

**AGREEMENT  
FOR  
PROFESSIONAL CONSULTANT SERVICES  
BETWEEN  
CITY OF BROKEN ARROW  
AND  
ACTION SPORTS DESIGN, LLC  
FOR  
NIENHUIS PARK SKATE PARK EXPANSION  
PROJECT 196029**

This AGREEMENT, including Attachment A through Attachment F, between the City of Broken Arrow (OWNER) and ACTION Sports Design, LLC (CONSULTANT);

**W I T N E S S E T H:**

WHEREAS, OWNER intends to expand the Nienhuis Park Skate Park (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**

This AGREEMENT shall be effective upon signature of both parties.

**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 – ORGANIZATION OF SUBMITAL DOCUMENTS**

CONSULTANT shall prepare the documents as described in Attachment B as part of this Agreement.

**ARTICLE 5 - COMPENSATION**

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

**ARTICLE 6 - OWNER'S RESPONSIBILITIES**

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

**ARTICLE 7 - 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 8 - LIABILITY**

8.1 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 10.

8.2 Indemnification. CONSULTANT agrees to defend, indemnify, and hold harmless OWNER, and its 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 negligent or intentional acts, errors, or omissions of CONSULTANT, its agents or employees. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of OWNER and CONSULTANT, or their agents or employees, then they shall be borne by each party in proportion to each entity's own negligence.

8.3 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.

8.4 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 8 shall survive.

#### **ARTICLE 9 - 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 10 - 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 11 - LIMITATIONS OF RESPONSIBILITIES FOR ACTS OF OTHERS**

CONSULTANT shall not at any time supervise, direct, control or have authority over any work performed by any employee, contractor or other agent of OWNER. CONSULTANT shall not be responsible for the acts or omissions of any employee, contractor or other agent associated with the PROJECT except for its own employees, subcontractors and other agents.

#### **ARTICLE 12 - 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 13 - 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 14 - 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 15 - TERMINATION**

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by 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 16 - 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.



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 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 22, 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 9.

#### **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 with the requirements and obligations imposed by the Immigration Laws.

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 attorney's 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 Consultant as set forth more fully in Paragraph 24.1 above.

#### **ARTICLE 25 - 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: Roger D. Hughes, P.E.  
Engineering Division Manager

CONSULTANT: ACTION Sports Design, LLC  
111 Cold Water Lane  
Lakeway, TX 78734  
(512) 387-5827  
Contact Name: Mike McIntyre, PLA  
Sole Member

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

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IN WITNESS WHEREOF, the City Manager of the City of Broken Arrow, Oklahoma has hereunto set his hand, for and on behalf of the City of Broken Arrow and the CONSULTANT has signed, or caused his name to be signed, and seal affixed by proper authority, the day and year first above written and these presents have been executed in triplicate counterparts.

**OWNER:**

City of Broken Arrow, a Municipal Corporation

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

Date: \_\_\_\_\_

**CONSULTANT:**

ACTION Sports Design, LLC

By: \_\_\_\_\_  
Mike McIntyre, PLA, Sole Member

Date: 03-27-2020

(CORPORATE SEAL, IF APPLICABLE)

Attest:

\_\_\_\_\_  
City Clerk [Seal]

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Official's Full Name, Office

Date: \_\_\_\_\_

Approved as to form:

[Signature] 4/2/2020  
Assistant City Attorney

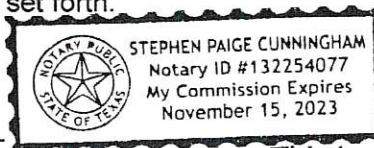
**VERIFICATION**

State of Texas )  
County of Travis ) §

Before me, a Notary Public, on this 27 day of March, 2020, personally appeared Michael Raymond McIntyre, known to be to be the (President, Vice-President, Corporate Officer, Member, or Other: Sole Member) of ACTION Sports Design, LLC, and to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

My Commission Expires:

November 15, 2023



State of Texas  
County of Travis

[Signature]  
Notary Public

This Instrument was acknowledged  
before me on March 27 2020  
By Michael Raymond McIntyre  
NOTARY Stephen Paige Cunningham

**AGREEMENT SUMMARY  
FOR  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
CITY OF BROKEN ARROW (OWNER)  
AND  
ACTION SPORTS DESIGN, LLC (CONSULTANT)  
FOR  
NIENHUIS PARK SKATE PARK EXPANSION  
PROJECT 196029**

**1.0 Professional Consulting Firm:**

- 1.1 Name: ACTION Sports Design, LLC
- 1.2 Telephone No.: (512) 387-5827
- 1.3 Address: 111 Cold Water Lane  
Lakeway, TX 78734

**2.0 Project Name/Location:** Nienhuis Park Skate Park Expansion

**3.0 Statement of Purpose:** This project consists of the design and preparation of the construction documents for the expansion of the skate park at Nienhuis Park.

