

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 1**

The Effective Date of this Amendment is: \_\_\_\_\_.

Background Data

Effective Date of Owner-Engineer Agreement: December 21, 2023

Owner: City of Dickinson

Engineer: Burns & McDonnell Engineering Company, Inc.

Project: Baler Building Expansion

Nature of Amendment: [Check those that are applicable and delete those that are inapplicable.]

- ☒ Additional Services to be performed by Engineer
- ☐ Modifications to services of Engineer
- ☐ Modifications to responsibilities of Owner
- ☒ Modifications of payment to Engineer
- ☐ Modifications to time(s) for rendering services
- ☐ Modifications to other terms and conditions of the Agreement

Description of Modifications:

***See attached Amendment No. 1 – Scope of Services and Amendment No. 1 – Budget.***

Agreement Summary:

Original agreement amount:	\$ <u>901,000.00</u>
Net change for prior amendments:	\$ <u>0.00</u>
This amendment amount:	\$ <u>382,678.00</u>
Adjusted Agreement amount:	\$ <u>1,365,750.00</u>

Change in time for services (days or date, as applicable): New estimated completion date for the project is December 31, 2026. Actual time will depend on the Owner's construction contractor's actual schedule.

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect.

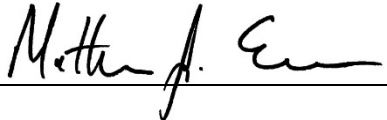
OWNER:

ENGINEER: Burns & McDonnell Engineering Company, Inc.

By: \_\_\_\_\_  
Print  
name: \_\_\_\_\_

Title: \_\_\_\_\_

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

By:  \_\_\_\_\_  
Print  
name: Matthew J. Evans

Title: Associate

Date Signed: 3/4/2025

## AMENDMENT NO. 1 – SCOPE OF SERVICES

The scope of the amended services includes the following activities. The services will be performed by the Engineer during the construction project.

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner, Engineer shall:
  1. *Owner's Representative:* During construction the Engineer will support the Owner in construction administration including, attending construction meetings that are scheduled and lead by the Contractor, reviewing Contractor Requests for Information, reviewing and responding to Contractor Submittals, reviewing Contractor pay applications and change order requests, and other construction administration support services requested by the Owner.
  2. *Selection of Independent Testing Laboratory:* Assist Owner in the selection of an independent testing laboratory to perform the services identified in Exhibit B, Paragraph B2.01.
  3. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.
  4. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with Owner and Contractor jointly develop such protocols for transmittals between and among Owner, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.
  5. *Original Documents:* If requested by Owner to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and Owner for review.
  6. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
  7. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
  8. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:
    - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design

professional the progress of Contractor's executed Work. Such visits and observations by Engineer if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.

- b. The purpose of Engineer's visits to the Site, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work since these are solely the Contractor's duties and responsibilities under the Contract Documents. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.
9. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to Owner regarding whether Contractor should correct such Work or remove and replace such Work, or whether Owner should consider accepting such Work as provided in the Construction Contract Documents.
10. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform Owner of such incompatibility, and provide recommendations for addressing such Work.
11. *Clarifications and Interpretations:* Accept from Contractor and Owner submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs),

or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, considering the number of RFI's pending and the complexity of the requested information, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

12. *Field Orders*: Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.
13. *Change Orders and Work Change Directives*: Recommend Change Orders and Work Change Directives to Owner, as appropriate, and prepare Change Orders and Work Change Directives as required.
14. *Differing Site Conditions*: Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for Owner's use.
15. *Shop Drawings, Samples, and Other Submittals*: Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted. Shop Drawings, Samples, and other required Contractor submittals not bearing a professional seal and signature, when required, may be rejected without review.
16. *Substitutes and "Or-equal"*: Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.
17. *Inspections and Tests*:
  - a. Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.
  - b. As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.
  - c. Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

18. *Change Proposals and Claims:* (a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal. (b) Provide information or data to Owner regarding engineering or technical matters pertaining to Claims.
19. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
  - a. Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).
  - b. By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by Owner; to determine that title to any portion of the Work, including materials or equipment, has passed to Owner free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

20. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved. Receive from Contractor, review, and transmit to Owner the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.
  21. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with Owner and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, Owner's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist Owner regarding any remaining engineering or technical matters affecting Owner's use or occupancy of the Work following Substantial Completion.
  22. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to Owner and Contractor in the form attached hereto as Exhibit E ("Notice of Acceptability of Work") that the Work is acceptable to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.
  23. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.
- B. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. Engineer shall be entitled to an equitable increase in compensation if Construction Phase services are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

**AMENDMENT NO. 1 - BUDGET**

Task	Hours	Rate (\$/hour)*	Total	Notes
<i>Specifications/RFI's/Pay Apps/Reports</i>				
Spec Reviews	400	\$ 220	\$ 88,000	Estimate 100 submittals at 4 hours per submittal. Similar projects required approximately 100 submittals to be reviewed, plus resubmittals.
PEMB Submittal Reviews	80	\$ 220	\$ 17,600	PEMB submittal requires structural calculations and modifications to foundation design to match PEMB manufacturer design.
Foundation/Rebar Submittal Review	80	\$ 220	\$ 17,600	Foundation and rebar submittal review by structural engineers is required.
RFI's	80	\$ 220	\$ 17,600	Estimate 20 submittals at 4 hours per RFI.
Pay App	32	\$ 220	\$ 7,040	Estimate 16 monthly pay application reviews at 2 hours per application
Change Order Review	16	\$ 220	\$ 3,520	Estimate 8 contractor change order requests at 2 hours per change order.
Review Test Reports	25	\$ 220	\$ 5,500	Review concrete, material, and compaction reports. Assume 0.5 hours per report and 50 reports.
Engineer Directive	8	\$ 220	\$ 1,760	Assume 2 engineering directives at 4 hours per directive.
<i>Meetings</i>				
In-Person Monthly Meetings	160	\$ 299	\$ 47,840	Assume project manager visits the site once a month for the durations of the project. 10 hours per trip. 16 trips.
Bi-Weekly Construction Meetings	192	\$ 220	\$ 42,240	Assume project manager, asst project manager, and one of the design team leads will take part in the meetings. A total of 32 meetings, 2- hours each, attended by 3 of the team
<i>In-Person Inspections by Discipline Leads</i>				
Structural	20	\$ 220	\$ 4,400	Assume two site inspections by the structural team. 10-hours per trip.
Architectural	20	\$ 220	\$ 4,400	Assume two site inspections by the architectural team. 10-hours per trip.
Mechanical	20	\$ 220	\$ 4,400	Assume two site inspections by the mechanical team. 10-hours per trip.
Electrical	20	\$ 220	\$ 4,400	Assume two site inspections by the electrical team. 10-hours per trip.
Fire Protection	20	\$ 220	\$ 4,400	Assume two site inspections by the fire protection team. 10-hours per trip.
Civil	20	\$ 220	\$ 4,400	Assume two site inspections by the civil team. 10-hours per trip.
<i>Expenses</i>				
Trip Expenses	28	\$ 1,500	\$ 42,000	Assume total of 28 trips to the site by the Burns & McDonnell team at expenses of \$1,500 per trip.
Tech Charge Expense			\$ 14,378	Total hours at \$9.95 per hour.
<i>Project Management</i>				
Project Management	64	\$ 250	\$ 16,000	Assum 4 hours per month for 16 months.
<i>Project Closeout</i>				
Contractor's Completion Documents	40	\$ 220	\$ 8,800	Review, combine and submit to City contractor completion documents, including as-record drawings, manuals, and other equipment reports.
Substantial and Final Completion	20	\$ 220	\$ 4,400	Review site to evaluate project completion.
<i>Contingency</i>				
Contingency Hours	100	\$ 220	\$ 22,000	Estimate of additional scope requests by the City.
<b>TOTAL</b>	<b>1445</b>		<b>\$ 382,678</b>	

\*Rate is the estimated average rate of Burns & McDonnell team member anticipated to work on task.