

# PENDING APPROVAL

## OKLAHOMA COUNTY BOARD OF COUNTY COMMISSIONERS

### AGENDA ITEM REQUEST SHEET

FOR THE \_\_\_\_\_ Next Available \_\_\_\_\_ AGENDA

**(THE DEADLINE IS ONE WEEK PRIOR TO THE DATE THE AGENDA IS TO BE POSTED)**

DEPARTMENT: ENGINEERING REQUESTED BY: STACEY TRUMBO

REQUISITION NO.: \_\_\_\_\_ REQUISITION SHEET ATTACHED: \_\_\_\_\_ YES \_\_\_\_\_ N/A

NAME OF FUNDS: NA

FUND NUMBERS: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

PLEASE INITIAL IF PRIVACY/PROTECTED INFORMATION EXISTS: \_\_\_\_\_ YES X \_\_\_\_\_ N/A

NUMBER OF ORIGINAL DOCUMENTS TO BE RETURNED TO YOUR DEPARTMENT: One


AGENDA ITEM READS AS FOLLOWS: Discussion and possible action for approval of Engineering Contract between Oklahoma County and Mehlburger Brawley, for Oklahoma County Project 2-2008-D-BR, bridge replacement over Unnamed Creek on Wilshire, 0.2 E, 1S, 3.4E of Jones not to exceed \$54,000.00 to be paid from Oklahoma County's CBRI funds at ODOT. This item is requested by Brian Maughan, County Commissioner, District 2 and has been approved as to form and legality by John Jacobsen, Assistant District Attorney.

APPROVED BY DA  
(If Applicable)

APPROVED BY ENGINEER  
(If Applicable)

APPROVED BY PURCHASING  
(If Applicable)

  
ASSISTANT DISTRICT ATTORNEY

4/16/2009  
  
COUNTY ENGINEER

NA  
PURCHASING AGENT

Please initial if privacy/security protected information exist

DISTRICT ATTORNEY – PRIVACY/SECURITY PROTECTED INFORMATION: \_\_\_\_\_ YES \_\_\_\_\_ N/A

COUNTY CLERK – PRIVACY/PROTECTED INFORMATION: \_\_\_\_\_ YES \_\_\_\_\_ N/A

**(NOTE: THE CHAIRMAN/CHIEF DEPUTY MUST APPROVE ALL EMERGENCY REQUESTS FOR ANY ITEM SUBMITTED AFTER THE DEADLINE)**

DATE OF REQUEST: \_\_\_\_\_ APPROVED BY: \_\_\_\_\_

CHAIRMAN

REQUEST FOR DISTRICT ATTORNEY LEGAL SERVICES

THIS FORM IS TO BE USED TO REQUEST ADVICE AND/OR REPRESENTATION FROM THE DISTRICT ATTORNEY'S OFFICE REGARDING THE COUNTY OF OKLAHOMA, COUNTY OFFICIALS AND EMPLOYEES AS REQUIRED BY SECTIONS 215.4, 215.5, 215.25 AND 215.26 OF TITLE 19 OF THE OKLAHOMA STATUTES.

IF ADVICE IS SOUGHT, THE REQUEST MUST BE SIGNED BY AN ELECTED COUNTY OFFICER. THIS FORM MUST BE FILLED OUT AND SUBMITTED TO THE CIVIL DIVISION OF THE OKLAHOMA COUNTY DISTRICT ATTORNEY'S OFFICE IN A TIMELY MANNER. ALL RESPONSES TO REQUESTS FOR ADVICE WILL BE IN WRITING.

IF THE REQUEST IS FOR LEGAL REPRESENTATION UNDER 19 O. S. SECTION 215.25, THE REQUEST MUST BE SUBMITTED IN WRITING EARLY ENOUGH TO PERMIT THE DISTRICT ATTORNEY'S OFFICE ADEQUATE TIME TO COMPLETE A THOROUGH "GOOD-FAITH-AND-COURSE-OF-EMPLOYMENT" INVESTIGATION AS CONTEMPLATED BY 19 O.S. SECTION 215.26.

DATE OF REQUEST: 4/15/10

COUNTY DEPARTMENT MAKING REQUEST: Engineering

STATE WITH SPECIFICITY, WHAT THE REQUEST IS AND WHY THE ASSISTANCE OF THE DISTRICT ATTORNEY'S OFFICE IS NEEDED:

ODOT Contract for bridge in D2 - WCH  
Mehlburger Brawley

ATTACH ADDITIONAL DOCUMENTS AS APPROPRIATE. (NOTE: Advice, reviews and approvals as to "form and legality" are based on the documentation and information provided to the District Attorney's Office. Please provide all relevant information when requesting an opinion or review from the District Attorney's Office).

