

**AGREEMENT SUMMARY  
PROFESSIONAL CONSULTANT AGREEMENT  
BETWEEN CITY OF BROKEN ARROW  
AND  
MKEC ENGINEERING, INC.  
FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413**

**1.0 Professional Consulting Firm:**

- 1.1 Name: MKEC Engineering, Inc.
- 1.2 Telephone No.: 405-842-8558
- 1.3 Address: 1000 W. Wilshire Blvd., Suite 401  
Oklahoma City, OK 73116

**2.0 Project Name/Location:** 37<sup>th</sup> Street from Houston to Albany. Widen 37<sup>th</sup> Street (209<sup>th</sup> E. Ave.) from Houston Street (81<sup>st</sup> St. S.) to Albany Street (61<sup>st</sup> St. S.) to three lanes.

**3.0 Statement of Purpose:** Design of construction plans for the improvements of 37<sup>th</sup> Street from Houston Street to Albany Street. The design will be for the reconstruction and replacement of the existing 2-lane roadway with a 3-lane roadway with curb and gutter and drainage system, and ADA-compliant sidewalks.

**4.0 Agreement Summary:**

- 4.1 Agreement Amount: \$ 238,100.00
- 4.2 Agreement Time: 190 calendar days
- 4.3 Estimated Construction Cost: \$ 2,000,000.00

**5.0 Contract Documents and Priority:** The City of Broken Arrow (OWNER), represented by the City Manager, and the Professional Consulting firm, (CONSULTANT), identified in paragraph 1.0 agree to perform this AGREEMENT in strict accordance with the clauses, provisions, and the documents identified as below, all of which are made part of this Contract. In the event of conflict, these documents shall be interpreted in the following order:

- 5.1 AGREEMENT with corresponding Attachments;
- 5.2 Duly authorized Amendments to the AGREEMENT;
- 5.3 AGREEMENT Summary;
- 5.4 Consultant Proposal for Design Services;
- 5.4 Specific project written correspondence mutually recognized; and
- 5.5 Specific project verbal instructions mutually recognized.

**6.0 Agreement Approved by the Owner on:** \_\_\_\_\_

**AGREEMENT  
FOR  
PROFESSIONAL CONSULTANT SERVICES  
BETWEEN  
CITY OF BROKEN ARROW  
AND  
MKEC ENGINEERING, INC.  
FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413**

This AGREEMENT, including Attachment A through Attachment E, between the City of Broken Arrow (OWNER) and MKEC Engineering, Inc. (CONSULTANT);

**WITNESSETH:**

WHEREAS, OWNER intends to improve 37<sup>th</sup> Street (209<sup>th</sup> E. Ave.) from Houston Street (81<sup>st</sup> St. S.) to Albany Street (61<sup>st</sup> St. S.) (PROJECT) for which, OWNER has requested that CONSULTANT provide certain professional services as required and,

WHEREAS, CONSULTANT is qualified and capable to provide the professional services required;

NOW, therefore, in consideration of the promises contained in this AGREEMENT, OWNER and CONSULTANT agree as follows:

**ARTICLE 1 - EFFECTIVE DATE**

The effective date of this AGREEMENT shall be the 19th day of January, 2016.

**ARTICLE 2 - GOVERNING LAW**

This AGREEMENT shall be governed by the laws of the State of Oklahoma and venue for any action concerning this Agreement shall be in the District Court of Tulsa County, Oklahoma.

**ARTICLE 3 - SERVICES TO BE PERFORMED BY CONSULTANT**

CONSULTANT shall perform the SERVICES described in Attachment A, Scope of Services. If construction phase services are included, the CONSULTANT shall be the OWNER'S agent and representative to observe, record and report with respect to all services that are required or authorized by the construction documents.

**ARTICLE 4 - COMPENSATION**

OWNER shall pay CONSULTANT in accordance with Attachment D, Compensation.

**ARTICLE 5 - OWNER'S RESPONSIBILITIES**

OWNER shall be responsible for all matters described in Attachment C, OWNER'S Responsibilities and Special Conditions.

**ARTICLE 6 - STANDARD OF CARE**

CONSULTANT shall perform the SERVICES undertaken in a manner consistent with the prevailing accepted standard for similar services with respect to projects of comparable function and complexity, and with the applicable state laws, as well as the specific codes, regulations, design criteria and construction specifications adopted by the owner and other governing policies published and generally considered authoritative by CONSULTANT'S profession that

are in effect at the time of performance of these SERVICES. CONSULTANT is obligated to perform professional services in accordance with the foregoing standard with respect to the laws, codes, regulations, design criteria and construction specifications that are applicable pursuant to this AGREEMENT.

#### **ARTICLE 7 - LIABILITY**

7.1 General. Having considered the potential liabilities that may exist during the performance of these SERVICES, the benefits of the PROJECT, and CONSULTANT'S fee for the SERVICES; and in consideration of the promises contained in this AGREEMENT, OWNER and CONSULTANT agree to allocate and limit such liabilities in accordance with Article 8.

7.2 Indemnification. CONSULTANT agrees to defend, indemnify, and hold harmless OWNER's agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by the CONSULTANT's negligent or intentional acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of OWNER and CONSULTANT, then they shall be borne by each party in proportion to each entity's own negligence.

