

**AMENDMENT NO. 5
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW
AND
Kimley Horn
PROJECT NAME: Events Park Infrastructure
PROJECT NO. 2417210**

THIS **AMENDMENT NO. 5**, made and entered into this ____ day of _____ 2024, by and between the CITY OF BROKEN ARROW, OKLAHOMA, a municipal corporation of the State of Oklahoma, hereinafter referred to as “CITY”, and Kimley Horn, hereinafter referred to as “ENGINEER”;

WITNESSETH:

WHEREAS, CITY and ENGINEER entered into an Agreement dated September 26, 2023 “ORIGINAL AGREEMENT” for services as set forth in said Agreement; and

WHEREAS, said ORIGINAL AGREEMENT requires CONTRACTOR to perform a survey and geotechnical services to improve and expand the infrastructure at Events Park.

WHEREAS, CITY and ENGINEER propose to amend said ORIGINAL AGREEMENT to expand the project scope and compensation to include design work to improve and expand the infrastructure at Events Park.

WHEREAS, the ORIGINAL AGREEMENT and Amendments No. 1 through No. 5 shall hereinafter collectively be referred to as the “Agreement”; and

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

WHEREAS, ENGINEER 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.

This Amendment requires ENGINEER to perform design work for the expansion Events Park Infrastructure as described in Attachment A (scope), Attachment B (Organization of Submittal Documents), Attachment C (Compensation and Additional Services), and Attachment D (Project Schedule).

2. CHANGE IN CONTRACT AMOUNT.

As compensation for the additional work, CITY shall pay ENGINEER in accordance with the terms as a change in the contract amount:

Original Contract Amount executed September 26, 2023	\$	192,050
Amendment No. 1, not to exceed	\$	100,000
Amendment No. 2, Remove Design Fee Amend 1	\$	(100,000)
Amendment No. 2, lump sum	\$	1,439,700
Amendment No. 2, not to exceed	\$	21,000
Amendment No. 3, lump sum	\$	71,700
Amendment No. 4, lump sum	\$	224,700
Amendment No. 4, not to exceed	\$	40,000
Amendment No. 4, Reduce Misc. Fees	\$	(59,810)
Amendment No. 5, lump sum	\$	131,900
Amendment No. 5, not to exceed	\$	43,900

Revised Total Contract Amount \$ 2,105,140

3. AMENDED PROJECT SCHEDULE

See Addendum D for the schedule for Amendment No. 5.

4. EFFECTIVE DATE AND AUTHORIZATION TO PROCEED.

This Amendment No. 5 is effective upon signature of both parties.

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

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: _____

Attest: _____
City Clerk [Seal]

Date: _____

Approved as to form:

Graham Parker
Assistant City Attorney

CONSULTANT:

Kimley Horn

By: Douglas Arnold
Douglas Arnold,
Contract Specialist

Date: 6/11/2024

(CORPORATE SEAL, IF APPLICABLE)

Attest: Trenton Tidwell
Name: Trenton Tidwell
Office: Fort Worth, TX

Date: 6/11/2024

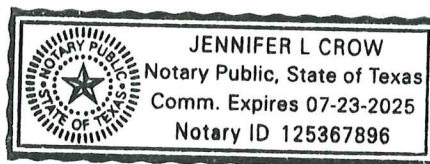
VERIFICATION

State of Texas)
County of Tarrant) §

Before me, a Notary Public, on this 11th day of June, 2024, personally appeared Douglas Arnold, known to be to be the (President, Vice-President, Corporate Officer, Member, or Other: Contract Specialist) of Kimley Horn, 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:

7-23-25
Jennifer L Crow
Notary Public



**ATTACHMENT A
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW (OWNER)
AND
Kimley Horn
FOR
Events Park Infrastructure
PROJECT 2417210**

