

**AMENDMENT NO. 1
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW
AND
HDR ENGINEERING, INC. (CONSULTANT)
EAST SIDE INDUSTRIAL PARK ACCESS ROADWAY AND RAILROAD CROSSING
PROJECT NUMBER ST23230**

THIS **AMENDMENT NO. 1**, made and entered into this _____ day of October 2023, by and between the CITY OF BROKEN ARROW, OKLAHOMA, a municipal corporation of the State of Oklahoma, hereinafter referred to as “OWNER”, and HDR Engineering, Inc., hereinafter referred to as “CONSULTANT”;

WITNESSETH:

WHEREAS, OWNER and CONSULTANT entered into an Agreement dated July 20th, 2023 “ORIGINAL AGREEMENT” for services as set forth in said Agreement; and

WHEREAS, said ORIGINAL AGREEMENT requires CONSULTANT to provide conceptual design documents for the East Side Industrial Park Access Roadway and Railroad Crossing.

WHEREAS, OWNER and CONSULTANT propose to amend said ORIGINAL AGREEMENT to expand the project scope and compensation to include final design plans based on the conceptual design plans from the New Orleans Square – Intersection Feasibility Study.

WHEREAS, the ORIGINAL AGREEMENT and Amendments No. 1 shall hereinafter collectively be referred to as the “Agreement”; and

WHEREAS, funding is now available for said additional services; and

WHEREAS, CONSULTANT is prepared to provide said additional services identified in this Amendment.

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

1. PROJECT SCOPE UNDERSTANDING.

- A. This project includes production of final design plans for to the East Side Industrial Park Access Roadway as approved by City of Broken Arrow Engineering Department staff review. The approved final design shall include, but is not limited to, the following: topographic and boundary survey; geometric, site grading, drainage, paving, railroad, and miscellaneous design; detailed utility investigations, including but not limited to use of Subsurface Utility Investigation (SUE); geotechnical and environmental investigations; public and private utility and relocations (as necessary); right-of-way and easement documents preparation and staking; railroad and governmental agency coordination and permitting; civil construction drawings; as well as bidding and construction services.
- B. The project will provide the complete design of the proposed improvements outlined in the project extents above. The final construction plans will be divided into two bidding sets:
 - a. The phase I construction and bidding plans will include construction improvements outside of approximately 100' of the Union Pacific Railroad crossing, to fit within the OWNER's available construction boundary, as well as transitions to the proposed improvements.
 - b. The phase II construction documents will include the remaining improvements and tie-ins to extend the project from phase I to the extents of the project, as outlined in the project extents above.
- C. The proposed roadway is consisting of at most three (3) 12-foot travel lanes, and 4' wide shoulders.
- D. The horizontal alignment and vertical profile will be based on, at most, a 40-mph design speed.
- E. Based on initial project site visits, sidewalks will not be included
- F. Traffic signal mod and illumination design and placement will be based on a combination of OWNER standards and input from the City/ODOT/PSO.
- G. The OWNER and CONSULTANT will work together to coordinate with franchise utility companies for underground utility coordination.
- H. Temporary construction easements will be noted on the plans and will be procured by the OWNER.

3. SCOPE OF SERVICES

3.4 RIGHT-OF-WAY AND EASMENT CONSIDERATIONS: Following approval of the Planning and Conceptual Design the CONSULTANT shall perform the following tasks in accordance with the schedule provided:

3.4.1 Develop right-of-way and utility easement documents, including staking and acquisition. OWNER has budgeted for an assumed **additional 2 parcels** that may be required for right-of-way north of the Union Pacific Railroad crossing.

3.4.3 Temporary construction easements will be noted on the plans and at the discretion of the OWNER and Contractor to communicate with the local property owner ahead of construction.

3.5 PRELIMINARY DESIGN PHASE: Following approval of the Planning and Concept Design the CONSULTANT shall perform the following tasks in accordance with the schedule provided:

3.5.1 The CONSULTANT will gather any additional record drawings, with the assistance of OWNER staff.

3.5.2 The CONSULTANT will perform up to two (2) site visits to continue verifying the survey information and review the design in the field.

