

ENGINEERING CONTRACT FUNDING AGREEMENT
BY AND BETWEEN THE CITY OF
BROKEN ARROW AND
THE OKLAHOMA DEPARTMENT OF TRANSPORTATION
FOR ENGINEERING SERVICES INVOLVING
23RD ST. FROM 81ST TO 101ST
EC - 1592
AGREEMENT

This agreement, made the day and year last written below, by and between the City of BROKEN ARROW, hereinafter referred to as the CITY, and the Department of Transportation of the State of Oklahoma, hereinafter referred to as the DEPARTMENT, is for the following intents and purposes and subject to the following terms and conditions, to wit:

WHEREAS, the Board of Directors of the Indian Nations Council of Governments (INCOG) has authorized the expenditure of allocated federal STP funds toward the engineering of an eligible improvement for the CITY, specifically described as follows:

Preliminary Engineering Report – 23RD St. from 81st to 101st.

WHEREAS, the CITY requests authorization to contract for the described engineering services with Cowan Group Engineering, an Oklahoma Limited Liability Company and a qualified consultant.

WHEREAS, the DEPARTMENT is of the opinion that the CITY is capable of administering the described engineering contract in a satisfactory manner;

NOW, THEREFORE, it is mutually agreed by the CITY and the DEPARTMENT that:

- 1) The CITY agrees to provide to the DEPARTMENT a fully executed, negotiated engineering contract by and between the CITY and the consulting engineer for the described engineering services. Said agreement shall include and encompass all current applicable Federal Highway Administration Contract Provisions.
- 2) The CITY agrees to comply with the DEPARTMENT'S current Guidelines for the Administration of Consultant Contracts, and hereby certifies that this engineering contract has been executed in full compliance with the aforementioned policy.
- 3) The CITY agrees to administer the execution of the engineering contract, and to submit the necessary certifications and DEPARTMENT claim forms for progress payments as designated within the specific engineering contract.

- 4) Based on a negotiated *not to exceed* contract amount of **\$436,890**, (**Four-Hundred-Thirty-Six-Thousand-Eight-Hundred-Ninety Dollars**), the cost allocations shall be defined as provided in Paragraphs 5 and 6 below:
- 5) The **DEPARTMENT**, based on authorization from INCOG, agrees to utilize federal STP funds allocated to INCOG to provide **75%** of the contract price, in the amount of **\$327,668** (**Three-Hundred-Twenty-Seven-Thousand-Six-Hundred-Sixty-Eight Dollars**).
- 6) The **CITY** agrees to provide **25%** of the contract price, in the amount of **\$109,222** (**One-Hundred-Nine-Thousand-Two-Hundred-Twenty-Two Dollars**), which shall be placed on deposit with the DEPARTMENT upon execution of this agreement.
- 7) The CITY shall be entirely responsible for the administration and completion of all work associated with this contract, through its consultant.
- 8) Progress payments will be made to the consultant by the DEPARTMENT upon receipt of a properly executed claim form, approved by the CITY, accompanied by suitable evidence of the completion of the work claimed, as detailed in the engineering contract.
- 9) It is further understood and agreed by the CITY that no State funds have been allocated towards this engineering contract.
- 10) To the extent permitted by law, including the Oklahoma Government Tort Claims Act, 51 O.S. Sec. 151, et seq., The CITY agrees to hold the Federal Government and the DEPARTMENT harmless from, and shall process and defend at its own expense, all claims, demands, or suits, whether at law or equity brought against the CITY, the DEPARTMENT, or Federal Government, arising from the CITY's execution, performance, or failure to perform any of the provisions of this Agreement, or arising by reason of the participation of the DEPARTMENT or Federal Government in the project, PROVIDED, nothing herein shall require the CITY to reimburse the DEPARTMENT or Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the DEPARTMENT.
- 11) When any alleged act, omission, negligence, or misconduct may be subject to the limitations, exemptions, or defenses which may be raised under the Governmental Tort Claims Act, 51 O.S. Sec. 151, et seq., all such limitations, exemptions, and defenses shall be available to and may be asserted by the CITY. No liability shall attach to the DEPARTMENT or Federal Government except as expressly provided herein.
- 12) The City agrees to comply with Title VI of the Civil Rights Act of 1964, 78 O.S. § 252.42, 42 U.S.C. §§ 200d et seq., and all requirements imposed by or pursuant to 49 CFR, Part 21, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964."

IN WITNESS WHEREOF, the Deputy Director of the Department of Transportation, pursuant to authority vested in him by the Transportation Commission, has hereunto subscribed his name and the CITY has executed same pursuant to authority prescribed by law.

The CITY on this ____ day of _____, and the DEPARTMENT on the ____ day of _____

CITY OF BROKEN ARROW

APPROVED AS TO FORM AND LEGALITY

Asst. By *Hesli Myers*
CITY ATTORNEY

By _____
MAYOR

By _____
ATTEST: CITY CLERK

(SEAL): Approved - City of BROKEN ARROW

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION

BY: LOCAL GOVERNMENT DIVISION

BY: DIRECTOR OF CAPITAL PROGRAMS

APPROVED AS TO FORM AND LEGALITY

APPROVED

BY: GENERAL COUNSEL

BY: DEPUTY DIRECTOR