SCOPE OF SERVICES

1.0 AMENDMENT SCOPE

- 1.1 Right of Way Preparation Services: the CONSULTANT will prepare a right-of-way exhibit and legal description, as needed, along E 101st Street and within Events Park. (\$3,900 NTE)
- 1.2 Parking Lot 4: the CONSULTANT will design and prepare on site civil engineering plans for a 250 +/- space parking lot located on the west side of 41st Street and north of Parking Lot 3. (\$125,900 LS)
- 1.3 Bidding and Construction Phase Services Additional Funding: the CONSULTANT will assist with bidding and construction phase services as needed. (\$40,000 Hourly Not to Exceed)
- 1.4 Roadway Right of Way Preparation Services: the CONSULTANT will prepare a right-of-way exhibit and legal description for all the roadways within Events Park. (\$2,950 LS)
- 1.5 Topographic Survey – Parking Lot 4: the CONSULTANT will perform a topographic and boundary survey for the widening of Parking Lot 4 as shown in the yellow area of Appendix 1. (\$3,050 LS)

2.0 SCOPE OF SERVICES

2.1 **PROJECT MANAGEMENT AND COORDINATION:** CONSULTANT shall be responsible to perform the following tasks throughout the course of the PROJECT:

- 2.1.1 Document all meetings, conferences, coordination, phone conversations, etc. and send documentation to OWNER within three (3) calendar days.
- 2.1.2 Provide Owner with a list of all proposed sub-consultants and tasks sub-consultants are responsible to perform.
- 2.1.3 Prepare additional infrastructure assessment estimates.
- 2.1.4 Assist OWNER with logistics support services

2.2 **RIGHT OF WAY PREPARATION SERVICES:** Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the schedule provided in Attachment E:

- 2.2.1 Prepare a right of way exhibit and legal description for required parcels.

2.3 **ON-SITE PARKING LOT IMPROVEMENTS:** Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the schedule provided in Attachment E:

2.3.1 Project Management and Administration

2.3.2 Conceptual Design (30%)

2.3.2.1 Conceptual Plan Layout and Typical Sections

- 2.3.2.1.1 Identify significant design constraints.
- 2.3.2.1.2 Establish parking lot location.
- 2.3.2.1.3 Establish parking lot layout criteria (90-degree vs. angled parking)
- 2.3.2.1.4 Develop typical sections, including subgrade and pavement design recommendations from the geotechnical report

2.3.2.2 Storm Drainage Analysis and Design

- 2.3.2.2.1 Develop drainage area maps and perform hydrologic calculations to determine peak runoff for design rain events
- 2.3.2.2.2 Perform hydraulics calculations to design storm sewer systems.
- 2.3.2.2.3 The following are NOT included as a part of the analysis and design:
 - HEC-RAS modeling
 - Preparation of any CLOMR/LOMR

2.3.2.3 Photometric Analysis and Electrical Design

- 2.3.2.3.1 Existing poles and fixtures are to be matched as best as possible
- 2.3.2.3.2 Illumination levels will be designed per IES
- 2.3.2.3.4 Circuit size, conduit fill, and infrastructure installations will

- be designed to NEC requirements and City of Broken Arrow standards
 - 2.3.2.3.5 Light pole footing design and structural calculations to be included
 - 2.3.2.4 Landscape Architecture
 - 2.3.2.4.1 Prepare preliminary code landscaping point calculations
 - 2.3.2.5 Prepare an opinion of probable construction cost.
 - 2.3.2.6 Submit Conceptual 30% Plans in PDF format and up to three (3) copies of 11"x17" half- size plans to the OWNER
 - 2.3.2.7 Conduct a 30% Plan review meeting with the OWNER and incorporate 30% Plan review comments
- 2.3.3 Final Design (90% and Final)
 - 2.3.3.1 Project Management and Administration
 - 2.3.3.2 Parking Lot
 - 2.3.3.2.1 Update Dimension Control Plans
 - 2.3.3.2.2 Update Grading Plans
 - 2.3.3.2.3 Update Illumination Plans
 - 2.3.3.3 Drainage
 - 2.3.3.3.1 Finalize storm drainage analysis and design
 - 2.3.3.3.2 Finalize underground detention pond calculations
 - 2.3.3.3 Landscape and Irrigation
 - 2.3.3.3.1 Update code landscape point calculations
 - 2.3.3.3.2 Prepare irrigation calculations
 - 2.3.3.4 Compile and prepare a 90% Design opinion of probable construction cost
 - 2.3.2.7 Conduct a 90% Plan review meeting with the OWNER and incorporate 90% Plan review comments
 - 2.3.2.9 Submit 90% Design Plans in PDF format and up to three (3) copies of 11"x17" half-size plans to the OWNER
 - 2.3.2.10 Conduct a 90% Plan review meeting with the OWNER and incorporate 90% Plan review comments
 - 2.3.2.11 Develop Final Design Plans and prepare an opinion of probable construction cost
 - 2.3.2.12 Submit Final Design Plans in PDF format and up to three (3) copies of 11"x17" half-size plans.

