

CONTRACT FOR ENGINEERING SERVICES

This Contract for engineering services for technical review services ("Contract") is entered into this 22nd day of November, 2022, by and between The City of Oklahoma City, a municipal corporation ("City"), and Smith Roberts Baldischwiler, LLC ("Engineer").

WITNESSETH:

PROJECT NO. MC-0719 TECHNICAL REVIEW SERVICES

WHEREAS, the City intends to engage the services of the Engineer to provide for design and all other engineering services related to technical review services ("project"); and

WHEREAS, the Engineer will provide professional services for the project in accordance with this Contract, including the scope of work incorporated herein and as set forth in **Exhibit A** attached hereto; and

WHEREAS, it is the intent of the City (at its option) to renew this Contract annually for a period of two years, until June 30, 2025; and

WHEREAS, the Engineer has been selected under the standards adopted and the procedures prescribed by the resolution establishing procedures for selection of architects, engineers and planners adopted by the City Council on July 23, 1974, amended on December 31, 1974, February 21, 1978, January 22, 1980, and November 18, 1986, which resolution, with its amendments, is made a part of this Contract by reference.

NOW, THEREFORE, in consideration of the mutual covenants contained hereinafter relating to the project, the parties agree to the following:

1. **Definitions**. All terms and phrases not expressly defined herein shall have their ordinary meanings, consistent with Oklahoma and Oklahoma City law, except where the context clearly indicates a different meaning. For purposes of this Contract, the following terms and phrases shall have the meaning subscribed herein:
 - A. *Bidding Documents* Those documents required to construct, renovate and/or modernize the project, including but not limited to standard provisions, special provisions, drawings, plans and specifications.
 - B. *City Engineer* The officer of the City of Oklahoma City or designee, e.g. "Project Manager", in charge of engineering, construction and maintenance contracts on public

rights-of-way, on public lands and capital improvement projects.

C. *Fixed Limit of Construction* Not-to-exceed amount which has been designated as the maximum amount for the construction cost of the project.

D. *Term of Contract* The term of this Contract shall run from date of execution through June 30, 2023.

2. **Engineering Services.** The Engineer is hereby engaged and employed by the City to perform in accordance with good engineering practices and in the best interest of the City in accordance with the professional standard of care all of the work as set out herein and including Exhibit A, which is attached hereto and incorporated as a part of this Contract. The Engineer will provide services associated with research, development, design and construction, alteration, and/or repair of real property and improvements thereon, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including but not limited to studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, design development, plans and specifications, cost estimates, observations, shop drawing reviews, sample recommendations, assemble operating and maintenance manuals, site visits and other related services.
3. **No Extra Work.** No claims for extra work of any kind or nature or character shall be recognized by or be binding upon the City unless such work or service is first approved in writing by the City.
4. **Additional Services.** Not Applicable.
5. **Compensation.** The City agrees to pay the Engineer as compensation for professional engineering services listed above at the following hourly rates (the Engineer shall submit separate invoices/claim vouchers for each project). The Engineer shall submit invoices, accompanied by detailed description of the total work accomplished to the City, not more than once per month.

Engineering Manager	\$230
Senior Engineer	\$165
Staff Engineer	\$135
Engineer Intern	\$110
Engineering Technician	\$145

The Engineer should manage personnel to maintain a 40-hour week. The Engineer must coordinate with the City prior to changing their staffing plan. The Engineer will submit updated rates per the CPI index in April of each year, for next Fiscal Year.

6. **Payments.**

- A. Payment of claims for incremental work completed on each task may be submitted. Invoices for the amount and value of the work and services performed by the Engineer shall be submitted monthly to the City and shall meet the standards of quality as established under this Contract. Invoices will include the percentage of completion for each task and payment will be made based on the percentage of the task fee completed. The City agrees to pay the Engineer, as compensation for such engineering services as listed herein. The invoices shall be prepared and submitted by the Engineer and be accompanied by a status report identifying the task components, effort accomplished during the time period, and the percentage of completion thereof, to the City. Payment of any invoice for any work or services is not deemed to be recognition of satisfactory performance of said work or services or a waiver of any right of the City or any obligation of the Engineer should it be determined later that said work or services were negligently performed or provided or were not performed or provided in accordance with the standards required by this Contract. Surveyors or other professional consultants engaged by the Engineer for the normal structural, electrical or mechanical engineering services shall be billed to the City by the Engineer at the actual cost thereof.
- B. The Engineer shall present two (2) copies of the invoice with two (2) properly executed claim vouchers to the City for compensation and payment. The City will review the invoice and claim voucher for payment. Should the City question or request additional documentation or disapprove all or a portion of any invoice, the Engineer will be notified so that it may provide additional documentation sufficient to demonstrate the invoice and claim should be paid, in whole or in part; provided, however, no invoices or claims shall be paid the aggregate of which are in excess of the "not to exceed" amounts or limitations established in the Compensation paragraph, except as may be modified by written agreement between the City and the Engineer.
- C. Final payment shall not be deemed to waive any rights or obligations of the parties to this Contract.