**4.0 Agreement Summary:**

- 4.1 Agreement Amount: \$ 65,500.00
- 4.2 Agreement Time: 313 calendar days
- 4.3 Estimated Total Project Cost: \$ 650,000.00

**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 Specific project written correspondence mutually recognized; and
- 5.5 Specific project verbal instructions mutually recognized.

**6.0 Agreement Approved by the Owner on:** 03-26-2020

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**ATTACHMENT A  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
CITY OF BROKEN ARROW (OWNER)  
AND  
ACTION SPORTS DESIGN, LLC (CONSULTANT)  
FOR  
NIENHUIS PARK SKATE PARK EXPANSION  
PROJECT 196029**

**SCOPE OF SERVICES**

The following scope of services shall be made a part of the AGREEMENT dated the \_\_\_\_ day of \_\_\_\_\_, 2020.

**1.0 PROJECT UNDERSTANDING**

- 1.1 CONSULTANT understands that the OWNER has retained their professional services in order to prepare construction documents for bidding purposes for the construction of the expansion of the Nienhuis Park Skate Park at Nienhuis Park, 3201 N. 9<sup>th</sup> Street in Broken Arrow. These documents shall include, but not be limited to, 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.
- 1.2 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.
- 1.3 Furthermore, the CONSULTANT understands that the OWNER has (\$650,000.00) budgeted for this PROJECT that includes all professional consultant fees and project construction monies.

**2.0 PROJECT SCOPE**

- 2.1 The project consists of an expansion to the existing skate park at Nienhuis Park.

**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 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 OWNER to discuss review comments on each phase of the project, and incorporate appropriate comments into the following phase.

### 3.2 CONCEPTUAL DESIGN PHASE

#### 3.2.1 Project Kick-off Meeting #1.

- a. CONSULTANT will perform Kick-Off meeting with OWNER and applicable groups determined by OWNER.
- b. CONSULTANT will issue a data sheet/questionnaire for the OWNER to complete prior to the first project meeting. This data sheet will assist CONSULTANT in the programming and design of the Skate Park.
- c. Meet with OWNER to verify work program, schedules and channels of communication.
- d. Review project scope, schedule and budget with design team.
- e. Project overview and distribution of design team responsibilities.

#### 3.2.2 Data Collection (OWNER)

- a. Data will be collected as it relates to the existing site and proposed development to ensure an understanding of the site and park program. Existing information pertinent to the project scope of work will be gathered and distributed to all design team members during this phase of the work by the OWNER.
- b. Geo-technical investigation initiated by CONSULTANT.
- c. Site Survey with topography initiated by CONSULTANT.

#### 3.2.3 Skate Park Flow and Skill Level Diagrams (CONSULTANT)

- a. Develop two (2) alternative bubble diagrams illustrating the layout and program relationships of the Skate Park to the adjacent site amenities.
- b. Diagram activity zones, approximate size of amenities and circulation throughout each transition zone.

#### 3.2.4 Public Meeting #1

- a. OWNER shall locate and reserve the room(s) for each of the meetings listed below.
- b. OWNER shall provide CONSULTANT with any operational or maintenance issues pertaining to other parks within the OWNER oversight. CONSULTANT will use this information to respond to any existing park issues that may be addressed in the design of this project.
- c. OWNER shall provide CONSULTANT with any applicable municipality and surrounding area guidelines, specifications, and detailing as it relates to any designed element within the project. OWNER shall additionally inform CONSULTANT of any special requirements for this particular project (City approved development plans, previously approved conceptual plans, special guidelines, area plans, etc.).
- d. Three separate meetings will occur on the same date:
  1. OWNER Meeting – This meeting will include the OWNER Staff.
  2. Design Team/Project Consultant Meeting – This meeting will include the OWNER, public agencies and any team consultants related to the project.
  3. Public-Skate Park Meeting #1 – The public meeting, typically starting between 6:00 – 7:00 pm, will be held to facilitate a work session to develop consensus and present the Skate Park bubble diagrams and to conduct the first design workshop. CONSULTANT will present various Skate Park Styles and Elements for public feedback on design direction.