3.5.3 Utility Verification Services – CONSULTANT will supply Level A Subsurface Utility Engineering (SUE) in accordance with ASCE CI/ASCE 38-02 “Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data” for up to six (6) locations within the project area

3.5.4 Work with the geotechnical investigation Engineer to develop up to two (2) pavement options utilizing geotextiles to present to the OWNER for approval.

3.5.5 Refine preliminary drainage analysis and design in accordance with City of Broken Arrow Engineering Design Criteria Manual and Stormwater Management Ordinance Chapter 25.

3.5.6 Conduct coordination with private and public utility companies.

3.5.6.1 Meet with utility companies and City of Broken Arrow to conduct coordination for relocation of utility facilities and services in conflict with the project and request relocation plans/proposals from private utility companies. Obtain releases for non-relocated facilities.

3.5.6.2 Review relocation plans and proposals submitted by private utilities, and provide comments and recommendations prior to OWNER approval and execution of the relocation plans.

3.5.6.3 Provide preliminary design plans to all utility companies

electronically (i.e. pdf or CADD files as required).

3.5.7 Prepare preliminary special provisions.

3.5.7 Prepare preliminary quantity estimate.

3.5.9 Prepare interim on-screen review materials related to the following project elements. The materials will be presented during focused review meetings and will not include a formal preliminary design submittal. These meetings (up to four (4)) will be a substitute for preliminary design meetings. Meeting minutes will be provided.

3.5.9.1 Preliminary project plans; phasing diagram and refinement of the initial project scope extents for initial bidding for review and approval.

3.5.9.2 Prepare preliminary estimate of construction costs with a 15% contingency

3.6 FINAL DESIGN PHASE: Following approval of the individual elements in the Preliminary Design Phase the CONSULTANT shall perform the following tasks in accordance with the schedule provided:

3.6.1 Incorporate pre-located utilities plans as necessary.

3.6.2 Prepare and complete final design.

3.6.3 Prepare detailed construction plans in conformance with appropriate drafting standards.

3.6.4 Prepare final quantity estimates.

3.6.5 Prepare final estimate of construction costs with a 10% contingency.

3.6.6 Prepare construction specifications; Contract documents other than drawings and estimates on 8-1/2" x 11" plain white bond paper. All documents shall be suitable for original camera-ready copy.

3.6.7 Prepare Contract proposals in units compatible with Broken Arrow specifications.

3.6.7 Temporary Construction Easements will be noted on the plans. The OWNER and contractor to coordinate with the local property owners

3.6.8 Submit six (6) bound sets of 1/2 size prints of final construction plans, one (1) bound set of full-size prints (if required) of final construction plans, three (3) sets of final contract bid documents, one (1) PDF file and three (3) sets of 1/2 size prints of final City utility relocation plans, if required, to the Owner for distribution and review.

3.6.9 The Final Design Phase submittal shall include the following sheets.

It is anticipated that up to two (2) plan sets will be developed to include the initial agreed upon phase I and the final/ultimate design phase II.

- Title Sheet
- Pay Quantities and Pay Item/General Notes
- Typical Sections
- Quantity & Miscellaneous Summaries
- Summary of Drainage Structures, as needed
- Drainage Area Map
- Storm Water Management Plan (SWP3)
- Survey Data Sheet
- Plan and Profiles - Roadway
- Plan and Profiles - Storm Drainage Improvements
- Intersection Details and Joint Layout
- Signing & Striping Plan
- Erosion Control Plan
- Construction Sequencing/Traffic Control
- Cross Sections
- Miscellaneous Details Sheet(s)

3.6.10 Final Design Review.

3.6.11 Attend a meeting with the OWNER to review the Final Design Phase submittal and provide meeting minutes.

3.6.12 Provide final design plans to all utility companies electronically (i.e. pdf or CADD files as required).

3.6.13 Incorporate final review comments and furnish one (1) complete set of full-size drawings and contract documents, three (3) 1/2 size sets of final drawings, one (1) set of final drawings in pdf format and electronic media (AutoCAD 2018 preferred),(MicroStation accepted) one (1) master set of final specifications on electronic media, in both Microsoft Word and pdf formats, and paper.