7. **Indemnity.** The Engineer will not be required to indemnify, insure, defend or hold harmless the City or participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property which arises out of the negligence or fault of the City or participating trusts or their agents, representatives, subcontractors, suppliers or any other entity for whom the Engineer is not otherwise legally responsible.

The Engineer must indemnify the City and participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property; provided, that indemnification shall not exceed an amount that is proportionate to the degree or percentage of negligence or fault for which the Engineer and any person or entity for which the Engineer is legally responsible are adjudicated liable.

8. **Insurance.** Prior to approval of this contract, the Engineer shall obtain insurance coverage as provided below. The Engineer must provide, pay for, and maintain the types of insurance policies provided herein, in amounts of coverage not less than those set forth below. Certified, true and exact copies of all insurance policies required and endorsement pages shall be provided to the City and its participating trusts on a timely basis if requested by City staff. The Engineer will provide the Certificate(s) of Insurance to the City and its participating trusts with the executed contract (contract will not be processed for approval without the contract-required verification of insurance indicated on the Certificate(s) of Insurance). Certificate(s) of Insurance must be insurance industry standard forms, such as ACORD.

All insurance must be from responsible insurance companies which are authorized to do business in the state of Oklahoma and are acceptable to the City and its participating trusts. The required insurance coverage and policies shall be performable in Oklahoma City, Oklahoma, and shall be construed in accordance with the laws of Oklahoma.

Nothing in this Section shall define or limit the rights of any party to this Contract under any other provision of this Contract, including but not limited to any indemnification provision.

- A. **Additional Insureds:** All liability policies (except professional liability and worker's compensation and employer's liability policies) shall provide that the City and its participating trusts are named additional insureds without reservation or restriction.

All insurance coverage of the Engineer shall be primary to any insurance or self-insurance program carried by the City and its participating trusts.

All insurance policies shall include a severability of interest provision wherein claims involving any insured hereunder, except with respect to limits of insurance, interests shall be deemed separate from any and all other interest herein, and coverage shall apply as though each such interest was separately insured.

Subrogation as to any additional insured shall be waived.

- B. **Deductibles:** All policies must be fully insured with any single policy deductible not exceeding \$25,000 per occurrence. All deductibles must be declared on the certificate of insurance. If no deductible is declared, the Engineer is stating a deductible does not exist and thus a deductible is not approved or accepted. If the Engineer's deductible is higher than declared, then the City and its participating trusts will hold an equal amount from pay claims until corrected.

Self-insured retentions will not be accepted unless accompanied by a bond (financial guarantee bond) or irrevocable letter of credit guaranteeing payment of the losses, related investigations, claim administration and defense expenses not otherwise covered by the Engineer's self-insured retention.

- C. Policy Limits: The insurance coverage and limits required of the Engineer under this Contract are designed to meet the minimum requirements of the City and its participating trusts. Such coverage and limits are not designed as a recommended insurance program for the Engineer. The Engineer alone shall be responsible for the sufficiency of its own insurance program. Should the Engineer have any question concerning its exposures to loss under this Contract or the possible insurance coverage needed therefore, the Engineer should seek professional assistance.

Except for professional liability insurance, all policies shall be in the form of an “occurrence” insurance coverage or policy. If any insurance is written in a “claims-made” form, the Engineer shall also provide tail coverage that extends a minimum of two years from the expiration of this Contract.

The minimum aggregate limits of such insurance policies and continuing coverage shall be:

- (1) Worker's Compensation and Employer's Liability Insurance. The Engineer shall provide and maintain, during the term of the Contract, worker's compensation insurance as prescribed by the laws of the state of Oklahoma and employer's liability Insurance in an amount not less than One Hundred Thousand Dollars (\$100,000.00) each for all its employees employed at the site of the Project, and in case any work is subcontracted, the Engineer shall require the subcontractor similarly to provide worker's compensation and employer's liability insurance for all the subcontractor's employees, unless such employees are covered by the protection afforded by the Engineer. In the event any class of employees engaged in work performed under the Contract or at the site of the Project is not protected under such insurance heretofore mentioned, the Engineer shall provide and shall cause each subcontractor to provide adequate insurance for the protection of the employees not otherwise protected.
- (2) Commercial General Liability Insurance. The Engineer shall provide and maintain commercial general liability insurance coverage sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, as provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (3) Automobile Liability Insurance. The Engineer shall provide and maintain comprehensive automobile liability insurance coverage as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles sufficient to meet the maximum cumulative liability of all parties to this Contract, including the City and any public trust participating in the Project, under the Governmental Tort Claims Act, 51 O.S. § 151 *et seq.*, (GTCA) and any amendment or addition thereto, unless otherwise specifically and expressly provided herein.

