

**AN AGREEMENT BY AND BETWEEN
THE INDIAN NATIONS COUNCIL OF GOVERNMENTS
AND THE CITY OF BROKEN ARROW FOR AN UPDATE OF THE CITY OF BROKEN ARROW'S
BICYCLE/PEDESTRIAN MASTERPLAN**

This AGREEMENT is made by and between the Indian Nations Council of Governments, ("INCOG"), and The City of Broken Arrow, ("City").

WITNESSETH:

WHEREAS, the INCOG Board of Directors adopted the Regional Bicycle and Pedestrian Master Plan, ("GO Plan"), in 2015 and the GO Plan will now be updated to reflect current national best practices and identify a regional network of bicycle facilities.

WHEREAS, the GO Plan adopted in 2015 included an additional detailed plan for the City and the City desires to update the additional plan in coordination with the update of the GO Plan; and

WHEREAS, both INCOG and the City are committed to enhancing the safety of vulnerable road users as part of the adopted regional Local Road Safety Plan to eliminate all traffic fatalities and injuries; and

WHEREAS, planning for and constructing bicycle and pedestrian facilities will enhance multiple regional and local goals such as promoting and enhancing 1) public health and safety, 2) air quality, 3) economic development and tourism, and 4) transportation equity; and

WHEREAS, INCOG staff have conducted a competitive procurement process and have selected the consultant RDG Planning & Design ("the Consultant"), to update the regional GO Plan and to include updating local jurisdictional plans; and

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

I. Purpose of the Agreement

a) This AGREEMENT is between INCOG and the City for required local participation money towards updating the City's bicycle/pedestrian Master Plan. The Consultant's cost for updating the City's bicycle/pedestrian plan is \$42,289. The City shall pay 50% of the amount, (\$21,144) from local funds.

b) INCOG has secured Metropolitan Planning (PL) funding in the amount of \$180,465 for the regional plan and an additional 50% of the City's updated plan.

II. General Terms

- a) INCOG will manage the regional project and provide assistance to the City regarding their local jurisdiction update.
- b) The City is to provide a staff member to facilitate the City's stakeholder engagement, provide a location for public meetings and a workshop, provide data to the Consultant, and any related task the Consultant may need to perform the task of updating the City's plan.
- c) INCOG shall provide to the Consultant all previous assessments and maps from the 2015 GO Plan.
- d) INCOG shall provide the use of its GIS Team for the City's updated plan.
- e) INCOG will invoice the City for an updated bicycle/pedestrian plan not to exceed \$21,144. \$10,572 will be due after executing this agreement. \$10,572 will be due after July 1, 2024. The City may choose to pay the entire \$21,144 in one payment after the agreement is executed.

III. Effective Date

The provisions of this AGREEMENT shall become effective from the date of the INCOG Board of Directors Chair's signature on the fully executed AGREEMENT. This AGREEMENT shall be effective until all funding provided in Section II has been expended and the City's plan is updated, but in no event shall the term of this AGREEMENT be extended beyond 24 months from the effective date.

IV. Records

INCOG shall maintain accounting records and other evidence pertaining to the costs incurred under this AGREEMENT.

V. Amendments or Modifications of Agreement

No changes, revisions, amendments, or alteration in the manner, scope, or type of work or compensation to be paid by the City shall be effective unless reduced to writing and executed by the City with the same formalities as are observed in the execution of this AGREEMENT.

VI. Responsibility for Claims and Liability

In any agreement with any subcontractor or vendor, each Party will specify that such subcontractor or vendor shall hold harmless the other Party and its agents, officers and employees for all the hereinbefore described expenses, costs, claims, actions or amounts.

VII. No Agency Relationship Created

Nothing in this agreement shall be construed to create an agency relationship between INCOG and the City or any subcontractor or vendor. In no event will the City incur obligation on the part of INCOG, nor will INCOG incur obligation on the part of the City except for as described in this agreement.

VIII. Termination or Suspension

This AGREEMENT was entered into by the participants because of their mutual accord that the continuing, cooperative, and comprehensive transportation planning process was necessary. Either INCOG or the City may terminate its interest and its obligation under this AGREEMENT by giving thirty (30) days' notice in writing to the other participant, it being understood that such termination may be adverse to the interests of the other participant.

IX. Conflict of Interest

INCOG and the City represent that none of its employees or members of its governing board have or will obtain an interest in any subcontractor or vendor that will benefit from this agreement.

X. Prior Understanding

This AGREEMENT incorporates and reduces to writing all prior understandings, promises, agreements, commitments, covenants or conditions, and constitutes the full and complete understanding and contractual relationship of the participants for the Bike Share system.

XI. Binding Effect

This AGREEMENT shall be binding upon and inure to the benefit of INCOG and shall be binding upon their successors and subject to the limitation of Oklahoma Law.

XII. Notices

All notices, demands, requests, or other communications which may be or are required to be given, served, or sent by either party to the other pursuant to the AGREEMENT shall be in writing and shall be deemed to have been properly given or sent:

- a) If intended for INCOG, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to:

INCOG
Transportation Planning Division
Two West Second Street, Suite 800
Tulsa, OK 74103-3116

- b) If intended for the City, by mailing by first class mail or, if sender prefers, by registered or certified mail, return receipt requested, with postage prepaid, addressed to:

City of Broken Arrow
220 S First Street
Broken Arrow, OK 74012

XIII. Severability

If any provision, clause or paragraph of this contract or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses, or paragraphs of this contract which is not affected by the determination. The provisions, clauses or paragraphs and any documents incorporated by reference are declared severable and the invalidation of any such provision, clause, paragraph or document incorporated by reference shall not affect the remaining provisions, clauses, paragraphs and documents incorporated by reference which shall continue to be binding and of full legal efficacy.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the respective dates herein below reflected to be effective on the date executed by the INCOG Board of Directors Chair.

Indian Nations Council of Governments

Rich Brierre, Executive Director

Date _____

City of Broken Arrow

Michael J. Sprunger
City Manager

Date 3/20/24

Curtis Green

City Clerk 3/26/2024



Approved as to form:

D. Graham Parker 1/30/2024
Assistant City Attorney