

**AMENDMENT NO. 3  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
BROKEN ARROW MUNICIPAL AUTHORITY  
AND  
HDR ENGINEERING, INC.  
FOR REHABILITATION OF THE HEADWORKS  
AT LYNN LANE WASTEWATER TREATMENT PLANT  
SCREENING IMPROVEMENTS 165420  
GRIT REMOVAL IMPROVEMENTS 165423**

THIS **AMENDMENT NO. 3** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by and between the BROKEN ARROW MUNICIPAL AUTHORITY, a municipal corporation of the State of Oklahoma, hereinafter referred to as "BAMA", and HDR Engineering, Inc., hereinafter referred to as "ENGINEER";

**WITNESSETH:**

**WHEREAS**, BAMA and ENGINEER entered into an Agreement dated October 6, 2015, for conceptual design services as set forth in said Agreement; and

**WHEREAS**, BAMA and ENGINEER entered into Amendment No. 1 dated May 3, 2016, for preliminary design, final design, and bidding services as set forth in said Agreement; and

**WHEREAS**, BAMA and ENGINEER entered into Amendment No. 2 dated August 16, 2016, for final design of odor control facilities; and

**WHEREAS**, BAMA and ENGINEER propose to amend said Agreement to expand the project scope and compensation to include services during construction; and

**WHEREAS**, the 2015 Agreement, 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 Numbers 165420 and 165423; 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. SCOPE OF SERVICES.**

An amended Scope of Services as specified in Attachment A-3 is hereby incorporated by reference as part of this agreement.

**2. ORGANIZATION OF SUBMITTAL DOCUMENTS.**

The Organization of Submittal Documents as specified in Attachment B-3 is hereby incorporated by reference as part of this agreement.

**3. BAMA'S RESPONSIBILITIES AND SPECIAL CONDITIONS.**

BAMA's responsibilities related to this Amendment No. 3 are the same as defined in the agreement. No additional special conditions exist to this Amendment No. 3.

**4. CHANGE IN CONTRACT AMOUNT.**

As compensation for the additional work, BAMA shall pay ENGINEER in accordance with the terms specified in Attachment D-3, Amended Compensation and Additional Services, as a change in the contract amount as follows:

	Screening Improvements (165420)	Grit Removal Improvements (165423)	Total
Original Agreement Amount	\$ 44,113	\$ 54,661	\$ 98,774
Amendment No. 1	\$364,401	\$364,401	\$ 728,802
Amendment No. 2	\$ 35,688	\$ 35,688	\$ 71,376
Amendment No. 3	<u>\$185,464</u>	<u>\$185,464</u>	<u>\$ 370,928</u>
Revised Total Contract Amount	\$629,666	\$640,214	\$1,269,880

**5. PROJECT SCHEDULE.**

The project schedule related to this Amendment No. 3 is tied to the Construction Contractor's schedule and is not identified herein.

**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 2015 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.

**BAMA:**  
Broken Arrow Municipal Authority

**ENGINEER:**  
HDR Engineering, Inc.

Approved as to form:

By Lesli Myers  
Assistant City Attorney

By [Signature]  
Lucas A. Bathurst, Vice President

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

(CORPORATE SEAL) if applicable

Date \_\_\_\_\_

Attest: Teresa Hanson  
Secretary

Attest:

\_\_\_\_\_  
Secretary

Date 11-10-17

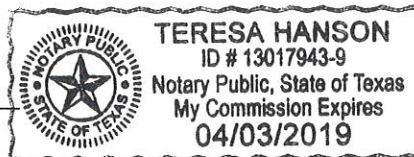
**VERIFICATIONS** (If not a corporation)

State of Texas )  
~~Oklahoma~~ )  
County of Dallas ) §  
~~Tulsa~~ )

Before me, a Notary Public, on this 10<sup>th</sup> day of November, 2017,  
personally appeared Lucas A. Bathurst, known to be to be the  
(President, Vice President, Corporate Officer, Member, Partner, or Other:  
\_\_\_\_\_) of HDR 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:

4-3-2019  
Teresa Hanson  
Notary Public



**ATTACHMENT A-3  
TO  
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**SCOPE OF SERVICES**

The following scope of services for Amendment No. 3 shall be made a part of the AGREEMENT:

**1. PROJECT UNDERSTANDING**

ENGINEER has completed the design of the new headworks facility for the Lynn Lane Wastewater Treatment Plant and BAMA has awarded the construction contract. The purpose of this Amendment No. 3 is to add engineering services during construction and project close-out tasks.

**2. AMENDMENT SCOPE OF SERVICES**

The below paragraphs describe the additional work that will be provided by the ENGINEER during construction of the Project.

