

SUPPLEMENTAL ENGINEERING CONTRACT #2 - FINANCING AGREEMENT

BY AND BETWEEN THE CITY OF BROKEN ARROW  
AND  
THE OKLAHOMA DEPARTMENT OF TRANSPORTATION

FOR ENGINEERING SERVICES INVOLVING

23<sup>RD</sup> STREET IMPROVEMENTS  
(KENOSHA TO HOUSTON)

STP-172A(457)IG  
J/P 26308(05)

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 City of Broken Arrow to utilize allocated STP funds toward engineering services for the referenced project;

WHEREAS, the City is requesting the Department's approval of the following engineering services, which is certified by the City to be consistent with INCOG's authorization:

Engineering services associated with developing design plans for adding an outside traffic lane and shoulder to the eastbound lanes of St. Hwy 51 from the on ramp of 177th Street to the connection off ramp of St. Hwy 51 exit to Coweta prior to the Beginning of the OTA Muskogee Turnpike.

WHEREAS, the CITY requests authorization to supplement an existing federally-funded contract for the described engineering services with *Infrastructure Solutions Group, LLC*, being the successor to Mehlburger Brawley, Inc., an Oklahoma Corporation and a qualified consultant.

WHEREAS, the CITY hereby certifies that the engineering services encompassed in this supplemental agreement is consistent with the original advertised solicitation.

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 STATE that:

- 1) The CITY agrees to provide to the DEPARTMENT a fully executed, negotiated supplemental engineering contract by and between the CITY and the consulting engineer for the described engineering services. Said agreement shall reference all Federal Highway Administration Contract Provisions contained in the original agreement.
- 2) The CITY certifies that this engineering contract has been executed in full compliance with the City of Broken Arrow's approved consultant selection procedures.
- 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 supplemental contract amount of \$110,000, (One-Hundred-Ten-Thousand Dollars) the DEPARTMENT, based on authorization from INCOG and FHWA, agrees to utilize federal STP funds allocated to INCOG to provide 100% of the stated contract price, (utilizing Soft Match Credits) in the amount of \$110,000, (One-Hundred-Ten-Thousand Dollars). The City agrees to provide 0% of the contract price in the amount of \$0 (Zero Dollars) which shall be placed on deposit with the DEPARTMENT upon execution of this agreement, if applicable.
- 5)

Original Contract Amount	\$410,000.00
Amendment No. 1	\$718,415.00
Amendment No. 2	\$110,000.00
Total Amended Contract Amount	\$1,238,415.00
- 6) The CITY and the DEPARTMENT will be jointly responsible for the administration and completion of all work associated with this contract, through the consultant.
- 7) Progress payments will be made to the consultant by the Department, upon receipt of a properly executed ODOT claim form (D.T. 324-A), approved by the CITY, accompanied by suitable evidence of the completion of the work claimed, as detailed in the engineering contract.
- 8) It is further understood and agreed by the CITY that no STATE funds have been allocated towards this engineering contract.
- 9) To the extent permitted by the Oklahoma Governmental Tort Claims Act, Title 51 Oklahoma Statutes, Sections 151 et seq. and by Oklahoma Constitution Article 10, Section 26 and as otherwise permitted by law, the City shall indemnify and save harmless the Department, it's officers and employees, and shall process and defend at its own expense all claims, demands, or suits whether in law or equity brought against the City or the Department arising from the City's execution, performance, or failure to perform the provisions of this agreement.

Provided, nothing herein shall require the City to reimburse the Department for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Department. 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. § 151 et seq., all such limitations, exemptions, and defenses shall be available to and may be asserted by City. No liability shall attach to the Department except as expressly provided herein.


- 10) The CITY agrees to comply with all provisions of Title VI of the Civil Rights Act of 1964, 78 OS Stat. 252.42, U.S.C. 2000d-et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, of the Secretary of Transportation, Part 21 - "Nondiscrimination in federally assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act 1964."

IN WITNESS WHEREOF, the Director of the Department of Transportation, pursuant to authority vested in him by the State Transportation Commission, has hereunto subscribed his name as Director of the Department of Transportation 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 \_\_\_\_\_, \_\_\_\_\_.

APPROVED AS TO FORM  
AND LEGALITY

CITY OF BROKEN ARROW

By   
Assistant  
CITY ATTORNEY

By \_\_\_\_\_  
MAYOR- CITY OF BROKEN ARROW

Attest

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

APPROVED AS TO FORM  
AND LEGALITY

STATE OF OKLAHOMA  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
BY: ODOT GENERAL COUNSEL

\_\_\_\_\_  
BY: DEPUTY DIRECTOR

Reviewed and Recommended for Approval

Reviewed and Recommended for Approval

\_\_\_\_\_  
Local Government Division Engineer

\_\_\_\_\_  
Director of Capital Projects