3.6.14 Permitting – CONSULTANT will prepare and assist the OWNER in

submitting the plans and specifications necessary to obtain ODEQ permits. All permit fees will be paid for by the OWNER or the successful Contractor. Any additional permit that may be required will be per the Basic Services in the Contract.

3.7 ASSISTANCE DURING BIDDING PHASE: Upon receiving the written Notice to Proceed, the CONSULTANT shall perform the following tasks in accordance with the schedule provided for the first phase of construction. The combined effort from task 3.7 and 3.8 shall not exceed 90 hours of effort.

3.7.1 Provide the Owner services during advertisement of the Project for bid (i.e. providing plans in pdf format along with one hard copy, specifications, written project description and electronic bid proposal).

3.7.2 Attend and conduct a pre-bid conference as required by OWNER.

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

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

3.7.5 Prepare bid tabulation and provide recommendation for award as required by OWNER.

3.8 PROJECT CLOSE-OUT AND CONSTRUCTION ASSISTANCE PHASE (ADDITIONAL SERVICES): The following services represent items that the OWNER may request the CONSULTANT to perform during this task. The combined effort from task 3.7 and 3.8 shall not exceed 90 hours of effort.

3.8.1 *Pre-Construction Conference.* CONSULTANT may attend a Pre-Construction Conference before the start of construction.

3.8.2 *Site Visits and Construction Observation.* CONSULTANT may perform site visits as requested by the OWNER to observe the progress of the work. Observations will not be exhaustive or extend to every aspect of Contractor's work, but will be limited to spot checking, and similar methods of general observation. Based on the site visits, CONSULTANT will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Document and keep OWNER informed of the general progress of the work.

3.8.3 CONSULTANT will not supervise, direct, or control Contractor's work, and will not have authority to stop the Work or responsibility for the means, methods, techniques, equipment choice and use, schedules, or procedures of construction selected by Contractor, for safety programs incident to Contractor's work, or for failure of Contractor to comply with laws. CONSULTANT does not guarantee Contractor's performance and has no responsibility for Contractor's

failure to perform in accordance with the Contract Documents.

- 3.8.4 *Construction Meetings.* CONSULTANT may attend construction meetings on site as requested.
- 3.8.5 *Recommendations with Respect to Defective Work.* CONSULTANT will recommend to OWNER that Contractor's work be disapproved and rejected while it is in progress if CONSULTANT believes that such work will not produce a completed Project that generally conforms to the Contract Documents.
- 3.8.6 *Clarifications and Interpretations.* CONSULTANT will respond to reasonable and appropriate Contractor requests for information made in accordance with the Contract Documents and issue necessary clarifications and interpretations. Any orders authorizing variations from the Contract Documents will be made only by OWNER.
- 3.8.7 *Change Orders.* CONSULTANT may recommend Change Orders to the OWNER, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.
- 3.8.8 *Shop Drawings and Samples.* CONSULTANT will review and take appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for general conformance with the Contract Documents. Such review and action will not extend to means, methods, techniques, equipment choice and usage, schedules, or procedures of construction or to related safety programs. Any action in response to a shop drawing will not constitute a change in the Contract Documents, which can be changed only through the Change Orders.
- 3.8.9 *Substitutes and "or-equal/equivalent."* CONSULTANT will evaluate and determine the acceptability of substitute or "or-equal/equivalent" materials and equipment proposed by Contractor in accordance with the Contract Documents.
- 3.8.10 *Inspections and Tests.* CONSULTANT may require special inspections or tests of Contractor's work, and may receive and review certificates of inspections within CONSULTANT's area of responsibility. CONSULTANT's review will be solely to determine that the results indicate compliance with the Contract Documents and will not be an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the Contract Documents. CONSULTANT is entitled to rely on the results of such tests.
- 3.8.11 *Disputes between OWNER and Contractor.* CONSULTANT will, if requested by Client, render written decision on all claims of OWNER and Contractor relating to the acceptability of Contractor's

work or the interpretation of the requirements of the Contract Documents. In rendering decisions, CONSULTANT shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision.