#### 3.2.4 Deliverables

- a. Memorandum of project understanding and scope – submitted to OWNER for review and approval.
- b. Diagrammatic sketches of proposed site layout concepts.



- c. Public Meeting #1 materials/ results: sign in sheet, meeting agenda, questionnaires, pros and cons exercise sheets, power point presentation, group sketches and online results.
- d. OWNER shall receive copies of each task item in 8 1/2" x 11", 11"x17" and 24"x36" in digital format.

### 3.3 SCHEMATIC DESIGN PHASE

#### 3.3.1 Skate Park Conceptual Layout Plans

- a. Based upon specific design criteria gathered from the OWNER and public input obtained from the first public meeting, CONSULTANT will prepare (2) conceptual design plans that will depict OWNER'S facilities and relationships. Specific concept to be reviewed under this contract shall be limited to the following items:
  - 1. Develop a maximum of two (2) conceptual Skate Park designs identifying horizontal layout of the park based on the conceptual bubble diagram layout and OWNER approval.
  - 2. Pedestrian access and circulation system.
  - 3. Relationship between Skate Park elements and existing/proposed recreation areas.
  - 4. Landforms and grading concept (Skate Park limit of work only).

#### 3.3.2 Project Specific Skate Park Website

- a. The CONSULTANT will host and maintain a project specific skate park website.
- b. Items displayed on the website will include concept photos/drawings.
- c. Community will have the opportunity to interact with CONSULTANT via e-mail and provide design feedback.

#### 3.3.3 Develop Final Skate Park Schematic Master Plan

- a. Develop (2) final Skate Park master plans based on conceptual layouts, design team input, OWNER input, and public design workshop comments.

#### 3.3.4 Preliminary Skate Park Cost Estimate

- a. Determine preliminary cost for the Skate Park elements.
- b. Cost estimate shall be based upon general square footage prices, based on current market conditions.

#### 3.3.5 Public Meeting #2-Present Skate Park Design (CONSULTANT / OWNER) At OWNER Location

- a. Two separate meetings will occur on the same date:
  - 1. Design Team/Project Consultant Meeting – This meeting will include OWNER and any team consultants related to the project.
  - 2. Public-Skate Park Meeting #2 – The public meeting, typically starting between 6:00 – 7:00 pm, will be held to facilitate a work session to develop consensus and present the refined concept based on workshop #1 feedback.

#### 3.3.6 Site Survey submitted to OWNER from CONSULTANT's subcontractor.

#### 3.3.7 Geo-Technical Investigation report delivered to OWNER from CONSULTANT's subcontractor.

#### 3.3.8 Deliverables

- a. Conceptual site plans and improvement sketches to be used as a basis for the future construction documents.
- b. Final Skate Park schematic master plan.

- c. Preliminary costs for Skate Park based on current market conditions.
- d. Final Skate Park Design graphics in 3-D Format.
- e. Site Survey in .DWG format.
- f. Geotechnical Report.
- g. OWNER shall receive copies of each task item in 8 ½" x 11", 11"x17" and 24"x36" in digital format.

### 3.4 DESIGN DEVELOPMENT PHASE

#### 3.4.1 Project Meeting #3 – Design Development Coordination (CONSULTANT / OWNER) Conference Call.

- a. CONSULTANT will make available to OWNER a copy of the final plan prior to project meeting #3.
- b. CONSULTANT will Evaluate Skate Park plan for security, access and code compliance.
- c. CONSULTANT will Review plan for innovation, value engineering, and review design schedule.

#### 3.4.2 Materials Research (CONSULTANT)

- a. Identify proposed materials and furnishings to be used within the Skate Park elements.
- b. Identify all products, materials and approximate installed cost.

#### 3.4.3 Prepare Base Information (CONSULTANT)

- a. Prepare base information for inclusion in all future design documents.
- b. CONSULTANT will coordinate drawings within our scope of work with Project Design Team members as updates become available.
- c. CONSULTANT will submit to the City of Broken Arrow Community Development Department the following applications:
  - 1. Earth Change Permit (if required)
  - 2. Engineering Review Application
  - 3. Fee in lieu of Detention Form (if required)
  - 4. Stormwater Development Permit
  - 5. Landscape Plan Application
  - 6. Site Plan Review Application

#### 3.4.4 Site Plan (CONSULTANT)

- a. Convey major site features relevant to the Skate Park placement on site.