Property damage liability in an amount not less than Two Hundred Thousand Dollars (\$200,000.00) per claimant for loss, damage to or destruction of property, including but not limited to consequential damages arising out of a single accident or occurrence.

All other liability in an amount not less than One Hundred Seventy Five Thousand Dollars (\$175,000.00) per claimant for claims including death, personal injury, and all other claims arising out of a single accident or occurrence.

Single occurrence or accident liability in an amount not less than One Million Dollars (\$1,000,000.00) for any number of claims arising out of a single accident or occurrence.

- (4) Professional Liability Insurance. The Engineer shall provide and maintain professional liability insurance coverage in an amount not less than \$1,000,000 aggregate annual limit liability. Such insurance coverage shall be maintained during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City.

- D. Certificates: The insurance coverage and limits required must be evidenced by properly executed certificates of insurance on the form furnished by The City or on forms approved by the Oklahoma Insurance Commissioner. Copies of these certificates have been provided to the City Engineer prior to execution of this Contract and are attached hereto. The certificate(s) must be signed by the authorized

representative of the insurance company(s) shown in the certificate(s). The certificate must include the Project number and Project description or name.

- E. Cancellation. There may be no termination, non-renewal, reduction in coverage, or modification of such insurance coverage.

The Engineer authorizes the City and its participating trusts to confirm all information so furnished as to the Engineer's compliance with its bonds and insurance requirements with the Engineer's insurance agents, brokers, surety and insurance carriers. The lapse of any insurance policy or coverage required by this Contract is a breach of this Contract for which the Engineer shall repay and reimburse all payment made under the Contract and such other damages, losses, and costs incurred by the City and its participating trusts. The City and its participating trusts may at their option suspend this Contract until there is full compliance with this paragraph, or may cancel or terminate this Contract and seek damages for the breach of this Contract. The remedies in this paragraph shall not be deemed to waive or release any remedy available to The City and its participating trusts. The City and its participating trusts expressly reserve the right to pursue and enforce any other cause or remedy in equity or at law.

In the event of a reduction in any aggregate limit below the aggregate limit required to this contract, the Engineer shall immediately notify the City and its participating trusts and shall make reasonable efforts to have the full amount of the limits appearing on the certificate reinstated. If at any time the City and its participating trusts request a written statement from the insurance company(s) as to any impairments to or reduction of the aggregate limit below the aggregate limit required by this contract, the Engineer hereby agrees to promptly authorize and have delivered to the City and its participating trusts such statement.

The Engineer must carry and maintain the contract-required insurance coverages and may not cancel, fail to be renewed, nor decrease their limits without thirty (30) days written notice to the City and its participating trusts. In the event that a contract-required insurance coverage (policy) is canceled by the Engineer's insurance company and through no fault of the Engineer, the Engineer must immediately provide written notice to the City and its participating trusts and immediately provide properly executed Certificate(s) of Insurance evidencing coverage (policy) replacement of the canceled coverage(s). The Certificate(s) of Insurance must specifically indicate (in the remarks section of the form or elsewhere) the project number and project description. An authorized representative of the insurance companies listed on the Certificate(s) of Insurance must sign the Certificate(s).

- F. Duration of Coverage. All insurance coverage required under this Contract except professional liability insurance shall be maintained in full force and effect until completion and formal acceptance of the Project by the City and its participating trusts. The Engineer shall maintain in full force in effect the required professional

liability insurance stated above during this Contract, during the construction of the Project, and for a period of two (2) years after the final, formal acceptance of this Project by the City and its participating trusts.

The requirements of the insurance provisions listed above shall survive the completion, expiration, cancellation or termination of this Contract.

- G. The Engineer and its insurer will not be required to indemnify, insure, defend or hold harmless the City or participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property which arises out of the negligence or fault of the City or participating trusts or their agents, representatives, subcontractors, suppliers or any other entity for whom the Engineer is not otherwise legally responsible.

The Engineer and its insurer must indemnify the City and participating trusts against liability for damage arising out of death or bodily injury to persons or damage to property; provided, that indemnification shall not exceed an amount that is proportionate to the degree or percentage of negligence or fault for which the Engineer and any person or entity for which the Engineer is legally responsible are adjudicated liable.

9. **Termination for Convenience.** The City may terminate this Contract (with or without cause), in whole or in part, for the City's convenience. The City may terminate by delivery of a notice to the Engineer, pursuant to paragraph "Notices" herein.

Upon receipt of the notice of termination, the Engineer shall (1) immediately discontinue all work and services affected (unless the notice directs otherwise), and (2), upon payment for work performed, deliver to the City all documents, data, drawings, specifications, reports, calculations, field notes, tracings, plans, models, computer files, estimates, summaries and other information and materials accumulated in performing this Contract, whether complete or incomplete unless the notice directs otherwise.