7.3 Consequential Damages. OWNER shall not be liable to CONSULTANT for any special, indirect, or consequential damages resulting in any way from the performance of the SERVICES such as, but not limited to, loss of use, loss of revenue, or loss of anticipated profits.

7.4 Survival. Upon completion of all SERVICES, obligations, and duties provided for in this AGREEMENT, or if this AGREEMENT is terminated for any reason, the terms and conditions of this Article 7 shall survive.

#### **ARTICLE 8 - INSURANCE**

During the performance of the SERVICES under this AGREEMENT, CONSULTANT shall maintain the following insurance:

- (1) General Liability Insurance, with a combined single limit of \$1,000,000 for each occurrence and \$1,000,000 in the aggregate;
- (2) Automobile Liability Insurance, with a combined single limit of not less than \$1,000,000 for each person, not less than \$1,000,000 for each accident and not less than \$1,000,000 for property damage; and
- (3) Professional Liability Insurance, with a limit of \$1,000,000 annual aggregate.

CONSULTANT shall furnish OWNER certificates of insurance, which shall include a provision that such insurance shall not be canceled without at least thirty (30) days written notice to OWNER. All PROJECT sub-consultants shall be required to name OWNER and CONSULTANT as certificate holders on their certificate of insurance for the PROJECT, and shall be required to indemnify OWNER and CONSULTANT to the same extent. CONSULTANT shall be held responsible to submit certificates of insurance for sub-consultants to OWNER prior to the sub-consultant's release to commence work.

#### **ARTICLE 9 - LIMITATIONS OF RESPONSIBILITY**

CONSULTANT shall not be responsible for: (1) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the construction of the PROJECT; or (2) procuring permits, certificates, and licenses required for any construction unless such responsibilities are specifically assigned to CONSULTANT in Attachment A, Scope of Services.

## **ARTICLE 10 - LIMITATIONS OF RESPONSIBILITIES FOR ACTS OF OTHERS**

Provided that the CONSULTANT has acted in good faith and performed his duties in accordance with this AGREEMENT, CONSULTANT shall not be liable to OWNER for breach of contract or for negligent error or omission in failing to detect, prevent, or report the failure of any contractor, subcontractor, vendor, or other PROJECT participant to fulfill contractual or other responsibilities to the OWNER, failure to finish or construct the PROJECT in accordance with the plans and specifications, or failure to comply with federal, state, or local laws, ordinances, regulations, rules, codes, orders, criteria, or standards.

## **ARTICLE 11 - OPINIONS OF COST AND SCHEDULE**

Since CONSULTANT has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet PROJECT schedules, CONSULTANT'S opinion of probable costs and of PROJECT schedules shall be made on the basis of experience and qualifications as a professional. CONSULTANT does not guarantee that proposals, bids, or actual PROJECT costs will conform to OWNER'S cost estimates or that actual schedules will conform to OWNER'S projected schedules.

## **ARTICLE 12 - REUSE OF DOCUMENTS**

All documents, including, but not limited to, drawings, specifications, and details, reports, etc. prepared by CONSULTANT pursuant to this AGREEMENT are instruments of service in respect to the PROJECT. They are not intended or represented to be suitable for reuse by CONSULTANT or others on extensions of the PROJECT or on any other project. Any reuse or adaptation without prior written verification by the OWNER for the specific purpose intended will be at CONSULTANT'S sole risk and without liability or legal exposure to the OWNER. CONSULTANT shall defend, indemnify, and hold harmless the OWNER against all claims, losses, damages, injuries, and expenses, including attorney's fees, arising out of or resulting from such reuse.

## **ARTICLE 13 - OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY**

Except as otherwise provided herein, engineering documents, drawings, and specifications prepared by CONSULTANT as part of the SERVICES shall become the property of OWNER. CONSULTANT shall retain its rights in its standard drawing details, specifications, data bases, computer software, and other proprietary property. Rights to intellectual property developed, utilized, or modified in the performance of the SERVICES shall remain the property of CONSULTANT, but shall be provided to the OWNER, at no additional expense to the OWNER.

## **ARTICLE 14 - TERMINATION**

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by the either party to perform in accordance with the terms of this AGREEMENT. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

OWNER may suspend performance of this AGREEMENT for OWNER'S convenience upon written notice to CONSULTANT. Upon restart, an equitable adjustment may be made to CONSULTANT'S compensation, if the period of suspension has created an economic hardship for the CONSULTANT.

## **ARTICLE 15 - DELAY IN PERFORMANCE**

Neither OWNER nor CONSULTANT shall be considered in default of this AGREEMENT for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this AGREEMENT, such circumstances include, but are not limited to, abnormal weather conditions such as floods, earthquakes, fire; civil disturbances such as war, riots, or other civil epidemic; power outages, strikes, lockouts, work slowdowns, or other labor disturbances; sabotage; judicial restraint, and inability to procure permits, licenses,

or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either OWNER or CONSULTANT under this AGREEMENT.

**ARTICLE 15 - DELAY IN PERFORMANCE – continued**

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this AGREEMENT.

