomes. 	Documentation of decision process
Months 1-2: RTA Strategic First Steps		
Project Phase	Key Tasks	Deliverables
	Prepare subrecipient agreement to sub allocate grant funds	Agreement
	Develop RTA budget leading up to referendum	Budget plan
	Develop contingency budget should referendum fail or be delayed	Contingency budget plan
	Develop initial staffing plan	RTA staffing plan
	Develop information to support public opinion surveys	Polling information
	RTA facilitated meeting to discuss RTA budget <ul style="list-style-type: none"> RTA contingency budget RTA staffing plan Polling information 	Agenda Meeting materials Presentation
	Decision <ul style="list-style-type: none"> Approve RTA contingency budget Approve RTA staffing plan Approve Polling information 	Meeting summary Documentation of decision process Update timeline/critical path
Months 3-18: FTA Compliance		
Project Phase	Key Tasks	Deliverables
	Develop successful relationship with FTA <ul style="list-style-type: none"> Prepare materials to train RTA regarding FTA program requirements 	PowerPoint presentation regarding FTA program requirements <ul style="list-style-type: none"> RTA recipient status FTA master agreement FTA certs and assurances
	Examine options for managing FTA 5307 formula funding on regional basis	Whitepaper with options and implementation strategies on regional sub-allocation of FTA formula funds
	Maintain successful relationship with stakeholder groups by managing risk and building culture of compliance	Draft key policies and procedures to ensure transparency, accountability, and compliance <ul style="list-style-type: none"> Procurement Grants management Spending/Contracting

		<ul style="list-style-type: none"> • Conflicts of interest • Ethics • Record retention • Civil rights
	RTA facilitated meeting <ul style="list-style-type: none"> • Training on FTA program requirements • Discussion on sub-allocation of FTA 5307 formula funds • Discuss key policies and procedures 	Agenda Meeting materials Presentation
	Decision <ul style="list-style-type: none"> • Approve approach on sub-allocation • Approve key policies and procedures 	Meeting summary Documentation of decision process Update timeline/critical path