Upon termination for the convenience by the City, the City shall pay the Engineer for all work and services rendered, up to the time of the notice of termination, in accordance with the terms, limits and conditions of this Contract and as further limited by the not to exceed amounts set out in this Contract.

The rights and remedies of the City provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

Termination herein shall not terminate or suspend any of the required provisions of paragraph "Indemnity" or "Insurance" of this Contract.

10. **Notices.** All notices given pursuant to this Contract shall be in writing, delivered or mailed by United States mail, postage prepaid or faxed (with hard copy follow up by mail or delivery) and addressed as follows:

To the City:

The City of Oklahoma City
Department of Public Works
420 West Main Street, Seventh Floor
Oklahoma City, Oklahoma 73102
Attn: Eric J. Wenger, P.E., Director
Public Works/City Engineer
Phone Number: (405) 297-2581 Fax Number: (405) 297-2117

To the Engineer:

Smith Roberts Baldischwiler, LLC
100 NE 5th Street
Oklahoma City, Oklahoma 73104
Attn: Marc Long, P.E., Manager
Phone Number: (405) 840-7094

The address of any person or party may be changed by notice to the other party, given in the manner described above. All such notices shall be deemed received when delivered.

11. **Stop Work.** Upon notice to the Engineer, the City may issue a stop work order suspending the performance of work and/or services under this Contract. The stop work order shall not terminate or suspend any of the required provisions of paragraph “Indemnity” and/or “Insurance” of this Contract.
12. **Compliance with Laws, Ordinances, Specifications and Regulations.** The Engineer shall comply with all existing and applicable federal, Oklahoma and Oklahoma City laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, applicable to the work and/or services provided by this Contract.
13. **Records and Accounts.** During the term of this Contract and continuing for a period the longer of five (5) years after the final acceptance of the completed project by the City, or until the final resolution of any outstanding disputes between the City and the Engineer or the contractor(s) on the project, the Engineer shall maintain: all documents, notes, drawings, specifications, reports, estimates, summaries, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, computer files and any other materials produced, created or accumulated in performing this Contract that have not been submitted to the City subsequent to final completion of the project and its internal accounting records, and other supporting documents pertaining to the claims and/or invoices for costs of work and/or services of this Contract. The Engineer must maintain its accounting records in

accordance with generally accepted accounting principles applied on a consistent basis. The Engineer shall permit periodic audits by the City and City's authorized representative. The periodic audits of the records in support of claims and invoices for the Contract shall be performed at times and places mutually agreed upon by the City and Engineer. Agreement as to the time and place for audits may not be unreasonably withheld.

14. **Reporting to the City.** The Engineer shall report to the City on a regular monthly basis and on an as needed basis.
15. **Prohibition Against Collusion.** The Engineer warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Engineer to solicit or secure this Contract. The Engineer further warrants that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Engineer, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract. In addition, the Engineer must execute the Anti/Non-Collusion Affidavit, attached as Exhibit B, prior to the effective date of this Contract.
16. **Sub-consultant, Subcontractor or Employee Conflict of Interest.** Any work performed by the Engineer's employees, sub-consultants or subcontractors on this project shall prohibit said persons from contracting with, working for, or otherwise assisting any potential Bidder to do any project-related work for the Bidder which may in any way be (or construed to be) a conflict of interest. It is the responsibility of the Engineer to require all employees, sub-consultants, or subcontractors engaged by the Engineer to advise the City of any business relationship (formal or otherwise) which may pertain directly or indirectly to this project and/or which may in any way be (or construed to be) a conflict of interest. The Engineer will also notify the City of any such business relationship and/or conflict of interest. Any conflict of interest discovered by the City may be cause for rejection of the Bid in question and/or cancellation of the Engineer's contract.
17. **Work Orders.** The Engineer shall proceed with the provision of work and/or services for this Contract upon receipt of work orders from the City Engineer.

If the Engineer cannot perform the work and/or services within the time provided, and upon the submission by the Engineer of a request in writing to the City indicating the length of extension required to perform a task, the City Engineer may in his sole discretion grant a reasonable extension of time. The request from the Engineer shall state the reason for the extension request, along with evidence showing that the Engineer is unable to complete this work in the time specified in the work order for reasons beyond its control. The Engineer is prohibited from claiming damages for delays and extensions of time.

18. **Ownership of Documents.** All documents, notes, drawings, specifications, reports, estimates, summaries, computer files, renderings, models, photographs, field notes, as-built drawings, information, survey results, plans, and any other materials produced, created or accumulated in performing this Contract, are and shall remain the property of the City and

may be reproduced, distributed and published in whole or part without permission or any additional payments or fees to the Engineer. Reuse of said documents by the City shall be at the City's risk and responsibility and not that of the Engineer. The parties may use any portions of said documents at their own risk and responsibility. During preparation of design documents, the Engineer shall do weekly backups of CADD computer files and maintain said backups in a safe and secure off-site location. These back up CADD computer files are the property of the Engineer.