**ARTICLE 16 - COMMUNICATIONS**

Any communication required by this AGREEMENT shall be made in writing to the address specified below:

OWNER: City of Broken Arrow  
485 N. Poplar Street  
Broken Arrow, OK 74012  
Contact: Mr. Thomas D. Hendrix, P.E.  
Engineering Division Manager (City Engineer)

CONSULTANT: MKEC Engineering, Inc.  
1000 West Wilshire Blvd., Suite 401  
Oklahoma City, OK 73116  
405-842-8558

Contact Name: Doug Klassen, P.E.  
Principal

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of OWNER and CONSULTANT.

**ARTICLE 17 - WAIVER**

A waiver by either OWNER or CONSULTANT of any breach of this AGREEMENT shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

**ARTICLE 18 - SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this AGREEMENT or the occurrence of any event rendering any portion or provision of this AGREEMENT void shall in no way affect the validity or enforceability of any other portion or provision of this AGREEMENT. Any void provision shall be deemed severed from this AGREEMENT, and the balance of this AGREEMENT shall be construed and enforced as if this AGREEMENT did not contain the particular portion or provision

held to be void. The parties further agree to amend this AGREEMENT to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire AGREEMENT from being void should a provision which is of the essence of this AGREEMENT be determined void.

**ARTICLE 19 - INTEGRATION**

This AGREEMENT represents the entire and integrated AGREEMENT between OWNER and CONSULTANT. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this AGREEMENT.



## **ARTICLE 20 - SUCCESSORS AND ASSIGNS**

To the extent permitted by Article 21, OWNER and CONSULTANT each binds itself and its successors and assigns to the other party to this AGREEMENT.

## **ARTICLE 21 - ASSIGNMENT**

Neither OWNER nor CONSULTANT shall assign its duties under this AGREEMENT without the prior written consent of the other party. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this AGREEMENT. Nothing contained in this Article shall prevent CONSULTANT from employing independent sub-consultants, associates, and sub-contractors to assist in the performance of the SERVICES. However, third party entities must comply with Article 8.

## **ARTICLE 22 - THIRD PARTY RIGHTS**

Nothing in this AGREEMENT shall be construed to give any rights or benefits to anyone other than OWNER and CONSULTANT.

## **ARTICLE 23 - COMPLETION**

CONSULTANT shall complete the services within the time frame outlined on Attachment E, Schedule, subject to conditions which are beyond the control of the CONSULTANT.

## **ARTICLE 24 - IMMIGRATION COMPLIANCE**

24.1 Consultant shall demonstrate that he:

24.1.1 Has complied, and shall at all times during the term of this Contract, comply in all respects with all immigration-related laws, statutes, ordinances and regulations including without limitation, the Immigration and Nationality Act, as amended, the Immigration Reform and Control Act of 1986, as amended, and the Oklahoma Taxpayer and Citizen Protection Act of 2007 (Oklahoma HB 1804) and any successor laws, ordinances or regulations (collectively, the Immigration Laws”); and

24.1.2 Has properly maintained, and shall at all times during the term of this Contract, maintain any and all employee records required by the U.S. Department of Homeland Security (“DHS”), including, without limitation, properly completed and maintained Form I-9s for each of the Consultants employees; and

24.1.3 Has verified the employment eligibility for all employees hired on or after July 1, 2008 through DHS’s E-Verify system, and shall at all times continue to verify the employment eligibility of all employees hired during the term of this Contract; and

24.1.4 Has required, and will at all times during the term of this Contract, require any sub-contractor utilized, hired or sub-contracted for by Consultant for the completion or undertaking of any duties, tasks or responsibilities under this Contract, to comply the requirements and obligations imposed by the Immigration Laws and set forth in Paragraph (I), parts (a), (b) and (c), above, with regards to each of the sub-contractor’s employees.

24.2 Consultant will indemnify, defend and hold harmless City against any loss, cost, liability, expense (including, without limitation, costs and expenses of litigation and reasonable attorneys fees) demands, claims, actions, causes of action, liabilities, suits, damages, including special and consequential damages that arise from or in connection with, directly or indirectly, Consultants failure, deliberate or negligent, to fulfill its obligations and representations regarding verifying the employment eligibility of its employees and the employees of any subcontractor utilized by Contractor as set forth more fully in Paragraph 24.1 above.

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

**OWNER:**  
City of Broken Arrow

**CONSULTANT:**  
MKEC Engineering, Inc.

Approved as to form:

By Lesli Myers  
Asst. City Attorney

By Douglas R. Klassen  
Douglas R. Klassen

By \_\_\_\_\_  
Michael L. Spurgeon, City Manager

Title Principal

Date \_\_\_\_\_

Attest:

Date 1-12-16

\_\_\_\_\_  
City Clerk

**VERIFICATIONS** (If not a corporation)

State of Oklahoma        )  
                                      ) §  
County of Oklahoma     )

Before me, a Notary Public, on this 12 day of January, 2016, personally appeared Douglas R. Klassen, known to be to be the (President, Vice-President, Corporate Officer, Member, Partner, or Other: Principal of MKEC Engineering, Inc., 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:

8/18/18

Stacie M Yearout  
Notary Public



**ATTACHMENT A  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES  
BETWEEN CITY OF BROKEN ARROW  
AND  
MKEC ENGINEERING, INC.  
FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413**

**SCOPE OF SERVICES**

The following scope of services shall be made a part of the AGREEMENT dated the 19<sup>th</sup> day of January, 2016.