2.4 **BIDDING AND CONSTRUCTION SERVICES:** Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with

the schedule provided in Attachment E:

- 2.4.1 Assist with bidding phase services, as needed
 - 2.4.1.1 Prepare for and attend pre-bid meetings
 - 2.4.1.2 Issue Addenda as appropriate to interpret, clarify, or expand bidding documents
 - 2.4.1.3 Provide a schedule of submittals required for the contractor

- 2.4.2 Assist with the construction phase services, as needed
 - 2.4.2.1 Prepare for and attend pre-construction meetings
 - 2.4.2.2 prepare for and attend construction progress meetings
 - 2.4.2.3 Visit to site and observations of construction
 - 2.4.2.3.1 Visit sites to observe the progress of the work.
Observations will be limited to spot checking, and similar methods of general observation. Base on the site visits CONSULTANT will evaluate whether CONTRACTOR work is generally proceeding in accordance with the contract documents, and keep the OWNER informed of the general progress of work.
 - 2.4.2.3.1 CONSULTANT will not supervise, direct, or control CONTRACTORS 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.

- 2.4.3 Recommendations with respect to defective work
 - 2.4.3.1 CONSULTANT will recommend to OWNERS 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.

- 2.4.4 Clarifications and Interpretations
 - 2.4.4.1 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 OWNERS.

- 2.4.5 Change orders
 - 2.4.5.1 CONSULTANT may recommend Change Orders to the OWNERS and will review and make recommendations related to Change Orders submitted or proposed by the CONTRACTOR.

- 2.4.6 Review submittals, shop drawings, and samples

- 2.4.6.1 CONSULTANT will review 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 any action taken in response 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.
- 2.4.7 Substitutes and "or-equal"
 - 2.4.7.1 CONSULTANT will evaluate the acceptability of substitute or "or-equal/equivalent" materials and equipment proposed by CONTRACTOR in accordance with the Contract Documents.
- 2.4.8 Disagreements between OWNERS and CONTRACTOR
 - 2.4.8.1 CONSULTANT will, if requested by OWNERS, render written decision on all claims of OWNERS 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 OWNERS or CONTRACTOR and shall not be liable in connection with any decision.
- 2.4.9 Applications for Payment
 - 2.4.9.1 Based on its observations and on 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.
- 2.4.10 Substantial Completion
 - 2.4.10.1 When requested by CONTRACTOR and OWNERS, 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.
- 2.4.11 Final Walkthrough and preparation of punch list
- 2.4.12 Final Notice of Acceptability of the work
 - 2.4.12.1 CONSULTANT will conduct a final site visit to evaluate whether 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.

2.5 **TOPOGRAPHIC SURVEY:** Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the schedule provided in Attachment E:

- 2.5.1 Perform a topographic and boundary survey by a combination of boots on the ground work and aerial LiDAR survey. It shall include all pertinent objects and above-ground features such as roads, curbs, drives, sidewalk, ramps, slabs, finished floor at thresholds, signs, fences, wall, visible drainage structures and flow lines, and visible or marked utilities.. Along with storm water manhole, sewer manhole, water valve rims and inverts depth measurements.
- 2.5.2 Gather existing plat, property owner information, existing ROW and easement information.