19. **References Not Incorporated.** The use of language or definitions from the Federal Acquisition Regulations ("FAR"), the American Institute of Architects ("AIA") or any other publication, are not intended to adopt by reference or otherwise any or all of the language, definitions, regulations or publications or any interpretation thereof.
20. **Standard of Care.** In providing the work and services herein, the Engineer shall maintain during the course of this Contract the standard of reasonable care, skill, diligence and professional competency for such work and/or services. The Engineer agrees to require all of its consultants, by the terms of its consultants' contracts, to provide services at the same standard of reasonable care, skill, diligence and professional competence required of the Engineer.
21. **Fixed Limit of Construction.** Not Applicable.
22. **Design Corrections.** Not Applicable
23. **Backup Required.** In accordance with good engineering practices, the Engineer must back up all data, surveys, tests, work, plans, specifications, notes, calculations, RFI, records, reports, documents (collectively referred to as "data") in the form of an electronic file on a USB drive, data storage, or to an offsite electronic storage facility. Should any data become lost, corrupted, inaccessible, or unusable (collectively "loss"), the Engineer must timely recreate all data within the original time frame of the engineering contract at its sole cost. No extensions or additional time will be granted the Engineer for loss of data. No additional payment or reimbursement will be made to the Engineer for loss of data. The Engineer will be responsible for any and all costs, expenses, or lost opportunities incurred by The City, Trust, and construction contractor resulting from the failure to meet schedules, milestones, performance standards, or performance requirements related to loss of data.
24. **Notice of Design Limitations.** Not Applicable
25. **Sub-consultants.** Not Applicable
26. **Nondiscrimination.** In connection with the performance of work and/or services under this Contract, the Engineer agrees as follows:
 - A. The Engineer shall not discriminate against any employee or applicant for employment because of age, race, creed, color, sex, national origin, ancestry or

disability as defined by the Americans with Disabilities Act of 1990, Section 3(2). The Engineer shall take affirmative action to ensure that employees or applicants for employment are treated without regard to their age, race, creed, color, national origin, sex, ancestry or disability as defined by the Americans with Disabilities Act of 1990, Section 3 (2). Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff, termination or cancellation, rates of pay or other forms of compensation and selection for training, including apprenticeship. The Engineer shall agree to post, in conspicuous places, Exhibit C.

- B. In the event of the Engineer's noncompliance with this nondiscrimination clause, this Contract may be suspended, canceled or terminated by the City. The City may declare the Engineer ineligible for further contracts or agreements until compliance, and/or satisfactory proof of intent to comply shall be made by the Engineer.
 - C. The Engineer agrees to include this nondiscrimination clause in any subcontracts connected with the performance of this Contract. The Engineer shall also execute the nondiscrimination certificate, attached and incorporated as Exhibit B, prior to the effective date of this Contract.
27. **Assignment.** Inasmuch as this Contract is a personal and professional service agreement which relies upon the personal and professional integrity, financial standing and unique ability and expertise of the Engineer to provide professional and personal services to the City, the parties agree that the Engineer may not assign its obligations, rights or interest in this Contract except as set forth in paragraph "Termination for Default" subparagraph B.
28. **Not Used**
29. **Termination for Default.** The City may cancel this Contract (with or without cause), in whole or in part, for failure of the Engineer to fulfill or promptly fulfill its obligations under this Contract.
- A. After due notice and thirty (30) days within which to correct the default, this Contract may be terminated by either party for default upon fourteen (14) days written notice should the other party fail substantially to perform in accordance with the Contract terms through no fault of the party initiating the termination. Upon termination for cause by the City, the City shall pay the Engineer for all work and services rendered, up to the time of the effective date of termination.
 - B. If this Contract is terminated by reason of a default of the Engineer prior to the completion of this project, regardless of the reason for said termination, the Engineer shall immediately assign to the City any contracts and/or agreements relative to this project entered into between the Engineer and its subcontractors and sub-consultants, as the City may designate in writing and with the consent of the subcontractors and sub-consultants so designated. With respect to those contracts and/or agreements

assigned to and accepted by the City, the City shall only be required to compensate such subcontractors and sub-consultants for compensation accruing to such parties under the terms of their agreements with the Engineer from and after the date of such assignment to and acceptance by the City. All sums claimed by such subcontractors or sub-consultants to be due and owing for services performed prior to such assignment and acceptance by the City shall constitute a debt between the Engineer and the affected subcontractors or sub-consultants, and the City shall in no way be deemed liable for such sums. The Engineer shall include this provision and the City's rights and obligations hereunder in all agreements or contracts entered into with the Engineer's subcontractors and sub-consultants.

C. Termination herein shall not terminate or suspend any of the required provisions of the paragraph "Indemnity" or "Insurance" of this Contract.