**1.0 PROJECT UNDERSTANDING**

CONSULTANT understands that the OWNER has retained their professional services in order to prepare construction documents for bidding purposes for improvements to 37<sup>th</sup> Street (209<sup>th</sup> E. Ave.) from Houston Street (81<sup>st</sup> St. S.) to Albany Street (61<sup>st</sup> St. S.) These documents shall include, but not be limited to, the following: a design manual including all numerical calculations supporting the intent of the design, as well as providing the basis for bid document quantities; construction plans detailing the intent of the project; standard details and standard drawings associated with the project specifics; construction specifications; general conditions, and special conditions.

In addition, the CONSULTANT understands that the OWNER has \$2,000,000 budgeted for this PROJECT that includes all professional consultant fees, right-of-way acquisition, utility relocation, and project construction monies. The CONSULTANT is required to keep the OWNER apprised of the PROJECT costs and advise the OWNER of necessary cost reduction measures, if required, during the course of the PROJECT.

Furthermore, CONSULTANT understands that the design will be for the reconstruction and replacement of the existing 2-lane roadway with a 3-lane roadway with curb and gutter.

**2.0 PROJECT SCOPE**

CONSULTANT shall coordinate the subsurface exploration and design the subgrade and pavement section(s); perform civil design including water and sewer lines, and grading; and perform hydraulics/hydrology necessary to properly design the drainage structures. CONSULTANT shall also coordinate gas, electric and other utility locations service with private utility companies.

CONSULTANT shall provide consulting services as follows:

- Geotechnical Coordination
- Topographical Survey Coordination
- Information for Site Grading, Drainage, and Paving Design
- Public Utility Design Relocations
- Structure Design
- Governmental Agency Coordination



### 3.0 SCOPE OF SERVICES

- 3.1 ADMINISTRATIVE/MANAGERIAL DUTIES: CONSULTANT shall be responsible to perform the following tasks throughout the course of the PROJECT:
- 3.1.1 Document all meetings, conferences, coordination, phone conversations, etc. and send documentation to OWNER within three (3) calendar days.
  - 3.1.2 Meet with the Owner in a Pre-Design Conference in order to determine design criteria, requirements and codes and other critical design features of the Project such as preferred alignment as well as project schedule and milestone dates.
  - 3.1.3 Provide Owner with a list of all proposed sub-consultants and tasks sub-consultants are responsible to perform.
  - 3.1.4 Meet with the Owner to discuss review comments on each phase of the project, and incorporate appropriate comments into following phase.
- 3.2 LAND SURVEY AND RIGHT-OF-WAY PHASE: Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the Consultant's proposal in Exhibit 1 and schedule provided in Attachment E:
- 3.2.1 Establish horizontal and vertical control necessary for the design and construction of the project including the establishment of reference points and benchmarks at each end and at interim points of the project and setting PK nails at each station throughout the project. Control shall be in accordance with the OWNER'S Engineering Design criteria.
  - 3.2.2 Conduct all field surveys, including topographical, boundary, and aerial surveys, as necessary, for design of the project.
  - 3.2.3 Research and field-verify, as able, the horizontal and vertical locations of all public and private utilities within the project boundary, which may be in conflict with the project.
  - 3.2.4 Conduct traffic studies as required.
  - 3.2.5 Coordinate with utilities companies concerning upcoming projects and schedules. (In concert with the OWNER'S relocation agent.)
  - 3.2.6 Investigate the drainage capacity and possible upsizing of the existing drainage system.
  - 3.2.7 Prepare right-of-way documents for said project.
  - 3.2.8 Submit three (3) bound sets of ½ size prints and one (1) PDF file (if required) of the survey and right-of-way drawings plans.
- 3.3 PLANNING AND CONCEPTUAL DESIGN PHASE: Following approval of the Land Survey and Right-of-Way, and upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the Consultant's proposal in Exhibit 1 and schedule provided in Attachment E:
- 3.3.1 With City input, establish project goals and alignments for streets and waterlines.
  - 3.3.2 Develop a conceptual plan for street improvements.
  - 3.3.3 Submit five (5) bound sets of ½ size prints and one (1) PDF file of the concept design.