**ATTACHMENT B
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FOR
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ORGANIZATION OF SUBMITTAL DOCUMENTS

- 1.0 RIGHT OF WAY PREPARATION SERVICES:
- 1.1 The CONSULTANT shall submit right of way exhibit and legal description in PDF format. It can be submitted via email, data download, or memory stick..
- 2.0 ON-SITE PARKING LOT IMPROVEMENTS:
- 2.1 Submit Conceptual 30% Plans in PDF format and up to three (3) copies of 11"x17" half- size plans to the OWNER. Conceptual 30% Plans will include the following plan sheets:
- Sheet Index
 - General Notes
 - Overall Site Plan
 - Dimension Control Plans (20 scale)
 - Grading and Drainage Plans (20 scale)
 - Illumination pole placements, if applicable
 - Typical Pavement Section Details
- 2.2 Submit 90% Design Plans in PDF format and up to three (3) copies of 11"x17" half-size plans to the OWNER. 90% Design Plans will include the additional plan sheets:
- Pay Quantities and Pay Item Notes
 - Signage and Striping Plans (20 scale)
 - Storm Sewer Drainage Area Maps
 - Storm Sewer Plan & Profiles
 - Detention Pond Drainage Area Maps
 - Underground Detention Pond Plans and Details
 - Code Landscape Plan and Details
 - Irrigation Plans and Details
 - Erosion Control sheets
- 2.3 Submit Final Design Plans in PDF format and up to three (3) copies of 11"x17" half-size plans.
- 3.0 TOPOGRAPHIC SURVEY: The CONSULTANT shall submit in-full survey in a format compatible with AutoCAD. It can be submitted via email, data download, or memory stick.

**ATTACHMENT C
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COMPENSATION AND ADDITIONAL SERVICES

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 Right-of-Way Preparation Services: The OWNER shall pay the CONSULTANT a \$650 per Right-of-Way/Easement Parcel Preparation not to exceed \$3,900. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.2 Parking Lot 4: The OWNER shall pay the CONSULTANT a lump sum amount of \$125,900 for the completion of the Design of Parking Lot 4. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.3 Bidding and Construction Phase Services: The OWNER shall pay the CONSULTANT hourly not to exceed \$40,000 for the Bidding and Construction Phase Services in accordance with rates on Appendix 2. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.4 Roadway Right-of-Way Preparation Services: The OWNER shall pay the CONSULTANT a lump sum amount of \$2,950 for the completion of the Roadway Right-of-Way Preparation Services. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.5 Topographic Survey – Parking Lot 4: The OWNER shall pay the CONSULTANT a lump sum amount of \$3,050 for the completion of the Topographic Survey – Parking Lot 4. This amount includes all labor, material, overhead and profit associated with the Scope of Services.

