

**AMENDMENT NO. 3
TO
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
BETWEEN
CITY OF BROKEN ARROW
AND
COWAN GROUP ENGINEERING, L.L.C.
FOR CEDAR AVENUE IMPROVEMENTS FROM ELGIN STREET
TO FREEPORT STREET
PROJECT NO. ST0916C**

THIS **AMENDMENT NO. 3** made and entered into this _____ day of January 2017, by and between the CITY OF BROKEN ARROW, OKLAHOMA, a municipal corporation of the State of Oklahoma, hereinafter referred to as "CITY", and Cowan Group Engineering, L.L.C., hereinafter referred to as "CONSULTANT";

WITNESSETH:

WHEREAS, CITY and CONSULTANT entered into an Agreement dated November 19, 2013, for services as set forth in said Agreement; and

WHEREAS, CITY and CONSULTANT entered into Amendment No. 1 dated June 18, 2014, for additional design services as set forth in said Agreement; and

WHEREAS, CITY and CONSULTANT entered into Amendment No. 2 dated February 18, 2015, for additional design services as set forth in said Agreement; and

WHEREAS, CITY and CONSULTANT propose to amend said Agreement to provide additional design services and compensation; and

WHEREAS, the 2013 Agreement and First Amendment, Second Amendment, and Third Amendment shall hereinafter collectively be referred to as the "Agreement"; and

WHEREAS, funding is now available for said additional services in Account Number 091-5300-431.70-16; 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. SCOPE OF SERVICES.

An Amended Scope of Services as specified in the CONSULTANT'S Proposal (attached) is hereby incorporated by reference as part of this agreement.

2. ORGANIZATION OF SUBMITTAL DOCUMENTS.

The Organization of Submittal Documents related to this Amendment No. 3 are the same as defined in Amendment No. 2.

3. OWNER'S RESPONSIBILITIES AND SPECIAL CONDITIONS.

The Owner's responsibilities related to this Amendment No. 3 are the same as defined in Amendment No. 2. No Special conditions exist to this Amendment No. 3.

4. CHANGE IN CONTRACT AMOUNT.

As compensation for the additional work, CITY shall pay CONSULTANT in accordance with the terms specified in CONSULTANT'S Proposal (attached), as a change in the contract amount as follows:

Original Agreement Amount executed November 19, 2013	\$109,800.00
Amendment No. 1	\$7,500.00
Amendment No. 2	\$19,000.00
Amendment No. 3	\$8,200.00
Revised Total Contract Amount	\$144,500.00

5. AMENDED PROJECT SCHEDULE.

The Project Schedule related to this Amendment No. 3 is in accordance with the terms specified in CONSULTANT'S Proposal (attached).

6. EFFECTIVE DATE AND AUTHORIZATION TO PROCEED.

This Amendment No. 3 is effective upon signature by both parties.

Except as amended hereby, all terms of the 2013 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 to be effective on the date executed by the City Manager of the City of Broken Arrow, Oklahoma.

IN WITNESS WHEREOF, OWNER and CONSULTANT have executed this Agreement.

OWNER:
City of Broken Arrow

Approved as to form:

By _____



Kim Slinkard, Assistant City Attorney

By _____

Michael L. Spurgeon, City Manager

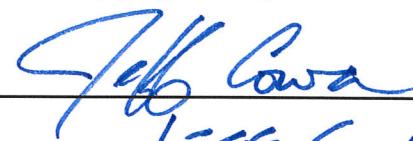
Date _____

Attest:

City Clerk

CONSULTANT:
Cowan Group Engineering, L.L.C.

By _____



Name: _____

Title: _____

Date _____



Attest:

Corporate Secretary (Seal)

Date _____

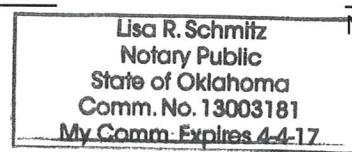
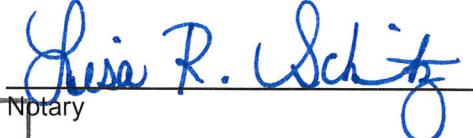
VERIFICATIONS (If not a corporation)

State of Oklahoma)
) §
County of Tulsa)

Before me, a Notary Public, on this 4th day of January, 2017, personally appeared Jeff Cowan, known to be to be the (President, Vice-President, Corporate Officer, Member, Partner, or Other:) _____ of Cowan Group Engineering, L.L.C., and to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

My Commission Expires:

4/4/2017



CONSULTANT'S PROPOSAL

December 29, 2016

Alex Mills, PE, CFM
Director of Engineering and Construction
City of Broken Arrow
485 N. Poplar Avenue
Broken Arrow, OK 74012

RE: Cedar Avenue
Broken Arrow, OK

Dear Mr. Mills:

Pursuant to your request and our conversation, Cowan Group Engineering, LLC (CGE) (Consultant) appreciates your interest in our professional services and welcomes the opportunity to present a proposal to you for the completion and engineering design services for the subject project. The following outlines general project data and detailed scope of services for the subject project:

GENERAL PROJECT DATA

Our proposal for services is based on the following site data:

- Project Name – Cedar Avenue
- Project Location – From West Elgin to West Freepoort
- Project Owner – City of Broken Arrow (Owner)
- Project Size – Approximately 300 feet along Cedar Avenue (Refer to Attachment "A")
- Project Type – Transportation

BASIC SCOPE OF SERVICES

The basic scope of services includes the completion of the subject project design, bid documents and construction administration for Cedar Avenue road improvements including new street typical section, new reinforced concrete box, drainage, signing, striping, traffic control and erosion control.

Task One – Final Design

- Coordinate one (1) review meeting with Owner
- Prepare all necessary plan sheets for construction of the proposed project. The plans will conform with and will utilize City of Broken Arrow design standards. These plan sheets will include, but not limited to:
 - Cover Sheet
 - Pay Quantities and Notes
 - Summary Sheets
 - Plan and Profile sheets
 - RCB plan and profile along with details
 - Drainage structures and appurtenances
 - Erosion Control
 - Traffic signs, striping
 - Erosion Control
 - All applicable detail sheets and standard sheets.
- Prepare required technical specifications and cost estimate data for the project.
- Secure comments from Owner
- Incorporate any necessary changes and produce final specifications, bid item list, and estimate data.

Task Two – Bid Assistance

- Assist the City with addenda
- Field bidder's questions
- Prepared record drawings

Task Three – Construction Administration

The scope of these task items shall be on an as-needed basis and shall be directed by the City at an hourly rate.

- Attend pre-work meeting
- Review and approval of submittals
- Review request for information, addendums and change orders from Contractor
- Attend one (1) final inspection, acceptance, and report

ADDITIONAL SERVICES

Other services that are not associated with the agreed Scope of Services shall be considered as additional services. Additional services would include Owner directed work that is clearly outside of the base contract. The fee structure for additional services shall be based on time and expense effort unless otherwise negotiated prior to services being rendered. See Attachment "B".

Additional services may include the following, but not limited to:

- Plan Revisions
 - Street plan revisions (minor alterations) are expected and therefore are included as part of our services in the base contract. Although, if plan adjustments exceed normal revisions or if a complete redesign is required then additional services shall be negotiated to meet an adjusted scope of services.
- Subsurface Geotechnical Investigation
- Utility relocation design coordination or construction drawings related to on or off-site
- Phase I environmental study and clearance
- Right of way or easement acquisitions
- ROW/Easement survey staking
- Permit fees for City, County or State
- Construction material testing
- Construction surveying or staking
- Construction material testing
- On-site full time Resident Project Representation
- Review, process and approve pay applications
- Attend pre-bid meeting(s)

BASE CONTRACT FEE STRUCTURE (as outlined above)

ITEM	DESCRIPTION	FEE
Basic Scope of Services		
1	Final Design	5,200
2	Bidding	500
3	Construction Administration (Hourly)	2,500
	Total:	\$8,200

SCHEDULE

Schedules shall be coordinated with Owner

REIMBURSABLE EXPENSES

The following expenses shall be considered as reimbursable expenses:

- Application and Review Fee(s) to Applicable Government Agency
- Cost of ownership list and/or title work required
- Travel expenses to include lodging, transportation & meals
- Shipping and postage

- Plotting and reproduction for progress meetings, presentations and submittals
- Large format scans (11" x 17" and larger documents)
- Large format colored plots (11" x 17" and larger documents)
- Board mounted presentation graphics

COMPENSATION

For BASIC CONTRACT engineering design services performed under this agreement, the Owner shall pay the Consultant **a lump sum amount of \$5,700.00 for Task 1 and 2; and hourly not to exceed amount of \$2,500.00 for Task 3** including reimbursable expenses as defined in the TOTAL BASE CONTRACT FEE STRUCTURE. Consultant will invoice on a monthly interval, and invoices are due and payable within 30 days of date of invoice. Invoices past due are subject to interest at the rate of 1½% per month. Printing and deliverables will be considered as a Consultant direct expense and will be billed to you at the actual costs.