- 3.4 PRELIMINARY DESIGN PHASE: Following approval of the Planning and Concept Design, and upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the Consultant's proposal in Exhibit 1 and schedule provided in Attachment E:
- 3.4.1 Conduct all necessary geotechnical investigations and submit recommendations to the Owner for project sub-grade, pavement and foundation design.
  - 3.4.2 Prepare "Minimum-Required" right-of-way documents based upon the comments received from the conceptual submittal.
  - 3.4.3 Prepare Right-of-Way map.
  - 3.4.4 Conduct preliminary coordination with private and public utility companies.
  - 3.4.5 Perform preliminary drainage analysis and design.
  - 3.4.6 Perform preliminary roadway geometric layout and design.
  - 3.4.7 Prepare preliminary construction plans of proposed project.
  - 3.4.8 Submit three (3) bound sets of ½ size prints indicating "Minimum-Required" right-of-way documents for the project final taking/acquisitions requirements.
  - 3.4.9 Prepare preliminary special provisions.
  - 3.4.10 Prepare preliminary quantity estimate.
  - 3.4.11 Prepare preliminary construction cost estimate.
  - 3.4.12 Prepare preliminary estimate of construction costs using 15% contingency.
  - 3.4.13 Submit five (5) bound sets of ½ size prints and one (1) set of full-size prints (if required) of the preliminary design drawings.
- 3.5 FINAL DESIGN PHASE: Following approval of the Preliminary Design, and upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the Consultant's proposal in Exhibit 1 and schedule provided in Attachment E:
- 3.5.1 Conduct all necessary design functions required to complete the final design phase of the project.
  - 3.5.2 Procure and provide Property Report on all right-of-way acquisition parcels.
  - 3.5.3 Meet with utility companies and City of Broken Arrow departments to arrange for the relocation of utility facilities and services in conflict with the project. Review relocation plans and contracts submitted by the utilities, and provide comments and recommendations prior to City approval and execution of the relocation plans. Obtain releases for non-relocated facilities.
  - 3.5.4 Prepare and complete final design.
  - 3.5.5 Prepare detailed construction plans in conformance with appropriate drafting standards.
  - 3.5.6 Prepare final quantity estimates.
  - 3.5.7 Prepare final estimate of construction costs with a 10% contingency.
  - 3.5.8 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.
  - 3.5.9 Prepare Contract proposals in units compatible with Broken Arrow specifications.
  - 3.5.10 Submit three (3) bound sets of ½ 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 ½ size prints of final City utility relocation plans, if required, to the Owner for distribution and review.

3.5.11 Submit five (5) sets of ½ size prints, to all private utilities. Digital copies of the plans shall be supplied to the utilities at their request and subject to the Owner's approval.

3.5.12 Incorporate final review comments and furnish one (1) complete set of full-size drawings and contract documents, three (3) ½ size sets of final drawings, one (1) set of final drawings on reproducible media and electronic media (AutoCAD 2000 or earlier version), one (1) master set of final specifications on electronic media and paper.

3.6 ASSISTANCE DURING BIDDING PHASE: Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the schedule provided in Consultant's proposal in Exhibit 1 and Attachment E:

3.6.1 Assist the Owner, as requested, in advertising the Project for bids for construction.

3.6.2 Conduct a pre-bid conference, if requested by Owner.

3.6.3 Serve as the technical question point of contact during bidding and if required, draft any necessary addenda to clarify Contract documents.

3.6.4 Prepare bid tabulation, if requested, and provide recommendation for award.

3.7 CONSTRUCTION ASSISTANCE AND PROJECT CLOSE-OUT PHASE (TO BE NEGOTIATED AT A FUTURE DATE): Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks in accordance with the schedule provided in Consultant's proposal in Exhibit 1 and Attachment E:

3.7.1 Attend preconstruction conference, final inspection, and other construction meetings as required by the Construction Contract Administrator.

3.7.2 Review and recommend action on submittals at the request of the Construction Contract Administrator.

3.7.3 Assist the Construction Contract Administrator in responding to requests for information from the contractor.

3.7.4 Incorporate changes into the drawings and produce Record Drawings.

3.7.5 Submit one (1) set of record drawings on copy bond paper.

3.7.6 Submit record drawings on electronic media (AutoCAD 2013 or later version), including all X-refs.

3.7.7 Submit any revisions to the Design Manual caused by construction changes.

**ATTACHMENT B  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES  
BETWEEN CITY OF BROKEN ARROW  
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FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413**

**ORGANIZATION OF SUBMITTAL DOCUMENTS**

The following compensation and hourly rates shall apply as described in Attachment B and shall be made a part of the AGREEMENT dated the 19th day of January, 2016.

**1.0 CONSTRUCTION PLANS:** The CONSULTANT shall submit in-full, in accordance with this AGREEMENT, the following plan sheets:

- 1.1 Title Sheet;
- 1.2 Pay Quantities and Pay Item/General Notes;
- 1.3 Typical Sections;
- 1.4 General Plan and Profiles;
- 1.5 Required Cross Sections;
- 1.6 Standard Construction Details; and
- 1.7 Standard Construction Drawings.

**2.0 RIGHT-OF-WAY DOCUMENTS:** The CONSULTANT shall submit in-full, in accordance with this AGREEMENT, the following documents:

- 2.1 Right-of-Way Plans;
- 2.2 Individual Legal Description Documents for right-of-way, permanent easements, and temporary construction easements;
- 2.3 Individual Right-of-Way Detailed Drawing with Existing Easements Shown;
- 2.4 Closure Report;
- 2.5 Surveyor's Certification Document;
- 2.6 Ownership Certification Report; and;
- 2.7 Individual Property Appraisal Request Form.

**3.0 DRAINAGE DESIGN DOCUMENTS:** The CONSULTANT shall submit in-full, in accordance with this AGREEMENT, the following documents:

- 3.1 Hydrology and Hydraulic Calculations;
- 3.2 Overall Project Drainage Map;
- 3.3 Drainage Summary Tables (Optional);
- 3.4 Stormwater Pollution Prevention Plan (SWP3), if required;
  - 3.4.1 Report;
  - 3.4.2 Environmental Clearances, if required by funding;
  - 3.4.3 Owner, Contractor and Engineer's Certifications;
  - 3.4.4 Approved Grading/Erosion Control Construction Plans

- 3.4.5 Standard Erosion Control Details;
- 3.4.6 Inspector's Report Forms; and
- 3.4.7 Oklahoma General Permit OKR10.