K. Blance  
COUNTY OFFICER

DATE RECEIVED BY DISTRICT ATTORNEY: 4/16/10

REPLY BY DISTRICT ATTORNEY: Reviewed

DAVID PRATER  
DISTRICT ATTORNEY

By: [Signature]

RECEIVED  
APR 16 2010  
CIVIL DIVISION  
DISTRICT ATTORNEY

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2-2008-D

Form: EC-301  
(Rev. 08-2007)

CERTIFICATE OF AUTHORIZATION  
NUMBER: 5392

Modified For Oklahoma Co.

## COUNTY BRIDGE AND ROAD IMPROVEMENT FUND ENGINEERING CONTRACT

State Project Number: \_\_\_\_\_

State Job/Piece Number: \_\_\_\_\_

This contract is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the Board of County Commissioners of Oklahoma County (the County) and Mehlburger Brawley, Inc. (the Engineer) whose address is 5500 N. Western Ave. Suite 215, Oklahoma City, OK 73118.

### PROJECT LOCATION, DESCRIPTION AND/OR BRIDGE LOCATION NUMBER

BRIDGE REPLACEMENT ON WILSHIRE, 0.2 E, 1S, 3.4E OF JONES OVER UNNAMED CREEK

The Engineer agrees to furnish all labor, equipment and incidentals to perform all Registered Professional Engineering and other professional services required by the County and the Department of Transportation (the Department) and necessary to the making of surveys, preparation of design plans, specifications, estimates, right-of-way plans and easements and to provide all necessary professional engineering supervision for the proper preliminary design of said project. All costs and fees for relocation of utilities shall be paid under separate contracts to be negotiated prior to work being performed. The Engineer warrants and agrees to begin work to be performed under this contract promptly upon acceptance of this contract by the Department; to diligently pursue said work to completion; to devote the Registered Professional Engineering services as required for prompt completion of said work; and to assign only qualified, experienced personnel to this project. Hydraulic and geotechnical investigation reports as may be required will be submitted along with the design to the Department for review.

The Engineer agrees to ensure that all design and pay quantity computations are independently checked in detail by competent personnel and to submit a written statement to that effect with the plans to the County and the Department. The Engineer agrees that the County or the Department reserves the right, but does not commit itself, to review the Engineer's plans for errors, omissions, and work which is contrary to standards or sound engineering practice. It is specifically agreed that a review of the plans by the County or the Department, if any, does not relieve the Engineer of responsibility as a professional engineering consultant to prepare and provide the Department with a set of plans based on accepted standards and sound engineering principles. In no event shall

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the Engineer assume that the County or the Department will review the Engineer's plans for errors or omissions. The Engineer shall assume that the plans called for under this contract will not be reviewed by the County or the Department and will provide plans which are in all respects ready for use in the construction of the project set forth in this contract.

The Engineer agrees to be held responsible for the accuracy of engineering details and quantities of work to be performed and will hold and save the County and the Department harmless from any and all claims for damage or causes of action resulting from plan errors or omissions which amount to professional negligence on the part of the Engineer or its subcontractors; that prior to beginning the work the Engineer shall obtain and furnish current certificates of Professional Liability Insurance which shall include errors and omissions insurance to the County and the Department; and that this insurance shall be maintained in full force and effect during the life of this engineering contract. The Engineer agrees to be held responsible for any mistakes or omissions in the work of the Engineer which appear during a review, if any, by the County or the Department prior to advertising for contract, during the letting process, or during the construction, and agrees to do any work on the plans necessary to correct the mistakes or omissions in the work, including submitting computations to support said corrections to plans without additional compensation. The Engineer shall be given timely written notice and the opportunity to correct any errors or omissions in plan documents. The Engineer agrees it may thereafter be held liable for any additional cost incurred by the County and the Department for construction or construction delays which resulted from plan errors or omissions which amount to professional negligence as defined below and that frequent occurrence of irregularities in engineering details or quantities will be a basis for withholding future engineering contracts from the Engineer. Professional negligence shall be defined as failure to conform with accepted engineering standards to include the exercise of reasonable care and professional skill in the preparation of plans.

The Engineer shall be paid progressively, based upon the stages of work completed. Final payment shall be made upon the departments submission of the Final Plans. Should the project be abandoned through no fault of the Engineer, the Engineer shall be paid for that portion of the engineering services actually performed. All field notes, tracings and other documents prepared by the Engineer under this contract shall be delivered to and become the property of the County who shall submit same to the Department for its retention and use.