If you concur with this proposal, please sign and date this letter, then return stating your approval for Cowan Group Engineering to begin work on this project. This proposal will become void after 60-days from the date submitted.

ATTACHMENTS

As a supplement to this proposal please find the following documents:

- **Attachment "A"** – Site Location
- **Attachment "B"** – CGE 2017 Hourly Rate Schedule
- **Attachment "C"** – Cowan Group Engineering, LLC General Conditions for professional services

Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

COWAN GROUP ENGINEERING, LLC

Jeff Cowan, P.E.
Principal

NOTICE TO PROCEED

The above proposal is understood and accepted. By accepting this proposal, you are also agreeing to Cowan Group Engineering, LLC GENERAL CONDITIONS (PROFESSIONAL SERVICES) attached to this proposal.

By: _____
(Signature)

For: _____
(Organization)

Date: _____

ATTACHMENT A

SURVEY CONTROL DATA

SURVEY CONTROL DATA

1. HORIZONTAL / VERTICAL CONTROL:
 - CONTROL WAS ESTABLISHED USING CONTROL DATA SHEETS (TOL-111, TUL-8, & 27) APPROVED BY THE CITY OF BROKEN ARROW, OKLAHOMA. COORDINATE SYSTEM (NORTH, 2001) AND ELEVATION DATA IS BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).
2. BASIS OF BEARINGS:
 - BEARINGS ARE BASED ON GRID NORTH (N0000'00") AND DISTANCES ARE IN GRID MILES.
3. POLAR COORDINATE DESCRIPTION (S-T-R):
 - SECTION 11-17B14E OF THE INDIAN MERIDIAN, TULSA COUNTY, OK.

1. **HORIZONTAL / VERTICAL CONTROL:**
 - CONTROL WAS ESTABLISHED USING CONTROL DATA SHEETS CT-11, TUL. 9, BA 27) PROVIDED BY THE CITY OF BROKEN ARROW. COORDINATE SYSTEM (NORTH ZONE) WAS 83. VERTICAL DATUM IS B (NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)).
2. **BEARING OF BEARINGS:**
 - BEARINGS ARE BASED ON GRID NORTH (NODC/DOCE) AND DISTANCE.

DESIGN DATA

DESIGN DATA
CITY OF BROKEN ARROW STREET CLASSIFICATION:
MAJOR RESIDENTIAL STREET FOR CEDAR AVENUE
DESIGN SPEED: 30 MPH
POSTED SPEED: 25 MPH

UTILITY CONTACTS

CONVENTIONAL SYMBOLS

SECTION LINES	
PROPERTIES, R/W	PROPERTY LINES
R/W	RIGHT-OF-WAY - EXISTING
X	RIGHT-OF-WAY - PROPOSED
X	FENCES
A	OVERHEAD ELECTRIC LINES
T	OVERHEAD TELEPHONE LINES
SS	SANITARY SEWERS
C	GAS LINES
W	WATER LINES
TUG	UNDERGROUND TELEPHONE LINES
PUG	UNDERGROUND POWER LINES
FO	FIBER OPTIC
	PROPOSED ROAD
	ASPHALT - EXISTING
	CONCRETE - EXISTING
	DIRT/GRAVEL - EXISTING
	CURB - EXISTING
	FL OLINE
	STORM SEWER - EXISTING
	STORM SEWER - PROPOSED
	EXISTING CONTOUR
	PROPOSED CONTOUR
	WATER SERVICE CONNECTION

FUNDING SOURCE: 2008 & 2011 GENERAL OBLIGATION FUND

ATTACHMENT "B"



2017 Professional Hourly Rates

Professional Services

Principal	\$190.00
Associate	\$169.00
Client Manager	\$162.00
Project Manager	\$159.00
Project Engineer II	\$146.00
Project Engineer I	\$140.00
Engineer Level II	\$116.00
Engineer Level I	\$105.00
Engineering Technician II	\$99.00
Engineering Technician I	\$91.00
CAD Technician	\$82.00
Survey Manager	\$133.00
Survey Crew	\$165.00
Survey Crew - Scanner	\$255.00
Construction Services Administrator	\$125.00
Resident Project Representative II	\$98.00
Resident Project Representative I	\$90.00
Administrative	\$95.00
Clerical	\$65.00
Intern	\$45.00

Expenses:

Xerox Copies Letter or Legal	\$0.15 per copy
Xerox Copies Ledger	\$0.25 per copy
Plot Prints	\$0.75 per S.F.
Color/Mylar Plot Prints	\$1.75 per S.F.
Mileage	IRS Allowable