**4.0 DESIGN CALCULATIONS:** The CONSULTANT shall submit in-full, in accordance with this AGREEMENT, the following documents:

- 4.1 Structural Design Calculations
  - 4.1.1 Bridge Designs;
  - 4.1.2 Retaining Earth; and
- 4.2 Water Analysis Calculations (Title 252: Chapter 626):
  - 4.2.1 Water Flow Projections and Analysis;
  - 4.2.2 Pressure and Velocity Analysis; and
- 4.3 Wastewater Collection System Design (Title 252: Chapter 656):
  - 4.3.1 Wastewater Flow Projections;
  - 4.3.2 Gravity flow analysis showing flow velocities;
  - 4.3.3 Lift station design;
- 4.4 Other Engineer Design Calculations

**5.0 CONTRACT DOCUMENTS:** The CONSULTANT shall submit in-full, in accordance with this AGREEMENT, the following documents:

- 5.1 Advertisement Documents:
  - 5.1.1 Advertisement for bids;
  - 5.1.2 Notice to Bidders;
  - 5.1.2 Information to Bidders;
- 5.2 Bid Documents:
  - 5.2.3 Bid Proposal;
  - 5.2.4 Bid Affidavit;
  - 5.2.5 Bid Bond;
- 5.3 Agreement Documents:
  - 5.3.1 Agreement;
  - 5.3.2 Bonds (Performance, Payment, and Maintenance);
  - 5.3.3 Bond Certification;
  - 5.3.4 Change Order;
  - 5.3.5 Work Directive;
  - 5.3.6 Pay Estimate Form;
  - 5.3.7 Release of Claimant;
- 5.4 Project Conditions:
  - 5.4.1 General Conditions;
  - 5.4.2 Special Conditions;
- 5.5 Construction Specifications



**6.0 RECORD DRAWINGS:** The CONSULTANT shall submit in-full, in accordance with this AGREEMENT, the following documents:

6.1 Drawings:

6.1.1 CAD files (AutoCAD Version 2013 or later) for project construction drawings reflecting red-line markups from the construction contractor and the City Contract Administrator.

6.1.2 Adobe Acrobat (pdf) files of CAD drawings.

6.2 Design Manual:

6.2.1 Paper copy of Design Manual (specifications, calculations, etc.) reflecting any changes during construction.

6.2.2 Adobe Acrobat (pdf) file of Design Manual.

**ATTACHMENT C  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES  
BETWEEN CITY OF BROKEN ARROW  
AND  
MKEC ENGINEERING, INC.  
FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413**

**OWNER'S RESPONSIBILITIES AND SPECIAL CONDITIONS**

The following list of special OWNER'S responsibilities and contract special conditions shall be made a part of this AGREEMENT dated the 19th day of January, 2016.

**1.0 OWNER'S RESPONSIBILITIES**

- 1.1 OWNER shall furnish to CONSULTANT all available information pertinent to the PROJECT including previous reports and any other data relative to design and construction of the PROJECT;
- 1.2 OWNER shall furnish to CONSULTANT all public utility information available relative to the design and construction of the PROJECT. Consultant topographical survey shall locate all utilities above and below ground for exact location;
- 1.3 OWNER shall furnish to CONSULTANT list of codes adopted by the municipality as well as subdivision regulations, design criteria and construction standards and specifications that may be pertinent to the design and construction of the PROJECT;
- 1.4 OWNER shall be responsible for all permit fees and for all reproduction costs associated with the bidding of the final approved construction documents required for the construction of this PROJECT;
- 1.5 OWNER shall be responsible for all land/easement acquisition costs and filing of the required legal documents, if necessary; and
- 1.6 OWNER shall examine all studies, reports, sketches, estimates, specifications, plan drawings, proposals, and other documents presented by the CONSULTANT and render in writing decisions pertaining thereto within a reasonable time so as not to delay the SERVICES of the CONSULTANT.

**2.0 SPECIAL CONDITIONS**

- 2.1 None

**ATTACHMENT D  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES  
BETWEEN CITY OF BROKEN ARROW  
AND  
MKEC ENGINEERING, INC.  
FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413**

**COMPENSATION AND ADDITIONAL SERVICES**

The following compensation and hourly rates shall apply as described in Attachment D and shall be made a part of the AGREEMENT dated the 19th day of January, 2016.

**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 Conceptual Design Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 69,800.00 for the completion of the Planning and Conceptual Design Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.2 Preliminary Design Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 80,400.00 for the completion of the Preliminary Design. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.3 Final Design and Assistance During Bidding Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 87,900.00 for the completion of the Final Design Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.4 Assistance During Construction Services and Record Drawings Payment: This phase will be negotiated at a future date.

**2.0 ADDITIONAL SERVICES BASED ON TIME**

The hourly rates set forth in Exhibit 1 include all salaries, benefits, overhead and other indirect costs including federal, state, and local taxes, plus profit and effective as of January 1, 2016.

**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 E  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES  
BETWEEN CITY OF BROKEN ARROW  
AND  
MKEC ENGINEERING, INC.  
FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413**

**PROJECT SCHEDULE**

The following schedule shall be made a part of the AGREEMENT dated the 19<sup>th</sup> day of January, 2016.