#### 3.4.5 Preliminary Skate Park Material Reference Plan (CONSULTANT)

- a. Identify all major amenities in the Skate Park Master Plan by keynote description.
- b. Reference all major details, enlargements and sections.

#### 3.4.6 Preliminary Layout Plan (CONSULTANT)

- a. Final location of Skate Park elements using horizontal coordinates, curve data & vertical elevations for surface areas only.
- b. Enlarged layout plan for the Skate Park using horizontal coordinates, curve data & vertical elevations for surface areas only.

#### 3.4.7 3-D Perspective Views (CONSULTANT)

- a. CONSULTANT shall prepare a 3-D rendering of the skate park elements for the construction documents.



- 3.4.8 Preliminary Grading and Drainage Plan & Coordination (CONSULTANT)
  - a. Proposed surface spot grades at necessary points to convey intended elevations and direction of storm water flow.
  - b. Location and sizing of drainage structures, sizing and location of detention basins, invert and finish grades of drains provided. CONSULTANT to provide all surface elevations from edge of concrete inward and inlet elevations for drain locations.
- 3.4.9 Sections/Profiles Plan (CONSULTANT)
  - a. Vertical sections at appropriate scale conveying the overall Skate Park design intent.
- 3.4.10 Construction Details (CONSULTANT)
  - a. Provide sufficient construction detailing for the construction of all elements within this project that falls under this scope of work within the project limit of work lines.
- 3.4.11 Specifications (CONSULTANT /PROJECT DESIGN TEAM)
  - a. Provide 60% specifications for all elements within this project that falls under this scope of work within the project limit work lines.
- 3.4.12 Preliminary Statement of Probable Construction Costs – 60% (CONSULTANT)
  - a. Prepare cost estimate for the Skate Park within the project's limit of work.
- 3.4.13 Storm Water Management Plan- 60%
  - a. Storm water Management Plan within the project limit of work.
- 3.4.14 General Skate Park Lighting Guidelines (CONSULTANT)
  - a. CONSULTANT will provide general Skate Park lighting layout plan and photometrics for the lighting including lighting type, manufacturer, and power requirements. OWNER to provide electrical hookup options and location for manufacturer.
- 3.4.15 60% OWNER Review Submittal (OWNER / CONSULTANT)
  - a. Submit 60% plan set, specifications, and detailed construction estimate for review by OWNER.
  - b. It shall be the responsibility of the OWNER to review all material and respond to CONSULTANT with any comments or questions in a timely manner.
  - c. Project Meeting #4 – Design Development Review (CONSULTANT / OWNER)- Phone
  - d. OWNER review of 60% submittal.
- 3.4.16 Deliverables
  - a. Preferred Master Plan rendered on 24" x 36" sheet at an appropriate scale and revised sketches of any amenity revisions in digital format.
  - b. Cut-sheets and/or product samples for submittal to OWNER for review and approval.
  - c. Individual coordination items in sketch format for submittal to Project Design Team as necessary to complete the 60% plan set.
  - d. 24"x36" 60% plan set in digital format. 60% Specifications in digital format. Cost Estimate in digital format.

### 3.5 FINAL CONSTRUCTION DOCUMENTS PHASE

- 3.5.1 Project Meeting #5 – Construction Documents Overview (CONSULTANT /

OWNER) PHONE CONFERENCE

- a. Review approved Design Development drawings and Master Schedule.

3.5.2 90% Construction Documents (CONSULTANT)

- a. CONSULTANT will finalize plans to facilitate construction of this Skate Park project. These 90% construction documents at a minimum shall include:
  - 1. Skate Park Features Plan
  - 2. Skate Park Materials Plan
  - 3. Demolition Plan
  - 4. Skate Park Jointing Plan
  - 5. Skate Park Concrete Plan
  - 6. Skate Park Layout Plan
  - 7. Skate Park Surface Grading and Drainage Plan
  - 8. Skate Park Erosion Control Plan
  - 9. Skate Park Sections and Profiles Plan
  - 10. Skate Park Construction Details
  - 11. Skate Park Specifications in Division 2-16 CSI Format
  - 12. Estimate of Probable Construction Cost.
  - 13. Site grading plan-Surface only from edge of deck inward, including adjacent ground for context only.
  - 14. Skate park drainage plan- Surface only from edge of deck inward, including adjacent ground for context only.