3.8.12 *Applications for Payment.* If required and based on observations during review of applications for payment and supporting documentation, CONSULTANT will recommend amounts that Contractor be paid. Recommendations will be based on CONSULTANT's knowledge, information and belief, and will state whether in CONSULTANT's opinion Contractor's work has progressed to the point indicated, subject to any qualifications stated in the recommendation. CONSULTANT's recommendations will not be a representation that its observations to check Contractor's work have been exhaustive, extended to every aspect of Contractor's work, or involved detailed inspections.

3.8.13 *Substantial Completion.* If requested by Contractor and Client, CONSULTANT will conduct a site visit to determine if the Work is substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list.

3.8.14 *Final Notice of Acceptability of the Work.* CONSULTANT may conduct a final site visit to determine if the completed Work of Contractor is generally in accordance with the Contract Documents and the final punch list so that CONSULTANT may recommend final payment to Contractor.

3.8.15 *Record Drawings.* If requested, the CONSULTANT will prepare a record drawing showing significant changes reported by the contractor or made to the design by CONSULTANT. Record drawings are not guaranteed to be as-build but will be based on information made available.

4. SCHEDULE

The CONSULTANT will complete the project within a mutually agreed upon schedule of the following:

- **Preliminary Project Design** – 60% Plans Submittal - 90 Calendar Days from Notice To Proceed. *Anticipated 90 Days for RR review.
- **Pre-Final Project Design** – 90% Plans Submittal - 60 Calendar Days from approval of Preliminary Project Design. * Anticipated 90 Days for RR review.
- **Final Project Design** – 100% Plans Submittal – 30 Calendar days from approval of Pre-Final Project Design. *Anticipated 90 Days for RR review.

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5. CHANGE IN CONTRACT AMOUNT.

As compensation for the additional work, OWNER shall pay CONSULTANT in accordance with the terms as a change in the contract amount;

Original Contract Amount executed July 20, 2023	\$35,000.00
<u>Amendment No. 1</u>	<u>\$593,071.78</u>
Revised Total Contract Amount	\$628,071.78

6. EFFECTIVE DATE AND AUTHORIZATION TO PROCEED.

This Amendment No. 1 is effective upon signature of both parties.

7. ELECTRONIC SIGNATURES

The Parties agree this transaction may be completed by electronic means and an electronic signature on this AMENDMENT will be given the same legal effect as a handwritten signature and cannot be denied enforceability solely because is it in electronic form. If CONSULTANT signs this AMENDMENT electronically and/or submits documents electronically, CONSULTANT agrees to comply with OWNER'S requirements for submission of electronically signed and/or submitted documents.

Except as amended hereby, all terms of the Agreement shall remain in full force and effect without modification or change.

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IN WITNESS WHEREOF, the parties have executed this AMENDMENT, in multiple copies on the respective dates herein below reflected.

OWNER:

City of Broken Arrow, a Municipal Corporation

By: _____
Michael L. Spurgeon,
City Manager

Date: _____

CONSULTANT:

HDR Engineering, Inc.

By: Lucas Bathurst
Lucas A. Bathurst, PE,
Vice President

Date: 10/2/2023

(CORPORATE SEAL, IF APPLICABLE)

Attest:

City Clerk [Seal]

Date: _____

Approved
as to
form: _____

Assistant
City
Attorney Graham Parker

Attest:

William F Fleming Jr
William Fleming, Jr.,
Vice President

Date: 10/2/2023

VERIFICATION

State of Texas)
) §
County of Dallas)

Before me, a Notary Public, on this 2nd day of October, 2023, personally appeared Lucas A. Bathurst, known to be to be the (President, Vice-President, Corporate Officer, Member, or Other: _____) of [COMPANY NAME] 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:

April 6, 2024

Jenifer Rayshell
Notary Public