**1.0 CONCEPTUAL DESIGN PHASE:**

- |     |                        |                   |
|-----|------------------------|-------------------|
| 1.1 | Notice to Proceed:     | January 20, 2016  |
| 1.2 | Submit Concept Design: | February 19, 2016 |
| 1.3 | Owner Review:          | February 26, 2014 |

**2.0 PRELIMINARY DESIGN PHASE:**

- |     |                            |                   |
|-----|----------------------------|-------------------|
| 2.1 | Notice to Proceed:         | February 29, 2016 |
| 2.2 | Submit Preliminary Design: | April 22, 2016    |
| 2.4 | Owner Review:              | April 29, 2016    |

**3.0 FINAL DESIGN PHASE:**

- |     |                       |               |
|-----|-----------------------|---------------|
| 3.1 | Notice to Proceed:    | May 2, 2016   |
| 3.2 | Submit 90% Design:    | July 1, 2016  |
| 3.3 | Owner Review:         | July 8, 2016  |
| 3.4 | Submit Bid Documents: | July 29, 2016 |

**4.0 BIDDING PHASE:** To be determined

**5.0 ASSISTANCE DURING CONSTRUCTION AND RECORD DRAWINGS PHASE:**

- |     |                          |   |
|-----|--------------------------|---|
| 5.1 | Construction assistance: | To be determined                                |
| 5.2 | Record drawings:         | 45 days after receipt of contractor's red-lines |



EXHIBIT 1  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
CITY OF BROKEN ARROW  
MKEC ENGINEERING, INC.  
FOR  
37<sup>TH</sup> STREET, HOUSTON TO ALBANY IMPROVEMENTS  
PROJECT NO. ST1413

CONSULTANT'S PROPOSAL



January 11, 2016

Mr. Thomas D. Hendrix, P.E.  
City Engineer  
City of Broken Arrow Oklahoma  
485 N. Poplar Ave.  
Broken Arrow, OK 74013-0610

Reference: Proposal for Design Services for the 37th Street (209th) Improvements from Houston to Albany

Dear Mr. Hendrix;

MKEC Engineering, Inc. is pleased to offer this proposal for survey and engineering services associated with the improvements to 37th Street (209th Street) between Houston and Albany. The proposed services will provide complete construction drawings, estimates, and specific construction specifications to supplement the City's standard specifications for the portion of 37th Street between Kenosha and Albany. The services will also include a review and update of the existing construction drawings for the portion of 37th Street between Houston and Kenosha. The existing construction drawings were prepared by MKEC in 2006. An updated construction cost estimate and specific construction specifications will be provided as part of the proposed services.

#### **SCOPE OF PROPOSED IMPROVEMENTS**

MKEC proposes to provide design and plan production services for the reconstruction of two miles of 37th Street. The reconstructed pavement will generally consist of one driving lane in each direction with a dual left-turn lane in the center. Portions of 37th north of Kenosha may utilize a second southbound lane south of Wal-Mart. Current right turn lanes serving Wal-Mart will also be replaced in-kind with the proposed construction. To the extent possible, the roadway will be graded to allow for future expansion to a full five-lane section. Cross-road drainage structures will be provided to accommodate the future five-lane width. These structures will be sized to pass the 100-year storm without overtopping the roadway. Other drainage improvements will be provided by a combination of open channel ditches and closed storm sewer conduits and inlets. Linings and revetment will be included where necessary. New sidewalks will be added north of Kenosha where warranted. All pedestrian walkways will conform to ADA standards and requirements.

#### **PROJECT SCHEDULE**

MKEC is prepared to begin design immediately upon award of the project. We recognize the time sensitivity and importance of this project and have appropriate staff available to maintain the proposed project schedule below. This schedule is dependent on timely City and permitting agency review and approvals.

Notice to Proceed	January 20, 2016
Begin Conceptual Design	January 20, 2016
Submit Conceptual Plans	February 19, 2016
Conceptual Plan Review Meeting w/ City (by phone or in-person)	February 26, 2016
Complete Survey	February 26, 2016
Submit 50% Plans	April 22, 2016
50% Plan Review Meeting w/ City	April 29, 2016
Submit 90% Plans	July 1, 2016
90% Plan Review Meeting w/ City	July 8, 2016
Submit Final Plans and Deliverables	July 29, 2016
Construction Complete	On or before July 31, 2017