30. **Time Is of the Essence.** Both the City and the Engineer expressly agree that time is of the essence with respect to this Contract, and the time for performance of each task established by the work orders shall be made a part of this Contract and shall be strictly observed and enforced. Any failure on the part of the City to timely object to the time of performance shall not waive any right of the City to object at a later time.
31. **No Damage for Delay.** No payment, compensation or adjustment of any kind (other than an approved extension of time) shall be made to the Engineer for damages because of hindrances or delays from any cause in the progress of the work, whether such hindrances or delays be avoidable or unavoidable. The Engineer agrees that it will make no claim for compensation or damages for any such delays and will accept as full satisfaction for such delays the extensions of time.
32. **Severability.** In the event that any provision, clause, portion or section of this Contract is unenforceable or invalid for any reason, such unenforceability or invalidity may not affect the enforceability or validity of any other paragraph or the remainder of this Contract.
33. **Entire Agreement.** This Contract, including its Exhibits and any other documents or certificates incorporated herein by reference, expresses the entire understanding of the City and the Engineer concerning the Contract. Neither the City nor the Engineer has made or shall be bound by any agreement or any representation to the other concerning this Contract, which is not expressly set forth herein.
34. **Amendment.** This Contract may be modified only by a written amendment of subsequent date hereto, approved by the City and the Engineer. In the event the Engineer's Basic Services are increased or changed so as to materially increase the need for engineering services in excess of the not to exceed total compensation, the Engineer may seek to amend this Contract.

35. **Execution in Counterparts.** This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
36. **Descriptive Headings.** The descriptive headings of the sections of this Contract are inserted or annexed for convenience of reference only and shall not affect the meaning, construction, interpretation or effect of this Contract.
37. **Construction and Enforcement.** This Contract shall be construed and enforced in accordance with the laws of the State of Oklahoma. In the event of ambiguity in any of the terms of this Contract, it shall not be construed for or against any party on the basis that such party did or did not author the same.
38. **Survival of Representations.** All representations and covenants of the parties shall survive the expiration of the Contract.
39. **Parties Bound.** This Contract shall be binding upon and inure to the benefit of all parties. This Contract is solely for the benefit of the parties and their successors in interest, and none of the provisions hereof are intended to benefit third parties.
40. **Venue of Actions.** The parties agree that if any legal action is brought pursuant to this Contract, such action shall be instituted in the District Court of Oklahoma County.
41. **Effective Date.** The effective date of this Contract shall be the date of execution of this Contract by the City.
42. **Local Business Utilization Report.** Not Applicable
43. **Crime Prevention through Environmental Design** The Crime Prevention through Environmental Design (CPTED) concept suggests that natural surveillance, natural access control, and territoriality can be effectively applied to a project and its surrounding environment to provide safety for users. A CPTED design can also promote community confidence and improve natural surveillance methods to reduce/prevent common crime and vandalism.

The Engineer should implement the concepts of CPTED, where appropriate, to reduce the real and perceived areas of potential problems during the project design.

44. **Term of Contract.**
- A. This Contract authorizes the City Engineer to issue Work Orders under this Contract during the contract term as provided herein and the term of this Contract will be from the effective date through June 30, 2023, plus such extended time as necessary until all Work Orders issued during the contract term are complete.

- B. The City may issue Work Orders under this Contract at any time during the contract term.
- C. The Engineer will provide such services as set forth in any Work Order issued under this Contract and this Contract will be deemed extended for such extended time as may be necessary for the completion of services set forth in any Work Order issued during the contract term under this Contract.
- D. If this Contract is extended for completion of any Work Order, upon completion of all the Work Orders issued under this Contract, the City Engineer will issue a notice to the Engineer denoting the termination of this Contract and any extended time.
- E. The Engineer must provide such services and comply with this Contract until expiration of the contract term or through any extended time, if any, until notification of termination of this Contract from the City Engineer, whichever is later.
- F. The City will not be obligated to pay the Engineer under any Work Order (including any services, expenses, and additional services) until the funds have been encumbered. Any Work Order must not exceed the available funds for the year in which the Work Order was issued. Any extended time to complete the Work Order will not change the available funds for the year in which the Work Order was issued.
- G. If the City should need any additional services or a change of the scope of services in any Work Order issued during the contract term, a new separate Work Order must be issued under a separate contract or an amendment to this Contract. An extended time will not extend the authorization to issue a new Work Order under this Contract after the expiration of the contract term.

[Remainder of this page intentionally left blank]

7th IN WITNESS WHEREOF, this Contract was executed and approved by the Engineer this day of NOVEMBER, 20 22.

SMITH ROBERTS BALDISCHWILER,
LLC


President

ATTEST:

STATE OF OKLA)

) SS

COUNTY OF OKLA)

This instrument was acknowledged before me on this 7 day November, 2022 by Marc A. Long, P.E. as Manager of SRB, LLC.