The rates and expenses described may be revised annually

ATTACHMENT "C"
COWAN GROUP ENGINEERING, LLC
GENERAL CONDITIONS (PROFESSIONAL SERVICES)

1. **Services.** This Agreement is entered into between **Client** and **Cowan Group Engineering, LLC** ("Consultant") wherein Client engages Consultant to provide professional services ("Services") in connection with the project described in the proposal ("Project") to which these General Conditions are attached. Client agrees that services not specifically described in the Scope of Services identified in Consultant's proposal are covered by this Agreement but, at the Consultant's discretion, may require an amended Scope of Services and will require additional compensation to Consultant. This Agreement, including the proposal, these General Conditions, Consultant's Addenda and Fee Schedule, represents the entire Agreement between the parties and supersedes any and all agreements between the parties, either oral or in writing, including any purchase or work order issued by Client.
2. **Payment.** Client shall pay invoices upon receipt. Invoices not paid within thirty (30) days of the invoice date shall be subject to a late payment fee of 1 1/2% per month from the date of invoice. Additionally, Consultant may, upon five (5) calendar days' notice to Client, suspend all Services until paid in full and may terminate the Agreement.
3. **Work Product.** Services provided under this Agreement, including all drawings, reports, information, recommendations, or opinions ("Services") prepared or issued by Consultant, are for the exclusive use and benefit of Client or its agents in connection with the Project, are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project. Client will not distribute or convey such Reports to any other persons or entities without Consultant's prior written consent which shall include a release of Consultant from liability and indemnification by the third party. Consultant's Services, field data, and other work products are part of Consultant's professional services, do not constitute goods or products and are copyrighted works of Consultant. However, such copyright is not intended to limit the Client's use of its work product in connection with the Project.
4. **Standard of Care.** Consultant will strive to perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's profession practicing in the same locality under similar circumstances at the time the services are performed. This Agreement creates no other representation, warranty or guarantee, express or implied.
5. **Construction Observation.** If included in the Services, Consultant's services during construction shall be limited to observation of construction operations. Consultant shall not be responsible for constant or exhaustive inspection of the work, the means and methods of construction, or the safety procedures employed by Client's contractor. Performance of construction observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the Contractor's work may occur. Client shall hold its contractor solely responsible for the quality and completion of the Project, including construction in accordance with the construction documents. Any duty hereunder is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees, shall notify Consultant at least twenty-four (24) hours in advance of any observations required by the construction documents.
6. **Client Responsibilities.** Client shall bear sole responsibility for (a) jobsite safety; (b) notifying third-parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project site; and Client shall cooperate with all requests by Consultant, including obtaining permission for access to the Project site. Client releases Consultant from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the site, Consultant shall immediately stop work in the affected area and report the condition to Client.
7. **Electronic Media.** Because data stored on electronic media can deteriorate undetected or be modified without Consultant's knowledge, the Client accepts responsibility for the completeness or readability of the electronic media.
8. **Dispute Resolution.** The parties shall attempt resolution of any dispute arising under or related to this Agreement by mediation. Notwithstanding the foregoing, in the event of Client non-payment, Consultant may, at its sole option, waive mediation. Either party may demand mediation by serving a written notice on the other party stating the essential nature of the dispute. The mediation shall be conducted in accordance with the AAA Construction Industry Mediation Rules then in effect within forty-five (45) days from the service of notice. The parties shall share the fees equally. If mediation fails, either party may institute litigation in the state or federal court of the county in which Consultant's office issuing the proposal is located. The prevailing party shall be entitled to attorneys' fees, cost, including costs incurred in the mediation and costs of enforcement of any judgment. The parties expressly waive any statute of limitations for a longer period of time and agree that any action shall be brought within one year from the date of Consultant's final invoice. The parties expressly waive any and all rights to a trial by jury in any action, proceeding or counterclaim brought by either of the parties against the other with respect to any matter relating to, arising out of or in any way connected with this Agreement.
9. **Changed Conditions.** If during the course of performance of this Agreement conditions or circumstances are discovered which were not contemplated by Consultant at the commencement of this Agreement, Consultant shall notify Client of the newly discovered conditions or circumstances, and Client and Consultant shall renegotiate, in good faith, the terms and conditions of this Agreement. If amended terms and conditions cannot be agreed upon within thirty (30) days after notice, Consultant may terminate this Agreement and Consultant shall be paid for its services through the date of termination.
10. **Governing Law.** The laws of the State where the Agreement was entered into shall govern interpretation of this Agreement. If any term is deemed unenforceable, the remainder of the Agreement shall stay in full force and effect.