**SCOPE OF WORK**

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1. Perform design surveys necessary for the design of the proposed street improvements.
2. Coordinate the geotechnical investigation necessary for the roadway design. MKEC will solicit proposals for the geotechnical work and select a geotechnical engineer as a sub-consultant. The geotechnical engineering contract will be between MKEC and the geotechnical firm.
3. Coordinate with the City to discuss the specific scope of the improvements.
4. Perform conceptual street improvement option design. This will include the following:
  - Horizontal street geometrics including auxiliary lanes
  - Typical street sections
  - General storm sewer improvement layout
  - Sequence of construction and construction traffic control information
  - Evaluate up to four (4) concepts including various lane configurations near Wal-Mart and the proposed school property, and considering planning for four (or five) lanes in the future.
5. Prepare and submit conceptual plans for City consideration.
6. Prepare a traffic study, analyzing the post-construction stop control situation at the intersection of 37th and 65th. The traffic study will be submitted under separate cover. We anticipate the study findings and recommendations will be submitted in letter format and will be signed and stamped by a professional engineer licensed in Oklahoma.
7. Meet with City to discuss the conceptual plans. This meeting may occur by telephone and/or E-mail and may require multiple meetings to narrow the physical project scope to a single design.
8. Prepare and submit 50% plans.
9. Prepare and submit cost estimate.
10. Meet with City to discuss City review of the 50% plans.
11. Incorporate City review comments into the plans.
12. Prepare a plan set package for each utility within the project corridor and assist the City with coordination efforts with private utility companies. Coordinate with utility providers for the lowering / relocation of existing facilities as necessary.
13. Prepare tract maps and legal descriptions for needed right-of-way and temporary construction easements.
14. Proceed with 90% street improvement design. Design will include the following:
  - Paving plans and profiles including intersection and driveway plans
  - Storm sewer and cross-road drainage structure plan and details
  - Erosion control plan and details
  - Site restoration plan and details
  - Traffic control plans
  - Pavement marking and signing plan and details
  - Paving details
  - Cross-sections
  - Right-of-way and temporary construction easement plan
  - Summary of quantity tables and a recapitulation of all bid items
  - Miscellaneous design necessary to complete the proposed improvements
15. Prepare and submit 90% plans to reflect all design efforts.
16. Prepare and submit updated cost estimate.
17. Meet with City to discuss City review of the 90% plans.
18. Prepare final bid documents based on 90% review comments.
19. Prepare additional specification sections as necessary for items not covered in Broken Arrow standard specifications.
20. Assist the City with the preparation of bidding front-end documents, contract documents, and bid tabulations.
21. Submit applicable environmental permitting applications and coordinate with permitting agencies concerning the proposed improvements.
22. Prepare and provide hydrology and hydraulic calculations for storm drainage design and for all cross-road drainage structures.
23. Provide construction administration assistance to the City as follows: Review bids with and make recommendation to the City, if required. Attend pre-bid and pre-construction meetings. Assist in reviewing shop drawings, RFI's, and answering contractor questions.
24. Review the existing 209th Street plans for the portion between Houston and Kenosha and revise the construction drawings as necessary as determined through coordination between the City and MKEC. The review will include the following:

- Perform a survey field check and update the survey to include topographic and utility changes since the original survey.
- Review the hydrology and hydraulics design of all cross-road structures to ensure conformance with current City requirements.
- Review the construction details and update to conform to current City standard construction details.
- Update title block and cover sheet information to reflect current conditions and current MKEC graphic standards.
- Review the existing plan typical section and consider eliminating curb and gutter and revising the design and plans to reflect this change.
- Provide updated special provisions to specifications.
- Assist the City with the preparation of bidding front-end documents, contract documents, and bid tabulations.

**SUMMARY OF ENGINEERING COSTS:**

MKEC proposes a lump sum fee to perform the services outlined in the Scope of Services above. Upon request of the City of Broken Arrow, we would negotiate additions, deletions and changes to the proposed scope and fee to fit the needs of the City.

Design of 37th from Kenosha to Albany	\$ 192,400
Geotechnical Services (Kleinfelder)	\$ 14,600
Intersection Stop Control Study at 37th and 65th Streets	\$ 3,600
Review and Update of 37th from Houston to Kenosha	\$ 27,500
<b>TOTAL</b>	<b>\$ 238,100</b>

**ADDITIONAL SERVICES:**

The following services may be required for this project but are not included in the scope and fee provided above. MKEC can perform these services upon prior written approval of additional scope and fee by the Owner.

1. Traffic Studies other than the one described for the intersection at 65<sup>th</sup> St.
2. Right-of-way acquisition and/or staking
3. Construction Observation/Inspection
4. Attendance at regular construction meetings.
5. Approval of Contractor invoices
6. Design of utility relocation.
7. Re-design following bidding of the project.
8. FEMA Letters of Map Change
9. Individual ASACE 404 Permitting (Assumed to be covered by Nationwide Permit if necessary).
10. Design of landscape improvements
11. Attendance and coordination of public meetings

All engineering services under this proposal shall be billed monthly on a percent complete basis. Payment shall be due within 30 days of the statement date. Additional engineering design services shall be billed on an hourly rate for labor with prior written approval.

**ATTACHMENTS TO THIS PROPOSAL:**

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

1. **Exhibit 'A'** – MKEC 2016 Hourly Rate Schedule

We look forward to an opportunity to visit about any questions you may have on our proposal. Should you have any questions, please do not hesitate to call us, as we want to ensure that we have a clear understanding of the project and are identifying those items clearly in the proposal. If it is acceptable, please sign and return one copy as our notice to proceed. We are certainly looking forward to being a part of your team.

Sincerely,

**MKEC ENGINEERING, INC.**

A handwritten signature in black ink, appearing to read "Doug Klassen", with a long horizontal flourish extending to the right.

Doug Klassen, P.E.  
Principal



**EXHIBIT 'A': MKEC HOURLY RATE SCHEDULE (2016)**

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Principal/Project Manager	-	\$145.00
Senior Engineer	-	134.00
Engineer Level I	-	107.00
Engineer Level II/Senior Technician	-	97.00
Secretary	-	53.00
Survey Team/2 Man	-	150.00
Survey/GPS	-	150.00
Survey/Leica	-	331.00
RLS	-	97.00
Inspector	-	97.00
Technician I	-	85.00
Technician II	-	65.00