2.0 ADDITIONAL SERVICES BASED ON TIME

The hourly rates set forth in Appendix 2 include all salaries, benefits, overhead and other indirect costs including federal, state, and local taxes, plus profit and effective as of January 1, 2024 for architectural / 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
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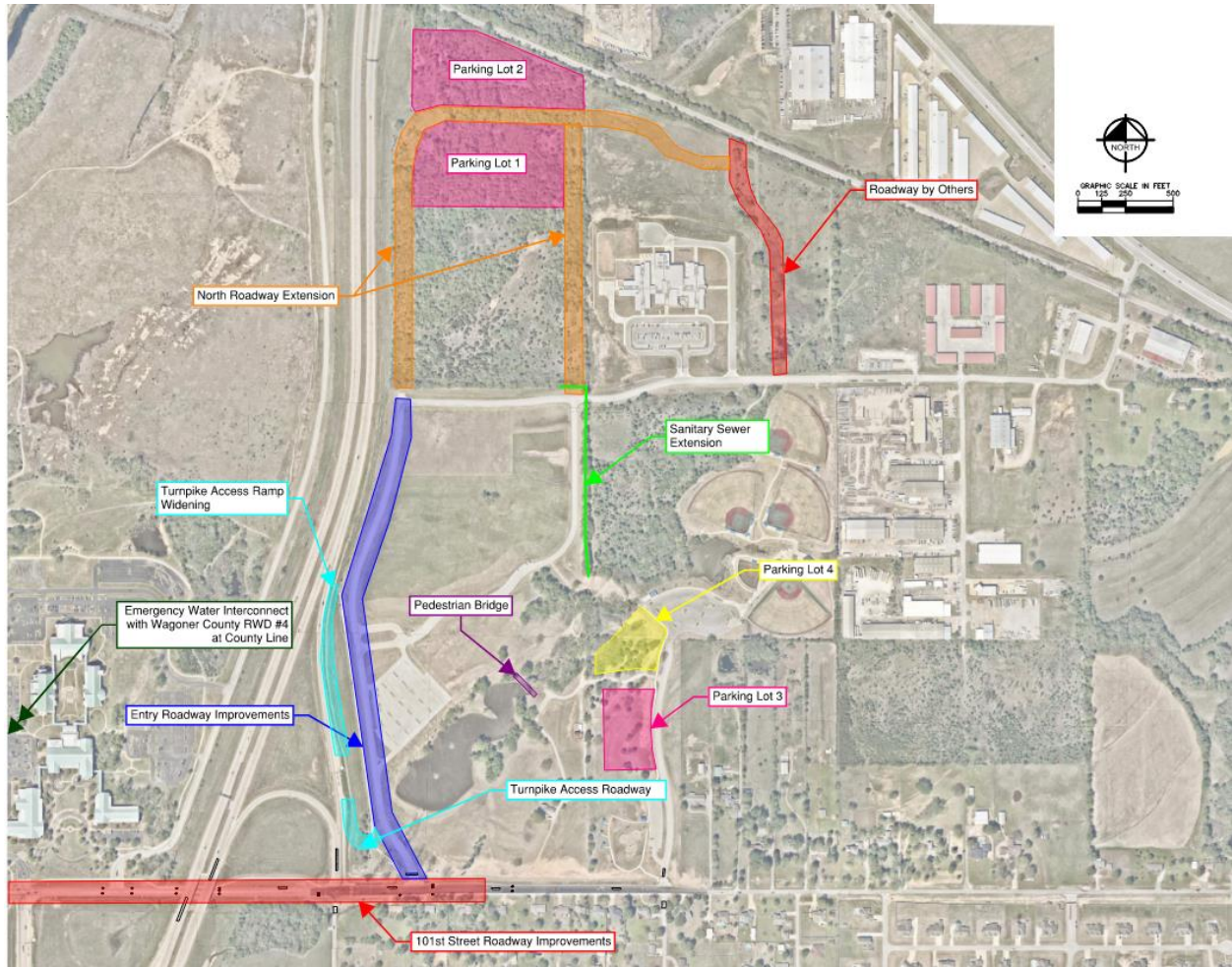
PROJECT SCHEDULE

It is anticipated Parking Lot 4 improvements will be completed will be completed by September 2024 and the ROW enhancement will be completed by September 2024.

It is anticipated that an NTP will be provided by the end of June 2024.

If NTP is delayed, the design schedule will be extended as mutually agreed upon between the OWNER and CONSULTANT.

**APPENDIX 1
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
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**APPENDIX 2
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
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Kimley Horn
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Kimley-Horn and Associates, Inc.

Hourly Labor Rate Schedule

<u>Classification</u>	<u>Rate</u>
Analyst	\$160 - \$245
Professional	\$230 - \$295
Senior Professional I	\$255 - \$350
Senior Technical Support	\$155 - \$280
Support Staff	\$110 - \$145
Technical Support	\$125 - \$150

Effective through June 30, 2024

Subject to adjustment thereafter