2.6 CONSTRUCTION SERVICES PHASE: Upon written authorization from BAMA to proceed, the ENGINEER shall perform the following tasks:

2.6.1 General Administration of Construction Contract: Consult with BAMA and provide assistance to BAMA for administration of the Construction Contract. BAMA's Construction Administrator (CA) shall be the main point of contact for the CONTRACTOR. The CA shall receive and track all submittals from the CONTRACTOR; receive and review CONTRACTOR construction schedules and updates, including schedule impacts and delays due to Change Orders and Claims; receive, review, and approve Applications for Payment from Contractor; coordinate materials testing services; and provide funding agency coordination and reporting. ENGINEER shall have authority to act on behalf of BAMA in dealings with CONTRACTOR to

the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.

- 2.6.2 Pre-Construction Conference: Participate in a pre-construction conference prior to commencement of Work at the Site. BAMA will prepare for and lead the conference.
- 2.6.3 Prepare conformed Drawings and Specifications that incorporate and integrate the content of all Addenda. Provide four (4) copies to CONTRACTOR (2 full-size and 2 half-size) and ten (10) copies to OWNER (1 full-size and 9 half-size) as well as electronic PDF versions to both parties.
- 2.6.4 Schedules: BAMA will receive, review, and determine the acceptability of any and all schedules that CONTRACTOR is required to submit, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
- 2.6.5 Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed.
- 2.6.6 Visits to Site and Observation of Construction: In connection with observations of CONTRACTOR's Work while it is in progress:
- Make visits to the Site at intervals appropriate to the various stages of construction to observe as an experienced and qualified design professional the progress of CONTRACTOR's executed Work. Such visits and observations by ENGINEER are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment. Based on information obtained during such visits and observations, ENGINEER will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and ENGINEER shall keep BAMA informed of the progress of the Work.

- The purpose of ENGINEER's visits to the Site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for BAMA a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that CONTRACTOR has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. ENGINEER shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, ENGINEER neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
- The fee associated with this task assumes a single ENGINEER staff member will visit the site on 28 occasions, including 18 monthly construction meetings and 10 other visits.

2.6.7 Defective Work: ENGINEER shall recommend to BAMA to reject Work if, on the basis of ENGINEER's observations, ENGINEER believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to BAMA regarding whether CONTRACTOR should correct such Work or remove and replace such Work, or whether BAMA should consider accepting such Work as provided in the Construction Contract Documents. However, neither ENGINEER's authority to reject Work nor ENGINEER's decision to exercise or not exercise such authority shall give



rise to a duty or responsibility of the ENGINEER to Contractors, Subcontractors, material and equipment suppliers, their agents or employees, or any other person(s) or entities performing any of the Work, including but not limited to any duty or responsibility for Contractors' or Subcontractors' safety precautions and programs incident to the Work.

2.6.8 Compatibility with Design Concept: If ENGINEER has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then ENGINEER shall inform BAMA of such incompatibility, and provide recommendations for addressing such Work.

2.6.9 Clarifications and Interpretations: BAMA will accept from CONTRACTOR submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. When requested by BAMA, ENGINEER will render a written clarification, interpretation, or decision on the issue submitted, with reasonable promptness.

- The fee associated with this task assumes that up to 50 RFIs will be reviewed by the ENGINEER.

2.6.10 Non-reviewable Matters: If a submitted matter in question concerns the ENGINEER's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then ENGINEER will promptly give written notice to BAMA and CONTRACTOR that ENGINEER will not provide a decision or interpretation.

2.6.11 Field Orders: BAMA will prepare and issue Field Orders requiring minor changes in the Work. When requested by BAMA, ENGINEER will provide information to assist in preparation of Field Orders.

- The fee associated with this task assumes the ENGINEER will provide information for up to 10 Field Orders.

2.6.12 Change Proposals, Change Orders and Work Change Directives: BAMA will prepare Change Orders and Work Change Directives as required. ENGINEER will provide review and supporting information upon request.

- The fee associated with this task assumes the ENGINEER will provide information and/or review for up to 10 Change Orders.

2.6.13 Differing Site Conditions: BAMA will respond to any notice from CONTRACTOR of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. ENGINEER will provide review and supporting information upon request.

2.6.14 Shop Drawings, Samples, and Other Submittals: BAMA will receive and track all submittals. Upon request, ENGINEER will review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required CONTRACTOR submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. ENGINEER shall meet any CONTRACTOR's submittal schedule that ENGINEER has accepted.

- The fee associated with this task assumes the ENGINEER will review and approve up to 75 original submittals and 50 re-submittals.

2.6.15 Substitutes and "Or-equal": Assist BAMA in evaluating and determining the acceptability of substitute or "or-equal" materials and equipment proposed by CONTRACTOR.

2.6.16 Inspections and Tests: BAMA will receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents.



2.6.17 Change Proposals and Claims: BAMA will review and respond to Change Proposals and Claims. (a) If requested by BAMA, ENGINEER will review technical matters pertaining to Change Proposals. (b) If requested by BAMA, ENGINEER will provide information or data to BAMA regarding engineering or technical matters pertaining to Claims.