My Commission Expires/My Commission Number:

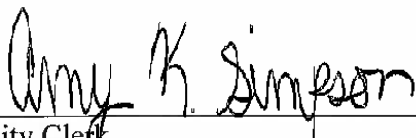
4/1/26 / 22004604


Notary Public

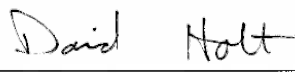
IN WITNESS WHEREOF, this Contract was approved and executed by The City of Oklahoma City this 22nd day of November, 20 22.

THE CITY OF OKLAHOMA CITY

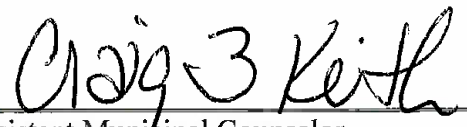
ATTEST:


City Clerk




Mayor

REVIEWED for form and legality.


Assistant Municipal Counselor

**EXHIBIT A
SCOPE OF WORK
PROJECT NO. MC-0719
TECHNICAL REVIEW SERVICES**

GENERAL SCOPE OF SERVICES

The Engineer will provide an Engineering Manager and a minimum of two (2) staff members but no more than four (4) staff members in order to accomplish the technical review services. The staff members will consist of professional engineers, engineer interns, or senior engineering technicians. Additionally, the Engineer will provide a Technical Review Coordinator to assist the Public Works staff in assigning technical reviews and coordinating with consultants. A staffing plan will be submitted in writing to the City for approval. Any changes in staffing will also require approval in writing from the City prior to changes.

The scope includes providing an Engineering Manager (part time) and a minimum of two (2) staff members initially and up to two (2) additional staff members as needed to address the current and future backlog of technical plan reviews. The initial term will be through June 30, 2023. There will be an option for two (2), one-year renewals, through June 30, 2025.

The Engineer will assist with private development technical reviews. Requirements are, but not limited to: review of private development plans and permitting review, to include bridge, traffic, paving, drainage plans and studies. The Engineer will have knowledge of civil engineering practices, FEMA regulations and Army Corps of Engineers requirements, City standards, Ordinances and Standard Specifications for Construction of Public Improvements. Personnel may utilize City offices and resources to complete the work.

City staff will provide training and guidance on standard procedures, guidelines and regulations to ensure the personnel are performing the technical review in accordance with City policies. The Engineer will not be required to sign and seal any engineering document nor be considered the engineer of record on any reviewed document. The Engineer will provide technical review comments commensurate with the existing City technical review staff.

ANTICIPATED PROJECT SCHEDULE

Notice to Proceed prior to November 25, 2022 and will extend to June 30, 2023

Engineering Manager and staff will report to City offices no later than November 30, 2022.

[the remainder of this page intentionally left blank.]

EXHIBIT B
ANTI/NON-COLLUSION AFFIDAVIT
PROJECT NO. MC-0719
TECHNICAL REVIEW SERVICES

State of OKLAHOMA)
)SS.
County of OKLAHOMA)

The undersigned Engineer, of lawful age, being duly sworn, upon his/her oath, deposes and says: That the undersigned has the lawful authority to execute the within and foregoing proposal for, and on behalf of, the Engineer; that the Engineer has not, directly or indirectly, entered into any agreement, express or implied, with any other architect/engineer(s), having for its object the controlling of the price or amount of the Contract, the limiting of the services of the architect/engineers, the parceling or farming out to any architect/engineer(s) or other persons, of any part of the Contract or any part of the subject matter of the Contract, or of the profits thereof.

The Engineer further states that the Engineer has not been a party to any collusion among other persons, firms or contractors in restraint of freedom of competition, by any agreement to Contract at a fixed price or to refrain from competing; or with any city official, city employee or city agent as to the quantity, quality, or price in the prospective Contract, or any other terms of the said prospective Contract; or in any discussions between the Engineer or city official, city employee or city agent concerning the exchange or money or other thing of value for special consideration in the letting of a Contract. The Engineer states that it has not paid, given or donated or agreed to pay, give or donate to any city official, officer or employee of the City or awarding agency, any money or other thing of value, either directly or indirectly, in the procuring of the award of this Contract.

Printed name of the Engineer: MARC A. LONG

Signature of executing individual: [Signature]

Title: MANAGER, SRB, LLC

100 NB 5th Street, OKC OK 73104
Address of the Engineer Zip Code

405 - 840 - 7094
(A.C.) Tel. Number and FAX Number

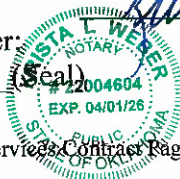
Signed and sworn to before me on this 7 day of November, 20 22, by

Marc A. Long, P.E.