3.5.3 Statement of Probable Construction Cost – 90% (CONSULTANT)

- a. Develop spreadsheet of all Skate Park improvement quantities and unit rates for probable construction cost.
- b. If necessary, CONSULTANT will identify acceptable alternatives to align the probable construction cost with the available construction budget. The cost estimate will be submitted with the 90% plan set to allow for any necessary design adjustments prior to 100% plan submittal and acceptance.
- c. A final cost estimate based on a current market value that falls within budget will be submitted with the 100% final construction documents.

3.5.4 90% Specifications (CONSULTANT)

- a. Refine and revise as necessary technical specifications in CSI (Construction Specification Institute) format for all Skate Park construction.

3.5.5 100% Biddable Construction Document Submittal (CONSULTANT)

- a. CONSULTANT will finalize plans to facilitate construction of this Skate Park project. These final construction documents at a minimum shall include:
  - 1. Layout and materials plans with enlargements as necessary
  - 2. Signage plan
  - 3. Site grading plan-Surface only from edge of deck inward, including adjacent ground for context only.
  - 4. Site drainage plan- Surface only from edge of deck inward, including adjacent ground for context only.

3.5.6 Deliverables

- a. Full signed and sealed bid-ready construction plans.
- b. Statement of probable costs.
- c. Specifications.
- d. Construction submittal from CONSULTANT to the OWNER Project Mangers shall include the following:
  - 1. Original construction drawings.



2. Original technical specifications and table of contents in either PDF or Word format. OWNER to provide CONSULTANT with final submittal requirements.
3. Should the OWNER request digital files of the work done for archiving purposes CONSULTANT will provide the AutoCAD files per OWNER requirements. Construction shall be based on signed and sealed hard copy plans only.
4. OWNER shall receive (3) copies of each task item in 8 1/2" x 11", 11"x17" and 24"x36" format in their applicable format.

### 3.6 BIDDING SERVICES PHASE

- 3.6.1 Aid OWNER in bidding process by fielding questions and answers from prospective bidders during the contract procurement process.
- 3.6.2 Provide necessary Requests for Information (RFI's) if applicable.
- 3.6.3 Provide contract amendments based on RFI
- 3.6.4 Review of contractors bids providing feedback on qualifications and acceptable experience.

### 3.7 CONSTRUCTION ADMINISTRATION PHASE

#### 3.7.1 Pre-Construction Conference (CONSULTANT)

- a. CONSULTANT shall not be responsible for the acts or omissions of the contractor or any sub-contractors, or any of the contractors or sub-contractor's agents or employees, or any other persons performing any of the work. To ensure that the intent of working drawings is carried out, at least five working days' notice is required for approval of deviations of field changes related to the drawings and specifications prepared by CONSULTANT. Changes shall be approved in writing by CONSULTANT before the contractor is authorized to make those changes.

#### 3.7.2 Progress Review/Site Visits (CONSULTANT)

- a. Progress reports shall be provided following each site visit to OWNER indicating the progress of the project, quality of construction methods, specific problem areas and state of completion. These reports are for the sole purpose of assisting OWNER in its management of the construction process.
- b. CONSULTANT shall photograph work during site visits and include photos with each written progress report for OWNER records.
- c. CONSULTANT shall review and approve shop drawings, samples and other submissions of the contractor only for conformance with the design concept of the project and for compliance with construction documents by CONSULTANT.
- d. OWNER has the final decision and approval on all matters related to design and construction. CONSULTANT shall make recommendations in matters relating to artistic/technical effect which will be final if consistent with the intent of the contract documents. ~~CONSULTANT will make recommendations to OWNER to reject work that does not conform to the contract documents and require special inspection or testing when deemed necessary.~~
- e. CONSULTANT representative shall have access to the work at all times and shall make periodic visits to the site as scheduled below to become familiar with the progress and quality of the work to determine if the work is proceeding in accordance with the contract documents. The primary basis of on-site observations will be to guard OWNER against defects and deficiencies in workmanship.

#### 3.7.3 Pay Application Approvals and Substantial Completion Review (CONSULTANT)

- a. CONSULTANT will review and approve for the contractor's applications for payment and submit OWNER review and processing. CONSULTANT will advise and inform on the completeness of each phase of work within their scope.