- The fee associated with this task assumes the ENGINEER will provide review and/or information for up to 10 Change Proposals or Claims.

2.6.18 Applications for Payment: BAMA will review and approve applications for payment from the CONTRACTOR.

2.6.19 CONTRACTOR's Completion Documents: BAMA will receive from CONTRACTOR maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data.

2.6.20 Substantial Completion: Promptly after notice from CONTRACTOR that CONTRACTOR considers the entire Work ready for its intended use, in company with BAMA and CONTRACTOR, visit the Site to review the Work and determine the status of completion. BAMA will follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, notice to CONTRACTOR, and issuance of a final certificate of Substantial Completion. Assist BAMA regarding any remaining engineering or technical matters affecting BAMA's use or occupancy of the Work following Substantial Completion.

2.6.21 Final Completion and Performance Testing: Conduct a final visit to the Project to determine if the Work is complete and acceptable so that ENGINEER may recommend, in writing, final payment to CONTRACTOR.

2.6.22 Standards for Certain Construction-Phase Decisions: ENGINEER will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial

interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, ENGINEER will not show partiality to BAMA or CONTRACTOR, and will not be liable to BAMA, CONTRACTOR, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

2.7 PROJECT CLOSE-OUT: Upon receiving the written Notice to Proceed, the Consultant shall perform the following tasks:

2.7.1 Prepare an Operations & Maintenance (O&M) Manual for the new Headworks facility. Using the O&M manuals received from the CONTRACTOR's equipment vendors, develop procedures for control of the operation and maintenance of, and record keeping for, Project equipment and systems. Submit three draft copies of the O&M Manual to BAMA for review and comment. Make corrections and/or additions as directed by BAMA and submit three final copies along with one electronic copy (both Word and PDF formats) to BAMA. Also submit three final copies to ODEQ. The manual shall include:

- Facility and equipment descriptions, including photos, design drawings, and design criteria
- An operations narrative for the facility which will describe the functions and controls of the system processes. Guidelines for cost-effective daily operation will be included along with typical operating schematics and valve arrangements. The narrative will serve as a guide to facility operators.
- Preventive maintenance recommendations and schedules
- Process trouble-shooting techniques and emergency response procedures.
- A compilation of controls and instrumentation available for the processes, detailing degree of control and anticipated range of operational parameters.

2.7.2 Provide up to 16 hours of classroom and hands-on training to familiarize BAMA's plant operational staff with the operation and maintenance of the new facilities. The training

will be conducted over a two-day period assuming eight hours of training each day to accommodate staff schedules. Prepare course outline and lesson plans. Provide video recording of the training to BAMA on storage media.

- 2.7.3 Assist BAMA in startup and acceptance testing of the new headworks facility. Observe appropriate portions of the initial startup of the Project and make recommendations for corrections of perceived problems. Four man-days are assumed for startup.
- 2.7.4 Incorporate changes into the drawings and produce Record Drawings based on red-lined Drawings provided by BAMA. Submit Record Drawings on electronic media (AutoCAD and PDF formats)

**ATTACHMENT B-3  
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**ORGANIZATION OF SUBMITTAL DOCUMENTS**

The following list of submittal documents for Amendment No. 3 shall be made a part of the AGREEMENT:

The following documents shall be submitted as deliverables for the project:

- Conformed Drawings and Specifications
- RFI responses
- Shop Drawing reviews
- Substantial Completion punch list
- O&M Manual
- Training documentation
- Record Drawings

**ATTACHMENT D-3  
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**COMPENSATION AND ADDITIONAL SERVICES**

The following compensation for Amendment No. 3 shall be made a part of the AGREEMENT.

**1. 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-3 shall be in accordance with the following payment breakdown:

- 1.1 Construction Services Phase Payment: BAMA shall pay the ENGINEER on a Time and Materials basis with a not to exceed amount of \$247,354 for the completion of the Construction Services Phase. ENGINEER shall be paid an amount equal to Direct Labor Costs times a factor of 3.2, Reimbursable Expenses times a factor of 1.0, and ENGINEER's subconsultant charges times a factor of 1.1.
- 1.2 Project Close-out Phase Payment: BAMA shall pay the ENGINEER on a Time and Materials basis with a not to exceed amount of \$123,574 for the completion of the Project Close-out Phase. ENGINEER shall be paid an amount equal to Direct Labor Costs times a factor of 3.2, Reimbursable Expenses times a factor of 1.0, and ENGINEER's subconsultant charges times a factor of 1.1.

**2. ADDITIONAL SERVICES BASED ON TIME**

Any additional services, if authorized in writing, will be compensated on an hourly rate basis at raw salary rate times a multiplier of 3.2 plus incurred expenses for reproduction, travel and direct costs.

### **3. ADJUSTMENT CLAUSE**

The rates and costs described in this AGREEMENT shall not be revised annually, unless mutually agreed upon by both parties.