
MEMO

APPROVED
02/22/2021



DATE: February 17, 2021
FROM: Matney M. Ellis
Procurement Director
TO: Board of County Commissioners
SUBJECT: Assignment and Assumption Agreement

A handwritten signature in black ink, appearing to read "Matney M. Ellis", with a long horizontal flourish extending to the right.

At the Board of County Commission meeting of October 16, 2017, the Board of County Commissioners on behalf of the Tulsa County Parks Department approved and executed an agreement with Howell & Vancuren, Inc. for architectural services related to the Chandler Park Improvement project, CMF# 242959.

Submitted for your approval and execution is the attached Assignment and Assumption Agreement between Howell & Vancuren, Inc. (the "Assignor") and Wallace Engineering-Structural Consultants, Inc. (the "Assignee") in which Tulsa County would consent to the transfer of all remaining rights and obligations of the above-referenced original agreement from the Assignor to the Assignee as further described in the attached.

This agreement is respectfully submitted for your approval and execution.

MME / mlb

SUBMITTED FOR: The February 22, 2021 BOCC meeting agenda.

CMF# 20210348

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Landscape Architecture Services Contract for Project)**

APPROVED
02/22/2021

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (the "Assignment") is entered into as of January 1, 2021 (the "Effective Date"), by and between Howell & Vancuren, Inc., (the "Assignor"), and Wallace Engineering-Structural Consultants, Inc. (the "Assignee") with reference to the following facts:

RECITALS

A. Tulsa County Board of County Commissioners ("Obligor") and Howell & Vancuren, Inc., an Oklahoma professional corporation (the "Assignor"), have entered into that certain Chandler Park Improvements Consultant Contract dated as of October 1, 2017 (the "Assigned Contract"). The Assignor was selected to complete two projects; Project Area A: Splash Park including splash pad, playground, new and refurbished picnic pavilions, parking, lighting, landscaping and irrigation; and Project Area B: Lower Park including drives, parking, restroom, utilities, landscaping in Tulsa, OK described in Exhibit A (the "Project").

B. Assignor has partially completed the professional services required by the Contract, including without limitation partial completion of the Contract Documents, and desires to assign to the Assignee, and the Assignee desires to assume from Assignor, the Assigned Contract to the extent of the unfinished professional services, and all interest of the Assignor in those certain design plans and construction plans and specifications prepared by the Assignor in connection with the Project as more particularly described in Exhibit B (collectively, the "Contract Documents").

C. The consent of the Obligor to this assignment is attached as Exhibit C.

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises of the parties hereto and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follow:

1. Assignment by Assignor. As of and from the Effective Date, the Assignor hereby assigns and delegates to the Assignee, all of Assignor's remaining right, title, and interest in and obligations under the Assigned Contract and all of Assignor's right and title to the Contract Documents. This assignment applies to the unfinished professional services only and is not an assignment of Assignor's liabilities for the professional services previously performed by Assignor. Neither Assignor nor Assignee shall have liability for the professional services of the other.

2. Acceptance of Assignment. As of and from Effective Date, Assignee hereby accepts the above assignment and hereby assumes, agrees and undertakes to perform all of the remaining obligations, covenants and agreements and right to receive the remaining compensation of Assignor pursuant to the Assigned Contract and the right and title to Assignor's Documents. Any reference to Assignor in the Assigned Contract or the Contract Documents shall be deemed to be a reference to the Assignee. By execution of this Agreement, Assignee acknowledges that Assignee has reviewed the Contract Documents and confirms that Contract Documents have been prepared in such a manner that Assignee can complete the remaining professional services.

3. Representations. Assignor hereby represents and warrants that it has not previously assigned, pledged, hypothecated or otherwise transferred any of its rights under the Assigned Contract or the Contract Documents. As of the Effective Date, the Assignor shall receive all fees billed for services performed up to the effective date, and Assignee shall receive all fees for services performed after the effective date. The remaining compensation due for satisfactory completion of the Assigned Contract is currently \$18,200.00. The Assigned Contract and the Contract Documents are delivered by the Assignor to the Assignee without any warranty or representation from the Assignor and the Assignee hereby releases the Assignor, the Assignor's board members, and employees (collectively, the "Released

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Parties") from any and all claims by Assignee regarding the professional services performed by Assignee in the completion of the remaining professional services, including without limitation, completion of the Contract Documents by Assignee.

4. Governing Law. This Assignment shall be governed by the laws of the State of Oklahoma.

5. Headings; Interpretations. Section headings contained in this Assignment are inserted as a matter of convenience and for ease of reference only and shall be disregarded for all other purposes, including the construction or enforcement of this Assignment or any of its provisions. The parties agree that this Agreement has been prepared by both of the parties and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

6. Invalidity. Any provision of this Agreement which is determined by a court to be invalid or unenforceable shall be deemed severed from this Agreement and the remaining provisions shall remain in full force and effect as if the invalid or unenforceable provision had not been a part hereof.

7. Exhibits. All exhibits attached to this Agreement are hereby incorporated into this Agreement by this provision.

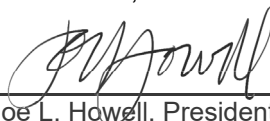
8. Amendments. No provision of this Agreement may be amended, changed, or waived except by a written instrument executed by the parties.

9. Counterparts. This Assignment may be executed in counterparts by the parties hereto, each of which shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

ASSIGNOR:

Howell & Vancuren, Inc.

By: 
Joe L. Howell, President

ASSIGNEE:

Wallace Engineering-Structural Consultants, Inc.

By: 
Thomas L. Hendrick, President & CEO

EXHIBIT A

ASSIGNED CONTRACT AND RELATED DOCUMENTS

1. Chandler Park Improvements, dated October 1, 2017 between Tulsa County Board of County Commissioners (Obligor/Client) and Howell & Vancuren, Inc. (Assignor/Consultant).

EXHIBIT B

CONTRACT DOCUMENTS

1. Conceptual design drawings
2. Construction drawings
3. Detail drawings
4. Specifications
5. Cost Estimates
6. Other items as described by the Assigned Contract

EXHIBIT C

CONSENT TO ASSIGNMENT

Tulsa County Board of County Commissioners, hereby consents to the assignment from Howell & Vancuren, Inc. ("Assignor") to Wallace Engineering-Structural Consultants, Inc. ("Assignee") of the Assigned Contract and the Assignor's interest in the Contract Documents, if any, as set forth in Exhibit A and Exhibit C of the Assignment Agreement dated as of October 1, 2017, by and between Assignor and Assignee and hereby further consents to the release of Assignor from all remaining obligations in connection with such contracts and documents and the substitution of Assignee for all of Assignor's remaining duties and obligations under the Assigned Contract and all of Assignor's rights, including, without limitation, the right to receive the remaining compensation under the Assigned Contract.

Tulsa County Board of County Commissioners

By: 

Its: Stan Sallee, Chairperson

Approved as to form:

James G. Rea Digitally signed by James G. Rea
Date: 2021.02.17 15:04:28 -06'00'

Assistant District Attorney

Attest:  
Michael Willis, County Clerk