3.7.4 Project Closeout (CONSULTANT)

- a. Upon completion of construction, the CONSULTANT will incorporate the contractor's red-line markups of the construction drawings and submit one (1) set of record drawings on electronic media (AutoCAD 2018 or earlier version).

**4.0 CONSULTANT PROPOSAL**

- a. The original proposal from the CONSULTANT is included in Attachment F. This proposal is included for reference only; the proposal is not binding on the OWNER nor the CONSULTANT.

[End of Attachment A]

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**ATTACHMENT B  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
CITY OF BROKEN ARROW (OWNER)  
AND  
ACTION SPORTS DESIGN, LLC (CONSULTANT)  
FOR  
NIENHUIS PARK SKATE PARK EXPANSION  
PROJECT 196029**

**ORGANIZATION OF SUBMITTAL DOCUMENTS**

The CONSULTANT shall prepare the following documents as described as a part of the AGREEMENT dated the 26 day of 03, 2020.

- 1.0 CONSTRUCTION PLANS:** The CONSULTANT shall submit in-full, construction plans in accordance with City requirements.
- 2.0 DESIGN ANALYSIS:** The CONSULTANT shall submit in-full, a design analysis containing calculations, cut sheets, and outline specifications as described.
- 3.0 TECHNICAL SPECIFICATIONS:** The CONSULTANT shall submit in-full, in accordance with this AGREEMENT, technical specifications to be included in the bidding documents and construction contract.
- 4.0 CONTRACT DOCUMENTS:** The CONSULTANT shall submit in-full, all bid documents in accordance with City requirements.

[End of Attachment B]

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**ATTACHMENT C  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
CITY OF BROKEN ARROW (OWNER)  
AND  
ACTION SPORTS DESIGN, LLC (CONSULTANT)  
FOR  
NIENHUIS PARK SKATE PARK EXPANSION  
PROJECT 196029**

**COMPENSATION AND ADDITIONAL SERVICES**

The following compensation and hourly rates shall apply and shall be made a part of the AGREEMENT dated the 26 day of MARCH, 2020.

**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 Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 14,000.00 for the completion of the Conceptual Design Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.2 Schematic Design Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 15,000.00 for the completion of the Schematic Design Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services. In addition, this phase includes submittal of site plan to Community Development Department along with site plan application for site plan review.
- 1.3 Design Development Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 14,000.00 for the completion of the Design Development Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.4 Final Construction Documents Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 16,000.00 for the completion of the Final Design Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.5 Bidding Services Phase Payment: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 1,500.00 for the completion of the Bidding Services Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.
- 1.6 Construction Administration Phase: The OWNER shall pay the CONSULTANT a lump sum amount of \$ 5,000.00 for the completion of the Construction Administration Phase. This amount includes all labor, material, overhead and profit associated with the Scope of Services.



1.7 The OWNER may negotiate other professional services fees with the CONSULTANT at the OWNER'S discretion.

## **2.0 ADDITIONAL SERVICES**

Should additional services be required, the OWNER shall negotiate the scope and compensation for the additional services with the CONSULTANT, and amend this agreement.

## **3.0 REPRODUCTION**

All charges for reproduction shall be included in Basic Compensation 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.

[End of Attachment C]

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**ATTACHMENT D  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
CITY OF BROKEN ARROW (OWNER)  
AND  
ACTION SPORTS DESIGN, LLC (CONSULTANT)  
FOR  
NIENHUIS PARK SKATE PARK EXPANSION  
PROJECT 196029**

**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 26 day of March, 2020.

**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 Not Applicable

[End of Attachment D]



ATTACHMENT E  
TO  
AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES  
BETWEEN  
CITY OF BROKEN ARROW (OWNER)  
AND  
ACTION SPORTS DESIGN, LLC (CONSULTANT)  
FOR  
NIENHUIS PARK SKATE PARK EXPANSION  
PROJECT 196029

PROJECT SCHEDULE

The following schedule shall be made a part of the AGREEMENT dated the 26 day of March, 2020.

- 1.0 CONCEPTUAL DESIGN PHASE: 28 calendar days
- 2.0 SCHEMATIC DESIGN PHASE: 35 calendar days
- 3.0 DESIGN DEVELOPMENT PHASE: 35 calendar days
- 4.0 FINAL CONSTRUCTION DOCUMENTS PHASE: 28 calendar days
- 5.0 BIDDING SERVICES PHASE: 35 calendar days
- 6.0 CONSTRUCTION ADMINISTRATION PHASE: 152 calendar days

[End of Attachment E]

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