My Commission Expires/Commission Number: 4/1/26 / 22004604

CS 10/22/18

Engineering Services Contract Page 18



Krista L. Weber
Notary Public

EXHIBIT C
NONDISCRIMINATION CERTIFICATE
PROJECT NO. MC-0719
TECHNICAL REVIEW SERVICES

State of OKLAHOMA)
County of OKLAHOMA) SS.)

In connection with the performance of work under this Contract, the Engineer agrees as follows:

- A. The Engineer agrees not to discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). The Engineer shall take affirmative action to insure that employees are treated without regard to their race, creed, color, national origin, sex, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. The Engineer and sub-consultants shall agree to post in a conspicuous place, Exhibit B.
- B. In the event of the Engineer's noncompliance with this Nondiscrimination Certificate, the Contract may be canceled, terminated or suspended by the City. The Engineer may be declared, by the City, ineligible for further contracts until satisfactory proof of intent to comply shall be made by the Engineer and/or sub-consultants.
- C. The Engineer agrees to include the requirements of this Nondiscrimination Certificate in any subcontracts connected with the performance of this Contract.

I have read the above clause and agree to abide by its requirements.

Printed name of the Engineer: MARC A. LONG

Signature of executing individual: [Signature]

Title: MANAGER, SRB, LLC

100 N 5th Street, OKC OK 73104
Address of the Engineer Zip Code

405 840 7094

(A.C.) Tel. Number and (FAX No.)

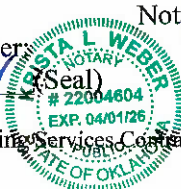
Signed and sworn to before me on this 7th day of November, 20 22, by
Marc A. Long P.E. [Signature]

Notary Public

My Commission Expires/Commission Number

4/1/26
CS 10/22/18

22004604





SMITBAL01C

MSCHURIG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/31/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER INSURICA - Oklahoma City 5100 N. Classen Blvd, #300 Oklahoma City, OK 73118	CONTACT NAME: Michelle Schurig PHONE (A/C, No, Ext): (405) 556-2217 FAX (A/C, No): (405) 556-2332 E-MAIL ADDRESS: Michelle.Schurig@INSURICA.com														
INSURED Smith-Roberts Baldischwiler LLC 100 NE 5th Street Oklahoma City, OK 73104	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Continental Casualty Company</td> <td>20443</td> </tr> <tr> <td>INSURER B : Continental Insurance Company</td> <td>35289</td> </tr> <tr> <td>INSURER C : National Fire Insurance Co. of Hartford</td> <td>20478</td> </tr> <tr> <td>INSURER D : Hamilton Insurance DAC</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Continental Casualty Company	20443	INSURER B : Continental Insurance Company	35289	INSURER C : National Fire Insurance Co. of Hartford	20478	INSURER D : Hamilton Insurance DAC		INSURER E :		INSURER F :	
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INSURER E :															
INSURER F :															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	6079846635	12/18/2021	12/18/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 EMPLOYEE BENEFIT \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	6079846649	12/18/2021	12/18/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			6079846618	12/18/2021	12/18/2022	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC679846621	12/18/2021	12/18/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liab			EOHI214373	1/1/2022	1/1/2023	Per Occurrence \$ 1,000,000
D	Professional Liab			EOHI214373	1/1/2022	1/1/2023	Aggregate Limit \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PROJECT NO. MC-0719

The City of Oklahoma City and its participating trusts Department of Public Works are an Additional Insured with respect to General Liability and Automobile Liability if required or agreed to in a written contract subject to all provisions and limitations of the policy. A Waiver of Subrogation in favor of The City of Oklahoma City and its participating trusts Department of Public Works applies to the General Liability, Automobile Liability, and Workers Compensation if required or agreed to in a written contract subject to all provisions and limitations of the policy. General Liability coverage is primary and non-contributory. Should any of the above described policies be cancelled before the expiration date thereof, the Issuing insurer will endeavor to mail 30 Day Written Notice of Cancellation except 10 Days for Non-Payment of Premium to the Certificate Holder, but failure to do so shall impose no obligation or liability of any kind upon SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

CANCELLATION

The City of Oklahoma City
 Department of Public Works
 Eric J. Wenger, P.E., Director Public Works/City Engineer
 420 W Main Street, 7th Floor
 Oklahoma City, OK 73102

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Bill Smith



AGENCY CUSTOMER ID: SMITBAL01C

MSCHURIG

LOC #: 0

ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY INSURICA - Oklahoma City		NAMED INSURED Smith-Roberts Baldischwiler LLC 100 NE 5th Street Oklahoma City, OK 73104	
POLICY NUMBER SEE PAGE 1			
CARRIER SEE PAGE 1	NAIC CODE SEE P 1	EFFECTIVE DATE: SEE PAGE 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
the insurer, its agents or representatives. The Professional Liability contains a \$25,000 per claim deductible. The Umbrella contains a \$10,000 retention per claim. General Liability - No Deductible; Auto Liability - No Deductible.