Any projects that utilize BIA, military or other FHWA administered funds for the development of plans or other engineering services must meet the federal requirements for consultant selection as described in The Brooks Act ( Public Law 92-582) also known as Qualifications Based Selection (QBS). The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting and negotiating contracts based on demonstrated competence and qualifications for the type of engineering and design services being procured, and at a fair and reasonable price. Engineering and design related services are defined in 23 U.S.C. § 112(b)(2)(A) and 23 CFR § 172.3 to include program management, construction management, feasibility studies, preliminary engineering, design engineering, surveying, mapping or other related services. These other services may include professional engineering related services or

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incidental services that may be performed by a professional engineer, or individuals working under their direction, who may logically or justifiably perform these services.

The Engineer's estimate of construction cost for this project is

\$ 685,000.00.

The engineering fee stated herein is all inclusive and covers all plans and reports referenced above.

The County and the Engineer agree that a design engineering fee of

Forty-Five Thousand Dollars (\$ 45,000.00 ),  
as supported by the attached detailed work proposal, and an amount not to exceed Nine Thousand Dollars

(\$ 9,000.00 ), for the geotechnical investigation. The total amount

Fifty-Four Thousand Dollars  
(\$ 54,000.00 ), shall constitute the total amount to be paid the Engineer for services rendered under this contract. Failure to list a required action in the detailed work proposal does not relieve the Engineer from the responsibility of performing a required task. Payments shall be made as work is completed with the following milestones:

- *Topographic Survey*
- *Project environmental foot print to assist ODOT with environmental clearance*
- *Drainage and hydraulic analysis*
- *Plans for bridge and approaches*
- *Right-of-way easements and assist with acquisition*
- *Conduct a utility conference and coordinate utility relocation*
- *Storm water pollution prevention plan*
- *Geotechnical investigations if necessary, billed separately*
- *Obtain Corps permit if necessary*
- *No costs are included for utility relocation or extensions, right-of-way acquisition, bidding, construction management, inspection or application fees*

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Payment Number	Percent of Design Fee	Stages of Contract Completion
1	30	The Engineer's certification of Completed surveys
2	30	Acceptance of Plan-in-hand Plans
3	20	The Department's acceptance of Preliminary Plans
4	15	Completion and submission of Right-of-Way Plans and easements
5	5	The Department's acceptance of Final Plans

geotechnical investigation (If necessary)

Lump sum (Lower of not to exceed amount and invoice)

upon receipt of geotechnical report and invoice from the testing firm

The County agrees to properly execute and submit to the Department claims for payments to the Engineer for work accomplished by the Engineer as specified in this contract. Said claims shall be submitted on forms provided by the Department and shall be paid from accrued revenues in the County Bridge and Road Improvement Fund.

The County and the Engineer agree that all work to be completed under this contract shall be performed by the Engineer in compliance with all applicable state and federal laws, rules and regulations. This contract may be terminated by either party upon thirty (30) days written notice to the other party.

The County and Engineer agree that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42, U.S.C. 2000d-et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964".

The Engineer or duly authorized agent of the Engineer who has executed this contract on behalf of the Engineer, warrants and affirms that he or she is fully aware of the facts and circumstances surrounding the making of this contract and that neither the Engineer nor anyone subject to the Engineer's direction or control has paid, given, donated or agreed to pay, give or donate any money or other thing of value, either directly or indirectly, to any officer or employee of the County or of the State of Oklahoma in procuring this contract or in obtaining acceptance and payment hereunder.

This contract shall not become effective and shall have no validity whatsoever until accepted by the Department and the Department's written

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authorization to proceed with the work to be performed hereunder has been received by the Engineer.

In witness whereof, the parties hereto have affixed their hands and seals.

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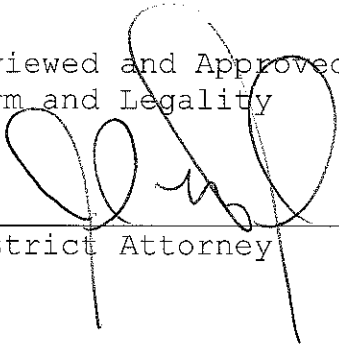
(Seal)  
Attest:

BOARD OF COUNTY COMMISSIONERS OF  
\_\_\_\_\_ COUNTY,  
OKLAHOMA

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Chairman

Reviewed and Approved as to  
Form and Legality

 4/16/2010

\_\_\_\_\_  
District Attorney

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

(Seal)  
ATTEST:

  
\_\_\_\_\_  
Corporation Secretary



\_\_\_\_\_  
Engineer


**VICE PRES.**

\_\_\_\_\_  
Title

Subscribed and sworn to before me this 14th day of April 2010

My Commission Expires:

9/30/11

  
\_\_\_\_\_  
Notary



Approved and accepted this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Reviewed and Recommended  
For Approval

\_\_\_\_\_  
Division Engineer

\_\_\_\_\_  
State Transportation Director

Reviewed and Approved as to  
Form and Legality

\_\_\_\_\_  
Date General Counsel